

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
January 8, 2013, 6:00 p.m.**

**Present:**

James R. Marshall, Mayor  
Cynthia A. Bettison, District 1  
Pauline N. Hassler-Cook  
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  
Robert L. Scavron, Town Attorney  
Rudy Bencomo, Fire Chief  
Peter Russell, Community Development Director

1. **CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:03 p.m. Councilor Cook read the Mission Statement.
2. **CEREMONIES** – None.
3. **PROCLAMATIONS** - None.
4. **PUBLIC INPUT** – Cissy McAndrew provided an update on the Southwest New Mexico Green Chamber and commented on recent events, etc. She said she would give their quarterly report at the next Council meeting.
5. **COUNCIL COMMENTS** – The Council commented on the following: greetings for the New Year; downtown events and visitors; congratulations to Silver High Coach, Luis Alvarado, and the wrestling team and also to the Cobre team and staff for a recent tournament; meetings about the trails on Boston Hill; thanks were given to the Police Department and Fire Department for doing a good job; the Annual Awards Ceremony of the Fire Department; and the openings on Town boards and committees.
6. **CHANGES TO THE AGENDA** – None.
7. **APPROVAL OF THE MINUTES** – **Regular Meeting on December 11, 2012** – Councilor Bettison moved to approve the minutes of the Regular Meeting of December 11, 2012. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of December 11, 2012. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 4 Councilors voted aye. He asked if any were opposed, and there were none. Motion carried.

**8. REPORTS** –

**A. Introductory information report on the Planning Project for Mine Safety on Boston Hill. Presenter: Ken Romig, Project Manager, Dekker/Perich/Sabatini Design, contractor for Abandoned Mine Lands Program of New Mexico Energy, Minerals, and Natural Resources Department.** John Kretzmann, P.E. and Program Manager of the Abandoned Mine Land (AML) Program of the New Mexico Energy, Minerals and Natural Resources Department, said the New Mexico AML Program was formed in 1981 as a result of the 1977 Federal Surface Mining Control and Reclamation Act which put funds into an AML fund based on active coal mining in the State of New Mexico. He said the funds were raised in New Mexico and were being spent in New Mexico. He said they worked on coal mine problems and hard rock mine problems. He said the types of projects that they did were divided into 3 priorities: the 1st priority was the immediate, high level, public health and safety problems associated with abandoned mine lands; the 2nd priority was health and safety issues that were not an immediate hazard; and the 3rd priority was restoration of water and soil resources and lands that had been degraded by historic mining practices and those restorations needed to enhance and facilitate the higher priorities. He commented on the reasons why they were working on Boston Hill; how they looked at wildlife habitats and the historic and recreational uses of the area; how the AML Program worked on both public and private lands; how they funded the preparatory work and construction, but

had limitations in the long term maintenance; and that the program would sunset in 2021, but they would maintain what they built until it would sunset. Ken Romig, ASLA Associate and Landscape Architect of Dekker/Perich/Sabatini, said he was a Project Manager for safeguarding mines on Boston Hill. He said they assembled a team of planners, landscape architects, environmental scientists, biologists, community liaisons, and consultants to assist in their effort. He described the AML approach and said the project would have a planning effort with a strong public outreach component; that it would recognize the diverse land ownership of the open space property as well as the surrounding properties; how the public outreach effort would be focused on true genuine conversations with stakeholders and organizations about what made Boston Hill special; how it would preserve the legacy of mining that the area was known for; how they were committed to integrating local expertise and artists into the plan to safeguard mines on Boston Hill; that they were committed to approaching the project with respect for the mining legacy and wildlife habitat; and in the event that the committee consensus was to leave Boston Hill as is, then they would take no action. He explained the 4 phases of the project: 1) assessment, 2) plan, 3) design, and 4) construction assistance. He said that they were currently assessing the project and discussed the steps and mapping that they had completed. He said Phase 1 for the assessment should be completed by March 2013; Phase 2 for the plan should begin in the Spring of 2013; Phase 3 for the design should begin by the Summer of 2013; and Phase 4 for construction assistance would be determined later, but it could be as early as the Fall of 2013. There was further discussion and he answered questions from the Council. Mayor Marshall asked Mr. Romig and Mr. Kretzmann to leave their contact information with the Town Clerk so it could be posted on the Town's website for citizens to find easily. There was further discussion about community consensus.

**B. Staff reports.** Clerk Mackie reported that 2 persons filed their Declaration of Candidacy for the upcoming election and stated that Cynthia Ann Bettison was certified as a candidate for Councilor in District 1 for a 2 year term, and Jose A. Ray, Jr. was certified as a candidate for Councilor in District 3 for a 2 year term. She commented that January 15th was the day to declare as a write-in candidate; reminded voters to update their voter registration with the County Clerk if they had changed their name or address and that the County Clerk would close the voter registrations on February 5th; that absentee voting would begin at City Hall on January 29th and early voting on the vote tabulator machine would begin on February 13th; that March 1st would be the last day to obtain a ballot for absentee or early voting; and that March 5th was Election Day.

Fire Chief Bencomo reported on the Fire Department's Awards Ceremony in December 2012. He said at the awards ceremony they recognized firefighters that attained promotions by giving them certificates; that citation bars were given to the Honor Guard; that they recognized individuals that had attained their Fire Officer 2 certification; that they recognized Eugene Rodriguez as the Firefighter for 2012 and that he was a great employee and was very well respected by his peers; that they recognized and awarded the Medal of Gallantry to Firefighter Jerry O'Neil and Engineer/Paramedic Tommy Chavez for saving an unconscious man and dog from a trailer fire; that Jesse Glick received his Fire Officer 2 certification and was promoted; and that Captain Medina would be retiring in February 2013 after dedicating 20 years of service to the Town of Silver City. Mayor Marshall thanked him and his entire department for a job well done. He said that during the last couple of years that there had been some very trying periods and they continued to excel and protect the town. He said they appreciated it and respected the job that they did. The audience applauded.

## **9. PUBLIC HEARINGS –**

**A. Approval / Disapproval of request for restaurant liquor license with on-premise consumption only. Application #A-836420, Applicant Name: Leah Allen, LLC, DBA Adobe Springs Cafe, Proposed Location: 1617 Silver Heights Blvd., Silver City, NM 88061.** Mayor Marshall stated 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 all 4 Councilors said no. He qualified all of them to be on the hearing board. He 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, Gregg Cook. Mayor Marshall read the procedures of how the hearing would be conducted. He told Mr. Cook that he could present his case. Gregg Cook, co-owner of Adobe Springs, said his wife could not be there because she was out of town. He stated that they had been in business for approximately 2 years as the owners and were currently only operating for breakfast and lunch and 2 dinners a week. He said they would like to expand their hours of operation for

more nighttime dining and offer beer and wine at the restaurant to help build their revenues and to offer more fine dining for evening times and lunch applications. Mayor Marshall asked the hearing board if they had any questions for the witness, and all 4 Councilors said no. He asked Mr. Cook if he had anything else that he would like to be reflected in the record. Mr. Cook said Adobe Springs had liquor licenses before with past owners so they would like to continue on with the business being what it used to be. Mayor Marshall asked if there were any witnesses in opposition to the application, and there were none. He asked Mr. Cook if that concluded his case and he said yes. Mayor Marshall asked if any member of the hearing board had any questions for the witness, and all 4 Councilors said no. He asked if the hearing board was ready to render its decision, and they said yes. He said that he would entertain a motion. Councilor Bettison moved to approve the request and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve, and he asked if there was any discussion. There was none. Mayor Marshall said there was a motion and a second to approve the request for a restaurant liquor license with on-premise consumption only. Application #A-836420, Applicant Name: Leah Allen, LLC, DBA Adobe Springs Cafe, Proposed Location: 1617 Silver Heights Blvd., Silver City, NM 88061. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

Councilor Bettison moved for short break at 6:50 p.m. Councilor Ray seconded. Mayor Marshall said there was a motion and a second for a short break. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mayor Marshall called the meeting back to order at 7:00 p.m.

**B. Approval / Disapproval of Notice of Intent Ordinance No. 1214: making certain findings and determinations pursuant to the Metropolitan Redevelopment Code, and approving the Silver City Metropolitan Redevelopment Area Plan.** Mayor Marshall read the procedures for conducting the public hearing. He asked that any witnesses that were intending to testify and participate in the hearing to be sworn in by the Town Clerk. Clerk Mackie swore in 4 witnesses. Mayor Marshall said it was a Notice of Intent for an ordinance and that Councilor Morones was the sponsor of the ordinance so he asked him to present it. Councilor Morones said he was excited because he was pro business and pro economic growth, but it was very rare that they were able to prove it. He said that in this case they would get to prove it. He said the only burden that they had was that it implied that they would continue to be pro business and pro economic growth. He turned it over to Charlie Deans. Mr. Deans said he was with CommunitybyDesign in Santa Fe, New Mexico, and he was there to speak for the Town of Silver City. He said they were considering the Metropolitan Redevelopment Area (MRA) Plan and the first step was covered in December 2012 for the designation. He said the second step was to approve the actual preparation and approval of the plan itself. He said the main gist of the plan was to identify redevelopment projects that would revitalize the downtown area and provide opportunities for economic development. He said that in approving the plan they would acquire tools that municipalities typically did not have. He said the plan was very similar, but not identical to the Downtown Action Plan that was approved in October 2010. He said when the Downtown Action Plan was approved by resolution in 2010 that its intent was that it would become the Metropolitan Redevelopment Area Plan. He said that because of new legislation being introduced in 2011 that the Town staff decided that the timing would not be best at that time so they decided to hold off adopting the MRA Plan until the legislative session was over in 2011. He reviewed the changes done to the 2010 Downtown Action Plan for the MRA Plan, and discussed the 1-1/2 year process of developing the Downtown Action Plan in 2010 with a steering committee, a comprehensive planning team with traffic engineers, economists, historic preservationists, consultants, etc. He said it was an extensive community process in creating the Downtown Action Plan so he tried to keep it true to that plan so they were not making substantial changes that the community may not be aware of. He said the real heart of the plan was the projects listed on page 91 that would help revitalize downtown. He said the project list could be amended, but it was a great starting point. He said that concluded his presentation.

Mayor Marshall asked if there were any other witnesses to testify in support of Notice of Intent Ordinance No. 1214, and there were none. He asked if there were any questions for Mr. Deans, and he began by saying he appreciated his explanation of the development and the intent. He read the last sentence on page 1 and said it was not factual because they should drop off the word "report" because the Designation Report was evidence in having sufficient findings to designate the area, but they did not adopt the report. He read the very last goal on page 7 and said there was no qualifier for the traffic control devices, and it should because the rest of the items had qualifiers. Mr. Deans said those were the goals from the 2004 Comprehensive Plan so they would look at that plan to see if there was a qualifier. Mayor Marshall said on page 17 it talked about the 2009 Land Use Code being under review by the Mayor and

Council, but it had since passed. He said that on page 27 it talked about the lighting downtown not meeting the State's "Night Skies," but he knew a lot of work had been done to resolve that so they needed to make sure the sentence was accurate before passing it in 2013. He said that on page 39 it said it was a 4 hour drive to Santa Fe. He said that on page 45 that Isaac's was no longer a major employer downtown. He said that on page 51 it would be simple to have the current Visitor Center data. Mayor Marshall commented further on how the word "recently" meant it was up to 4 years because the plan was developed in 2009-2010 and was being considered for adoption in 2013. He said the word "recently" needed to be removed or qualified a little better, and that subjective words should not be used since there was a big gap in time. Mayor Marshall said he was careful not to go past where the Downtown Action Plan really kicked in because it was done by a thorough process. He gave Councilor Bettison the floor.

Councilor Bettison read the last bullet point on page 2 and questioned if the definition of sustainability was economic, environmental or all of it. She said it should be qualified a little more. She said that on page 4 the Apache Indians did not come into the area until the latter end of the 1500s and into the 1600s according to archaeological information so 1300s was too early. She read the first sentence on page 7 and asked Mr. Deans to make sure that it was accurately reflected throughout the plan. She said on page 14 it talked about the Land Use Code and then the 7 zoning designations and she asked if the present 7 zoning designations were from the 1999 Land Use Code. She questioned if it was in the right place and said the word "presently" bothered her because they adopted a new Land Use Code in 2010. Mr. Deans said they would get rid of the words "presently" and "recently." Councilor Bettison suggested that on page 16 that they provide a new zoning map. She said that the last paragraph on page 23 talked about traffic flowing well on Silver City streets and then it talked about the speed limits, but it needed to be updated because Bullard Street was 15 miles per hour. She said on page 26 under Transit it said Corre Camino was a private transit service, but she said it was Corre Caminos and was not a private transit service because it was the Southwest Regional Transit District so it needed to be updated. She said on page 33 and other pages it talked about the ongoing rehabilitation of the Murray Hotel, and that the hotel was now open and occupied and was receiving rave reviews, so that should be reflected as part of what was going on downtown. She read part of the second paragraph on page 38 that said the Town was recently designated as an Arts and Cultural District, but that was in 2009. Mr. Deans said it was in 2010. Councilor Bettison commented further on that paragraph regarding the boundaries of the Arts and Cultural District and asked that the sentence be corrected to indicate the boundaries of the Arts and Cultural District were slightly different than the MRA boundaries. She said that concluded her comments.

Mayor Marshall asked if there were any other questions or comments from the hearing board, and there were none. He asked if there were any other witnesses that wanted to testify in support of the Notice of Intent Ordinance. There were no other witnesses. He asked if there were any witnesses in opposition to the Notice of Intent Ordinance, and there were none. He asked Councilor Morones if he wanted to address the Whereas paragraphs. Councilor Morones commented on the changes requested by the Mayor and Councilor Bettison. Mayor Marshall said they were mostly immaterial and did not change the intent of the document and provided the staff enough direction to make the corrections and amendments, and the NOI document would have the same intent, but it would be cleaned up. Councilor Morones read the second Whereas paragraph of the NOI and said the Council did not approve the Metropolitan Redevelopment Area Designation Report so it was incorrect. He said they designated the Metropolitan Redevelopment Area so he would want a motion that changed the word "approved" to "discussed and considered" since it more appropriately fit what happened on that day. He said those were his only comments. There were no other comments from the Council.

Mayor Marshall asked if there were any witnesses in opposition to the Notice of Intent Ordinance, and there were none. He said that for the record the hearing on the NOI was the public hearing required by Section 3-60A-9A so they were meeting the requirements that were set out and disclosed in the NOI and in the entire Metropolitan Redevelopment process that they were required to follow. He gave Peter Russell, Community Development Director, the floor. Mr. Russell said there would be a second public hearing when they heard the ordinance with the same process. Mayor Marshall said that was correct. He asked if there was anything else to reflect in the record, and there were no other comments. He said that concluded the hearing and asked if the Council was prepared to make a decision and the Council members said yes. He said he would entertain a motion. Councilor Morones moved to approve Notice of Intent Ordinance No. 1214 and he read the agenda item description, with the one change on the second Whereas paragraph where they crossed out "approved" and replaced it with "discussed and considered." Councilor Bettison

seconded. Mayor Marshall said there was a motion and a second to approve Notice of Intent Ordinance No. 1214 as amended, and he asked if there was any discussion. There was none. He said there was a motion and a second to approve Notice of Intent Ordinance No. 1214: an ordinance making certain findings and determinations pursuant to the Metropolitan Redevelopment Code, and approving the Silver City Metropolitan Redevelopment Area Plan with the amendment of marking out "approved" and insert "discussed and considered" in the second Whereas. He asked all those in favor to say aye, and all 4 Councilor said aye. He asked if any were opposed, and there were none. Motion carried.

**10. UNFINISHED BUSINESS – None.**

**11. NEW BUSINESS -**

**A. Approval / Disapproval of Resolution No. 2013-01: Open Meetings.** Mayor Marshall presented the details of Resolution No. 2013-01 and said it was another requirement in the law that they disclose annually when, where, what time, and all of the specifics of when they plan to hold meetings in the next calendar year. He said the resolution met that criteria and their meetings would be held on the second and fourth Tuesday's of every month at 6:00 p.m. in the same room or elsewhere if advertised. Councilor Bettison moved to approve Resolution No. 2013-01 Open Meetings. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-01 Open Meetings, and he asked if there was any discussion. There was none. He said there was a motion and a second to approve Resolution No. 2013-01 Open Meetings and asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

**12. ADJOURNMENT –** Mayor Marshall asked for a motion to adjourn. Councilor Morones moved to adjourn at 7:40 p.m., and Councilor Bettison seconded. Mayor Marshall stated there was a motion and a second to adjourn. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if there were any opposed, and there were none. Motion carried.

\_\_\_\_\_/s/\_\_\_\_\_  
James R. Marshall, Mayor

Attest:

\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda C. Holguin, Acting Town Clerk