

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
May 14, 2013, 6:00 p.m.**

Present:

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

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:06 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – None.
- 4. PUBLIC INPUT** – None.
- 5. COUNCIL COMMENTS** – The Council commented on the following: the Comcast Cares Day event on April 27th that benefitted the Mimbres Region Arts Council's new mural project on the 12th Street Bridge; the plaque dedication to honor Carlos C. Acuirre and thanks to Councilor Ray for his work on putting it together, and to the veterans, other groups, the Councilors, and public for attending, Jose Barrios Elementary School for singing their songs, and the police for putting up the barriers; and how the Tour of the Gila was wonderful and thanks to all of the different agencies, especially the police agencies for their work and for handling the suspicious package incident very professionally.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES – Regular Meeting on April 23, 2013** – Councilor Bettison moved to approve the minutes of the Regular Meeting of April 23, 2013. Councilor Morones seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of April 23, 2013. 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. Silver City MainStreet's report on recommended renovations for the Silco Theater. Lucy Whitmarsh, President of the Silver City MainStreet Project, said the Silver City MainStreet Board was very fortunate to have worked with one of the Program Associates from New Mexico MainStreet, and also an architect with services that had been provided to them by New Mexico MainStreet to be able to come up with a proposal for the renovations for the Silco Theater. She introduced Elmo Baca, Program Associate with the New Mexico MainStreet Program, and David Vesica, Architect. Mr. Baca said that he and Mr. Vesica had been working on developing architectural planning options for the historic Silco Theater. He commented that Silver City was their flagship program and they were proud to be affiliated with Silver City MainStreet and were happy to provide services to help revitalize the historic Silco Theater. He said the project began in mid-March when they received the service request to provide technical and architectural assistance. He said Mr. Vesica worked very hard to provide as-built architectural drawings of the theater for the first time and the document was valuable to the Town and Silver City MainStreet. He said their scope of work to the Town and to Silver City MainStreet was the following: 1) to measure the theater, 2) to identify the essential improvements that needed to be made in the theater so it could be occupied once again and meet fire and safety codes, local building codes, and state building codes so it could open again as a theater, 3) to provide the community with

design options for the short term and long term use of the theater, and 4) to provide the community with fairly accurate cost estimates on the revitalization and rehabilitation of the theater through various phases. He described the design team that he assembled to address the issues. He said the historic Silco Theater provided a unique and exciting opportunity to create a catalytic economic development lifestyle project in the heart of the downtown district; that it was wonderfully sited in the heart of the district; and would help businesses all around it on Bullard and within the whole district. He said the Silco had a wonderful scale and the auditorium had very elegant proportions and an ideal audience capacity of approximately 200 seats on the ground floor and maybe 50 seats upstairs on the balcony. He said they could get a lot of value out of the rehabilitation project for a fairly modest budget.

Mr. Baca introduced David Vesica as a licensed architect in Texas and New Mexico and that he had international and national big city experience, and it was a wonderful coup that they could engage Mr. Vesica on the project. They began their PowerPoint presentation with a photo of the Silco Theater from the 1940s and said it had a beautiful art deco style marquis that inspired their design options. Mr. Vesica discussed the building assessment and gave an overview of the building itself. He suggested the following scope of work to renovate the building in order to provide basic stage functions and theater functions, and that they needed to be done and were not optional: 1) life safety and fire protection issues in the backstage and theater; 2) accessibility issues in the lobby, theater and stage, and restrooms; and 3) heating, ventilation and air conditioning system issues in the building. He discussed the 3 suggested phases of the project, and said Phase 1's proposal was to use it as cinema and not for live productions or stage. He said Phase 2 would be to use the space for live productions and would require accessibility to the stage, etc. He presented the plan proposals and drawings of the options and described them in greater detail.

There was further discussion about the exits and an external area for assisted rescue with a ramp or stairs; how there would be no accessibility for the proposed lounge on the second floor; and that maybe the ground floor could have a small venue area. Councilor Bettison asked about the current deadline of May 31 that was on the purchase agreement. Manager Brown said that from his discussions with MainStreet that the project would not meet the state requirements of the current purchase agreement so in order to move forward the agreement would have to be amended to extend the period for the renovation. He said the Silco was currently bringing in enough revenue stream that would be adequate to pay the debt service that they would owe the Town for the lease of the building if the Town purchased it. He said they currently had that revenue to continue using it as they currently did, and the Town and MainStreet could continue working together to gather the funds from outside sources for the remodeling. Ms. Whitmarsh said that was the request they would like to make and asked that the Council consider a revision to the current agreement. Councilor Bettison asked Manager Brown if it would necessitate the expenditure of Town funds prior to the end of the current fiscal year. Manager Brown said the agreement could be taken care of at the next Council meeting and they could close on the loan at the beginning of June, and he explained funding issues in further detail and said the Town would not be fronting any funds. Councilor Bettison asked if the current owner of the building was amenable. Ms. Whitmarsh said the current owner was very interested in completing the sale of the property. Mayor Marshall asked if they were looking at an additional \$500,000. Ms. Whitmarsh said that was close to what they came up with in working with local contractors on the cost estimates in this area to do Phase 1, and she described what the costs included. Mayor Marshall asked where the money would come from. Ms. Whitmarsh said they had a fundraising proposal that would coordinate private donations that would be tax deductible, and other funding sources, but that one of the stopping points in getting funding was that the building was still in private ownership. She said that once the building was owned by the Town it would open up a lot of funding opportunities for Silver City MainStreet. Mayor Marshall said doing a fund raising campaign until October would be a huge chore in order to collect \$500,000 out of the community, and other sources in the next 6 months, and that construction would need to start fairly soon. She said they could also pursue capital outlay funding that was available to MainStreet Programs, but they had tight timelines for using the money and they would have to show that the Town owned the building in order to go ahead with the construction. There was further discussion about funding sources, including fundraising campaigns. Mayor Marshall said his caution came from starting a project and not finishing it because the community would lose complete faith in the MainStreet organization, and the Town had a risk in borrowing the funds. He said if they were going to move forward on the project it would absolutely have to be finished and on time. He said at that point he was willing to move forward, but was still very cautious that they could find those funds and that capital funds in the last 5 years had become very difficult to acquire. He said that he appreciated and respected the effort that MainStreet was going into, as well as the Town. There was further discussion about funding applications and how Silver City MainStreet was going through the hiring process for

a manager; how the Town was on the hook for the loan, but the agreement included a 10 year lease with MainStreet which would equal the debt service of the loan; that the Town would not be on the hook for the loan as long as MainStreet made their lease payment; how a 10 percent vacancy rate had been anticipated by MainStreet; and how the Mayor liked the idea of having the ticket kiosk in front of the theater.

B. Staff reports. Fire Marshal Milo Lambert reported that due to abnormally warm temperatures, low humidity, and high winds, as well as the abundance of dry and fine fuels, the Silver City Fire Department Chief Rudy Bencomo in consultation with the Town Manager, was going to enact a Stage 1 Fire Ban. He described the restrictions in Stage 1. He said they were still currently in a state of extreme drought and in a state of very high fire danger rated by the State Forestry Division, and that if conditions continued to worsen they would increase the amount of items in the fire ban. Mayor Marshall said they needed to stay on top of it, as well as the 4th of July deadlines. Fire Marshal Lambert agreed and said they were already tracking it.

Mayor Marshall recognized and congratulated the Town Clerk, Ann Mackie, for receiving certification as a Master Municipal Clerk from the International Institute of Municipal Clerks, and that she was one of the ten Master Municipal Clerks in the state.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of Addendum No. 2 to the July 1, 2012 to June 30, 2014 Agreement between the Town of Silver City and the Fraternal Order of Police and the Silver City Police Officers Association. Manager Brown said the police officers' union contract required that every year they look at monetary issues in the agreement, and this year they looked at 2 parts: 1) to keep more officers on the street, and 2) to retain experienced police officers. He said one of the biggest problems in retaining officers was that they were losing them to the County because the County paid 100 percent of the medical insurance. He said in the negotiations the police officers eliminated the physical fitness leave, and the detective duty officers decreased their on-call time by one day a month, and they did get the 100 percent medical pay, and \$300 additional longevity pay. He said that was what they were recommending and it was included in the budget. Mayor Marshall asked if the union had ratified it, and Manager Brown said yes. The Mayor said that it was good for the public to know that one of their efforts was to get more officers on the street every day and to be justly compensated. He gave Councilor Bettison the floor. Councilor Bettison made a motion to approve Addendum No. 2 and she read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second, and he asked if there was further discussion. There was none. He said there was a motion and a second and no further discussion to approve Addendum No. 2 to the July 1, 2012 to June 30, 2014 Agreement between the Town of Silver City and the Fraternal Order of Police and the Silver City Police Officers Association. 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 a short break at 7:06 p.m. Councilor Morones seconded. Mayor Marshall said there was a motion and a second for a short break, and he asked all those in favor to say aye. All 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. He called the meeting back to order at 7:18 p.m.

B. Fiscal Year 2013-2014 Budget presentation by Alex C. Brown, Town Manager-Finance Director, and request for Council's direction. Manager Brown said that he would go through the major funds and lodgers tax. He said the total estimated revenues were \$9,343,000, the transfers out to other funds was \$198,450, and the expenditures were \$8,832,000 which left them \$76,000 over their 1/12th reserve requirement. He said the only difference from the last presentation was that he adjusted the franchise fees to what the actuals were this year. He said that the one thing that Councilor Morones brought up last time was property tax so he did leave a 1 mill increase because of the hold harmless issue, and that they had to start diversifying their revenue sources because they were so dependent on gross receipts taxes for the General Fund and the Water/Sewer Fund. He said the goal within 2 years was to get the Water/Sewer Fund to a point where they could pull the 1/8th percent gross receipts taxes that was in there and put it

back in the General fund where it truly belonged. There was further discussion about the budget resolution that would include a 1 mill increase for property tax as part of the adoption of the preliminary budget and the final budget; sewer rate and wastewater rate increases; how in 2012 the water being pumped and billed had decreased by 11 percent which caused the revenue generated to decrease by 9 1/2 percent; how the last 2 years of water being pumped and billed was quite a bit lower than the previous 10 years; how revenues were being lost due to decreased water usage so the rates needed to be increased because they had fixed expenses; savings from the new pumps and taking advantage of off peak rates because electricity was one of the biggest expenses in the Water/Sewer fund; savings on electricity from the wastewater treatment plant; the new well that had doubled the pumping capacity; and how there were no changes to the Sanitation Fund. Manager Brown said the allocation for lodgers tax was going down from \$225,000 to \$200,000 because the revenue projections had gone down based on the current revenues. He said there were slight increases in overtime for police and fire. He mentioned that there was \$10,000 in general costs that could be re-allocated for professional services to work on data collection. Mayor Marshall said it could be used for data collection from the websites that the Town had funded with lodgers tax monies in order to come up with data driven targets for marketing the Town. Manager Brown said another important fund was the Gas Tax Fund that paid for all of the maintenance on the streets, and again there would be another decrease in its revenues and that he had never seen an increase in its revenues in the last 12 years. He said they would have to address that, and after the first quarter he would like to help supplement it and get additional dollars for street maintenance. There was discussion on the fuel depot and Peter Russell, Community Development Director, commented that they were exploring options for the Town and were getting cost estimates on how the station could be reactivated with the minimum of investment in terms of remediating some of the damage, and getting other cost estimates to close it out and remove the tanks. Mayor Marshall asked if there was any other discussion from the Council, and there was none. Manager Brown said this year's biggest obstacle was preparing for hold harmless; that he wanted to be gradual so it would not kill them when it started to happen in 2 years, and that he had a long term plan that he hoped would work. Mayor Marshall said that when Standard and Poor's gave them their rating that they said one of the Town's negatives was the lack of control over revenues.

C. Approval / Disapproval of Notice of Intent Ordinance No. 1220: an Ordinance amending Ordinance No. 1195; ratifying actions heretofore taken; and repealing all action inconsistent with this Ordinance. Manager Brown said they entered into a Power Purchase Agreement with Energy Solar who later assigned their contract to Affordable Solar. He said that in that document there were clauses that Energy Solar could assign the contract to another entity with the Town's permission, and that all of those documents were moving forward and executed. He said that they had an issue with the Industrial Revenue Bonds for NRG because there was no language in it to allow the assignment of it so the Town's bond counsel and NRG's bond counsel wanted the Town to re-issue the exact same Industrial Revenue Bonds to Affordable Solar. He said they took the precautions that the Council requested, and that the holding company was a New Mexico corporation. There was further discussion. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1220 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second, and he asked if there was further discussion. There was none. He said there was a motion and a second and no discussion to approve Notice of Intent Ordinance No. 1220: an Ordinance amending Ordinance No. 1195; ratifying actions heretofore taken; and repealing all action inconsistent with this Ordinance. 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.

D. Approval / Disapproval of Resolution No. 2013-17: adoption of the Silver City Greenways and Big Ditch Master Plan. Councilor Morones said it was another plan to be added to a number of plans that they had. He said he liked it because it was a collaborative effort between MainStreet and a number of interest groups, and it built upon all of their other plans, i.e. the Comprehensive Plan, the Trails and Open Spaces Plan, and the Downtown Action Plan. He said it built upon everything, and in the future when money and desire permitted they could move and execute on the plan and actually would be working to complete all of the other plans that they had. He turned the discussion over to Lucy Whitmarsh, President of the Silver City MainStreet Project. Ms. Whitmarsh said the Silver City MainStreet Project in conjunction with the interested trail partners in the community had been fortunate to work with Charlie Deans to develop the plan. She said there was quite a bit of involvement from the Town and it was a very comprehensive plan, and that she especially appreciated the widespread support from the community. She said the Silver City MainStreet Project got involved because they were proponents of more use of the Big Ditch Park, and they felt the connectivity with the trails would help promote it because it would be part of a trails system that could be used

to get from place to place. She said another priority was the MainStreet Plaza and that it needed improvements to the grading, performance area, and needed public restroom facilities. She turned the discussion over to Charlie Deans. Mr. Deans said he was with CommunitybyDesign and was a consultant for the New Mexico MainStreet Program, and that he was paid to prepare the plan from the Economic Development Department's appropriations as part of his contract. He said that he was requested by Silver City MainStreet on what started out as a Big Ditch Master Plan, but it grew to create more connectivity to the other creeks that joined up and the confluence at the Big Ditch Plan. He discussed the following: the process and the steering committee; a map that showed the area of focus; how it was not just looked at as recreational, but was also looked at as economic development to get people downtown without getting in their cars; that there were 4 pathway standards developed in the plan - the primitive pathway in the creek bottom, the top of bank pathway or rural pathway, the urban pathway, and the street standard using public right of ways; how the creek bottoms were almost entirely privately owned so it would take time to get easements and access to develop it; how there would be a combination of pathways as appropriate; how the Town would not be responsible for taking the leadership role in implementing the plan, but the Town's role would be one of support like pursuing funding with the groups, and not of buying trail easements and having the burden of implementing the plan; how it would be volunteer driven with the Town's partnership with the trails groups and Silver City MainStreet to realize the planning process; how there were phases and priority projects in the plan; how the cost for the priority projects and pathways was \$200,000 which was achievable for pursuing funding sources; and that it was a 10 to 20 year project. Mr. Deans said they were asking that the Council approve the Resolution because it would benefit the competitiveness for pursuing grant funding by New Mexico MainStreet and the Economic Development Department if the plan had been formally adopted by the Town. There was further discussion from the Council on the following: the requested improvements for the MainStreet Plaza or Farmers Market area and how it would be funded; how the Town was stretching its resources when the Police and Fire Department already had a lot of area to cover; how the plan proposed skateboard and bicyclists on the trails, and that it may cause trouble; how the current skateboard park was not being utilized that much; how the pathways had standards for bicycle use; issues with bicyclists; and how having a trail system off the street to provide a manner for people to commute on foot, bike, or skateboard was beneficial and may resolve other issues because it was out of the traffic flow.

Mayor Marshall said that he did not have a lot of questions about the plan, but that he was concerned about using creek bottoms for public designated transportation ways. He said that they were seeing more intense storms, and that he was concerned that they would encourage the public to play and use those ways as transportation. He said that they were telling people to go down in the creek when they did not know what would be coming at them if there was a cloud in the mountain. Mr. Deans said that he shared his concern, particularly the areas south of Highway 180 where the older and more historic portions of Silva Creek and Pinos Altos Creek were varied in size, deep and narrow, and they did not always have a sandy bottom. He said there were some issues with making it as though they were inviting them to use the creek bottom trails, and that was why they also did a top of bank scenario to connect. He said that north of Highway 180 the Pinos Altos Creek was broader and sandier and much more defined, and it would be much easier to do a pathway up to the high school and do a Safe Routes to School to connect those areas. He said the downtown area would be challenging because of safety issues. Mayor Marshall said there were appropriate places and then other places that they really had to be cautious of, and that they should run it by their insurance carrier to make sure they were comfortable with the plan. The Mayor commented that a maintenance program would keep the ditches thinned out and make the police's job easier and would also reduce the threat of the spread of fire by having it managed. He asked the audience if there were any comments, and there were none. Ms. Whitmarsh commented that appropriate use of the areas would hopefully decrease the other types of behaviors that were of no good purpose, and that hopefully the public's use of it for recreational purposes would improve the entire environment.

Councilor Bettison stated that New Mexico had a major advertising campaign every summer that told people, "Don't play in the arroyo." She said streams were actually arroyos and even though they may have sandy bottoms, with the drought conditions and the drop in the water tables and if a drastic storm came along, the arroyo would be cut down to the new water level. She said that she agreed that it may not be appropriate and not the right place to put pedestrian access or for the Town to encourage it since New Mexico had the ad every year that said, "Don't play in the arroyo." She said it would be contradictory to the public announcements being made throughout the state of New Mexico. Peter Russell, Community Development Director, said the plan was a vision of the community and that he was not sure that all of the pieces of the vision had to be implemented. He said that in every instance of the trails that they would see a

top of the bank proposal and his expectation was that in partnering with the Town that the Town would push the top of the bank pathway. He talked about a current top of the bank project being done behind the Police and Fire Department. He said the creeks or the arroyos provided corridors for people to move through the town, but did not require the people to move through the bottoms, and that they could be used through the top of the bank scenarios. He said another important thing in the plan that he supported was that the plan provided a set of standards for trails and their uses. He agreed with Ms. Whitmarsh that the trails would bring more people through the areas and some of the uses seen currently would move away because of the public presence moving through it. He said the concerns raised about encouraging people to go in the creek bottoms was very well founded, and the concerns about conflicts about different modes of transportation were well founded, but the plan did address those issues. He said they could pick and choose the parts that seemed the safest and that gave the most bang for the buck, and really do something nice with the green corridors that the arroyos and the trees represented. He said there was a tremendous wildlife benefit to those for birding which was an important economic recreational activity so having access to that would be good for the Town as well.

Mayor Marshall said that he was sensitive to it and commented on an award that he received in the past for heroism on a water rescue that they did in the arroyo at 19th Street. Mr. Russell said the plan also proposed the enhancement of a lot of bridges over the creek, and he commented on several bridges that were fantastic and other older bridges on Pinos Altos Creek that could be elevated to meet the same standards as the Market Street bridge. He said the bridges provided connections in parts of the city that had been divided and separated by the arroyos. Mayor Marshall said he appreciated the work that the committee did, and he wanted to make sure that their appreciation was felt and was not overshadowed by their questions and concerns. He said there had been a lot of walking, mapping, and volunteering in the community and that was what made this community great. He said he absolutely supported the plan, but as they went forward he did not want them to increase their liability. He said that he hated signs, but they may have to put signs up in certain areas that warned people to be aware of their surroundings, such as, "Be aware, don't drown." He said they would have to look at it at that time. He gave the floor to Councilor Morones. Councilor Morones commented on how Pinos Altos Creek was his playground while he was growing up, how his children use it, and that it was great for kids and adults to enjoy what Silver City had to offer. He commented on how the plan created a means in the future to alleviate current problems by taking some of the bicycles and skateboards off of the roads and creating a safer environment on the streets and highways. He said it allowed for some development so the environment would be less attractive to some of the bad elements of the town. He said that he appreciated that those involved in the plan did look at it as a very long term plan, 10 to 20 years if at all; that it could materialize slowly as time permitted, money permitted, and as volunteers and their time and labors permitted. He said that he thought that over time it would be a very positive thing and would actually decrease some of the issues and concerns that would arise, and would work in favor to fix those concerns. Councilor Morones made a motion to approve Resolution No. 2013-17 and he read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second, and he asked if there was any discussion. There was none. He said there was a motion and a second to approve Resolution No. 2013-17: adoption of the Silver City Greenways and Big Ditch Master Plan. He asked for a roll call vote: Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

12. ADJOURNMENT – Mayor Marshall asked for a motion to adjourn. Councilor Morones moved to adjourn at 8:19 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