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**BOARD OF TRUSTEES  
TOWN OF MESILLA  
MEETING  
MONDAY, JANUARY 9, 2012  
6:00 P.M.**

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**TRUSTEE:** Nora L. Barraza, Mayor  
Jesus Caro, Mayor Pro Tem  
Carlos Arzabal, Trustee  
Sam Bernal, Trustee  
Linda L. Flores, Trustee

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**STAFF:** Nick Eckert, Town Clerk/Treasurer  
Ashley Echavarria, Special Event Coordinator  
Jeff Gray, Marshal  
Kevin Hoban, Fire Chief  
Debbie Lujan, Public Works Director  
Gloria Maya, Recorder

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**PUBLIC:** Patricia Lozano Isaac Martinez

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**OPENING CEREMONIES**

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A. Pledge of Allegiance

Mayor Barraza led the Pledge of Allegiance.

**ROLL CALL AND DETERMINATION OF A QUORUM**

**Roll Call.**

**Present:** Mayor Barraza, Mayor Pro Tem Caro, Trustee Arzabal, Trustee Bernal, Trustee Flores.

**CHANGES TO THE AGENDA**

Trustee Arzabal requested placing item #2 on the consent agenda; ask if there is a 90-day Memorandum of Agreement.

Mr. Eckert responded this is a resolution for a response to the Santa Fe Flood Plain Administrator and the Dona Ana Flood Commission, our flood paying administrator. They are asking for documentation to insure that we do have a tie with the county and that all of our maps are in order.

Trustee Arzabal requested placing item #4 on the consent agenda; asked if this is money that was not budget and will not affect the General Fund.

Mr. Eckert responded there are two funds that have received additional funding or grants that was not put in the 2011-12 budget. These deal with the Marshal, Fire Fund, Inter-Governmental Grants which deals with the Groundwork Dona Ana. Money was received at the end of last fiscal year; it is a housekeeping component.

1 **Motion:** To accept the agenda as amended, **Moved by** Trustee Arzabal, **Seconded by** Mayor Pro  
2 Tem Caro.

3  
4 **Vote:** Motion passed (**summary:** Yes = 4).

5 **Yes:** Mayor Pro Tem Caro, Trustee Arzabal, Trustee Bernal, Trustee Flores.

6  
7 **ACCEPTANCE OF THE CONSENT AGENDA**

8  
9 **Motion:** To accept the consent agenda as amended, **Moved by** Trustee Bernal, **Seconded by**  
10 Trustee Flores.

11  
12 **Roll Call Vote:** Motion passed (**summary:** Yes = 4).

13 Mayor Pro Tem Caro Yes

14 Trustee Arzabal Yes

15 Trustee Bernal Yes

16 Trustee Flores Yes

17  
18 **BOT MINUTES:**

19 1. Regular Meeting 12-27-11 *Approved by consent agenda*

20  
21 **PZHAC BUSINESS:**

22 1. Case 011132, 2171 Calle de Guadalupe, Ken Dixon, a building permit for a garage. Zone:  
23 HR. *Approved by consent agenda*

24  
25 Mayor Barraza asked if the condition placed was filled by the occupant.

26  
27 Mr. Eckert responded as far as he knows it has not been filled; before any permit is issued it must  
28 be completed.

29  
30 **NEW BUSINESS:**

31 2. For approval: a resolution of intent related to the community assistance visit (CAV) FY-11  
32 for the National Flood Insurance Program (NFIP). *Nick Eckert, Town Clerk/Treasurer.*  
33 *Approved by consent agenda*

34  
35 3. For approval: adoption of an ordinance pertaining to the seizure and forfeiture of vehicles  
36 related to DWI offenses. *Jeff Gray, Marshal and Nick Hervol, Deputy.*

37  
38 Deputy Hervol reviewed the state and county statistics 2006 through June 2011. Stated that there  
39 were 19 DWI arrests in 2011 in the Town of Mesilla.

40  
41 Marshal Gray stated the requested changes have been done to the ordinance. He met with Trustee  
42 Flores for a legal input. Mr. Darden, town attorney, stated that as long as we pick and follow a  
43 proven ordinance, be it the county or the city, we should not have any problems. Mr. Darden also  
44 commented he cannot believe it has taken the Town of Mesilla so long to implement this type of  
45 an ordinance. On the fee schedule the possible forfeiture is the one that will be adopted. We  
46 have taken away the holding period and included there is a possible forfeiture. Cases will be  
47 reviewed on a case by case basis; review for its integrity and issues the families may have. In  
48 2011 there were 108 potential seizures if the program had been implemented.

49  
50 Mayor Barraza reiterated for clarification 108 had been pulled over for a traffic violation and all  
51 108 had previous DWI convictions.

1 Marshal Gray responded they were suspended or revoked licenses due to a DWI conviction. As  
2 of today for this year we have 5. If the ordinance is adopted we will go to RPI for a tow company  
3 which explains what we need; a separate and secure fenced area, a response time, set fees. The  
4 state through the PRC has set rates for storage. In Dona Ana County it is \$10.00. Stated this  
5 ordinance is one of many plans and ideas that we can put into further action. He further believes  
6 that it is up to public safety officers and the governing body to do whatever we can to promote  
7 and protect the citizens of this community. Sometimes we have to put aside our personal  
8 feelings, opinions and do what is right for the community. We have all taken an oath to protect  
9 the public fairly and impartially.

10  
11 Mayor Barraza stated the marshal department is proposing this ordinance for seizure vehicles.  
12 When there is a traffic stop their license is run determining their history.

13  
14 Marshal Gray responded the license is run through the DMV for status; 1) if it comes with a  
15 suspended or revoked due to a revocation for administrative hearing prior to DWI conviction, 2)  
16 if there is a revoked license due to a conviction and the requirements implemented by the court  
17 are not abided by; 3) if there are multiple convictions.

18  
19 Mayor Barraza stated all that information comes up when the license is run. Asked what happens  
20 if the person has any of those 3 items.

21  
22 Marshal Gray responded the vehicle will be towed to the towing company yard which is a  
23 separate and secured area. The Town of Mesilla will have access to do some monitoring and the  
24 tow company will have access to the area. Once the vehicle has been seized the individual has  
25 the opportunity to come forward that they are in compliance. The vehicle will be release upon  
26 payment of the fee; the signed release is then taken to the tow company. The money is deposited  
27 into the General Fund and can be utilized for police operation and educational programs.

28  
29 Mayor Barraza asked if that will be going through our Municipal Court.

30  
31 Marshal Gray responded these will be handled through the Marshall Department. The Municipal  
32 Court will handle any new cases.

33  
34 Mayor Barraza asked if the person would be arrested

35  
36 Marshal Gray responded if the individual is in compliance they will not be arrested.

37  
38 Mayor Barraza asked what the second scenario is.

39  
40 Marshal Gray responded if the individual indicates they cannot afford it, we will try to work  
41 something out with that individual so the vehicle does not need to be forfeiture. If they individual  
42 ignores the citation we follow the process to obtain the vehicle. The vehicle can be converted for  
43 our use or it can be auctioned.

44  
45 Mayor Barraza asked what if the vehicle is under two names.

46  
47 Marshal Gray responded the other owner can come in once as an innocent party. The bank can  
48 pay the fees and get the car. If there is another party that has a lien on the car is the next person  
49 in line to claim ownership.

50

1 Mayor Barraza asked if the Marshal's Department can handle the work load if this ordinance is  
2 approved.

3  
4 Marshal Gray responded the staff can handle the work load.

5  
6 **Motion:** To approve adoption of an ordinance pertaining to the seizure and forfeiture of vehicles  
7 related to DWI offenses, **Moved by** Trustee Arzabal, **Seconded by** Trustee Bernal.

8  
9 Trustee Bernal asked him to explain if this ordinance is user friendly.

10  
11 Marshal Gray responded we want to be able to work with the public; there is a price to pay when  
12 the court process is not followed. The schedule of fees has been cut in half and the holding time  
13 has been eliminated so that shows we are willing to work with the public. We are willing to help  
14 people get through this; we are not stuck on A, B, & C.

15  
16 Trustee Bernal stated he hopes that they stick to the ordinance, if passed, and that all the staff  
17 understands and tries to work with the people.

18  
19 Marshal Gray responded this is his word; he will be overseeing Deputy Hervol who will be  
20 responsible for the program and the paperwork. If he sees a need at a later time that a hearing  
21 officer is needed one will be hired and which is paid for by the defendant. An outside view may  
22 also be need. We have a good foundation; we have looked at the county and city ordinances and  
23 we can adapt.

24  
25 Trustee Arzabal stated since we don't know how this is going to work lets look at adding a 12  
26 month period amendment. At the end of the 12 months we will look at how it is working and go  
27 from there.

28  
29 Mr. Eckert responded a condition can be set on the ordinance; a sunset clause to allow a review of  
30 the ordinance after a year period.

31  
32 Trustee Arzabal asked if we will have the numbers and the Marshal Department's word.

33  
34 Marshal Gray responded we will have stops, numbers and financial records. We will be looking  
35 at the local residents and visitors.

36  
37 Trustee Flores stated they tried to accommodate the best interest involved. Reviewed her  
38 concerns and recommendations:

39 Page 3 – family household members; it was too extensive. She would like a cohabitation clause;  
40 NM State Statute 3.33.11 it does not require cohabitation. She prefers as a bar; a higher likely  
41 hood of knowing if someone had a DWI.

42 Page 4 Section 6-B-she didn't like that someone can have their license revoked. Asked that  
43 "arrest with a conviction" can be added.

44  
45 Marshal Gray stated we will have to remove the first seizure requirement.

46  
47 Trustee Flores stated she believes they should be found guilty of a DWI. It is too easy to get a  
48 revocation because there's a question.

49  
50 Marshal Gray responded it was left like that because the county and the city both do it that way.

1 We are required by law to give a 10-day advisement; we cannot lead them by the hand. He feels  
2 we need to leave it in.

3

4 Trustee Flores responded if you are going to leave it you need to strike out “as a result of a DWI  
5 conviction.

6

7 Mayor Barraza asked if Trustee Flores’ concerns are with the wording of the ordinance because  
8 we don’t know if the ordinance is going to be approved; are these changes going to make a  
9 difference on how the ordinance is implemented. Asked if we should present the ordinance as it  
10 is and after it is voted on the motion can reflect the amendments at that time.

11

12 Trustee Flores responded she feels it will.

13

14 Marshal Gray indicated that if it passes we can make those changes at that time.

15

16 Trustee Flores asked that the Mayor not say motion passes; needs to say passes with amendments.

17

18 Marshal Gray stated a stipulation can be added that if it passes; adjustments can be made as  
19 needed.

20

21 Mayor Barraza asked Mr. Eckert that if we go with the ordinance as it is presented tonight will  
22 Trustee Flores make an amendment to suggest these changes if the ordinance passes.

23

24 Mr. Eckert responded with the question at hand; yes that can be done if it is a grammar  
25 component. If something is going to be added or removed it needs to be a condition with the  
26 vote. If Trustee Flores feels it is a substantial substance it needs to be addressed now or if not the  
27 trustees can vote on what is being presented.

28

29 Mayor Barraza stated we have an ordinance before us that has been reviewed by Mr. Darden,  
30 Trustee Flores, Deputy Hervol and Marshal Gray.

31

32 Mr. Eckert responded that is correct and we feel confident that with those reviews it would stand  
33 up in a court of law and would like to proceed with it as presented today.

34

35 Mayor Barraza asked if Trustee Flores would like to make changes that would change the scope  
36 of that paragraph she can present them to the trustees who would have to vote on them  
37 individually.

38

39 Mr. Eckert responded she could present them tonight and whoever makes the motion could  
40 include them if the deem them appropriate.

41

42 Mayor Barraza stated there is a motion and a second on the floor with the ordinance that was  
43 proposed. After Trustee Flores reviews her changes the trustee making the motion would have to  
44 amend the motion to include these recommendations.

45

46 Mr. Eckert responded that is correct.

47

48 Trustee Flores stated Page 5 should include similar law.

49 Page 4-it should include to whom the car will be released; owner or registered owner.

50 Page 6-assertion of claim should be “if available”; shall will mean it will be done.

1 Mayor Pro Tem Caro stated he has some concerns regarding the ordinance. He thanked the  
2 Marshal for his comments and that they are going to be looking at hardship cases which there will  
3 be many. He feels there will be much potential litigations. Read a statement and asked that  
4 before the trustees vote they consider everything. It may cost us more than we can afford. The  
5 judge has also said they would like to get more help because it takes up a lot of time. He is glad  
6 that the Marshal took his time and presented it the way he did. In his opinion he does not feel this  
7 is good for Mesilla.

8  
9 Trustee Flores asked that she wants to make sure that the revocation will not be changed.

10  
11 Marshal Gray responded the revocation will not be changed.

12  
13 **Amended Motion:** To approve adoption of an ordinance pertaining to the seizure and forfeiture  
14 of vehicles related to DWI offenses to include Trustee Flores' changes and a 12-month sunset  
15 clause, **Moved by** Trustee Arzabal, **Seconded by** Trustee Bernal.

16  
17 Mayor Barraza stated she knows that Marshal Gray and Deputy Hervol have worked very hard on  
18 the ordinance. She thanked Trustee Flores for her input which is appreciated by everyone. They  
19 have taken into consideration Mayor Pro Tem Caro's concerns. In 2011 there were 19 arrests;  
20 that number may increase or decrease. Since she has been here everyone's responsibilities have  
21 increased but we have been able to meet our obligations. She feels confident the Marshal's  
22 Department can handle the extra work. She is requesting that Marshal Gray keep her up-to-date  
23 and an evaluation will be done in 6 months. It will come back to the board in January, 2013 for a  
24 complete report.

25  
26 Trustee Bernal stated that within the year if the Mayor sees that she needs to review it with him  
27 and feels it needs to come back to the board that she can make that call.

28  
29 Marshal Gray asked if the report should be sent to her and the board.

30  
31 Mayor Barraza responded a weekly report should be sent to her and if needed it, will be forward  
32 it to the board.

33  
34 Trustee Flores indicated she would like a report to be included under Marshal's report.

35  
36 Mayor Barraza stated she understands Mayor Pro Tem Caro's concerns and the affects it will  
37 have on the family. If they kill someone that will definitely affect the family.

38  
39 Marshal Gray stated that within a week's period we had one individual who had multiple DWI  
40 convictions, run a red light at Avenida de Mesilla and Boutz, T-bone a car, hit some parked  
41 motorcycles, and then hit a wall. Another individual with multiple DWI convictions ended up in  
42 the fountain; so this does happen in the Town of Mesilla.

43  
44 Mayor Barraza stated she was looking on the internet at court reports. This is a reoccurring  
45 problem that needs to be dealt with. The State of New Mexico is also taking a proactive role  
46 regarding DWIs.

47  
48 Marshal Gray indicated Governor Martinez is looking at a state-wide mandated forfeiture. If we  
49 implement ours prior to that taking effect we will be grandfathered in. If we are mandated into it  
50 the state would receives the revenue and we will not receive any revenue.

1 Mr. Richard Ferrary stated he is a member of the Mesilla Valley DWI Resource Center which  
2 replaced MADD. One of their programs is the Victim Impact Panel which invites those who  
3 have been victimized by a DWI to speak to first offenders which are sent through the judicial  
4 system. We are averaging 60 to 90 individuals a month; this tells him that no matter what we try  
5 we have a huge problem. Their organization services victims and they need to know that the  
6 community is doing everything they can do to deter this. They tell them about the consequences.  
7 You may think the consequence is money but the real consequence is destroying families. He  
8 researched how many people were being kill in DWI crashes in a 5 year period; an average of 80  
9 people or 16 people a year. We got it down to 3 people which was a remarkable improvement  
10 through the Five County Project which was adopted by the state. Efforts to do things can make a  
11 difference. He is so pleased that you are taking this issue on; very few entities are looking at this  
12 as seriously as the Town of Mesilla. He wants to emphasis that we are talking about deterrents;  
13 people making choices. They need to be aware of the consequence of their choices. Posting a  
14 sign informing people we are a forfeiture community. Sending messages will help people make  
15 better choices. Remember this ordinance is adopted under the nuisance power. A nuisance is  
16 something is occurring over and over again. People know they are doing something wrong; yes  
17 you can have sympathy but he is looking at it from the victim's point of view. We need to send a  
18 message that victims are not forgotten; we need to not have future victims.

19  
20 Ms. Patsy Lozano stated she hopes this ordinance helps. As Mayor Barraza stated it is not  
21 expensive to hold a car; it is expensive to loose a life. One of the hardest things is going to a  
22 child's funeral. She believes that if the ordinance passes there are a lot of people that will be  
23 willing to volunteer to help with the paperwork if this will help keep those drivers off the road. If  
24 they were to stop someone at the age of 32 who was drinking or breaking the law; hopefully that  
25 will be a wakeup call to those individuals and the people of Mesilla. She hopes this passes and  
26 she supports the fire and marshal departments. She knows that is one of her loved ones was hurt  
27 or killed by someone who has taken advantage of our system and never taken off the streets; that  
28 is wrong. She is offering her help where ever it is needed. We all have financial hardships. If  
29 they can afford to spend money on liquor they deserve not to drive.

30  
31 Trustee Flores indicated they should look at all this very carefully.

32  
33 **Roll Call Vote:** Motion passed (**summary:** Yes = 4).

34 Mayor Pro Tem Caro Yes

35 Trustee Arzabal Yes

36 Trustee Bernal Yes

37 Trustee Flores Yes

38  
39 Mayor Barraza stated she appreciates all the research the trustees have done on this ordinance.  
40 She thanked Marshal Gray for hard work and information.

41  
42 4. For approval: A resolution requesting budget adjustments in the Revenue and Expenditure  
43 Budget for Fiscal Year 2011-2012. *Nick Eckert, Town Clerk-Treasurer. Approved by*  
44 *consent agenda*

45  
46 **STAFF REPORTS**

47 5. Community Development Office *Approved by consent agenda*

48 6. Community Programs *Approved by consent agenda*

49 7. Finance Department *Approved by consent agenda*

50 8. Fire Department *Approved by consent agenda*

51 9. Marshal Department. *Approved by consent agenda*

1 10. Public Works Department. *Approved by consent agenda*

2  
3 **PUBLIC COMMENTS:**

4  
5 Fire Chief Hoban commended the Public Works staff during the water line break on Calle de  
6 Norte on Saturday for their hard work.

7  
8 **BOARD OF TRUSTEES COMMENTS:**

9  
10 Mayor Pro Tem Caro stated he noticed that a section of Calle de Norte is still blocked and asked  
11 if they are still working on the water line break

12  
13 Ms. Lujan responded the hole is still to wet to cover. It was a sink hole and we were very lucky  
14 that a large vehicle did not get stuck.

15  
16 Mayor Pro Tem Caro thanked the Public Works staff who has been working very hard around the  
17 community.

18  
19 Trustee Flores commended the Public Works staff for their work on the Centennial Parade float  
20 and she appreciates all their hard work. Stated that she will pay for any town employee that  
21 would like to participate in the Cupid Race on February 11<sup>th</sup>.

22  
23 Trustee Bernal thanked Mr. Ferrary for his comments and Trustee Flores for her research. The  
24 board has had to make some hard decisions and tries to do their best to help the community. We  
25 don't always agree but we are going forward and in the right direction. It all starts from the top  
26 and that's the Mayor.

27  
28 Mayor Barraza stated Public Works staff; Ms. Echavarria and Ms. Priscilliana Sandoval worked  
29 very hard on the float and is very proud of everyone. The float will be displayed around the town  
30 hall for everyone to see. We are hoping to carry out the theme during our parade. Staff did a  
31 fantastic job on the water break; they did have a positive attitude. It is very frustrating when we  
32 don't have the resources to get the job done. She will get a list of the town needs for the trustees  
33 so they can see the dire infrastructure/equipment needs and no funds coming in. Representative  
34 Smith stated that entities will have to get creative in addressing the infrastructure needs. She has  
35 received numerous calls regarding Calle de Parian which in dire need of repair. She met with Mr.  
36 Lucero and Ms. Lujan to discuss a temporary fix. Beginning Thursday, the Asphalt Zipper will  
37 be used to tear up the road from Representative Gutierrez' to Ms. Melanie Goodman's. We are  
38 asking Senator Papan to reauthorize some money to do a temporary fix which will cost  
39 \$20,000/\$25,000. There is danger of water lines breaking. On Calle de Norte there was a foot of  
40 asphalt. There is also some money that was allocated for Phase 7 of Calle de Sur and we are  
41 looking at reallocating for Calle de Parian since it was addressed as Mesilla Roads. Thanked  
42 everyone for supporting the Marshal's Department. She will be monitoring the ordinance very  
43 closely and will look at placing signs informing the public. This is trying to take a proactive  
44 approach; making people responsible for their actions. We will be closed for Martin Luther King  
45 on Monday.

46  
47 Marshal Gray stated that Deputy Salas' father-in-law passed away and asked everyone to keep the  
48 family in their prayers.

49  
50 **ADJOURNMENT**

51

1 **Motion:** To adjourn, **Moved by** Trustee Arzabal, **Seconded by** Mayor Pro Tem Caro.

2

3 **Vote:** Motion passed (**summary:** Yes = 4).

4 **Yes:** Mayor Pro Tem Caro, Trustee Arzabal, Trustee Bernal, Trustee Flores.

5

6 **MEETING ADJOURNED AT 7:30 P.M.**

7

8

9 **APPROVED THIS 23<sup>RD</sup> DAY OF JANUARY, 2012.**

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Nora L. Barraza

16

Mayor

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18

19 **ATTEST:**

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21

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23

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Nicholas Eckert

Town Clerk/Treasurer

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27

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