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**BOARD OF TRUSTEES  
TOWN OF MESILLA  
MEETING  
MONDAY, NOVEMBER 28, 2011  
6:00 P.M.**

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

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

**PUBLIC:** Bery Schmukler Steven Hernandez  
Mary Kay Papen Jerry Garcia  
Alexandra Nason Hall

**OPENING CEREMONIES**

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 items #4, #5 and #7 to the consent agenda.

**Motion:** To approve the agenda, **Moved by** Trustee Arzabal, **Seconded by** Mayor Pro Tem Caro.

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

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

**ACCEPTANCE OF THE CONSENT AGENDA**

**Motion:** To approve the consent agenda, **Moved by** Trustee Flores, **Seconded by** Trustee Bernal.

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

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

**BOT MINUTES:**

1 1. Regular Meeting 11-14-11 *Approved by consent agenda*

2  
3 **PZHAC CASES:**

4 2. Case 011122: 2309 Calle de Guadalupe, Lisa Esparza, an application for a sign permit.

5 Zone: HC. *Approved by consent agenda with condition*

6 3. Case 011123: 2470 Calle de de Guadalupe (A), Patricia Burnett, an application for a sign  
7 permit. Zone: HC. *Approved by consent agenda*

8  
9 **NEW BUSINESS:**

10 4. For Approval: a resolution for the 2012 Town Holiday Schedule. *Nick Eckert, Town*  
11 *Clerk-Treasurer Approved by consent agenda*

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

14 Mayor Pro Tem Caro Yes

15 Trustee Arzabal Yes

16 Trustee Bernal Yes

17 Trustee Flores Yes

18  
19 5. For Approval: a resolution approving final acceptance of the Jornada water system in the  
20 Raasaf area. *Debbie Lujan, Public Works Director Approved by the consent agenda*

21  
22 **Roll Call Vote: Motion passed (summary: Yes = 4).**

23 Mayor Pro Tem Caro Yes

24 Trustee Arzabal Yes

25 Trustee Bernal Yes

26 Trustee Flores Yes

27  
28 6. First reading: request for fuel and vehicle repair surcharge taken from existing fees  
29 collected from traffic violations amendments to MTC 10.05.060. *Jeff Gray, Marshal*

30  
31 Marshal Gray indicated the board action form should reflect a \$3.00 instead of a \$2.00 Judicial  
32 Education Fee. The publishing company is responsible for making the correction. This is a  
33 request for a \$10 surcharge to be levied through the paid citations through the municipal court.  
34 The amount was derived from the penalty assessment were raised; they have been raised twice in  
35 the past 6.5 years. This will be in a separate line item focused on fuel and vehicle maintenance in  
36 the Marshal Department's. Once it is established it can be used to off set other line items which  
37 will lessen budget change request. He is not requesting that this fund be placed on top of the  
38 existing fund but a replacement to both and hopefully more in the future. By allowing this fund  
39 to grow each year the balance will be able to fund items that the General Fund cannot such as  
40 new vehicles. This will allow the Marshal Department's Operation Budget become self-  
41 sustaining which will have a positive impact on the town's General Fund. The Marshal's budget  
42 is currently \$59,201 which could be funded through these proceeds and other programs in the  
43 near future. This amount could be removed from the budget line item and could rely on intake  
44 from those revenues generated from the officers merely doing their jobs. The town relies on all  
45 revenues they receive including from the court. The court currently charges a \$29 court cost  
46 which covers the Corrections Fund, Automation Fund, and Judiciary Education Fund. The town  
47 receives the remaining amount for the General Fund. The town awards departments their  
48 budgetary request during the budget process. For example: a citation is \$79; \$29 goes to the  
49 court and \$50 goes to the town. In his request the line item would indicate \$10 per citation  
50 changing the town portion to \$40. The town currently has 1 officer per shift and 1 officer at the  
51 school resource duties at the schools. The department participates in 2 grants that put additional

1 officers on the street at any given time. These operations do not always cover additional costs for  
2 this. Stone Garden reimburses fuel and vehicle maintenance during operations. The DWI pays  
3 for overtime and the department pays the additional cost. This adds officers to the streets and  
4 hopefully gives the residents an increase sense of feeling safe. The small amount added to the  
5 revolving line item could offset the added cost to fuel and maintenance. The current budget for  
6 vehicle repair is \$1000 for 6 vehicles for example a set of tires and brake job could cost \$700.  
7 We are uncertain how long we will have these grants that we rely on to help supplement these  
8 expenses. He feels it is time to be proactive and prepare for that day.

9  
10 Trustee Arzabal stated he sees this as a request for a budget increase. You currently have you  
11 vehicle and repair line item and you are not willing to give that up.

12  
13 Marshal Gray responded I am willing to give that up.

14  
15 Trustee Arzabal indicated you cannot give that up; you do not have any money.

16  
17 Marshal Gray asked if he is talking about the remaining balance.

18  
19 Trustee Arzabal responded yes; are you willing to give it up.

20  
21 Marshal Gray responded I cannot give it up tonight.

22  
23 Trustee Arzabal stated by requesting the \$10 per citation you are asking for a budget increase.  
24 We had to take money from the General Fund to pay for salaries.

25  
26 Marshal Gray responded that is correct because it was not funded in the previous budget.

27  
28 Trustee Arzabal stated if is not broke why fix it. That money goes to the General Fund and when  
29 a department has a need a budget adjustment can be requested. Asked if the seizure ordinance is  
30 passed is this going to create money for the General Fund or for the Marshal's department.

31  
32 Marshal Gray responded he has 3 plans 2 of them, the seizure ordinance and the \$10 citation  
33 surcharge, proceeds could eliminate the entire operating budget that the Marshal's department  
34 requests.

35  
36 Trustee Arzabal recommends waiting to see if the seizure ordinance gets approved and at that  
37 time do the line item for the \$10 surcharge.

38  
39 Marshal Gray responded he is looking at redirecting the budget not increasing the budget. If this  
40 were to pass and prove to work at the end of the fiscal year he would be able to eliminate 2 line  
41 items from the department's budget.

42  
43 Trustee Arzabal stated he would still be using the line item since there is no money in that line  
44 item. No matter how you look at it, it is a budget increase.

45  
46 Marshal Gray responded it is not an increase; it is a redirect.

47  
48 Mayor Barraza agrees it is a budget increase in terms that we have approved a budget that will  
49 remain in place until the end of this fiscal year; it will not be returned to the General Fund. If this  
50 particular amendment goes into place, then after it is approved it becomes part of the ordinance  
51 and it will begin generating money so in turn it will be an increase in the department's budget.

1 Marshal Gray responded that is correct but verbiage can be used to indicate that this line item  
2 cannot be used until the end of the fiscal year. There are stipulations that can be made. He is  
3 trying to implement something now that will have a positive effect on the next budget.

4  
5 Trustee Arzabal stated he would prefer waiting to see if the seizure ordinance gets approved and  
6 do both of them at the same time.

7  
8 Mayor Barraza stated he is trying to generate some kind of funding to help with the needs of the  
9 department that the General Fund has not been able to help with.

10  
11 Marshal Gray indicated the officers are doing their job and because of those citations there is an  
12 intake of funding. They are not doing it to fund themselves; they are doing their job and as a  
13 result of that it has increased funding for the town. If this is implemented and we find that it is not  
14 working the ordinance can be redone and return to the way it was. It will increase

15  
16 Trustee Arzabal asked what we will do with the money.

17  
18 Marshal Gray responded it will go back to the General Fund.

19  
20 Trustee Arzabal indicated that is where it is now.

21  
22 Marshal Gray stated if we follow his plan it is a revolving line item and the balance always stays  
23 there. It could increase where it covers line items that will not be necessary during the budgetary  
24 process.

25  
26 Trustee Arzabal asked what happens if we have one good year and then we have a bad year; we  
27 will be going back and forth. He is more comfortable tabling this item until we act on the seizure  
28 ordinance.

29  
30 Mayor Pro Tem Caro stated he is against this proposal. He agrees with Trustee Arzabal and does  
31 not feel we have to vary away from the way we are doing our budgets. The way things are we  
32 have better control. There is such a thing that they are doing their job but we have guys that are  
33 giving tickets for every little thing. Everywhere he goes he gets complaints. We have one officer  
34 that is issuing up to 250 citations versus other officers that have around 70 citations. The guys  
35 will say the more tickets we give the more money we get he does not want that to be another  
36 means of encouragement. We are making our residents go against our officers; we are chasing  
37 away our tourist. He does not want to give any more ammunition to keep this happening. He  
38 would rather keep it as it is now. This just does not sound right and he is against it totally.

39  
40 Trustee Flores stated this sounds bad and it looks like there is a profit. She asked what is the  
41 percent taken from these citations and we get around 43.8%.

42  
43 Marshal Gray responded every citation is a different percentage.

44  
45 Trustee Flores stated that takes a lot of money from the General Fund which we share with other  
46 departments. If we have an item that needs to be funded it should be brought to the board. She  
47 does not like special treatment; she understands the officers are working very hard. Inaudible

48  
49 Trustee Bernal stated he tried to see what he is trying to do but he also sees what the other board  
50 members see. Feels we need to take one step at a time. We are doing one positive thing by  
51 reviewing the budgets since Mayor Barraza has come on board. We are moving forward but we

1 need to take one step at a time. He has heard a lot regarding the Marshal's department but he  
2 feels the officers are doing their jobs. If people are breaking the law they need to be cited. It  
3 does bother him to hear the complaints.  
4

5 Mayor Barraza stated she sat with Marshal Gray regarding the same concerns the trustees have.  
6 Ultimately it is up to the Board of Trustees to make the decision. She is concerned since it will  
7 affect the General Fund since the citation revenue is already budgeted. Gross Receipts are down  
8 so with the citation revenue up it helps balance it out to meet the needs of the projected budget.  
9 Dipping into the General Fund concerns her. It is up to the Board of Trustees how they would  
10 like to proceed with this.  
11

12 Marshal Gray stated he understands people get angry when they get stopped. He can assure you  
13 the stops are justified, recently there have been breaks given. He believes the officers are doing  
14 their job diligently and protecting Mesilla. His whole point is he is not asking for more money he  
15 is asking instead of. He is looking at the future down the line because this department is  
16 generating money. All the other items do not cover those funds. But in the short term Mesilla  
17 receives more man power at little or not costs; it generates usage, more wear and tear and it needs  
18 to come from some where. His focus was to eliminate the need for budget increases through  
19 DFA and it is there to use through out the whole budgetary area. If it generates funding that the  
20 town cannot provide then that good. If they Board of Finance wishes to not review this then that  
21 is find; this is why we are here. You put me in this position to increase the safety of this town  
22 and that is what he is trying to do. If it eliminates the entire area of the operating cost in the  
23 future that just puts more money into operating the town. He does have some future plans that he  
24 will bring forth.  
25

26 Mayor Barraza stated in the past it was brought to our attention that officers were not doing their  
27 job and you as marshal has taken care of that. She understands we are in dire need of money for  
28 maintenance and repair of our vehicles. I know you are doing what you have been asked to do by  
29 looking out for your department. There are so many needs in our town that we have not been able  
30 to fulfill with our budgets. We are spending so much on vehicle maintenance and repair. The  
31 condition of our equipment is so great that department heads are seeing what they can do to take  
32 care of their day to day needs. She appreciates that our department heads are brainstorming to see  
33 what can be done. We need creative thinking and bring it forward to the board.  
34

35 Trustee Arzabal asked when the seizure ordinance is going to be brought to the board.  
36

37 Marshal Gray responded Mr. Darden, town attorney, will be reviewing the document so it will be  
38 brought to the board at the 1<sup>st</sup> meeting in December. He feels Mr. Darden has insight on this  
39 since he is the hearing officer for the City of Las Cruces' seizure program.  
40

41 Trustee Arzabal asked that we look at that first and then bring this back to the board.  
42

43 Marshal Gray responded he does not have a problem with that. The ordinance can always be  
44 rewritten if it does not work. Any suggestions will be welcomed. He was asked to look to  
45 improve what was going on in the department.  
46

47 Trustee Bernal stated thanked Marshal Gray for saying he will bring it back to the board this tells  
48 us we are working together. Asked if there has been a workshop with Trustee Flores regarding  
49 the seizure ordinance.  
50  
51

1 Marshal Gray responded we worked on a lot of clarification from a legal aspect. He is going to  
2 have another attorney look at this.

3  
4 Trustee Bernal asked Trustee Flores how she feels about the direction it is going in.

5  
6 Trustee Flores stated she has voice her concerns and views at the last meeting. She did not  
7 review the whole document. She will look at it again and she will voice her comments and  
8 concern at the next meeting.

9  
10 Marshal Gray responded that is why it is necessary to bring forward a proper document for their  
11 consideration if I didn't I wouldn't be doing my job.

12  
13 Mayor Pro Tem Caro indicated they need to do a cost analysis; where vehicles will be impounded  
14 and held. There are going to be law suits. He spoke to the county and they say that is the worst  
15 thing they have ever done. For a small town like Mesilla to do something that the county cannot  
16 even handle.

17  
18 Marshal Gray responded this has nothing to do with population.

19  
20 Mayor Pro Tem Caro reiterated we really need to take everything into consideration.

21  
22 Marshal Gray responded the county attorney told him that out of 490 seizures only 2 were  
23 contested.

24  
25 Mayor Barraza indicated the seizure ordinance will be brought at the next meeting and we will  
26 discuss the item which is on the agenda.

27  
28 Mr. Jerry Garcia stated if they are going to get \$10 per citation they are going to want the money  
29 bad. They don't patrol and when they do go by they fly by. He sees them on Highway 28 giving  
30 tickets. He is concerned that we are going to loose the tourist. These officers do not take care of  
31 their cars. One got hit; they do not care. He is concerned how they treat the people, tourist and  
32 their vehicles. On Thanksgiving Day he saw an officer give a person a break. He does not  
33 understand why they are doing that. For \$10 they are going to be giving out more citations.

34  
35 Ms. Patricia Lozano stated it does have to do with the tourist if you do something wrong you are  
36 going to get a ticket; bottom line. If I am somewhere else and I am breaking the law I am going  
37 to get a citation. Her grandfather was the first constable for the Town of Mesilla. My uncle was  
38 a fireman for the town. This town has come along way. These gentlemen are doing an excellent  
39 job including their coworkers. I have never seen this town have so much control. They treat  
40 people well. If you get offense sure they are going to get offense. They are doing an excellent  
41 job. When she read in the paper that they wanted \$10 I would give it to them; this town is  
42 growing. We have people in this town that we do not even know. Trustee Flores said she did not  
43 want to focus on just one department. The fire, police and public works departments are the most  
44 important people in this town. Yes you make decisions but I will tell you that if I see anyone of  
45 you doing something wrong I do hope there is a cop around the corner. If someone is breaking  
46 the law seize their car they have no right being on the streets. She is here to back these gentlemen  
47 100%; they deserve it. She has never had a problem when calling the department. My  
48 grandfather did not have that. Those departments need the right equipment to be able to do their  
49 job. The tourists come and go, they do bring in money but they spend money wherever they go  
50 visit. If they are breaking the law why gripe if they get a ticket. If the board does something

1 wrong take it like a grown up and admit you did something wrong; and you know who I am  
2 referring to. The officers do a very good job; she has seen the departments improve.

3  
4 Judge Lionel Frieze stated the court is not here to take sides. He has been privileged to sit where  
5 they are sitting and to date I have seen very few individuals come in and admit their guilt. The  
6 seizure is on a second DWI with a suspended or revoked license. Citations are issued by the use  
7 of radar with regards to speeding. He would be glad to show the stats of people speeding through  
8 a school zone. Many say they have never gotten a citation and do not want it on their record. To  
9 that I say would you rather have on you record that you have killed a child while speeding  
10 through a school zone. Stated \$10 from each citation is not much; the town still gets \$40. The  
11 board has several options they may consider.

12  
13 Ms. Alexandra Hall stated locals in Las Cruces call the Town of Mesilla the historic speed trap.  
14 As a resident she is supported of the public safety departments. She does not how anyone can say  
15 that human nature doesn't come into it in someway. If you know that your department will  
16 receive funds; there is a subtle subconscious to get more money and a perception of wrong doing.  
17 She would be very suspicious if she read an article without hearing all the comments.

18  
19 Judge Frieze stated multiple citations do not necessarily mean that they are guilty. Insurance  
20 citations are dropped when they show proof of coverage at court.

21  
22 Mayor Barraza asked the board if they want to move forward for the second reading or table the  
23 item.

24  
25 Mr. Eckert responded it does not go automatically to a second reading. We are required to post  
26 for an adoption of an ordinance having it placed on a future agenda. He recommends that they  
27 provide guidance to Marshal Gray; take a poll of the board.

28  
29 Mayor Barraza asked the trustees if they would like to see the seizure ordinance come forth prior  
30 to enacting on this particular item.

31  
32 Trustee Flores stated she does not see herself passing...inaudible

33  
34 Mayor Pro Tem Caro stated he agrees.

35  
36 Mayor Barraza indicated we will drop this for now. Focus your energy on the seizure ordinance.

- 37  
38 7. For Approval/Disapproval: Request for waiver of Plaza rental fees by the Chabad of  
39 Southern New Mexico to use the Plaza for the Hanukah Menorah lighting Wednesday,  
40 December 21 from 5 to 8 p.m. *Ashley Echavarría, Events Coordinator Approved by*  
41 *consent agenda*

42  
43  
44 **PUBLIC COMMENTS:**

45  
46 Mr. Steven Hernandez commended Codes Enforcement for taking action on the home across the  
47 street that needed attention. He is disappointed that he hadn't heard about the Raasaf area  
48 regarding water rights.

49  
50 Mayor Barraza asked Mr. Hernandez if EBID has met regarding the drainage.

51

1 Mr. Hernandez responded yes and the question is who is responsible for the maintenance of the  
2 Mesilla drainage. There is a Special Use Permit and they are responsible for that drain. Mr. Gary  
3 Esslinger asked him to write a letter for them to take action.

4  
5 Mr. Garcia stated he feels the board is doing a good job and Mesilla is being taken care of.

6  
7 Ms. Hall stated she was part of the task force for dark sky and it is her understanding that it has  
8 never been enforced. Something was passed into an ordinance but nothing has been enforced.  
9 Part of it is an educational plan; she understands it will be going to the Planning and Zoning. .  
10 She is hoping that the board looks at the lights around Mesilla. It was said that the town of  
11 Mesilla was the worst offender in the terms of dark sky.

12  
13 Mayor Barraza responded the dark sky issue was brought to the board's attention and  
14 revisions/amendments will be brought to the commission and board.

15  
16 **BOARD OF TRUSTEES COMMENTS:**

17  
18 Trustee Bernal asked Marshal Gray to stay focused and move forward. He appreciates what  
19 Marshal Gray is doing for Mesilla. Brought to Ms. Lujan's attention: 2885 Boldt, there is no  
20 light on University Avenue-lights are turned on at different times.

21  
22 Marshal Gray responded schools have different starting and ending times.

23  
24 Trustee Bernal asked if the times could be posted.

25  
26 Marshal Gray responded the plan is moving the sign show the direction the school zone and time  
27 of the lights.

28  
29 Mayor Barraza stated the recommendation is putting the time on the lights.

30  
31 Trustee Flores indicated everyone wants to support the Marshal's department but there is a  
32 process that needs to be followed. Taking that much money from the General Fund is taking  
33 money from other departments and she is not willing to do that.

34  
35 Mayor Pro Tem Caro asked everyone to be safe during the holidays.

36  
37 Trustee Arzabal asked if he could meet with Marshal Gray to discuss this further.

38  
39 Mayor Barraza stated she encourages the board to meet with the department heads to discuss any  
40 concerns. She met with Senator Papen regarding the proposed redistricting for Mesilla which  
41 would mean the Town of Mesilla would have 2 Senators; Senator Papen and Senator Smith from  
42 Deming. The dividing line would be Highway 28/Avenida de Mesilla. She was reassured by  
43 Senator Papen that she would be an advocate for all of Mesilla and there is a good working  
44 relationship with Senator Smith. We are doing everything within our power and not just  
45 depending on our legislators to help us through this tough time that we have in trying to replace  
46 the infrastructure needs of the town. She is so comfortable calling Senator Papen since is an  
47 advocate for the Town of Mesilla and will be happy to meet with anyone. At the present time this  
48 proposal has been vetoed by the governor.

49  
50 Senator Papen responded many bills were vetoed by the governor and is now in the Court of  
51 Appeal. One bill that was not passed by the legislator was the congressional district. The House,

1 Senate and PRC did pass the legislators but is now in the courts. The Mesilla division is still up  
2 in the air until the judge makes a decision.

3  
4 Mayor Barraza asked if any kind of ruling will come into place prior to the session.

5  
6 Senator Papen responded she believes the House Plan should be ruled on by December, the  
7 Senate Plan should be ruled by January 10<sup>th</sup>, and is not sure on the Congressional Plan. There is a  
8 suit brought by several Mesilla residents that the congressional district that was drawn did not  
9 take into consideration the population in minority/majority one man-one vote for the southern  
10 part of the state. That is a plan that had so many more voters and Hispanic voters up north rather  
11 than in the southern district so that is being contended in the courts. The plan that was looked at  
12 there was 49% to 51% between the two parties and they are trying to get an even spread in the  
13 southern part of the state. By the time we go into session she believes there should be rulings  
14 made.

15  
16 Trustee Bernal thanked Senator Papen for taking the time to provide us the information that could  
17 affect the residents of Mesilla.

18  
19 Senator Papen responded she will continue to work for Mesilla since it is very dear to her heart.

20  
21 Ms. Echavarria stated the tree lighting will be held on December 9<sup>th</sup> from 6:00 p.m. – 6:30 p.m.  
22 The choir from the Basilica de San Albino will provide the music and Andele's will be providing  
23 hot chocolate. She is having trouble finding a choir for Christmas Even and asked if any one has  
24 suggestions please let contact her.

25  
26 Trustee Flores inaudible

27  
28 Mayor Barraza asked that the trustees try to attend the activity. Public Works is working on  
29 putting up the decorations.

30  
31 **ADJOURNMENT**

32  
33 **Motion:** To adjourn, **Moved by** Trustee Arzabal, **Seconded by** Mayor Pro Tem Caro.

34  
35 **Vote: Motion passed (summary: Yes = 4).**

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

37  
38 **MEETING ADJOURNED AT 7:30 P.M.**

39  
40 **APPROVED THIS 12<sup>TH</sup> DAY OF DECEMBER, 2011.**

41  
42  
43  
44 \_\_\_\_\_  
45 Nora L. Barraza  
46 Mayor

47 **ATTEST**

48  
49  
50 \_\_\_\_\_  
51 Nicholas Eckert

- 1 Town Clerk/Treasurer
- 2
- 3
- 4