

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
August 27, 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

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:05 p.m. Councilor Bettison was present telephonically.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – None.
- 4. PUBLIC INPUT** – None.
- 5. COUNCIL COMMENTS** – Councilor Ray invited senior citizens, ages 60 and over, to eat a good meal at the Senior Center for \$2.25. He asked Attorney Scavron to discuss the Town's charter. Attorney Scavron commented on the value of the charter that was dated in 1878, and that it was originally created in 1876. He said that in 1876 the Town developed the charter and was going to ask Santa Fe to approve it, but at that time Santa Fe was a hotbed of corruption and was dominated by a corrupt "Santa Fe Ring". He said both Grant County and the Town of Silver City gave serious thought to seceding from the State of New Mexico because of the endemic corruption that existed in the capitol. He said that in order to keep this part of the state from joining Arizona, the state legislature awarded the Town of Silver City with a very generous charter in 1878, and that it is the current territorial charter and the only territorial charter existing in the State of New Mexico. He said the charter gave the Town the highest level of self-governance than any municipality in the state. He continued by saying that about 20 years afterwards the United States Congress decided that giving a municipality special status within a state was not appropriate to continue, and they passed a law called the Springer Act that said a territory or state could not grant a special level of charter with a special level of self-governance to only one municipality, but it would have to go to all of the municipalities. He said that it did not revoke the Silver City charter so he believed the charter of the Town of Silver City was a very unique document that granted the highest level of self-governance, and was something that was not even as limited as home rule was limited. He said that in the past 12 or 13 years since he had been the Town Attorney that he had been very careful when they did an ordinance to indicate that it was not limited to the authority granted by the State of New Mexico; that they had certain other powers that were gained before New Mexico was a state and they would not give them up any time soon. He said it was a delicate walk to assert the charter without bringing a lawsuit from Santa Fe who had over the past years sought to take away as much local power as they could and centralize as much power as they could in Santa Fe, whether it was good or bad. He said that in his opinion that Santa Fe was distrustful of local government and believed they should control everything, and he gave many examples. He said the current and previous Councils had been very mindful of respecting the charter and in keeping it for prosperity for the one day when something did occur where it may be that the Town of Silver City had to say they were going their own way on a particular subject rather than following the lead of Santa Fe. He said the charter was a document issued to the Town of Silver City by the territorial government of New Mexico in 1878 and that it was the most liberal charter ever granted. He said there were 2 other charters; Santa Fe gave its charter up, and the other town became a ghost town in the 1820s and they revoked the charter. He said the Town of Silver City is the only territorial charter in New Mexico and it was alive and well.

Councilor Ray thanked Chief Reynolds for taking care of issues with handicap parking. He asked Manager Brown if he inquired about the River Walk papers from Santa Fe. Manager Brown said Senator Udall's office responded with different grants that the Town could apply for and they were looking into it.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES – Regular Meeting on August 13, 2013** - Councilor Bettison moved to approve the minutes of the Regular Meeting of August 13, 2013. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of August 13, 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** – None.

**9. PUBLIC HEARINGS** – None.

**10. UNFINISHED BUSINESS** – None.

**11. NEW BUSINESS -**

**A. Approval / Disapproval of 2 Public Celebration Permit Applications for the 9th Annual Gila River Festival's Gala for the Gila event on September 21, 2013 from 7:00 pm to 10:00 pm at the Javalina Coffee House, 201 N. Bullard, Silver City, NM. License Holders: Little Toad Creek Distillery #63004 and Little Toad Creek Brewery #67021, 1122 Hwy. 35, Mimbres, NM.** Councilor Cook said she was not sure she could vote on it because she was the owner of Javalina Coffee House where the event would be held. She said there would be no personal gain and that she would actually be losing money because the shop would be closed, and it was for their benefit. Mayor Marshall asked if anybody objected to Councilor Cook's participation in the discussion, and the other 3 Councilors did not object. The Mayor said she was entitled to participate which gave her the burden to vote. He asked if anybody was present to speak on behalf of the permits. Walter Szymanski said he was there on behalf of the Gila Conservation Coalition which was sponsoring the 9th Annual Gila River Festival. He commented that the Council approved 2 previous permits in a previous meeting, but there was a change of venue and the Gala would be held at the Javalina Coffee House, and he provided further details. He requested the Council's approval of the 2 permits and said there were no churches within 300 feet of the event. Mayor Marshall asked if anybody in the audience would like to speak, and there were no comments. Councilor Ray moved to approve the 2 public celebration permit applications and he read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second and no discussion to approve 2 Public Celebration Permit Applications for the 9th Annual Gila River Festival's Gala for the Gila event on September 21, 2013 from 7:00 pm to 10:00 pm at the Javalina Coffee House, 201 N. Bullard, Silver City, NM. License Holders: Little Toad Creek Distillery #63004 and Little Toad Creek Brewery #67021, 1122 Hwy. 35, Mimbres, NM. 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.

**B. Approval / Disapproval of Resolution No. 2013-32: adoption of Town of Silver City Water Conservation Plan.** Councilor Cook introduced Denise Smith of the Office of Sustainability. Ms. Smith commented on the process of developing a water conservation plan and said it was started in 2011. She said a water audit made up a large portion of the document, and that they would take stock of the plan in 5 years to make any adjustments. She stated that their first job would be to install a Smart irrigation system at the Ben Altamirano fields because those fields were the top water user of all water users on the whole system. She introduced Joann Hilton, subcontractor under Daniel B. Stephens and Associates, Incorporated, who said the purpose of the exercise was to have good use of water resources in the desert and that there was a requirement to have a water conservation plan in order to get funding from grants and through the Arizona Water Settlements Act. She discussed the water audit and how it was used to develop the plan in order to meet the goals of Silver City; such as reducing outdoor water use, water waste, energy efficiency and peak demand, and revenue neutrality. She said a number of recommendations were in the plan as funding and resources were available, and she gave examples. Mayor Marshall asked if there were comments from the audience. Cissy McAndrew, Executive Director of the Southwest New Mexico Green Chamber of Commerce, expressed her support of

the plan. Councilor Bettison commented that the water conservation plan really put the Town on the map and made them stand out across New Mexico as being very forward and progressive in making sure the community was conserving water and energy, and she gave examples of what the Town had done. She said she was very pleased with it and wholeheartedly supported it. Councilor Morones said that he was very pleased at what he deemed to be a very practical approach at looking at water conservation and they could start implementing a lot of things in a relatively modest manner and at a relatively low cost, etc. He said it was businesslike and practical, and would help to keep them from wasting now so they would not be wanting later, and in a good practical manner. Councilor Cook moved to approve Resolution No. 2013-32 adoption of the Town of Silver City Water Conservation Plan and to delete the last paragraph that stated, "That, Town Staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above." Councilor Bettison seconded. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-32 and amending it to remove the second "That" paragraph under the "Now, Therefore" section. He commented that the removal of that line was redundant to the structure of the Town and it was what the staff was required to do, so having it there was not necessary. He asked Ms. Hilton if she checked the projects that were put in the plan against the state laws, state engineer rules, and NPDES permits so that none of them would violate or compromise those. She stated that they did not do a detailed design on specific projects; that would be done at the implementation phase. She said the issue with the NPDES permits was of particular concern with water harvesting and storm water permitting and that they put some guidelines in the plan. Councilor Bettison thanked the Office of Sustainability and Town Staff and others that worked on developing the plan. Mayor Marshall said there was a motion and a second, and no further discussion, to approve Resolution No. 2013-32 adoption of the Town of Silver City Water Conservation Plan with the amendment of deleting the second "That" under "Now, Therefore." He asked for a roll call vote. Councilor Cook voted aye; Councilor Bettison voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

**C. Approval / Disapproval of Resolution No. 2013-33: a Resolution declaring the eligibility and intent of the Town of Silver City to submit an application to the New Mexico Department of Transportation for Federal Fiscal Years 2014 and 2015 Transportation Alternatives Program Funds.** Manager Brown provided the details of Resolution No. 2013-33. Mayor Marshall asked the audience if there were any comments, and there were none. Councilor Ray moved to approve Resolution No. 2013-33 and he read the agenda item description. Councilor Morones seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-33: a Resolution declaring the eligibility and intent of the Town of Silver City to submit an application to the New Mexico Department of Transportation for Federal Fiscal Years 2014 and 2015 Transportation Alternatives Program Funds. He asked for a roll call vote. Councilor Ray voted aye; Councilor Morones voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

**D. Approval / Disapproval of Bid 13/14-2: Silco Theater Marquee.** Manager Brown said the Town received 2 bids: one bid was from J & J Signs, a local bidder, for \$75,000.00 plus gross receipts taxes, and the other bid was from Ram Studios, Inc. out of Farmington for a base bid of \$63,879.04 plus applicable gross receipts taxes. He said it was staff's recommendation to award the bid to Ram Studios, Inc. He said they did the calculations for the 5 percent preference for J & J Signs as the local bidder, but they were still above the 5 percent differential. Mayor Marshall asked what the funding source was, and Manager Brown said it was a grant from the Historic Preservation Division and the matching funds would come from the Silver City MainStreet Project so the Town was not paying for anything in the project. David Vesica, Architect for the Silco Theater, commented that the particular bid, if awarded, would facilitate the construction and delivery of the product on time and they would do a very good job for the town. Councilor Ray moved to approve Bid 13/14-2: Silco Theater Marquee to staff recommendation for Ram Studios, Inc. for base bid of \$63,879.04 plus gross receipts taxes of \$4,711.08 for total bid of \$68,590.12. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to award the bid per staff recommendation, and he asked if there was any discussion. Councilor Bettison asked if it would restore the historic marquee. Mr. Vesica said yes, and it would be based upon the 1940 signage. There was further discussion about the correct name of Ram Studios, Inc. Mayor Marshall said there was a motion and a second to award Bid #13/14-2 Silco Theater Marquee per staff recommendation to Ram Studios, Inc. for a total bid of \$68,590.12. 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.

**12. ADJOURNMENT** – Mayor Marshall asked for a motion to adjourn. Councilor Morones moved to adjourn at 6:41 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/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk