

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
April 24, 2012, 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:**

Robert L. Scavron, Town Attorney  
Ann L. Mackie, Town Clerk  
Celia H. Dominguez, Personnel Officer  
Anita Norero, Purchasing Agent

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:00 p.m. Councilor Cook read the Town’s Mission Statement.

**2. CEREMONIES** – None.

**3. PROCLAMATIONS** - **A. "Child Abuse Prevention Month in Silver City," April 2012:** Mayor Marshall read and presented the proclamation to Andy Anderson of the State of New Mexico, Department of Human Services, Children, Youth, and Family Division, **B. "Sexual Assault Awareness Month," April 2012:** Mayor Marshall read and presented the proclamation to Kristy Rogers of the Silver Sexual Assault Services, **C. "Children's Mental Health Awareness Day," May 9, 2012:** Mayor Marshall read and presented the proclamation to Rebecca Estrada of the State of New Mexico Department of Human Services.

**4. PUBLIC INPUT** – Jan Goldberg commented on how the Town's noise ordinance was not being enforced, and she provided details of the noise during an event on Pope Street on April 20th. Brendan Sorrelgreen commented on a new Downtown Silver City Merchants Association that had begun in order to stimulate awareness of businesses that were available in Silver City, and particularly the downtown businesses. Faye McCalmont, Executive Director of Mimbres Region Arts Council, commented on the great success of the Comcast Cares Day at Penny Park and the youth mural program directed by Diane Leyba that installed 1,000 clay handprints on the mural wall that the Town of Silver City had built for that purpose at Penny Park. Johnnie Trujillo commented on his business, Hawaii Ice, and how the Town said he was in violation of the Town's Code because his business was on a city easement and also caused a line of sight violation. He said that he was never notified of the violations before and he wanted to know why it was not handled in a professional way.

**5. COUNCIL COMMENTS** – The Council commented on the following: thanks were given to everybody involved in the Comcast Care Day and youth mural project at Penny Park, and the Earth Day event; the Downtown Merchants Association; issues about the noise ordinance and Code violations for a business, and how the Council set laws, but did not enforce them.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES** – **Regular Meeting, April 10, 2012** - Councilor Bettison moved to approve the minutes of the Regular Meeting of April 10, 2012. Councilor Morones seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of April 10, 2012. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 4 Councilors voted aye. He asked if any were opposed, and there were none. Motion carried.

**8. REPORTS** – **A. Quarterly Visitor Center Report by Southwest New Mexico Green Chamber of Commerce.** Cissy McAndrew, Executive Director of the Southwest New Mexico Green Chamber of Commerce's Tourism and Visitor Center, reported that visitation continued to increase and that Saturday was their biggest day; that their main  
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concern was that so many businesses were closed on Monday; how they had seen visitors from every state, but Hawaii, and also from many other countries; how they needed to continue to support the history and culture of the area since it was a key component for tourists; how marketing and advertising had a 3 month response time before seeing visitors; their upcoming visitor and relocation guide; etc. There was further discussion.

Anita Norero, Purchasing Agent, reported that the Public Works Director, Peter Pena, had received a call from the New Mexico Department of Transportation to inform him that they had contracted with Cutler Paving to work on a mill and overlay project on Highway 180 between mile markers 101 through 106. She provided details of the project. Celia Dominguez, Personnel Officer, reported that the road construction on College Avenue would be completed before the Tour of the Gila event. Mayor Marshall commented on the openings in various Town Boards and Committees.

**9. PUBLIC HEARINGS - A. Approval / Disapproval of Restaurant Liquor License for On Premise Consumption Only, License / Application No. A-808503, Applicant Name: Laughing Tortoise LLC, DBA: Tré Rosat Café, proposed location: 304 N. Bullard St., Silver City, NM.** Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and none had. Mayor Marshall asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses for the hearing. Mayor Marshall read the procedures of how the hearing would be conducted. He addressed the applicant, Jason Marsh, Member/Manager of the Laughing Tortoise, LLC, and said he could present his case. Mr. Marsh said it was the second time that they had applied for a restaurant license and he asked the Town Council to approve the license application at the new location of 304 N. Bullard. Mayor Marshall asked the hearing board if they had any questions. There was discussion about the new location and how the ownership of the Laughing Tortoise LLC included 4 members. Mayor Marshall asked if there were other witnesses in support of the case. Nickolas Seibel said he was excited that the Tré Rosat Café would be downtown and that he supported the application. Attorney Scavron asked Mr. Marsh if he had changed his business registration to the new location, and Mr. Marsh said yes. Mayor Marshall asked if there were witnesses in opposition to the application, and there were none. He asked Mr. Marsh if that concluded his case, and he said yes. He asked the hearing board if they were ready to render their decision. Councilor Morones moved to approve the Restaurant Liquor License for On Premise Consumption Only for License/Application No. A-808503, Applicant name: Laughing Tortoise LLC, DBA Tré Rosat Café, proposed location: 304 N. Bullard St., Silver City, NM. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve the application. He asked if there was any discussion, and there was none. Mayor Marshall said there was a motion and a second and no discussion to approve the application for a Restaurant Liquor License for On Premise Consumption Only, License/Application No. A-808503, Applicant Name: Laughing Tortoise LLC, DBA: Tré Rosat Café, proposed location: 304 N. Bullard St., Silver City, NM. 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.

Councilor Bettison moved for a short break at 6:56 p.m. Councilor Morones seconded. Mayor Marshall stated there was a motion and a second to take a short break. 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. Mayor Marshall called the meeting back to order at 7: 15 p.m.

**10. UNFINISHED BUSINESS - None.**

**11. NEW BUSINESS -**

**A. Approval / Disapproval of Special Dispenser Permit Application for the 17th Annual Silver City Blues Festival to be held May 25-27, 2012 at Gough Park, Silver City, NM. Sponsor: Mimbres Region Arts Council. License Holder DBA: Buffalo Bar, Owner: Sam Trujillo, 211 N. Bullard, Silver City, NM.** Faye McCalmont, Executive Director of the Mimbres Region Arts Council, presented the details of the Special Dispenser Permit Application and said the License Holder was the Buffalo Bar. There was further discussion. Mayor Marshall asked if there was input from the audience, and there was none. Mayor Marshall said he would entertain a motion. Councilor Morones moved for approval of the Special Dispenser Permit Application for the 17th Annual Silver City Blues

Festival to be held May 25-27, 2012 at Gough Park, Silver City, NM. Sponsor: Mimbres Region Arts Council. License Holder DBA: Buffalo Bar, Owner: Sam Trujillo, 211 N. Bullard, Silver City, NM. Councilor Bettison seconded. Mayor Marshall stated there was a motion and a second to approve the Special Dispenser Permit Application as published. He asked if there was any discussion, and there was none. 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.

**B. Approval / Disapproval of Notice of Intent Ordinance No. 1202: an Ordinance granting a telecommunications franchise to Qwest Corporation DBA CenturyLink QC.** Attorney Scavron presented the details of Notice of Intent Ordinance No. 1202, including information on the negotiations. He said that federal law required that whatever was offered to one telecommunications company as a franchise had to be offered to another telecommunications company with equal terms in order to create a neutral environment for competition. He said Notice of Intent Ordinance No. 1202 and 1203 were the same, except for the different company names. He said the franchise fee was unchanged at 3 percent and that it was calculated on the franchisee's gross revenues. There was further discussion. Mayor Marshall asked if there was input from the audience, and there was none. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1202 with an amendment to Section 3 Restoration to remove "streets" in two places in that section and to replace both with "Town's infrastructure within the Town's rights-of-way." Councilor Morones seconded. Mayor Marshall stated there was a motion and a second to approve Notice of Intent Ordinance No. 1202 as amended. He asked if there was any other discussion, and there was none. Mayor Marshall stated there was a motion and a second to approve Notice of Intent No. 1202: an Ordinance granting a telecommunications franchise to Qwest Corporation DBA CenturyLink QC as amended. He asked all those in favor to say aye. Councilor Bettison, Councilor Ray, and Councilor Morones said aye. He asked if any were opposed, and Councilor Cook said she was opposed. Motion carried.

**C. Approval / Disapproval of Notice of Intent Ordinance No. 1203: an Ordinance granting a telecommunications franchise to WNM Communications, Inc.** Attorney Scavron said the federal law required a mutual playing field for competitors and that Notice of Intent Ordinance No. 1203 for WNM Communications was the same franchise that was being offered to CenturyLink. He said the changes suggested by Councilor Bettison in Notice of Intent Ordinance No. 1202 were appropriate for Notice of Intent Ordinance No. 1203 as well. Mayor Marshall asked if there was input from the audience, and there was none. There was no further discussion by the Council. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1203 with an amendment to Section 3 Restoration to remove "streets" in two places in that section and to replace both with "Town's infrastructure within the Town's rights-of-way." Councilor Morones seconded. Mayor Marshall said there was a motion and a second, and he asked if there was any discussion. There was no further discussion. Mayor Marshall stated there was a motion and a second to approve Notice of Intent Ordinance No. 1203: an Ordinance granting a telecommunications franchise to WNM Communications, Inc. as amended. 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.

**D. Approval / Disapproval of Request for Proposal #11/12-4P: Audit Services.** Anita Norero, Purchasing Agent, stated that 1 proposal was received and it was staff's recommendation to award the proposal to Stone McGee & Company for a multi-year contract as follows: the cost for Fiscal Year 2012 was \$45,000 and included gross receipts tax, the cost for Fiscal Year 2013 would be \$46,650.00 and included gross receipts tax, and the cost for Fiscal Year 2014 would be \$47,950.00 and included gross receipts tax. Mayor Marshall asked if there was input from the audience, and there was none. There was discussion from the Council. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve RFP 11/12-4P Audit Services per staff's recommendation to Stone McGee & Company and he read the costs for Fiscal Years 2012 - 2014. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve RFP #11/12-4P per staff's recommendation to Stone McGee & Company for Fiscal Year 2012 for \$45,000.00 including gross receipts tax, Fiscal Year 2013 for \$46,650.00 including gross receipts tax, and Fiscal Year 2013 for \$47,950.00 including gross receipts tax. He asked if there was any other discussion, and there was none. 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.

**E. Approval / Disapproval of a letter in support of the Fort Sill Apache casino efforts.** Mayor Marshall asked if anybody in the audience was from the Fort Sill Apache Tribe, and no one came forward. He said it was presented to

him to sign on behalf of the Town and that he did not feel it was in the authority of his office to sign on behalf of the Town. He provided further details and asked for comments from the audience, and there were none. There was further discussion about how they did not know if it would directly impact the Town positively or negatively; how it may benefit southwest New Mexico; how it appeared that neighboring municipalities and counties were in support of it; how they were in favor of supporting their neighbors; and how the support letter should reflect that they supported their neighbors and region as a whole. Mayor Marshall said he would entertain a motion to write a letter in support and in agreement with the discussion that had gone on regarding the letter. Councilor Morones moved to approve a letter of support for the Fort Sill Apache casino efforts as drafted. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve a letter of support as drafted and presented. He asked if there was any discussion. Councilor Bettison said she could not support it as drafted because it did not reflect their discussion. There was further discussion. Mayor Marshall said there was a motion and a second to approve the letter, as presented, of support for the Fort Sill Apache casino effort. He asked all those in favor to say aye, and there were none. He asked if any were opposed, and all 4 Councilors were opposed. Mayor Marshall said there were zero in favor and 4 opposed. Motion failed 0 to 4. There was further discussion. Councilor Bettison moved to approve a letter supporting the Fort Sill Apache casino efforts that reflected the discussion held by the Council and to authorize the Mayor to draft such a letter. Councilor Morones seconded. There was further discussion. Mayor Marshall stated there was a motion and a second, and no further discussion, to authorize the Mayor to draft a letter in support of the Fort Sill Apache casino efforts that was in accordance to the discussions that the Town Council had that evening. 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.

**F. Appointment of 1 member to the Lodgers Tax Advisory Board.** Mayor Marshall said they received 1 application and the Chair of the Lodgers Tax Advisory Board highly recommended that they appoint Kathryn Gorthy. He said that he would like to appoint Kathryn Gorthy if there was no objection from the Council. There was no objection.

**12. ADJOURNMENT** – Councilor Morones made a motion to adjourn at 7:52 p.m. Councilor Bettison seconded the motion. All were in favor. Motion passed.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk