

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
August 13, 2013, 6:00 p.m.**

Present:

James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Pauline N. Hassler-Cook, District 2
Michael S. Morones, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Ann L. Mackie, Town Clerk
Jaime Embick, Town Planner

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 6:05 p.m. Councilor Ray was out of town and was unable to be present telephonically.

2. CEREMONIES – Recognition of the work done by the members of the Mayor's Climate Protection Agreement Citizens Advisory Committee. Mayor Marshall said he wanted to give special recognition to all of the members that participated because they did a significant and important job for the Town for the last few years. He said their work would last forever in the Town and was significant enough to have been brought into the Town as part of the organization at that point. He said the list of their accomplishments was on the internet. He called out the names of each of the members and presented certificates to those that were present. Members Nick Sussillo and Linda Thompson commented on the work of the Committee, how it resulted in the creation of the Office of Sustainability, and they thanked the Mayor for his support and asked him to continue with the Office of Sustainability so they could do more great things.

3. PROCLAMATIONS – None.

4. PUBLIC INPUT – None.

5. COUNCIL COMMENTS – The Council had the following comments. Mayor Marshall said Councilor Ray was out of town and could not arrange to be with them. Councilor Bettison commented on how the recent dedication of murals was wonderful, and she thanked the donors that provided funds and everyone that worked on the murals. She thanked the Mimbres Region Arts Council Youth Program and Diana Ingalls-Leyba as the driving force behind the beautiful murals in Silver City and Grant County. She commented on the success of the 2nd Annual Clay Festival event and thanked the creativity and driving force of Lee Gruber, Executive Director of the Silver City CLAY Festival. She said it was a wonderful economic development event that centered around their heritage in clay and arts and culture. She thanked the Council for their endorsement of her candidacy for the position of Director-At-Large on the New Mexico Municipal League Board of Directors, and she commented on the work that she had done with League's Board and with various committees.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting on July 25, 2013 - Councilor Bettison moved to approve the minutes of the Regular Meeting of July 25, 2013. Councilor Cook seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of July 25, 2013. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 3 Councilors voted aye. He asked if any were opposed, and there were none. Motion carried.

8. REPORTS –

A. Update on Silver City deer management by Captain Ray Aaltonen, NM Department of Game and Fish. Captain Aaltonen reported on what had been occurring since 2009 on the number of deer in Silver City. He said they put in a 3 tier plan in Silver City that included: 1) the shooting and sale of deer on private property, 2) the trapping and

transplanting of deer, and 3) after January 16th an archery only hunt in areas outside of the city limits on private property for archery hunters that were not successful during their regular hunt. He said that since June 2012 they had removed 172 deer from the Indian Hills subdivision, that 64 had been lethally removed by shooting at the land owner's request, and that all of the deer were sold except 1 or 2 of them. He reported on how they captured deer with nets and moved half of them to the San Francisco River Valley by Glenwood, the other half by the Palencio Mountains, and how they were monitoring the collared deer. There was further discussion as he answered questions from the Mayor.

B. Staff reports. Manager Brown said PNM was putting out \$300,000 in awards with non-profits around the state and that 4 of the awards were within Grant County. He said 2 were for projects with the Food Bank and with 4-H to work on a vegetation project at Penny Park with staff. He also said they received funding for sidewalks and a wall at El Grito Head Start on Cooper Street.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of Resolution No. 2013-30: a Resolution for Street Vacation #SV13-01 to vacate part of the 31st Street right-of-way lying adjacent to Lot 1, Block 8, of Brown's Addition Number 2, comprising 385 sq. ft. or 0.009± acres; requested by owners: Hal and Ollie Sontag. 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 the 3 Councilors that were present said no. He qualified all of them to be on the hearing board. He 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, Jaime Embick, Town Planner, and Becky Smith, Representative. Mayor Marshall read the procedures of how the hearing would be conducted. He said Ms. Embick had the floor and she began by saying that it would normally be an encroachment permit, but the owner was trying to sell their property and the lender would not accept a letter from the Community Development Director or an encroachment permit so they proceeded with a street vacation request. She said the property was addressed as 3001 Mann Drive and she showed photos of the encroaching property and stated it was in existence when the Sontag's purchased the property in 1978. She commented on the structures that encroached and the sidewalk on 31st Street and said the only department that had comments was from Peter Pena, Public Works Director, who said the drive pad for the garage would have to be reconstructed if they continued the sidewalk up 31st Street. She told the hearing board that they could make that a condition of their acceptance. She showed pictures of the sidewalk and the drive pad, and read the 4 criteria that would have to be met to approve the street vacation, and said the Community Development Department recommended that the street vacation be approved based on the 4 required criteria. She said they met with the Town Manager, the Public Works Director, and the Utilities Director, and because the sidewalk was already in, it would not hamper any pedestrian accessibility so that was why the condition of removing the drive pad would come in if they would like to make that a condition of approval. She said the property had been appraised with a market value of \$1,720.00 which would be paid by the Sontag's with the closing, and that the Sontag's provided the survey and would pay the appraisal and closing costs. There was further discussion.

Mayor Marshall said the applicant could present their case. Becky Smith, Representative and Realtor for the property owners, thanked the staff for their help in the process; that the drive pad was there when the Sontag's bought the property; how the wall was thought to be the property boundary in 1978, but with the new GPS survey it showed that the city owned 3 feet of their yard so they were hoping to leave the greenhouse intact; that the garage had been there the whole time; and that they met the criteria. Mayor Marshall asked if there were any witnesses in support of the case, and no one came forward. He asked if there were any witnesses in opposition, and no one came forward. There was further discussion. Mayor Marshall asked if the applicant had concluded its case, and Ms. Smith said yes. He asked if the hearing board was ready to render its decision. Councilor Bettison moved to approve Resolution No. 2013-30: a Resolution for Street Vacation #SV13-01 to vacate part of the 31st Street right-of-way lying adjacent to Lot 1, Block 8, of Brown's Addition Number 2, comprising 385 sq. ft. or 0.009± acres; requested by owners: Hal and Ollie Sontag, and based on criteria 1 through 4. Councilor Morones seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-30: a Resolution for Street Vacation #SV13-01 to vacate part of the 31st Street right-of-way lying adjacent to Lot 1, Block 8, of Brown's Addition Number 2, comprising 385 sq. ft. or 0.009± acres; requested by owners: Hal and Ollie Sontag with finding that all 4 criteria had been met. He

asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; and Councilor Morones voted aye. Motion carried.

10. UNFINISHED BUSINESS –

A. Approval / Disapproval of Ordinance No. 1223: an Ordinance amending Chapter 2, Article II (Elections), Sections 2-53 and 2-29 of the Municipal Code of the Town of Silver City, Grant County, New Mexico. Mayor Marshall said the ordinance would allow them to have a single polling place when it was uncontested and there were no questions on the ballot. He said it was a final reading on the ordinance. Clerk Mackie commented on how Sections 2-53 and 2-29 were written in the Town's Code and that the ordinance would change those sections to match with the State's Municipal Election Code. Mayor Marshall asked if anybody from the audience had comments, and there were none. Councilor Bettison moved to approve Ordinance No. 1223: an Ordinance amending Chapter 2, Article II (Elections), Sections 2-53 and 2-29 of the Municipal Code of the Town of Silver City, Grant County, New Mexico. Councilor Cook seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1223: an Ordinance amending Chapter 2, Article II (Elections), Sections 2-53 and 2-29 of the Municipal Code of the Town of Silver City, Grant County, New Mexico. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; and Councilor Morones voted aye. Motion carried.

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 Murray Hotel Ballroom, 200 W. Broadway, Silver City, NM. License Holders: Little Toad Creek Distillery #63004 and Little Toad Creek Brewery #67021, 1122 Hwy. 35, Mimbres, NM. Allyson Siwik, Executive Director of the Gila Conservation Coalition, requested the Town Council's approval of the 2 public celebration permit applications. She discussed the upcoming Gila River Festival and provided details of the Gala for the Gila fundraiser event that would include beer from the Little Toad Creek Brewery, and spirits from the Little Toad Creek Distillery. She said the event would be held at the Murray Hotel which was not within 300 feet of a church or a school. Mayor Marshall asked if the audience had any comments, and there were none. Councilor Morones moved to approve the 2 public celebration permit applications and he read the agenda item description. Councilor Bettison seconded. There was no further discussion. Mayor Marshall said there was a motion and a second 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 Murray Hotel Ballroom, 200 W. Broadway, 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 3 Councilors that were present said aye. He asked if any were opposed, and there were none. Motion carried.

B. Approval / Disapproval Resolution No. 2013-31: Ratifying a certain Agreement between the Town and Southwest New Mexico Council of Governments for Fiscal Year 2013-2014. Manager Brown said it was for the annual Resolution that was required by the state for them to enter into an agreement for services provided to them from Southwest New Mexico Council of Governments (SWNMCOG), and to designate the voting member and alternates. He said the SWNMCOG provided a countless amount of services to the Town and other government agencies throughout the southwest, and that it was his recommendation to enter into the agreement. He recommended that he be the designee, and stated that the last agreement had Councilor Bettison and Peter Pena as alternates. There was no discussion from the audience. Councilor Bettison moved to approve Resolution No. 2013-31: Ratifying a certain Agreement between the Town and Southwest New Mexico Council of Governments for Fiscal Year 2013-2014, and designating the Town Manager, Alex Brown, as the public official to be the member of SWNMCOG, Councilor Cynthia Ann Bettison as Alternate 1, and Peter Pena as Alternate 2. Councilor Morones seconded. Mayor Marshall said the SWNMCOG really did provide a great service to the Town and the amount of the contract was almost unreal. He said there was a motion and a second, and no further discussion, to approve Resolution No. 2013-31: Ratifying a certain Agreement between the Town and Southwest New Mexico Council of Governments for Fiscal Year 2013-2014, and designating the Town Manager, Alex Brown, as the public official to be the member of SWNMCOG, Councilor Cynthia Ann Bettison as Alternate 1, and Peter Pena as Alternate 2. He asked for a roll call vote. Councilor Bettison voted aye, Councilor Cook voted aye, and Councilor Morones voted aye. Motion carried.

C. Approval / Disapproval of Bid #13/14-1: Santa Rita Street Drainage and Roadway Improvements. Manager Brown said they received 5 bids and the lowest bid was from Burns Construction for \$130,629.60 without gross receipts taxes. He said the grant was a Co-op grant that was awarded to the Town in the amount of \$72,000 plus the match that was budgeted was approximately \$102,000 so it was staff's recommendation to award the base bid to Burns Construction for \$113,113.00. He said that he reviewed the budget and found additional funds that could be diverted to the project so they could complete it. He described the project, and there was further discussion. Councilor Cook moved to approve Bid 13/14-1: Santa Rita Street drainage and roadway improvements to Burn Construction, Inc. for base bid of \$113,113.00 plus gross receipts tax. Councilor Bettison seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Bid #13/14-1: Santa Rita Street Drainage and Roadway Improvements awarded to Burn Construction, Inc. for the base bid of \$113,113.00 plus gross receipts. He asked all those in favor to say aye, and all 3 Councilors that were present 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 7:03 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 3 Councilors that were present 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