



## MEETING MINUTES OF THE CITY COUNCIL

City Council Chambers  
448 East 1<sup>st</sup> Street, Room 190  
City of Salida, Colorado  
Tuesday, June 7, 2016 6:00 p.m.

### REGULAR MEETING CALLED TO ORDER –

**I. PLEDGE OF ALLEGIANCE** – Led by Mayor Jim LiVecchi

**II. ROLL CALL**

All Elected Officials, staff and the City Attorney were present.

**III. PRESENTATION**

#### **Monarch Spur Trail Restoration Project – Donna Rhoads**

Rhoads thanked the City Council and Staff. She explained that she Andrew Mackie, Dominique Naccarato, Alison Ramsey and Buffy Lenth were present. She stated that three non-profits were jointly raising the funds for the trail. The focus is on removing the noxious weeds along the trail. Naccarato explained GARNA's role in projects on the trail. Buffy Lenth explained that she was hired jointly to work with the City and County for the trail project.

#### **Harriett Alexander Fly-In – Zechariah Papp**

Papp stated that the airport is having their annual fly-in to get the public involved. He explained when and where it will be. Papp stated that there will be additional event and vendors at the Fly-in.

**IV. CITIZEN PARTICIPATION** –*Citizen participation is for items not on the agenda and for agenda items that are not scheduled public hearings.*

Vern Davis of Salida thanked the Mayor, his wife, Hal Brown and Rusty Granzella for cleaning up the trash on Memorial Weekend. He stated that the agreement was that trash removal responsibility was only for the portion of the park that was rented. He stated that the other locations would be the responsibility of Public Works. Davis stated that there are seven members of the CAG group that would volunteer to help with the trash.

Linda and Raymond Ferbrache of Chaffee County stated that they have been profoundly impacted by the illegal crossing at the ditch. Raymond encouraged openness and that the truth will prevail.

Steve Borbas of Salida stated that he was speaking in support of the defining of the scope of work. He stated that it is important to define what the officials' authority is. He stated that the administrator has assumed more duties along with duties that have been assigned by City Council. He stated that it is better for employees to check with City Council rather than getting permission after the fact. He stated that the City Administrator has authority to hire all department heads and felt that the City Council should have input in the selection of department heads. He strongly encouraged that the scope of work be adopted.

Jim Miller of Salida urged the Council to pass the Lowry agreement for affordable housing. He stated that if it is rejected, then it could be put on hold for another four or five years. He stated that he supported Dara

MacDonald. Miller continued to state that she is not the perfect employee, but has a hand in all of the positive things. He stated that he would like the Council to comply with the open meetings act. He stated that the funds cannot be spent until it is approved in an open meeting. Miller stated that he believed there were also conflicts with State Statute in the scopes of work.

Tom Bomer of Salida stated that transparency has a very clear definition. He stated that he requested emails that would have been between emails between the Mayor and Jan Schmidt. He stated that everything that happens between council and staff is an open record. He said there is either transparency or not. He supported Dara MacDonald. He stated that in very short order he and his wife were appalled by how staff is being treated from the podium. He stated that Dara MacDonald is highly competent. He asked who Council would ask if they show Dara the door.

Arita Herd of Salida stated that she has been in Salida for 10 years. She stated that she was a senior auditor for the AG tax administration. She explained that she would go into an organization and find any deficiencies. She stated that she is familiar with government and good business practices. She stated that she felt the one-person operation was a red flag. She stated that she felt the City was on a good path and stated that it does not have anything to do with personalities. She stated that it would be wise to initiate a way of balancing the power.

Harry Brull of Salida stated that he has been designing selection products for 38 and a half years now. He stated that he also helped the library find their director. He stated that no City Administrator can survive in the current political climate. He stated that there is a consistent split on all important issues. He said to consider the ripple effect of the actions that have been taken.

Louise Fish of Salida stated that she had an open records request for attorney's bills. She stated that she looked at previous requests and several had no fee. She stated that she didn't understand how it could cost so much, or why the bills need to be redacted. She stated that all those different things are not transparent. Fish stated that the day before a request for legal bills was produced without a fee and was not redacted. Fish stated that she has sent seven questions and would like to have the answers.

Monika Griesenbeck of Salida thanked the Council. She stated that she is not a supporter of the Administrator. She stated that it is the Council's job to decide if they are able to work with the City Administrator. Griesenbeck stated that she has never heard a disparaging word from Council towards staff.

Read McCulloch of Salida stated that there is a solution in hand for the affordable housing crisis. He stated that there is staff that has local know how. He stated that developers have the ability to see how feasible a project is. He stated that he has worked with Dara since 2008 on affordable housing. He stated that affordable housing will require more than just this one opportunity. He asked that Council focus on the citizen's agenda.

Tom Yerkey of Salida stated that he was speaking in favor of the Lowry resolution to get started on affordable housing. Yerkey stated that it opens up the 200 acres for more opportunities.

Katy Grether of Salida thanked City Council and stated that she sent Council a letter. She stated that all the personnel points in the Administrator scope of work makes it difficult when people have more than one boss. She suggested getting advice from an outside consultant. Grether stated that something wonderful is about to happen at the Vandaveer.

Mike Harvey of Salida thanked the City Council. He stated that actions taken tonight will have impact on everything for longer than Council will be elected. He stated that he doubted any of the parties were blameless. He felt that cancelling the contract was a drastic measure. He hoped that there was in support of the Lowry project.

Mary Ann Mills of Salida stated that she is very new to town. She stated that she has become very distressed with all of the negativity and the division. She thanked the Mayor for working with a little help last weekend. She stated that she is upset about firing the attorney and other staff. She thanked the Council and stated that she will continue to volunteer and help heal the division.

Ray Kitson of Salida stated that he is very supportive of the affordable housing and the Lowry project. He stated that he is concerned that at the last meeting not everyone was allowed to speak. Kitson stated that the implication of consideration, inviting people to speak, there is implication that the Council will listen to what people have to say. He stated that accountability and transparency needs to be taken into consideration.

## V. SCHEDULED ITEMS

07:11:40

1. **Consent Agenda** (Christian Samora)
  - a) Approval of Agenda
  - b) Approval of Minutes: May 17, 2016
  - c) Salida Water Festival – August 13, 2016
  - d) FIBArk - June 16-19, 2016
  - e) Salida Rotary 4<sup>th</sup> of July Special Events Liquor Permits
  - f) Salida Chamber of Commerce 5<sup>th</sup> Annual Wine Festival – September 3, 2016

Brown-Kovacic stated that she had submitted an alternative fifth amendment for the City Administrator. She stated that the amendment was not on the agenda.

**Brown motioned to combine and approve the items on the consent agenda with the exception of the removal of items #4 & #7. Bowers seconded the motion. With all in favor, THE MOTION CARRIED.**

07:13:50

2. **Change in Location Public Hearing for Las Camelinas Hotel & Restaurant Liquor License** (Christian Samora)

Samora gave an introduction and provided background information.

There was not any comment from the public.

**Bowers motioned to approve the change in location for Las Camelinas. Brown seconded the motion. With all in favor, THE MOTION CARRIED.**

07:15:36

3. **Citizen Appointments to the Recreation Advisory Board** (Theresa Casey )  
Resolution 2016-55 approving citizen appointments to the Recreation Advisory Board

Casey gave an introduction and provided background information.

**Brown motioned to approve Resolution 2016-55, a resolution of the City Council, City of Salida approving Lee James as a citizen appointment to the Recreation Advisory Board. Bowers seconded. With all in favor, THE MOTION CARRIED.**

07:17:08

4. **Resolution Setting a Public Hearing for the Little River Properties, LLC Annexation** (Dan Osborn)  
Resolution 2016-57 finding the Little River Properties, LLC annexation petition to be in substantial compliance with State Statutes and setting a public hearing on said petition

Osborn gave an introduction and provided background information.

Granzella asked if there would be changes to the flood plains and wet lands. Osborn stated that there would not be a change now.

**Brown-Kovacic motioned to approve Resolution 2016-57, a resolution of the City Council, City of Salida finding the Little River Properties, LLC annexation petition to be in substantial compliance with State Statutes and setting a public hearing on said petition. Hallett seconded the motion. With all in favor, THE MOTION CARRIED.**

07:20:40

**5. Hunt and Palmer Streets Design (Bob Salmi)**

Salmi gave an introduction and provided background information.

MacDonald stated that staff needs direction for street profiles on Palmer and Hunt Street.

Hallett stated that she was measuring and looking at the newer and older streets. She stated that she would like the Council to have a tour of the streets to see what has been going on.

Rogers stated that the 26' flat curb gives a lot of options for later on down the road.

Brown-Kovacic stated that she felt it was very important for all of the neighborhoods in the City.

Brown asked if the baseline of the 26' flat would allow for the installation of a gutter later on.

Granzella stated that he would like to see Hunt 28' wide and Palmer 38' wide.

Brown-Kovacic asked if the Council needed to decide on the details or if there is flexibility.

Rogers stated that the Council needs to consider the width and the speed of traffic.

Bowers stated that he felt Granzella had some good ideas. He stated that he was in disagreement about people speeding on a wide street.

Brown stated that the baseline design is 26' with a bid alternate of 28'

Hallett stated that she was in favor of the wider road.

MacDonald stated that the cost difference is about \$150k to go wider and about the same to add a sidewalk.

The Council was in favor of getting the engineering started with the alternate widths.

**Granzella motioned to begin design work on 5<sup>th</sup>, Palmer and Hunt Streets. Bowers seconded the motion. With all in favor, THE MOTION CARRIED.**

07:54:40

**6. Lowry Purchase Agreement for Vandaveer Property (Dara MacDonald)**

Resolution 2016-47 approving of the Salida Natural Resource Center Development Corporation Resolution 2016-04 authorizing the NRCDC action to dispose of property in exchange for the provision of certain infrastructure improvements

MacDonald gave an introduction and provided background information.

Kahn stated that he has had a chance to review the NRCDC opinion letters. He stated that they are wholly inadequate. He stated that the legal issues are complex. He stated that the City is not in a position to move forward. Kahn stated that the NRCDC attorney stated that his advice was for the NRCDC and not for the City. The letter also stated that the City also has input on the land being disposed of.

Brown asked Kahn what he had in mind for a time frame. Kahn stated that if a private practitioner reviewed it and it could be done in thirty days.

Granzella asked what the City needs to do to protect itself. Kahn stated that the City needs to know if the NRCDC is a legally compliant entity.

Rogers stated that the purchase occurred in 2004. She stated that all entities involved have been in agreement that everything is in order. Rogers stated that she did not believe that there were any issues with TABOR. She suggested moving forward with the utilities and to check into the TABOR issue.

Kahn stated that the big issue is whether or not the NRCDC is a separate entity.

Brown-Kovacic stated that it was disconcerting how last minute the legal advice was. She stated that it puts the Council in a difficult position to research and make the best determination.

Kahn stated that the opinion letter was requested by the City Administrator and the Mayor. He stated that the second opinion letter was issued on May 26<sup>th</sup>. He stated that he was not copied when the opinion letter was distributed.

Kahn continued to state that the lender would not have due diligence to find out whether the entity is legitimate or not. Kahn did not believe it was advisable to move forward without making sure that the entity is compliant.

MacDonald stated that she requested the opinion letter from Kahn on the 16<sup>th</sup>. The Mayor directed that Michael Scott provide an opinion letter. MacDonald stated that opinion letters were provided with the Forest Service. MacDonald stated that there is not a long term agreement.

Hallett stated that there are a number of citizens asking about the legality.

Granzella stated that he would like it to move forward and also protect the City.

Kahn stated that the NRCDC would need to be involved in the disposition on the land. Kahn stated that there is not a work around.

Granzella asked if it goes to the vote of the people could it move forward. Kahn stated that the issue is that there is an encumbrance and the NRCDC owns the property.

Brown stated that he would like to keep something moving forward and to keep the fiduciary duty. Brown stated that going out to bid on the utilities may protect the BelMont option to buy.

Granzella asked if there is no encumbrance would it allow the development to proceed.

Brown-Kovacic stated that it is her understanding that there have already been conversations with the bank to provide a partial release. MacDonald stated that the bank is willing to work with the City, but it would come down to the appraisals.

Kahn stated that it would be easier to transfer the property to an entity that does not have any problems.

Rogers stated that it appears that two attorneys are both taking their positions that do not agree. Rogers asked when Kahn became an attorney. Kahn stated that he has been practicing law 19 years. Kahn stated that he has primarily represented private clients. Kahn stated that he is humble enough to state that he needs help from outside council to answer this question.

Brown suggested continuing the item for one more meeting.

**Brown motioned to continue the item to the next regular council meeting. Bowers seconded the motion.**

Rogers asked if the Lowrys are willing to wait.

Larry Sherwood stated that they have waited nine months to get this far. He stated that the timing is very important and that for the deal to be profitable they cannot keep waiting. He stated that they cannot wait months. He said that after thirty days they will not be a player.

**Brown-Kovacic offered a friendly amendment of a 30 day maximum.**

**Brown accepted the amendment.**

Kahn stated that he can coordinate the legal counsel and the City Administrator can coordinate with the bank.

**With all in favor, THE MOTION CARRIED.**

**08:51:00**

**7. Cancellation of City Administrator Employment Agreement (Ben Kahn)**

Resolution 2016-59 cancelling the City Administrator's Employment Agreement effective June 30, 2016

Kahn gave an introduction.

Granzella stated that the scope of work was already approved. Kahn stated that the change would be that the 14 duties would be replaced with the scope of work.

Brown-Kovacic stated that they did receive a notification from Mr. Kahn advising what and what cannot be discussed. She stated that she is still not completely clear about what provisions of the contract she could refer to. Kahn stated that he met with Brown-Kovacic, but could not address questions in an open session.

Rogers felt that there needs to be an executive session.

Kahn stated that his advice did not state that they could not speak.

Granzella asked if they could move onto item #10 on the agenda.

**Brown motioned to approve Resolution 2016-59, a resolution of the City Council, City of Salida cancelling the City Administrator's Employment Agreement effective June 30, 2016. Hallett seconded the motion.**

Granzella did not feel it was in the best interest of the City.

Brown-Kovacic stated that she took a step back to look at the big picture. She stated that they are charged together as a body. She stated that few times a team works together so well that things just flow. She stated that this has been the case under MacDonald. She stated that there is room for improvement. Brown-Kovacic stated that Salida is now known throughout the state as an up and coming community. She stated that one issue is Dara's job performance and the other is the philosophy of what power and elected officials have. Brown-Kovacic stated that she is concerned of potential replacements and the ability to pay well enough to attract people.

Brown stated that it is true that there are different perspectives and agreed that the Council has not accomplished what it should. He stated that it is a Statutory City with a Council-Mayor form of government. Brown stated that in statute the powers given to a City Manager exceed what can be given to a City Administrator. He stated that by Statute the Mayor is the chief executive officer. Brown stated that he disagreed that Council has systematically fired professionals. Brown referenced the narrowing of H Street with a considerable amount public input. He stated that the trees along H Street were removed anyway.

Bowers stated that he agreed with Brown. He stated that he respects the advice given by Kahn.

MacDonald stated that the scope of work was presented as a restatement of the code and city policies. She continued to state that she outlined the changes that are in the scope of work. She stated that the Council needs to talk about the changes and speak with the administrator about the changes. MacDonald stated that removing the City Administrator is well within the Council's ability. She stated that the Council needs to have a conversation regarding what the Council wants in governance. MacDonald clarified some of Council Member Brown's comments. She stated that the leadership needs to start with Council and Council needs to support the staff. She stated that she agreed that it is not a fun place to work anymore when people cannot look each other in the eye.

**In a 4-3 roll call vote, THE MOTION CARRIED. Rogers, Granzella and Brown-Kovacic had the dissenting votes.**

**8. Amendment to City Administrator Contract (Ben Kahn)**

Resolution 2016-53 amending the City Administrator's Employment Agreement

**REMOVED**

09:41:40

**11. Administrator & Deputy City Clerk**

- City Administrator Report –Dara MacDonald  
Audit Committee

The Audit Committee was fine with moving forward with the audited financial statements.

The July 4, 2016 Work Session was rescheduled to July 1, 2016 @ 9:00 A.M.

- Deputy City Clerk Report – Christian Samora

**Appointment of Municipal Court Clerk**

The City Council did not have any objection to the appointment of April Franklin as the Municipal Court Clerk

**John Roberts Snow Cone Request**

The City Council did not have any objection to the vendor permit request made John Roberts.

**Woods Distillery Revocable License Agreement Request**

The Council was in favor of staff bringing forward a new revocable license agreement.

**12. Elected Official Reports**

- City Clerk – Betty Schwitzer
- City Treasurer – Theresa Cortese
- City Council- Michael Bowers, Hal Brown , Cheryl Brown-Kovacic, Rusty Granzella, Melodee Hallett and Eileen Rogers.
- Mayor – James LiVecchi
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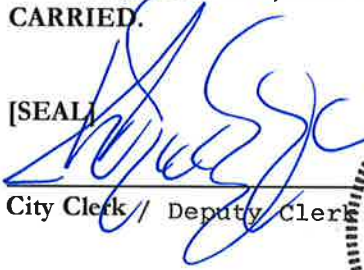
**VI. NEW BUSINESS**

Brown stated that there were suggestions regarding an organizational consultant. He would like to seriously pursue the item.

VII. OLD BUSINESS

VIII. ADJOURN –

Brown motioned to adjourn. Bowers seconded the motion. With all in favor, THE MOTION CARRIED.

[SEAL]  
  
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City Clerk / Deputy Clerk



  
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Mayor