

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
March 10, 2015, 6:00 p.m.**

**Present:**

Michael S. Morones, Mayor  
Cynthia Ann Bettison, District 1  
Lynda D. Aiman-Smith, District 2  
Jose A. Ray, Jr., District 3  
Guadalupe Cano, District 4

**Also Present:**

Alex C. Brown, Town Manager-Finance Director  
Robert L. Scavron, Town Attorney  
Ann L. Mackie, Town Clerk  
Peter Pena, Public Works Director  
Jeff Fell, Assistant Fire Chief

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Morones called the meeting to order at 6:00 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – “Girl Scout Week” – March 8-14, 2015. Mayor Morones read and presented the proclamation to the Girl Scouts of the Desert Southwest. He said there were 2 Girl Scouts on the Council; Councilor Guadalupe Cano and Councilor Cynthia Ann Bettison. He commented that he was actually registered as a Girl Scout, too, when he was a volunteer Dad.
- 4. PUBLIC INPUT** – James Baldwin, county resident, said the gross receipts tax would have an affect county-wide, and said it should be proposed as a referendum to the public. He said the city should consider cutting costs or should sell something, and he suggested the city should sell some of their property in order to bring in immediate revenues plus property taxes.
- 5. COUNCIL COMMENTS** – Councilor Bettison congratulated Councilor Ray on his reelection, and she thanked everybody that voted in the March 3rd election, etc. She said she took the Oath of Office and swore to be a Council member and do everything to the best of her ability, and that she had done so and would continue to do so. Councilor Aiman-Smith reminded the public about the meeting with the New Mexico Department of Transportation regarding the Highway 90 Bridge closure on March 11th, and the "Conversation with a Councilor and Colleagues" meeting on March 18th. Councilor Ray congratulated Councilor Bettison on her reelection. He also commented that a lady was thankful that the city put bars on the benches by the Visitor Center, and how senior citizens should be careful and check their food from Meals on Wheels because a piece of chewed gum was found in a meal. Councilor Cano commented on the Americans with Disabilities Act conference that she attended and said members of the Governor's Commission on Disability told her they were really happy with Silver City and that Silver City was one of their models for accessibility. She said in the next few meetings they would have a committee start to help the city work on accessibility issues, and people could contact her if they were interested. Mayor Morones congratulated the student athletes at Silver High School and Cobre High School and said they continued to excel, and had done well with basketball and wrestling. He said they were learning discipline, teamwork, and were keeping their grades up so they were eligible, and they were positioning themselves to be good, productive citizens.

Mayor Morones stated they had legislation on gross receipts taxes on the table for public input. He discussed the types of input that he had been receiving and how people did not want to pay for taxes, but they did want the services that were needed. He asked Manager Brown if the Town had legal limitations on what they could do with funds from the sale of property. Manager Brown said no, but they had an ordinance that stated 95% of the funds would go to the Trails and Open Space Fund, and 5% would go to the General Fund unless the Council otherwise designated it at the time of the sale. He stated the Town only had a certain amount of property so it would be a one-time inflow of cash, but the gross receipts taxes would be a reoccurring revenue and would ensure they could provide services every year. There was further discussion about a referendum process; how the particular tax did not require an election and how an election would delay the collection of the tax for a year; how the Town was running on a tight budget, trimming costs,

not filling positions, and floating grant reimbursements; how an interest payment of \$2,100 was imposed on the Town because of a late payment from the New Mexico Finance Authority to a contractor for a Colonias grant; how people that had commented to the Mayor were willing to pay the tax if they got to keep the museum and library, etc.; people were encouraged to learn as much as they could about the issues regarding Notice of Intent Ordinance No. 1237 by contacting the Council and staff, and to then give the Council their opinion on whether they should approve or disapprove the Ordinance; how the Town had been in a tremendous cash crunch because of grant reimbursements, etc., but they were still providing the same services with fewer people; how the Mayor had received more positive comments on Notice of Intent Ordinance No. 1237 than people voted in the 2015 election; how the .25% gross receipts tax was not a solution for the hold harmless, but it was a solution for what the Town was facing with not being able to do sidewalks or pave streets, etc. because they did not have the cash flow; how they did not have a cushion because of their reluctance to increase taxes; how even if the hold harmless was corrected, the Town was not getting reimbursements in sufficient time and how they just did not have the monies to be able to stretch them far enough to continue paying the staff, deal with the 4% decrease in gross receipts taxes and a little bit over that, and just really function to provide the services they had been providing; how they had cut the budget everywhere, raised water fees to no longer subsidize water, raised sewer rates, put up the solar array at the Wastewater Treatment Plant, and did everything they could to cut back and run as lean and mean as they could and still provide the services; how they might be a year or 2 late in imposing the additional gross receipts taxes and it could mean cutting back on staff; how they had to consider the human aspect from the employees because a lot of employees were stressed and there could be a breaking point when employees decided to leave; and how there were issues with the plastic bag ordinance.

**6. CHANGES TO THE AGENDA – None.**

**7. APPROVAL OF THE MINUTES – Regular Meeting on February 19, 2015** - Councilor Aiman-Smith moved to approve the minutes of the Regular Town Council Meeting of February 19, 2015. Councilor Bettison seconded. Mayor Morones stated there was a motion and a second to approve the minutes for the Regular Meeting of February 19, 2015. He asked if there was any discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**8. REPORTS –**

**A. Staff reports.** Manager Brown reported that Assistant Town Manager Marshall was working with Gary Staley and Juvenile Probation and Parole and he commented on several projects they were working on. He said they got approval on a permit at the landfill to do re-use so they would be diverting stuff that could be used at the Re-Store prior to it entering the landfill. He commented on the hold harmless and said all of the bills would be heard at one time during the last day or two at the legislative session. He asked the public to contact their Representatives and Senator to ask them to support Senate Bill 274 and Senate Bill 712 and he provided information on both bills. Mayor Morones commented that the State took care of hold harmless with a couple of tax increases so they were already receiving 5/8% tax to pay the hold harmless, but as they worked toward taking hold harmless away, they were not taking away that tax. He said the State was adding to the counties and municipalities so they could fix their side of the hold harmless by raising their taxes by 3/8%, so if they all raised their taxes by 3/8% and did not have that 5/8% taken away, it was no different than a tax increase by the State. He said a State Administration that prided themselves on no new taxes would probably be responsible for the highest tax increase in State history.

Councilor Bettison said they needed to talk again about the fact that the plastic bag ordinance had been on the books for only 2 months. She said if they would go back to single-use plastic bags there would be an increase in their fees for the landfill because of the things that the Solid Waste Authority wanted the Town to do; there would be an increase to every individual to take care of those costs to do things at the landfill to maintain the permit. Manager Brown said it could happen because they had strict requirements on containment of blowing trash, especially because of the light material like the plastic bags so they backed off the strict requirements after the ordinance was passed and were not requiring them to do the more expensive fixes right now. He said the tax payer would pick up the costs since it was an Enterprise Fund. Councilor Bettison said the ordinance had only been in place for 2 months and she asked that people give it a year to see if it was going to work because it would take a while to get used to, etc. Councilor Cano agreed with Councilor Bettison and asked when retailers would be cited for non compliance with the ordinance. Manager

Brown said they would be cited if they were caught, and that the Code Enforcement officers would enforce the ordinance.

Peter Pena, Public Works Director, reported that the Hudson Street bridge project had already begun and that the closure of the bridge would be at the beginning of April. He said the New Mexico Department of Transportation said the bridge would be shut down for 7 months and that traffic would be back on it in November 2015; that the entire project would be completed by the end of the year. He reported they would advertise in the paper to let people know about traffic flow changes on Broadway and Cooper, and he commented on signage and street light timing changes at the intersection of Broadway and Bullard going east and west. There was further discussion with the Council.

Jeff Fell, Assistant Fire Chief, gave a brief overview of plans inside the Fire Department to deal with the bridge closure in regards to response time because the bridge closure would sever their response time to the lower third of the Town limits. He said their plan was very fluid because nobody knew how it would go, but they planned to create a third district south of the bridge including Gila Street. He said shift change would occur at 7:00 a.m. instead of 8:00 a.m. so they could get a truck with a couple of firefighters on the south side of the construction zone prior to the most active time of the morning. He said for the first couple of weeks they planned to have the truck staffed at that location until 6:00 p.m. in order to respond to all calls for medical, structure, grass fire, etc.. He said they would be in close contact with the Tyrone Fire Department so they could assist each other. He said all of the local Fire Departments would have to take the Truck Bypass Road off of Highway 180 so it would delay their response time to assist Tyrone if they called for help.

Jamie Embick, Town Planner, thanked the Council, the Town Manager, and the Finance Department, for supporting her recent training opportunity in Santa Fe to attend the New Mexico Local Government Leadership Program. She said in the time of tight budgets she really appreciated the Town's effort because the education opportunities were still there and it was a vital function. She thanked them for allowing her to learn a wide variety of things about state and local government because she wrote grants for other departments, and that it was a priceless opportunity.

## **9. ORGANIZATIONAL MEETING**

**A. Election of President Pro Tempore.** Mayor Morones asked for nominations. Councilor Ray nominated Councilor Bettison to be the Mayor Pro Tem. Councilor Aiman-Smith seconded. Mayor Morones asked Councilor Bettison if she accepted the nomination, and she said yes. Mayor Morones asked if there were any other nominations, and there were none. He said they had a motion and a second to nominate and elect Councilor Bettison as the Mayor Pro Tem. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**B. Appointments of Councilors to committee and board positions.** Mayor Morones proposed to keep everybody in the same spots and he read the list of Boards and Commissions for Council that were provided in the meeting packets, and named the person(s) appointed to each. He asked if there were any comments or problems, and there were no comments.

Councilor Cano moved for short recess at 7:03 p.m. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second for a short recess. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mayor Morones called the meeting back to order at 7:13 p.m.

## **10. PUBLIC HEARINGS -**

**A. Approval/Disapproval of Ordinance No. 1238: An Ordinance to amend the Official Zoning Map for the following property from the Rural District to the Commercial District for a tract of land situated in the NW1/4 SW1/4 W1/2 NW1/4 of Section 16, T.18S., R.14W., N.M.P.M., Grant County, New Mexico, commonly known as 3901 Highway 90 South, Silver City, New Mexico. The applicant is the owner, MasterCraft Properties, LLC.** Mayor Morones 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 matter, or had any communication from any party to the case, and all 4 Councilors 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. Mayor Morones stated that anyone not sworn in would not be able to testify or participate in the hearing. The Town Clerk swore in 2 witnesses, Floyd McCalmont and Jaime Embick. Mayor Morones read the procedures of how the hearing would be conducted. He gave the floor to Jaime Embick, Town Planner. Ms. Embick stated the request was to amend the official zoning map to change the subject property at 3901 Highway 90 South from Rural zoning to Commercial. She said the Rural District which the property was annexed into was intended to provide for annexed areas that would accommodate agricultural, ranching, and other uses of that nature until other use was determined or the property owner had another need for the property. She said the property had been unaddressed and was vacant and the case was begun with a description off the deed, and it had never been previously addressed. She showed an aerial view of the property and described some of the details of the property. She showed the zoning map and pointed to the Rural, Commercial, and Industrial zones that were shown on the map. She stated the MasterCraft LLC property was already Commercial. She showed several photos of the surrounding areas. She said to amend the zoning map the Town Council and the Planning and Zoning Commission had to make at least one of the 7 findings, and she read the 7 findings that were provided in the Staff Report of the meeting packet. She said the Planning and Zoning Commission recommended the map amendment/zone change be approved based on Finding #1: The proposed amendment is in substantial compliance with the Town's Comprehensive Plan. She asked the hearing board if they had any questions, and there were none. Mayor Morones asked Mr. McCalmont to present his case. Mr. McCalmont said he was requesting the zone change based on the finding that the amendment is in substantial compliance with the Town's Comprehensive Plan. Mayor Morones asked if there were any questions from the hearing board. Councilor Aiman-Smith asked Mr. McCalmont what his plans were for the property. Mr. McCalmont said they did not have any plans, but they knew they needed to go through the formality to change the zoning like they did 10 years ago with the parcel they were currently in. There were no other questions. Mayor Morones asked Mr. McCalmont if that concluded his case in chief, and Mr. McCalmont said yes. Mayor Morones asked him if he had anything else to reflect in the record, and Mr. McCalmont said no. There were no other questions from the hearing board. Mayor Morones asked the hearing board if they were ready to render its decision, and they said yes. Councilor Ray moved to approve Ordinance No. 1238: an Ordinance to amend the Official Zoning Map for the following property from the Rural District to the Commercial District for a tract of land situated in the NW1/4 SW1/4 W1/2 NW1/4 of Section 16, Township18S., Range14W., N.M.P.M., Grant County, New Mexico, commonly known as 3901 Highway 90 South, Silver City, New Mexico. The applicant is the owner, MasterCraft Properties, LLC with the staff recommendation of Finding #1: The proposed amendment is in substantial compliance with the Town's Comprehensive Plan. Councilor Cano seconded. Mayor Morones said there was a motion and a second as read into the record. He asked if there was any further discussion, and there was none. He asked for a roll call vote. Councilor Cano voted aye; Councilor Ray voted aye; Councilor Aiman-Smith voted aye; and Councilor Bettison voted aye. Motion carried.

**11. UNFINISHED BUSINESS** – None.

**12. NEW BUSINESS** –

**A. Approval / Disapproval of 2 Public Celebration Permit Applications for the annual New Mexico Brewers Guild Celebration called "Toadfest Tap Takeover" event scheduled for April 11, 2015 from 11:00 a.m. to 11:00 p.m. on the 200 block of Bullard Street in front of Little Toad Creek on 200 N. Bullard Street, Silver City, NM. Sponsor: Little Toad Creek Brewery: 1) DBA Little Toad Creek Distillery, HC 68 Box 134, Silver City, NM 88061, License #63004, 2) DBA Little Toad Creek Brewery, HC 68 Box 134, Silver City, NM 88061, License #67021.** Sam Castello, General Manager of Little Toad Creek Brewery and Distillery, thanked the Council for considering the public celebration permits, and he stated the 2 permits would allow them to serve alcohol off-site of their licensed premises. He said the Toadfest Tap Takeover was quickly becoming one of the largest craft beer events on the New Mexico Brewers Guild schedule and would help to develop Silver City as a destination for craft beer in the southwest part of the state. He said they had over 20 beers on tap and last year they had to turn people away so seeking the public celebration permits and the usage of the right-of-way in front of their building would allow them to have key safety concerns addressed. He provided further details. There was further discussion and he answered questions from Councilor Bettison and Councilor Aiman-Smith. Mayor Morones said he would entertain a motion. Councilor Ray moved to approve 2 Public Celebration Permit Applications for the annual New Mexico Brewers Guild Celebration called "Toadfest Tap Takeover" event scheduled for April 11, 2015 from 11:00 a.m. to 11:00 p.m. on the 200 block of Bullard Street in front of Little Toad Creek on 200 N. Bullard Street, Silver City, NM. Sponsor: Little Toad Creek Brewery: 1) DBA Little Toad Creek Distillery, HC 68 Box 134, Silver City, NM 88061, License #63004, 2) DBA

Little Toad Creek Brewery, HC 68 Box 134, Silver City, NM 88061, License #67021. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second as read into the record. He asked if there was further discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**B. Approval / Disapproval of Resolution No. 2015-07: a Resolution supporting an application for New Mexico Department of Transportation Municipal Arterial Program (MAP) Funding.** Peter Pena, Public Works Director, said the Resolution would give them the opportunity to submit an application for MAP funding through the New Mexico Department of Transportation. He said they were trying to resubmit the same project as last year which was Phase II on College Avenue from Cooper Street west to B Street for repaving, new sidewalks, curb and gutter, ADA ramps, signage and striping for a total project cost of \$498,362. He said there was a 75/25 match so the Town's match would be around \$124,590. He said he talked to Manager Brown to confirm that if the project was awarded the Town's matching funds would be available. Manager Brown stated it would be included in the next year's budget. There was further discussion. Mayor Morones asked if there were any questions, and there were none. He said he would entertain a motion. Councilor Aiman-Smith moved to approve Resolution No. 2015-07: a Resolution supporting an application for New Mexico Department of Transportation Municipal Arterial Program (MAP) Funding. Councilor Bettison seconded. Mayor Morones said there was a motion and a second as read into the record. He asked if there was further discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

**13. ADJOURNMENT** – Mayor Morones asked for a motion to adjourn. Councilor Ray moved to adjourn at 7:37 p.m., and Councilor Bettison seconded. Mayor Morones 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.

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Michael S. Morones, Mayor

Attest:

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Ann L. Mackie, Town Clerk