

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

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Morones called the meeting to order at 6:00 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – "**Fair Housing Month**" - **April 2015** - Mayor Morones read the proclamation and presented it to Mike Eley, Town Planner, Kelly Clark from the Silver City Regional Association of Realtors, Cissy McAndrew, Realtor, and several others. "**Start by Believing Day**" - **April 1, 2015** - Mayor Morones read the proclamation and presented it to representatives of the Silver Regional Sexual Assault Support Services (SASS) and Gila Regional Medical Center (GRMC). Stormy Flamm, GRMC Coordinator, provided details of the public awareness campaign and said Grant County was totally on board with the program, etc. "**Continental Divide Trail Trail Days, 2015**" - **April 10-12, 2015** - Mayor Morones read the proclamation and presented it to Nancy Cliff, George Julian Dworin, Raul Turrieta, and others. Ms. Cliff said she was grateful for the proclamation and she provided information about the event and invited everyone to take part in the fun.
- 4. PUBLIC INPUT** – Ben Ortiz, resident of Silver City, said he was not opposed to taxes because they were a privilege for living in a structured society and they were a function of government. He discussed the expenditures that he supported for basic government public services, but he said he was opposed to how some tax revenues were appropriated. He said the taxpayers did not have money and he asked for a reprieve or no vote on Ordinance No. 1237. Raul Turrieta, Grant County Assessor, said they had a backlog of 600 deeds in January 2015 and were caught up on March 23rd. He said they were in the process of restructuring the Assessor's Office and would hire a parcel mapper and a title examiner. He said he appreciated Grant County for their patience and their confidence in the Assessor's Office. He said they would not mail out the Notice of Valuations until May 1st because they got an extension from the Property Tax Division. He also said he was the Chair of the Grant County Trails and invited everyone to join them for a 4 mile hike at Gomez Peak on April 12th at 1:00 p.m.
- 5. COUNCIL COMMENTS** – The Council commented on the following: a request that Attorney Scavron provide information about the Town's current ordinance on peddling and what the licensure did and did not permit; thanks to the citizens and expert professionals that attended the recent "Conversations with Councilors" event with Councilor Aiman-Smith and Councilor Ray and that they had an informative discussion about vacant buildings; detailed information about plastic bags and how it could take 10 to 15 months for people and retailers to adopt to using reusable bags instead of plastic bags; request for the public to give feedback to the Council on whether they were for or against banning cell phones; and a request that drivers share the road and be aware of people on skateboards, parents pushing strollers, bicycles, and motorcycles.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES** – **Regular Meeting on March 10, 2015** - Councilor Aiman-Smith moved to approve the minutes of the Regular Town Council Meeting of March 10, 2015. Councilor Bettison seconded. Mayor Morones stated there was a motion and a second to approve the minutes for the Regular Meeting of March 10, 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 there were any opposed, and there were none. Motion carried.

## **8. REPORTS –**

**A. Staff reports.** Attorney Scavron provided an update on peddling. He said peddlers had to be licensed to operate within the Town by walking or operating on the public rights of way. He said peddlers had to file an application and could get a license to operate within the Town, and that there were 2 basic areas that the peddlers sold to: commercial businesses and private residences. He described how commercial businesses were open to the public so a peddler could enter the public business to hock their wares, unless there was a sign that said, "No peddling, No soliciting". He said failure to leave when asked to do so would make them a trespasser. He said the license did not give a peddler the authority to go on private property and that they could only do so if they were expressly invited to enter private property. He said the license application stated they were not to enter upon non-business private property so if they walked on private property they were already violating the law. If the peddler did not leave the private property, Attorney Scavron encouraged the occupant or owner to get their card, take their picture with a cell phone, and call the police. He said it would be a good idea to put up a tab on private property that said, "No soliciting". He said businesses could also put up a sign that said, "No soliciting, No peddling" and that it would immediately end the peddler's implied right to enter the commercial business. He said the exception was for locally based organizations like the Girl Scouts and local fund raising; they were permitted under the basis of public policy because they were neighbors and could be held accountable for their own behavior. He said the peddlers that got licenses and sought to use that license to invade private property were committing a criminal offense and people should call the police. He said they should not argue with the peddler, follow the peddler, or get violent with the peddler. There was further discussion of Section 10-141 of the Town Code that said peddlers could not use the telephone for peddling goods, etc. Councilor Bettison said she appreciated Attorney Scavron for clarifying it because it was critical for folks to understand that per the ordinance and per the license there was no real door to door peddling with a license. She said she would like to see Attorney Scavron's information posted on the Town's website so folks would know that the license itself did not permit them to enter private property that was not a retail establishment. Manager Brown said they could also run it in the Town's column in the newspaper. Councilor Bettison stated there had been so many complaints in District 1 about the peddlers, and that residents called Central Dispatch about suspicious activity that date. Attorney Scavron said people should try to get the peddler's card and then call Central Dispatch because the record of the call would be valuable later.

Manager Brown provided an update on the Legislative Session and stated very little happened. He discussed House Bill 2 regarding a \$100,000 jail diversion program at the Grant County Jail to help people to not become repeat offenders; House Bill 236 which was a decrease in severance bond capacity that went to the Colonias Board Initiative Funding and to the Tribes and Reservations and that the Town would be awarding some funding that they got from that same program; a bill that passed that actually would protect counties and municipalities if they were overpaid in gross receipts tax revenues by the State because the State could only recover a certain portion on a monthly basis until it was completely recovered so a municipality would not be negatively impacted or bankrupted; how nothing was done with the 3 bills for the ASWA (Arizona Water Settlements Act) situation; and how there were 5 hold harmless bills and only 1 was heard and tabled so hold harmless would go into effect and they would begin to see the negative impacts of hold harmless during the next fiscal year; and how for the Town of Silver City regarding hold harmless it would be \$110,000 compounded annually so the year after it would be \$220,000 and the following year it would be \$330,000, and with inflation it could get up to \$1,900,000 of loss per year. He said it was up to the Governor to sign or do line item vetoes. He said Senator Howie Morales planned to attend a future Council Meeting to give a comprehensive report about what happened at the Legislative Session.

Manager Brown also reported that the grand opening for the Disabilities Resource Center would happen in April, and that the Town had been helping with that project and it was located by the Town's Recreation Center. Councilor Bettison asked him to talk about capital outlay and what it meant for municipalities the next year. Manager Brown said the final result was that many municipalities would receive no capital outlay this year. He said the Town was slated to receive some money for the Little Walnut Road project, but that money was gone. He said the Town would keep working on Little Walnut Road. He commented on some of the past projects that had received capital outlay funding. He said the money was from tax dollars that they sent to Santa Fe, and they were just trying to get some of that money

put back into their economy so they could keep the dollars revolving and earning money, to create jobs, etc. He said it had come to the fact that they had to take care of themselves and could not depend on anybody else anymore.

Councilor Bettison moved for short break at 6:48 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 voted aye. He asked if there were any opposed, and there were none. Motion carried.

## **9. PUBLIC HEARINGS - None.**

## **10. UNFINISHED BUSINESS –**

**A. Approval / Disapproval of Ordinance No. 1237: an Ordinance adopting a Municipal Gross Receipts Tax in the amount of one fourth of one percent (.25%) for General Fund operations.** Mayor Morones provided the following background and reasons for Ordinance No. 1237: the Town's cash flow and budget was greatly affected by the 90 day to 1 year time frame for reimbursements on grants from the State; the bulk of the grants were not for aesthetic reasons, but were infrastructure grants for maintaining the roads, sewer, etc.; how further degradation of the infrastructure would not make the Town economically viable; how many citizens told him they needed the services of the Library and Museum and that it was important to their schooling and culture and that they needed to do the extra tax to continue operating on the same level; how the tax would not hit rent, food, medical costs, car payments or gas purchases, but would hit other staple products like cleaning supplies, toiletries, cosmetics, etc.; and how it was vital to the businesses to maintain the services they had and that was why the Chamber of Commerce passed a Resolution in support of the tax. He asked Manager Brown to go over specific details of the Ordinance.

Manager Brown said the one thing to think about is that Silver City provided services to a much larger service area than the residents of Silver City so the burden was not just being shared by the residents of Silver City, but was also shared by residents of Grant County, those in southwest New Mexico, and all of the tourists that came into the community for all of the events, etc. He said it was 25 cents for every \$100 and the total amount of revenue that would be generated was around \$700,000, and probably \$400,000 of that would be from residents of Grant County. He discussed the problem with slow reimbursements on grants; how they cut back filling positions; how they needed to continue to maintain their water infrastructure, etc.; how Silver City was just reconfirmed with an A Plus credit rating; how municipalities were given 6 increments of .25% gross receipts tax; and how the ordinance could be repealed by the Town Council.

Each of the Councilors discussed the public input they had received and how most people understood that the tax was necessary in order to continue to provide the quality and level of services; how the problem was not created by fiscal mismanagement of the Town's finances and budget; how they had done everything they could to streamline the budget and made sure it was going toward the services; and how the Town's audits in the last 10 years were glowing and had no concerns. Manager Brown stated they had done everything they could to save money, and he mentioned how installing the solar array at the Wastewater Treatment Plant created a cost savings and avoided cost increases in the future for the operations of the Wastewater Treatment Plant; how the total cost of buying the property and upgrading the pumping facility at the fueling station was around \$360,000, but the savings they would receive from buying their own gas that was not taxed would be about \$190,000 per year so the payback would be in 2 years; and how even with those cost savings issues, the tax was the last resort.

Mayor Morones opened the discussion up to the public. Comments were received by Art Martinez, Alan Mong, and Cissy McAndrew. Mr. Martinez was opposed to the tax, and Mr. Mong and Ms. McAndrew were in favor of the tax. Mayor Morones addressed some of the questions that were brought forward. There was further discussion. Mayor Morones said he would entertain a motion. Councilor Aiman-Smith moved to approve Ordinance No. 1237: an Ordinance adopting a Municipal Gross Receipts Tax in the amount of one fourth of one percent (.25%) for General Fund operations. Councilor Ray seconded. Mayor Morones said there was a motion and a second for the approval of Ordinance No. 1237: an Ordinance adopting a Municipal Gross Receipts Tax in the amount of one fourth of one percent (.25%) for General Fund operations. 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.

**11. NEW BUSINESS –**

**A. Approval / Disapproval of Bid #14/15-4: street and drainage for Phase II of Silver Street.** Manager Brown said the Town received bids from Southwest Concrete and Paving and Deming Excavating. He said the low bid was from Deming Excavation at \$278,335.65 for the base cost plus gross receipts tax. He said it was being paid through a Colonias grant and the Town was awarded \$489,623 so the bid was far below the funds available for the project. He requested that the motion authorize staff to increase the scope of the project because it was Phase II of a 3 phase project. He said the original phase of the project was Silver Street from 32nd Street to Pine, and the bid was from Pine to Lamb Street, and they believed they could get down to 19th Street with the remaining funds. He said they would have to go through the process of going through the Colonias Board to expand the scope of the project to get down to 19th Street. Councilor Bettison said he just quoted the base bid and did not add the additive alternate. He said he recommended they award the base bid plus the additive alternate, as well as allow them to negotiate up to \$489,623 that was awarded in the grant. Mayor Morones gave Councilor Cano the floor. Councilor Cano moved to approve Bid #14/15-4: street and drainage for Phase II of Silver Street including the base bid and the additive alternate #1, and also authorizing the Town staff to negotiate the expansion of the scope of the project up to the funding total. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second for the approval of Bid #14/15-4: street and drainage for Phase II of Silver Street with base bid of \$278,335.65 and additive #1 for a total amount of bid of \$303,146.65, and also authorizing staff to negotiate to expand the scope of the project up to the grant funding total. Councilor Bettison asked if they had to name the contractor, and Manager Brown said yes. Councilor Cano amended the motion to add that it would be awarded to Deming Excavating per staff recommendation. Councilor Aiman-Smith seconded the amendment. Mayor Morones said they had a motion for approval of Bid #14/15-4: street and drainage for Phase II of Silver Street to Deming Excavating, Inc. per staff recommendation for a total amount of bid that included the base bid and additive alternate #1 for total amount of \$303,146.65 which did not include gross receipts taxes, and also to authorize staff to negotiate to expand the scope of the project up to the grant funding total. There was further discussion. Mayor Morones asked for a vote of all those in favor, and all 4 Councilors voted aye. He asked if there were any opposed, and there were none. Motion carried.

**B. Discussion and vote on changing the regular Council meeting scheduled for Tuesday, April 28, 2015 to Thursday, April 23, 2015 at 6:00 p.m. at the Grant County Administration Center.** Mayor Morones said it was to accommodate so they could have a full Council during their last meeting in April, and that Councilor Bettison would be out of town and unable to dial in. He asked if there was any discussion. Councilor Bettison said she would be attending a work related conference from April 24th to 29th; that it was not a vacation and she would not be able to communicate during the conference. Mayor Morones said he would entertain a motion. Councilor Bettison moved to change the regular meeting scheduled for Tuesday, April 28, 2015 to Thursday, April 23, 2015 at 6:00 p.m. to be held at the Grant County Administration Center. Councilor Aiman-Smith seconded. Mayor Morones repeated the motion and asked for a vote of all those in favor. All 4 Councilors voted aye. He asked if there were any opposed, and there were none. Motion carried.

**12. ADJOURNMENT –** Mayor Morones asked for a motion to adjourn. Councilor Bettison moved to adjourn at 8:31 p.m., and Councilor Ray seconded. Mayor Morones stated there was a motion and a second to adjourn. He asked for a vote of all those in favor, and all 4 Councilors voted 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