

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
February 19, 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:

James R. Marshall, Assistant Town Manager
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** – None.
- 4. PUBLIC INPUT** – Art Martinez said he was a retired university professor and long-time community activist, and that he was there on behalf of the Committee to Promote Democracy. He commented on the steady implementation of Voting Convenience Centers (VCCs) throughout Grant County and most of New Mexico, and discussed how Senator Howie Morales was concerned about the short comings of the VCCs and that he intended to call for a formal study of them as they related to citizen voter access and citizen voter participation and outcomes.
- 5. COUNCIL COMMENTS** – The Council commented on the following: recently attended events; how Town staff, the Mayor, and the Council were tracking legislation and would soon place information on the Town's website about legislation that would affect the Town so citizens could assist by contacting their legislators; the upcoming Hudson Street Bridge closure and how it would hopefully not impact many businesses; thanks to Police Chief Reynolds, Officer Woods, and Officer Click who spoke during a Southwest New Mexico Green Chamber event as part of community engagement; an upcoming event on March 11th for a community meeting with the Gila Forest Service for strategic planning; an upcoming "Conversations with Councilors and Colleagues" on March 18th from 6:30 p.m. to 8:30 p.m. at the Western New Mexico University Memorial Building; how Councilor Ray was proud that Silver City and the County had lots of volunteers, and that the Mayor and Councilors also volunteered to serve the people; how the Mayor and Councilors tried their best to do things correctly and not every decision would be popular, and how they should all work together; the community was encouraged to come to the Council meetings to give input; how the Council and maybe Mr. Timme should talk about the plastic bag ordinance at an upcoming meeting because it was not working as well as it should; how Councilor Cano would be attending a conference sponsored by the New Mexico Governor's Commission on Disability about the Americans with Disability Act and the International Building Code Accessibility and she hoped to get Silver City more accessible for disabled people; and how social media was effective at getting a lot of news out, but when people did not give their comments to the Council in the meeting setting it lost the continuity of having the staff and the Council hear the same message so social media was not a good building block for improvement if there were concerns in town.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES** – **Regular Meeting on February 10, 2015** - Councilor Bettison moved to approve the minutes of the Regular Town Council Meeting of February 10, 2015. Councilor Aiman-Smith seconded. Mayor Morones stated there was a motion and a second to approve the minutes for the Regular Meeting of February 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 any were opposed, and there were none. Motion carried.

8. REPORTS –

A. Staff reports. Clerk Mackie stated absentee and early voting would occur at City Hall until February 27th and that there would be a Voting Convenience Center at the Silver City Woman's Club on Election Day, March 3rd, to elect Councilors in District 1 and District 3. Assistant Town Manager Marshall reported on pending legislation: how the bill regarding predatory lending that the Town Council supported had become a very partisan issue because not all legislators felt it was predatory; how the election bill for 1 candidate and no questions was tabled; how there was much discussion and debate in the Legislature about the New Mexico Constitution and how the authority should be left at the local level when possible in order to resist some bills, and how maybe they would see a little less authority removed from the local government; how House Bill 2 came out of House Appropriations and there was \$100,000 for inmate support and it would be an important allocation for the Grant County Detention Center since the detention bills were quite high; how their goal was to provide inmates with support and return them to society in a manner that they could be productive and not utilize a revolving door; how there were numerous Interstate Stream Commission (ISC) bills on the Arizona Water Settlement and they would be keeping a close eye on them; how the Town staff had numerous meetings with the ISC staff concerning the Grant County Water Commission's project that the Town supported; and how Manager Brown was the Chair of the Grant County Water Commission and would be making a presentation to the ISC on February 26th.

9. PUBLIC HEARINGS -

A. Approval/Disapproval of a Restaurant Beer and Wine License with On Premise Consumption Only, License Application No. 934972, Applicant Name: Q's Southern Bistro LLC, DBA Fry House, Proposed Location: 601 N. Bullard St., Suite C, Silver City, NM 88061. 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 1 witness, Ronald Quintana. Mayor Morones read the procedures of how the hearing would be conducted. He gave the floor to Ronald Quintana to present his case. Mr. Quintana said the business that they were trying to get a beer and wine license for was called Fry House and that it was a chicken wing restaurant located downtown with sports on 14 different televisions. He described the menu items and said they wanted to bring more business downtown to the historical part of Silver City. He said there was a church nearby, but Father Moore was not opposed to it. There was further discussion and he answered questions from the Council. Mayor Morones asked the hearing board if they were prepared to render a decision, and they said yes. Councilor Ray moved to approve the Restaurant Beer and Wine License with On Premise Consumption Only, License Application No. 934972, Applicant Name: Q's Southern Bistro LLC, DBA Fry House, Proposed Location: 601 N. Bullard St., Suite C, Silver City, NM 88061 with a waiver pursuant to the State. Councilor Cano seconded. Mayor Morones stated there was a motion and a second for approval of a Restaurant Beer and Wine License with On Premise Consumption Only, License Application No. 934972, Applicant Name: Q's Southern Bistro LLC, DBA Fry House, Proposed Location: 601 N. Bullard St., Suite C, Silver City, NM 88061 with granting a waiver pursuant to State Statute. 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.

10. UNFINISHED BUSINESS –

A. Discussion and Action on Recommendation of Library Board reference the Fred S. Norton Estate.

Ted Lynn said he was the Chair of the Library Board of Trustees and was also on the Library Foundation. He introduced other members of the Library Foundation that were present: Maureen Craig, Secretary, and Jim Reynolds. He said Nick Seibel was the current President of the Library Foundation. He stated their current bank account had a little over \$20,000 that they had handled for a number of years and that they were prepared to accept the money from the Fred S. Norton Estate or from any other contribution to the Library Foundation so they could support the local library. There were no questions from the Council. Mayor Morones said he would be inclined to moving the money to the Library Foundation because it gave a lot more flexibility and it was a better vehicle to have this type of bequest. He recommended that the money go there and said he wanted to ensure there was a well established disbursement process with oversight by the Library Board and input by Town staff. He asked if there were other comments or discussion to

be added, and there were none. He asked Attorney Scavron if they needed to give more direction than that or if Manager Brown could work with that. Attorney Scavron said he spoke with Manager Brown that date and the option for the Town was to take the money and put it into the Town's funds as a line item or allow the Foundation to disburse the money with the proper controls. He said the Foundation was an independent entity and it was a 501c3. He said it would be kept separate from the Library Board of Trustees who would have oversight on how to spend the money, but there would be controls in place where money would not be spent without the Town Manager being involved. He said there would be a letter sent by the Mayor to the Library Board of Trustees indicating the process for controlling the money, for taking advice of the Foundation, and recognizing that the Town Manager had ultimate say over the dispensing of the money. He said when there were issues of spending a significant amount of money the Town Manager would make the Council aware of it in his reports. Mayor Morones said to Mr. Lynn that they had the direction.

11. NEW BUSINESS –

A. Approval / Disapproval of Notice of Intent 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 said it was an item that he had been thinking about for the last 5 years from his time on the Council and as Mayor. He said it was one of the more difficult things that he had to deal with because he did not want to increase taxes and he did not want to pay more taxes, but unfortunately the reality was that he knew for the past 5 years that it had to happen. He said the most difficult argument was that it was probably a year too late because they had been experiencing the hardships of not bringing the tax forward before. He said it was one of the tax increments that they had in their coffers with the ability to put forward and they had not done so for many community and philosophical reasons. He stated they had always been opposed, as a government entity, to have taxes just for the sake of building their coffers or reserve funds. He stated that over the past year they could have really used more reserve funds; that they ran a tight ship with low reserves. He said over the last 4 or 5 years they had been struggling with their own success in getting grants and such. He described how in the last 4 years the State's grant reimbursement process had gone from 30 to 90 days to 90 days to a year. He said the Town was floating grants when they had to wait a year for reimbursement, and were sacrificing other services, and the vendors and services providers were having to wait for payment. He said in many cases they had to do without certain services that they had historically because they were not going to put vendors in that situation of waiting for time. He said it had created a tremendous juggling act on Manager Brown and Town staff and they needed to do something to help that. He said without reserves they have had very little activity and very little ability to improve the community as the recession had started to wane. He stated as the economy picked up they were still lagging with everybody else because they had a pretty weak infrastructure and had not done improvements or added anything attractive to help them move forward. He said he hoped the tax increase would help mitigate that. He said in light of the fact that they would probably not be getting a fix to hold harmless; the tax increase would be the first necessary evil to mitigate that so they could potentially improve their cash flow and survive the loss of revenue that the hold harmless would create. He said he fully supported bringing the Notice of Intent Ordinance forward to the public so they could have good public discussion over the next month and to solicit lots of comments of the benefits and burdens that it would create. He gave the floor to Assistant Town Manager Marshall.

Assistant Town Manager Marshall gave a background on taxes and municipal gross receipts taxes. He said there were 25 increments that municipalities were authorized for, but not all municipalities were authorized for all 25. He said Silver City currently had 11 increments imposed, and there were 7 increments in the Municipal Gross Receipts Tax and Silver City had 6 of them in place. He said it would be the last increment in the Municipal Gross Receipts Tax category, and there were 9 different categories. He stated Silver City's gross receipts tax was 1.5625% out of the 7.75% that people would see on their receipts. He said only 1.5625% went to the Town of Silver City. He said Grant County gross receipts tax was 1.0625% and the State was 5.125%. He said of that 5.125% there was also an eighth of an increment that was put in place for the hold harmless to pay that. He said the .25% would impact Silver City by generating \$800,000 into the Town's general fund with hold harmless reimbursements as they had been in the past. He said it was \$640,000 into the general fund without hold harmless. He said for the next 3 years they would lose \$136,000. He said they had seen a decrease of \$360,000 in general revenue and that when you added the \$360,000 to the \$136,000 that would be lost in hold harmless next year, it would put them back to \$496,000 which left them roughly \$100,000 to build the reserves with or to save for the potential additional \$136,000 that they would lose the following year. He said on the third year they would not have that. He said the .25% would bring the Town back to

revenue neutral after year two, and that meant they would not need to cut services and could maintain the Police Department, the Fire Department, the Library, and the Museum. He said those departments were all running very minimally at that point. He said it was not a way to generate additional services or enhance services. He commented on how the gas tax continued to decrease and how there was no money in the general fund to subsidize street repairs. He said the State had backed them into a corner because the State controlled their taxes, controlled the increments, and controlled what the increments could be utilized for, but then they jerked them out and left the Town to respond. There was further discussion by Councilor Bettison, Mayor Morones, and Councilor Aiman-Smith. Mayor Morones asked the audience if anybody from the public wanted to speak, and he gave the floor to Art Martinez to offer his comments. Mayor Morones said he would entertain a motion. Councilor Aiman-Smith moved to approve Notice of Intent 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 approval of Notice of Intent 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. There was further discussion. Mayor Morones 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.

12. ADJOURNMENT – Mayor Morones asked for a motion to adjourn. Councilor Bettison moved to adjourn at 7:14 p.m., and Councilor Aiman-Smith 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.

/s/

Michael S. Morones, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk