

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
September 22, 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
Ann L. Mackie, Town Clerk
Robert L. Scavron, Town Attorney

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Morones called the meeting to order at 6:00 p.m. Councilor Ray was present telephonically.

2. CEREMONIES - None.

3. PROCLAMATIONS -

"Constitution Week" - September 17 - 23, 2015 – Mayor Morones read the proclamation and presented it to Edna Puleston, Marianne Bray, and Lucy Whitmarsh, who were representing the Daughters of the American Revolution organization. Ms. Puleston stated the Daughters of the American Revolution petitioned Congress in 1955 to make "Constitution Week" a law and President Dwight D. Eisenhower signed it into law on August 2, 1956.

"Fire Prevention Week" - October 4 - 10, 2015 - Mayor Morones read the proclamation and presented it to Anthony Murillo, Firefighter/Emergency Medical Technician-Paramedic of the Silver City Fire Department. Mr. Murillo said last year they saw over 1,100 students, and it was an enjoyable week to educate the kids and increase safety.

"Domestic Violence Awareness Month" - October, 2015 - Mayor Morones read the proclamation and presented it to Anita Norero, a board member of the El Refugio Board. Ms. Norero expressed her gratitude for the proclamation and invited the public to attend several upcoming events.

4. PUBLIC INPUT – Lee Gruber stated she was serving as the Interim Director of the Arts & Cultural District (ACD) until they put another Director in place. She described several collaborations they were involved with; how a volunteer would be placed in Silver City for a period of 3 years to work on the Continental Divide Trail to help get the word out and to help with tourism information; how the ACD was serving as the headquarters for the Gila River Festival and were doing a display for the Southwest Festival of the Written Word at the Visitor Center; how they would be contacting the Copper Country Cruizers and Zia Rides to train them; how there were major digital advertising displays in the El Paso, Tucson, and Albuquerque airports and they were contracted for a year; how they had a 6 month contract for advertising on the Tucson street cars; and how the Clay Festival was a success. Cissy McAndrew commented that the Town's website needed to update the gross receipts tax revenues and the lodgers tax revenues; that business people in town were having a challenging time economically so it would help them to see the trends. She also stated the Green Chamber was working with Zia Publishing to do a relocation guide because they were trying to draw people to live in Silver City, and she described several upcoming events, etc. Gary Stailey reminded the public that the "Day of Service" event would be on September 26th. He thanked Manager Brown, Assistant Manager Marshall, Peter Pena, Public Works Director, and Jesus Alvillar, Parks Supervisor, for working tirelessly with him to try to identify some worthwhile projects. He described several projects and invited the public to participate.

5. COUNCIL COMMENTS - The Council commented on the following: upcoming events; how many people devoted hours and hours and hours of their time to make it a better community and that their love, work, ideas, and creativity should be acknowledged; an apology by Councilor Ray to the Mayor, Councilors, and staff about the comments he made during the last meeting about the charter and for not going into detail, and that he was in no way

interested in bringing back ladies of the night; how the public should attend the Council meetings rather than relying on social media; thanks to many people regarding the recent Mariachi Concert and how it benefited the Forgotten Veterans Memorial and not Bataan Park; a request for Manager Brown to put up a United States flag, a New Mexico flag, and a Prisoners of War flag at Gough Park and to include a night light, etc.; how people should support what people are doing whether it was for a small or big event; people were reminded to buy local in general and throughout the town and not just on Bullard Street; people were asked to slow down to 15 miles per hour when driving in the downtown area and that people in the crosswalk had the right of way; how the next agenda would include a discussion about the banned bag ordinance and people were encouraged to give input; and how the Town was partnering with the Western New Mexico University Alumni Affairs Office to put on quite a few events and some of those events were described. Mayor Morones stated that through comments by Councilors and staff, and through the proclamations, they were always giving appreciation to good behavior, good volunteerism, and good work that went toward bettering their community that was outside of the government. He said proclamations were important to highlight the attributes that they wanted to see from everybody, to create awareness to certain areas that they needed to be focused on, and to promote good behavior. He added that one of the public services they had was the ability for many citizens to watch programs like the Council and Commission meetings and how one of the drivers of that program was Lori Ford, Executive Director of Community Access Television of Silver (CATS), and that she was serving her last day at their meeting. He said he wanted to express a tremendous amount of appreciation for the work she had done in informing the community and that she would be greatly missed by the CATS organization and their community at large.

6. CHANGES TO AGENDA - None.

7. APPROVAL OF MINUTES - Special Meeting on September 1, 2015 - Councilor Aiman-Smith moved to approve the minutes of the Special Town Council Meeting of September 1, 2015. Councilor Bettison seconded. Mayor Morones stated there was a motion and a second to approve the minutes of the Special Council Meeting of September 1, 2015. 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. **Regular Meeting on September 8, 2015** - Councilor Bettison moved to approve the minutes of the Regular Town Council Meeting of September 8, 2015. Councilor Ray seconded. Mayor Morones stated there was a motion and a second to approve the minutes of the Regular Meeting of September 8, 2015. 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 lodgers tax revenues last year finished 2.5 percent above the projections so they were 4 percent above the previous year and for the first 2 months of the current year they were even positive of that. He said gross receipts tax revenues for the first 2 months (May and June) were a percent and a half above what it was prior to the current month, and when they received July's revenues they ended up with a 22 percent increase due to the increased tax rate. He said the majority of the increase was due to the construction that was happening in the area so they were doing very well so far. He gave an update on the fog seal project, and said over the next few months he would bring information to them about the automatic recycling pickup program that they were looking at. He also apologized to the pickleball community for not getting the lines on the courts put in on time.

9. PUBLIC HEARINGS -

A. Approval / Disapproval of Restaurant Liquor License with Patio Service, Application # 964311, Applicant Name: Dirtwater Enterprises, LLC, DBA Vicki's Eatery, Proposed Location: 315 N. Texas St., Silver City, NM, and a waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church or school. 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, Gregory Bond and Mary Ann Marlar. Mayor Morones read the procedures of how the hearing would be conducted. He gave the floor to Ms. Marlar and Mr. Bond and asked them to present their case. Ms. Marlar stated that she and her husband ran Vicki's Eatery through their LLC named Dirtwater Enterprises,

and that they decided if their Italian dinners were a successful enterprise then they would apply for a beer and wine license because they wanted to be a real Italian Restaurant on Friday and Saturday nights. She said the Council was given a copy of their Italian menu and a copy of a photograph that shows, at the request of the State, that they put in a gate so the portion of the patio that would be served beer and wine was isolated from the entrance to the building. She said they also put in signs that there would be no alcohol beyond that point. She said they were looking forward to the change in their business. She said they did get waivers from the school district, the Good Shepherd Church, and St. Vincent de Paul Catholic Church. Mayor Morones asked if there were any questions. Councilor Aiman-Smith asked if there would be monitors to check that folks were not wandering away with a glass of wine in their hand or passing a glass to someone that was not even in the restaurant. Ms. Marlar said yes. Councilor Ray asked if the patio had to be enclosed from the street or the road to have a barrier from someone walking by. Attorney Scavron said if the application was complete on that basis, and the State granted the application, then the Town only had 3 grounds that they could reject the application, and that one of them was public safety. He asked the applicant if the State questioned the patio service. Ms. Marlar said yes, and that the barrier was quite pronounced since the patio was 7 to 8 feet above the sidewalk, and that she gave the State a floor plan that included the patio. Attorney Scavron said the record was sufficient. There were no other questions. Mayor Morones asked the applicant if it concluded their case in chief, and Ms. Marlar said yes. He asked if there was anything else they wanted to reflect in the record. Ms. Marlar said they really intended it to be restaurant service and had no intention to set up a bar or to in anyway encourage people to drink while not eating. She said it was simply to augment the menu that they had at dinner and since it was legal through the rest of the day they would not refuse to sell at lunch or breakfast if someone requested it, but their primary intention was to be Silver City's neighborhood Italian Restaurant on Friday and Saturday nights. Councilor Bettison asked if they were open on Sundays, and Ms. Marlar said yes. There was discussion on how Sunday service began at 11:00 a.m., etc. Mayor Morones asked the hearing board if they were ready to render their decision, and they said yes. Councilor Ray moved to approve the Restaurant Liquor License with Patio Service, Application # 964311, Applicant Name: Dirtwater Enterprises, LLC, DBA Vicki's Eatery, Proposed Location: 315 N. Texas St., Silver City, NM, and a waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church or school. Councilor Bettison seconded. Mayor Morones said they had 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 Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

Councilor Bettison moved for a short recess at 6:52 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. The Mayor called the meeting back to order at 7:01 p.m.

10. UNFINISHED BUSINESS - None.

11. NEW BUSINESS

A. Approval / Disapproval of 2 Public Celebration Permit Applications for Little Toad Creek Brewery and Distillery's Oktoaderfest on Saturday, October 17, 2015 from 2:00 pm to 10:00 pm at 200 N. Bullard Street between Broadway and Yankie Streets. Liquor License Holder Information: 1) Little Toad Creek, LLC, DBA Little Toad Creek Distillery #63004, HC68 Box 134, Silver City, NM, and 2) Little Toad Creek, LLC, DBA Little Toad Creek Brewery #67021, HC68 Box 134, Silver City, NM. Sam Castello, General Manager of Little Toad Creek Brewery and Distillery, said the permit allowed them to extend their licensed permit to a location offsite, but they wanted to utilize the space in front of their building to help with some of the big crowds, to allow them to have live music outside and have a more festive environment, etc. He said their request for a street closure had been approved. He answered questions from the Council and stated they would have roaming security and wristbands with regard to preventing minors from being around alcohol; that the wheelchair access ramp was on Broadway and they would improve the signage; and whether he would consider wristbands for minors rather than the people that were going to drink. Mayor Morones said he would entertain a motion. Councilor Ray made a motion to approve 2 Public Celebration Permit Applications for Little Toad Creek Brewery and Distillery's Oktoaderfest on Saturday, October 17, 2015 from 2:00 pm to 10:00 pm at 200 N. Bullard Street between Broadway and Yankie Streets. Liquor License Holder Information: 1) Little Toad Creek, LLC, DBA Little Toad Creek Distillery #63004, HC68 Box 134, Silver City, NM, and 2) Little Toad Creek, LLC, DBA Little Toad Creek Brewery #67021, HC68 Box 134, Silver City, NM.

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 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. 2015-27: to support an application to be filed by Silver City MainStreet with the State of New Mexico Department of Economic Development requesting funding for improvements to the Main Street Plaza and, further authorizing the Mayor to execute a Statement of Assurances in connection therewith. Lucy Whitmarsh, Executive Director of the Silver City MainStreet Project, said New Mexico MainStreet, as part of the Economic Development Department, was able to receive allocations of capital outlay funding that were specifically for MainStreet communities that were qualified to receive funds. She said Silver City MainStreet Project was qualified so they wanted to take advantage of the opportunity to apply for funding for a project they had been working on since 2006 for improvements to the Main Street Plaza. There were no questions. Mayor Morones said one of the reasons the Town partnered with MainStreet was because they were one of the tools in their toolbox to gain funding and to improve their community, and one of the vehicles they used were the Main Street capital outlay funds. He said it was a very competitive process and it was always good to try to get an application and continue moving forward in using the tool. He said there were matching requirements and he asked Manager Brown if there were any issues with the Town in meeting any of the matching requirements or any of the assurances they were obligated to do with the application. Manager Brown said no, but the benefit of the project was that the 40 percent did not have to be spent until September 2016 so they could budget or find the money either in 2015 or 2016. He said they had a 2 year period to come up with \$16,000 which in a \$29,000,000 budget was not a whole lot. He said he was comfortable with the match. There was further discussion. Councilor Ray moved to approve Resolution No. 2015-27: to support an application to be filed by Silver City MainStreet with the State of New Mexico Department of Economic Development requesting funding for improvements to the Main Street Plaza and, further authorizing the Mayor to execute a Statement of Assurances in connection therewith. 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 roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

12. ADJOURNMENT – Mayor Morones asked for a motion to adjourn. Councilor Bettison moved to adjourn at 7:17 p.m., and Councilor Aiman-Smith 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 said aye. He asked if any were opposed, and there were none. Motion carried.

/s/

Michael S. Morones, Mayor

Attest:

/s/

Yolanda C. Holguin, Acting Town Clerk