

**Regular Meeting
of the Town Of Ignacio Board of Trustees
Wednesday, June 15, 2016**

WORK SESSION: State Senator Ellen Roberts was present. Mr. Garcia gave a brief history of legislation regarding the sales tax exemption for Tribal members including letters to and from SUIT Tribal Council and Tribal Chairman and to Vendors, meetings, and the Town's concerns regarding the loss of sales tax; CDOR believes the tax exemption does exist; Town's view point is not recognized by the Tribe. The Tribe held a meeting with vendors explaining the law and CDOR's stand on the exemption, directing vendors to adhere. The Town has received a few calls from vendors asking for direction. The impacts are unknown. Federal Law was passed in 1984, concerns with taxation issues and reservations boundaries Town passed resolution to support the legislation in 1984. Where do we go from here to change or repeal the law?

Senator Roberts explained car dealers were being urged not to collect sales tax on cars delivered on reservation; La Plata County Clerk and Recorder did not have clear statutory authority not to collect on vehicles and large items including oil and gas equipment; there was no requirement for state sales tax to be collected. When the State law was written, the impact on general sales in Ignacio was not considered; it was not known how it would impact Ignacio. State law passed without issue, Indian taxation issues come from Federal law and Federal law trumps State Law. The Colorado Attorney General took the Department of Revenue stand 'under Federal case law prohibition on taxation exists that does not depend on the status on fee land, allotted land, or trust land but instead ends on whether the sale takes place on Indian country, even privately owned land and the Town's boundaries constitute Indian country although Ignacio is comprised of the checker board of fee land, allotted land or trust land, it is all within Indian country; therefore the Federal law prohibits the imposition of sales tax on sales to the Tribe and its members from vendors located within Ignacio. In conclusion, direction to Ignacio is that sales tax cannot be assessed because the Town of Ignacio lies within Indian country.' To repeal a Federal law would be difficult; Indian taxation issues are very complicated and highly political. If the Town would choose to challenge, it would be an uphill battle, political and legal. The Tribe does not want it to be a big wedge between the Town and the Tribe, with a shared community, it does not want it to compromise services for Town residents, but would like to determine impact and pay the Town a certain amount. The impact of the law is unknown. The Work Session closed at 6:48.

I. CALL REGULAR MEETING TO ORDER: PLEDGE OF ALLEGIANCE AND ROLL CALL:

Mayor Stella Cox called the Regular Meeting to order at 7:01 p.m. **Trustees Present:** Mayor Protem Alison deKay, Thomas Atencio, Sandra Maez and Dixie Melton. **Staff:** Mark Garcia, Interim Town Manager; Georgann Valdez, Town Clerk; Diana Briar, Town Treasurer; Dan Naiman, Community Development Coordinator and Wes Crume, SGT from IPD. Audience: Lillian Mestas, Lucy Stewart, Marilyn Griego, Daniel Weaver, Carol McWilliams for Pine River Times; Ashley Valencia; Vickie Atencio, Pete Vigil, Sarina Vigil, Jerry McElroy, Jerry Fortune, David Silva, Sage Remington, Ron Atencio, Brandy Atencio, Brittany Lee, Dominic Atencio and Julie Oskard.

II. **PUBLIC COMMENT:** **Jerry McElroy** is speaking on behalf of David Silva, who feels he's being treated unfairly; most communication has been verbal; he (David) would like to know the problems/issues in writing, would like to comply and work through them. Town Board's role is to be the problem solver. David has suffered monetary loss; and wants to understand what he needs to comply with. **David Silva:** I've had some issues between the Town and me, following the Ordinances and signage. I would like the complaints in writing where I am in violation; prove where I am in the wrong in not following the policies and codes. Mark came to my place of business and said there were 26 complaints against me and my business. I asked him to show me where I was in the wrong; if it's not in writing it is hearsay. He said I was hostile; how can I respond if there is nothing in writing. If I'm in the wrong, I will fix it. I took the Pepsi sign down when I learned it was no longer allowed past the 14 days. I took pictures of all the signs on the sidewalk; everyone should abide by the code, and everyone should get a letter, not just me. The police come to my place of business and harass me; people believe what is hearsay; I am the only Native American who owns a business and I feel like I am being singled out. I'm asking the Town Board to show me the 26 complaints in black and white where I am in violation so I can respond. I have a right to face my accuser and defend myself; treat everyone the same. The Town Board is elected by town people, Mark is mad cause I went to talk to Board Members; I am stressed opening a business and you are destroying my business. The Board is allowing members of your staff to harass me; I am asking the Board to let me do business; if I am in the wrong, I will reply. I do not want to file a lawsuit but I am being backed into a corner. **Sage Remington:** Spokesperson for SUIT Grassroots Organization whose business is supporting Tribal members. This business supports two Southern Ute Tribal members and it concerns our organization seeing this discrimination. These complaints come from the lady up at the Patio. The Board is responsible to stop interruption of Mr. Silva's business and this dark cloud of discrimination. Resolve it or we will take action. **Pete Vigil:** serves on the Planning Commission, filed complaint in writing regarding the sign blocking the sidewalk. When Mr. Silva was told to move it, he put a sign on the back of his pickup, which is against the Town's Sign Code. He felt the Town Manager and Mr. Naiman are doing their jobs when they received the complaints in writing; all the other businesses are following the ordinance. **Vickie Atencio:** Mr. D's has the best food in town. Maybe the Ordinances and Sign Code need to be reviewed and changed with the times. **Lucy Stewart:** Heard a lot from the community; (the Board) is in position to help the business community; don't tear it down; don't let a few of the people run our town; the Board Members are the faces of Ignacio, encourage the business to increase the tax base. Is the Patio in compliance with the liquor license so close to the school? Has she paid her taxes? **Ashley Valencia,** 320 Primrose Circle, who works closely with David, said the problems started with the signage problem. Then people are coming in saying the Patio and El Amigo said we have awful food; Town staff is talking to Emily about trying to run this business, we are just trying to get people to come in through Facebook or word of mouth. The rumors that we are selling drugs out of our business and cops showing up have discouraged business. **Mayor Cox:** We have had this conversation before; you can't pay attention to gossip; to make your business a success, you've got to have communication. **Lillian Mestas** 440 Goddard, as a business owner, she had to deal with the sign code, which is confusing. She got a variance to allow for her sidewalk sign. There is a protocol for signs that other businesses have to follow. **Linda Moore,** supports David Silva Mr. D's business; offered help to understand the code.

Trustee Atencio: Codes are available to anyone to access on the Town's website. Familiarize yourself with the code.

III. CONSENT AGENDA:

- A. Regular Town Board Meeting Minutes of May 18, 2016**
- B. Special Board Meeting June 1, 2016 - Change: (Trustee Melton not present)**
- C. Financial Records – Check Register for May**
- D. Patio Restaurant Liquor License Renewal**

Trustee Atencio moved to remove Patio Liquor License from the Consent Agenda to Unfinished Business. Mayor Protem deKay seconded. The motion passed by unanimous voice vote.

Trustee Melton moved to approve the items under the Consent Agenda with the changes to June 1 meeting. Seconded by Mayor Protem deKay. Trustee Atencio has concerns regarding the amount being spent on the interim manager's salary. If we continue, we will be way over the budgeted amount. Mr. Garcia said he would address this in his staff report. **The motion passed by unanimous voice vote.**

IV. UNFINISHED BUSINESS:

- A. Patio Liquor License Renewal** and all other liquor licenses will be removed from the Consent Agenda. There were no violations at the Patio Restaurant. The question regarding the distance from a school was addressed by Sgt. Crume. The Town adopted an Ordinance reducing the distance from 500 feet to 300 feet; the Patio Restaurant and Pinon Liquors meet the 300 foot distance requirement. **Trustee Atencio moved to approve the Patio Restaurant Liquor License Renewal. Seconded by Mayor Protem deKay. The motion passed by unanimous voice vote.**

V. NEW BUSINESS:

- A. Appointment of Municipal Judge:** The interview committee consisted of Mr. Garcia, Trustees Melton and Maez and Tuggy Dunton. The committee has recommended the hiring of Amber Harrison as Municipal Court Judge. References were checked; background check will be complete. **Mayor Protem deKay moved to give the Staff direction to move forward with the hiring process of Ms. Harrison, which includes a background check. Trustee Maez seconded. The motion passed by unanimous voice vote. The contract will be available for approval at the next Board meeting.**
- B. 2015 Audit and Presentation by HintonBurdick CPAs**
Chad Atkinson via Conference Call: HintonBurdick CPAs and Advisors Mr. Atkinson thanked Diana and Mark for their assistance in completing the audit.

Note 8: The pension plan was changed in the way it was reported in the audit. Note 13: a Deposit Lagging scheme; fraudulent activity within the Town. The Independent

Auditors Report issued an unmodified opinion or clean opinion on the Financial Statements stating. There was a significant finding in the cash receipting controls related to the deposit lagging scheme. Findings and recommendations, cash receipting controls, assess what controls are in place; controls have been reinstated and resolved. The Board asked if they could have a chance to review the audit report. The report is due to the State by July 31; the final approval was scheduled for the July 20 Board meeting. Chad continued with the highlights.

Financial Highlights: In the General Fund there was a decrease in fund balance of \$108k; in the non-major funds, there was an increase of \$9,344. In the utility funds, Water Fund decrease of \$11K; Gas Fund increase of \$208K; Sewer Fund increase of \$9K and Irrigation Fund saw an increase of \$7K. Cash Flow changes in those funds showed positive increases.

In the General Fund, expenditures were over budget appropriations, partly because of the fraud and also each department went over by a small amount. General fund decrease due to the fraud was reimbursed \$67,000 in 2016 through the insurance claim. Governmental fund resources saw a decrease of \$89,000 for the year. Water Fund rate increase helped the water fund, cash balances increased. Thanked the Town for the opportunity to serve you and for letting him do the presentations tonight.

Trustee Atencio asked about the Sewer Fund, in 2015 the cash flow has increased. In 2016 because the sewer rate increase from the Tribe was not passed along to the customer, the cash flow has decreased.

VI. STAFF REPORTS:

A. Police Report: Surplus cars listed today on the website.

B. Public Works: Written report, nice report. Trustee Atencio thanked Jeremy and Stan for repairs on a raw water break; Trustee Melton thanked them for repairs for the electrical fix when Kave construction hit a line. Pete Vigil has concerns regarding the water pressure from the irrigation system on Candelaria Heights. Suggested cutting the rates; pump does not work. Mr. Garcia asked for time to investigate.

C. Treasurer: Nothing to report except the audit; Payroll register and sales tax comparison reports are included. Administrative expenses and other funds in the red will be addressed at the mid-year financial staff report at next month's work session. David Silva asked how to handle the tax exemptions for Tribal members. Raising utility rates was briefly discussed.

D. Community Development Coordinator: Staff report; letters were written for weed control, sign code and RVs parked on right of way. Questions were raised by David Silva regarding the public right of way that is being blocked to Shoshone Street off Sundown Street; staff will research.

E. Town Attorney: Worked on sales tax issue, letter to auditor re: legal matters; trash contract; water rights.

F. Town Manager: Three new employees; two seasonal full time employees and Public Works Director; Hiring of Judge will proceed. Grant work ongoing. Trustee Atencio questioned the interim town managers salary vs. a full time manager. Mr. Garcia explained his salary is budgeted under contract labor; Ms. Briar stated the estimated salary for Town Manager 80,000, and with benefits equal \$103. This will be reviewed at the next month's budget workshop. Mr. Atencio said if the costs of a part time manger exceed a full time manager, maybe it's time to look for a full time manager. Mayor Protem deKay said after the Board looks at the percentages, it can be discussed at the budget workshop. Mr. Vigil questioned the private use and cost of Mr. Garcia's vehicle vs. using the Town's vehicle. Mayor Protem deKay stated that was negotiated at the time the contract was signed. Mr. Vigil questioned the costs of a second opinion from an attorney different from the Town's attorney. The Town already has an attorney under contract; who paid for the second attorney's opinion? This is spending the Town's money. Mr. Silva asked if the Town had considered becoming Home Rule. Trustee Melton said it was discussed in the Board's retreat. Ken Charles informed Mr. Garcia DOLA is offering another cycle for the intern program; there will be budgetary needs and can be discussed at budget time.

VII. TRUSTEE REPORT: Trustee Box represented the Town at the IHS Graduation. No Trustees will be attending the CML Conference.

VIII. MISCELLANEOUS: Trustee Atencio asked if the Town was going to look into getting an intern. It can be discussed at the next meeting. IT services on board;, Ben Humphrey was hired. Trustee Atencio is having problems logging into the Google Drive to use the Chrome Books. Ben will check the Books for any problems. We will be over budget on IT. It will show on the mid-year budget review.

Mayor Cox recommended sending a letter to set up meetings with the Tribe regarding the GIS contract on utilities. A brief discussion followed regard the sales tax exemption and where the Board wants to go. Staff will review case law and what the Attorney General is saying; thoughts and comments can be sent to Mr. Garcia and Mr. Liberman.

IX. ADJOURNMENT: Being no further business before the Board, Mayor Stella Cox adjourned the meeting at 9:28 p.m. The next regular meeting will be July 20, 2016, at 7:00 p.m. with a work session prior to the meeting in the Abel F. Atencio Community Center at 540 Goddard Avenue.

Stella Cox, Mayor

Date

Attest: Georgann Valdez, Town Clerk