

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**Grant County Administration Center, 1400 Hwy 180, Silver City, NM**  
**August 9, 6:00 p.m.**

**Present:**

Ken Ladner, Mayor  
Cynthia Ann Bettison, District 1  
Lynda D. Aiman-Smith, District 2  
Jose A. Ray, Jr., District 3  
Guadalupe E. Cano, District 4

**Also Present:**

Alex C. Brown, Town Manager-Finance Director  
Robert L. Scavron, Town Attorney  
Yolanda C. Holguin, Acting Town Clerk  
Jaime Embick, Community Development Dept. Director

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Ladner called the meeting to order at 6:00 p.m.

**2. CEREMONIES** - None.

**3. PROCLAMATIONS** – "**Copper Country Cruizers Day**" – **August 20, 2016** - Mayor Ladner read the proclamation and presented it to President Cruz Bustillos and members of the Copper Country Cruizers Car Club. Mr. Bustillos thanked the Mayor, Council and staff, and invited them to come out and enjoy the car show. He talked about how the car show had grown and the work that went into it.

**4. PUBLIC INPUT** – Sue Schiowitz, a resident of the Indian Hills subdivision for 23 years, commented on how she enjoyed walking in her neighborhood; her dislike of the two huge billboard structures in a residential area that exceeded Town Code and that currently had political statements; on the previous attempt to take the signs down; and that it was time to have both of the signs taken down. Sherri Lyle commented that the stop signs that were at Bullard and Broadway made a big difference and were really great; that the businesses there loved the stop signs; that the traffic was calmer and the drivers were courteous to pedestrians; and that there was an extensive positive conversation of local businesses on Facebook about the stop signs.

**5. COUNCIL COMMENTS** – The Council commented on the following: how the Council receives positive and negative feedback by email and a request that the public be patient for the Council's response and to continue sending feedback to them; how 98 percent of the comments received on the stop signs at Bullard and Broadway were in favor of keeping the stop signs; congratulations to the nine recipients of the LULAC #8003 scholarships and how those incredible young people would do a lot for the community; how Councilor Cano would attend the New Mexico Aging and Long Term Services Department 38th Annual Conference to learn about the senior population and how they can work together in the community to build new stuff for seniors; about going forward and working with the approval of the Town Manager on the "Art on the Crosswalk Pilot Project"; how breaking up the visual field in a long road could help calm traffic; invitation to the public to attend the upcoming Comprehensive Plan Town Hall meetings for District 1 and District 2; about Air B&B and Peer to Peer short term rental lodging offerers where people hosted guests at their homes, a commercial project, were required to pay lodger's tax and that Town staff were researching and developing a database about the number of those commercial projects in Silver City; thanks to Code Enforcement Supervisor Julie Salaiz Steenport for the work on the illegal dumping near Ursa Major and 20<sup>th</sup> Street; encouraged residents to report illegal dumping and standing water issues; how Bud Melaney, Assistant to Engineering, and Eddie Mendoza, Wells Leadman of the Utilities Department, checked on home recreational pools and water puddles, and there was no mosquito larvae activity; that stop signs and red stop lights were not suggestions and the need to be cautious of our surroundings; and that pedestrians do have the right-of-way in New Mexico.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES** – **Regular Meeting on July 25, 2016** - Councilor Aiman-Smith moved to approve the minutes of the Regular Meeting of July 25, 2016. Councilor Bettison seconded. Mayor Ladner stated there

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was a motion and a second to approve the minutes of the Regular Meeting of July 25, 2016. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 4 Councilors voted aye. He asked if any were opposed, and there were none. Motion passed.

**8. REPORTS** – Silver City MainStreet Executive Director, Lucy Whitmarsh, gave an update on Councilor Cano’s concern of the Silco Theater’s access from the entry hall to the concession area because the step down was difficult for people with disabilities to manage access. She reported the following: that the Board would have the alternate proposal for the step down by the end of the week; that they would be receiving quotes for the structure change; and that they would review the alternate proposal with the Council. Councilor Cano thanked Ms. Whitmarsh, the Mayor, and Manager Brown for working on the issue.

Manager Brown reported the following: how the chip / seal project was almost complete; issues with plumbers coming back and cutting the street after it was chip/sealed, but staff would make sure the road would be sound and look the same as the rest of the road after it was patched; that the Bicycle Master Plan would be coming to the Council at the next meeting; that the four-way stop would be happening at Bullard and Broadway, but the Town was doing a traffic count and the engineers were working on a recommended design for the long-term change; how the Council would be kept updated on the stop signs; how they appreciated the public input on the stop signs with 98 percent in favor of it; and how they would make sure that the project was done right and would not affect the handicap access or the large vehicles from turning in that area.

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**9. PUBLIC HEARINGS -**

**A. A Public Hearing for the Approval / Disapproval of Ordinance No. 1247: an Ordinance for a request for a Map Amendment / Zone Change for several tracts of land from a Commercial District to the Residential B Mixed Housing Types (RB-2) District described as: 1) the west half of Blocks 88, 109, 124, 145, 160, 183, 197 and 213 of the Fraser Survey of the Town of Silver City; 2) Lots 14 and 16 of Block 73 of the Fraser Survey of the Town of Silver City; 3) Lot 2 of Block 226 of the Fraser Survey of the Town of Silver City; 4) Lot 1 of Block 226 of the Fraser Survey of the Town of Silver City; 5) Lot 7 and the west half of Lot 9 of Block 198 of the Fraser Survey of the Town of Silver City. The applicant is the Town of Silver City.** Mayor Ladner 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 Acting Town Clerk. The Acting Town Clerk swore in two witnesses. Mayor Ladner read the procedures of how the hearing would be conducted. He gave the floor to Town staff. Jaime Embick, Community Development Department Director, presented a brief description of the proposed zone change from Commercial to Residential mixed housing types RB-2 and gave the following information: how it was more appropriate to do a wide spread change instead of individual lots; how it would be the first RB-2 zone in the Town; how it was currently zoned Highway Commercial; how banks would not loan people money for a residential loan in the area because it was zoned Commercial; the reasons why the RB-2 District was best for the area; a mapped description of the boundaries and photos of the area; how the zone change could spur development in the area and would be conforming and easier to sell and upgrade; how there were a few empty lots available; and that the lots were small for commercial development. Ms. Embick stated that when the Planning and Zoning Commission (PZC) makes its recommendation to the Town Council, and when the Town Council makes its final decision, they shall, at the minimum, make at least one of the following findings and she read the seven findings of the PZC. She stated the zone change was called for in the 2002 Brewer Hill Neighborhood Plan; that the PZC held a public hearing and recommended that the map amendment / zone change be approved based on Findings 1, 2, 3, 4, and 7. Denise Smith, a resident on Bennett Street, spoke and testified in favor of the zone change. She stated that if the zone was changed she could build an accessory dwelling, and that other properties would have the opportunity to upgrade and get improvement loans at residential rates. Ms. Embick addressed questions from Councilor Aiman-Smith about how the change would affect the three Air B&Bs in the area and home based businesses like artist studios. Mayor Ladner asked Ms. Embick if that concluded the applicant's case, and she said yes. Mayor Ladner asked if there were any witnesses in opposition to the applicant's case, and there were none. There were no further questions from the hearing board, and the Mayor asked if they were ready to render their decision. He said he would entertain a motion. Councilor Cano moved to approve Ordinance No. 1247: an Ordinance for a request for a

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Map Amendment / Zone Change for several tracts of land from a Commercial District to the Residential B Mixed Housing Types (RB-2) District described as herein this public hearing and further adopting the findings of the Planning and Zoning Commission as stated in its decision. Councilor Aiman-Smith seconded the motion. There was no further discussion. He asked for a roll call vote. Councilor Cano voted aye; Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; and Councilor Ray voted aye. Motion passed.

Councilor Bettison moved for short break at 6.50 p.m. Councilor Aiman-Smith seconded. Mayor Ladner said there was a motion and a second for a short recess. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion passed. Mayor Ladner called the meeting back to order at 7:00 p.m.

**B. A Public Hearing for the Approval / Disapproval of Ordinance No. 1248: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article III (District Regulations), Section 3.3.2 C) 11) b) (Accessory Structures) of the Town of Silver City Municipal Code.** Mayor Ladner 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 Acting Town Clerk. The Acting Town Clerk swore in 2 witnesses. Mayor Ladner read the procedures of how the hearing would be conducted. He gave the floor to Town Staff. Jaime Embick, Community Development Department Director, said the applicant was the Community Development Department from the Planning and Zoning Commission because they had several applications over the years for carport variances and they wanted to take care of it before the completion of the revision of the Town's Comprehensive Plan. She provided the following information: how it was a change to the required 20 foot carport setback requirement; how it was proposing a change to the existing text of Section 3.3.2 C) 11) b) to only include garages, and that carport setbacks were established in Table 3.4.2; and issues with garages and carports. She stated the Town Council would make its final decision based on the Planning and Zoning Commission's recommendation and make at least one of the following findings, and she read the list of 7 findings. She said the Planning and Zoning Commission held a public hearing on the matter and it was their recommendation that the text amendment be approved based on findings 1, 2, 3, 4, 5, and 7. She added that a continuing trend was that people were using their carports for their solar panels. She answered questions about setbacks and how the amendment would only affect carports. Mayor Ladner asked if there were any witnesses in opposition to the applicant's case, and there were none. He asked Ms. Embick if there was anything else she would like to be reflected in the record, and she said no. There were no further questions from the hearing board, and the Mayor asked if they were ready to render their decision. He said he would entertain a motion. Councilor Aiman-Smith moved to approve Ordinance No. 1248: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article III (District Regulations), Section 3.3.2 C) 11) b) (Accessory Structures) of the Town of Silver City Municipal Code as described herein this public hearing as presented by Town staff and adopting the findings of the Planning and Zoning Commission as stated in its decision. Councilor Bettison seconded. Mayor Ladner asked if there was any discussion, and there was none. He asked for a roll call vote. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye; and Councilor Bettison voted aye. Motion passed.

**10. UNFINISHED BUSINESS** - None.

**11. NEW BUSINESS** -

**A. Approval / Disapproval of Resolution No. 2016-19: a Resolution adopting the 2018-2022 Infrastructure Capital Improvement Plan (ICIP).** Jaime Embick, Community Development Department Director, said it was a lot different than it had been in past years because the process and requirements had changed. She described the ICIP as a state-coordinated plan and process that established planning priorities for anticipated capital projects so they did not find themselves in emergency situations, but could plan for, fund and develop infrastructure at a pace that sustained their activities. She said it was also an important tool to use for competitive funding opportunities and that the Town's ICIP ended up being a funding tool more than a planning document because Manager Brown did such a good job of planning for the infrastructure needs. She defined what infrastructure was and the type of projects that would be included in the ICIP, and that the projects should be more shovel-ready and not a wish list. She showed photos of various ICIP projects and reviewed the projects that were completed from the previous year's list. Councilor Bettison commented that Cactus Street was promised to be done several years ago and the residents were still waiting for the

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completion of Cactus Street. She asked if the sidewalks listed under number 4 going to include Cactus Street being done. Manager Brown said the sidewalks that they got funding for were for the back streets of downtown, then sidewalks would be done on 32nd Street the next year, and then they would be done on Cactus Street in 2 more years. Councilor Bettison said they needed to make sure that something they had promised to be completed would be completed because it was really critical to the folks that lived in the Cactus Street area. She said she wanted to make sure they continued toward a comprehensive examination of sidewalks throughout all of the districts. Manager Brown stated the following: that the Paving Master Plan included a comprehensive examination of all the sidewalks and streets throughout the town, but it needed to be updated; that the Cactus Street sidewalks had already been designed and was a shovel-ready project, but they did not have the money for production; and that they applied for funding to work on the street of 32nd Street so they wanted to do the sidewalks at the same time. Councilor Bettison said she wanted them to look at the side streets in District 1 because some sidewalks were missed and she discussed the possibility of other alternatives than sidewalks. Manager Brown said that would be part of the Paving Master Plan and he explained. Councilor Ray asked about the 13 projects on the list for one year and if they would get funded. Manager Brown had the following comments: how some of the projects had already been funded and some were priority projects; how the top 13 projects already had some design work and the top 10 were shovel-ready projects; how they could not get funded unless it was shovel-ready; how many projects were moving forward and usually they focused hard on the top 10; an update on the status of several projects; how private individuals that would do cost share to pay for the concrete for sidewalks could get their project done within the year; how the Town had over 70 miles of paved streets; and how people expected the Town to pay them for their easements before fixing their street, etc. Mayor Brown thanked Ms. Embick for the excellent job she did on the ICIP and the public meetings that were held. Mayor Ladner thanked Manager Brown for all the good projects that were done last year and how the list included projects around the entire city. He said he also mirrored the concern by Councilor Bettison in the area by Cactus Street, especially where the sidewalk normally would be, on the south side of 25th Street near Juniper where there were no sidewalks for 3 blocks that go to Swan Street; that it could potentially be a safety problem when kids walk out on the street. He said he would entertain a motion. Councilor Aiman-Smith moved to approve Resolution No. 2016-19: a Resolution adopting the 2018-2022 Infrastructure Capital Improvement Plan (ICIP). Councilor Bettison seconded. There was no further discussion. Mayor Ladner stated there was a motion and a second and he repeated the motion. He asked for a roll call vote. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye; and Councilor Bettison voted aye. Motion passed.

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**B. Approval / Disapproval of Notice of Intent Ordinance No. 1249: Adopting a Municipal Hold Harmless Gross Receipts Tax.** Mayor Ladner gave background information on why the Town believed consideration of the action was necessary. He said the Town planned to increase the gross receipts tax in increments of one-eighth of one percent scheduled for 2020, 2023, and 2026, however the state was in a major revenue deficit and must cut expenses or find a new or increased source of revenue. He said Governor Martinez just issued a press release that notified state agencies under her responsibility to look at cutting their budgets by five percent, etc. He said that put the phase-out of the Hold Harmless distributions as a major expense on the state's general fund. He said based on information they received from legislators and other state officials, they believed the Hold Harmless distribution phase-out was highly likely to be targeted for elimination and the Hold Harmless distributions could cease as early as January 1, 2017 which would leave Silver City an instant \$1.7 million cut in their revenue. He said the Notice of Intent Ordinance No. 1249 was necessary so the Town could position itself to move quickly to enact a Hold Harmless Gross Receipts Tax if a special session of the legislature resulted in the elimination of the planned revenues upon which the Town created its budget. He said the Town would need to be able to adopt the ordinance instituting the tax before September 30, 2016 in order for it to be effective January 1, 2017. He said if the legislation did not occur he would not bring the matter back to the Council for further consideration or vote. He said the Town was committed to continue to provide the essential services to its people to ensure that the quality of life and the principals of community were not significantly reduced by circumstances beyond its control, and their actions were based on their understanding of the Town's responsibility to secure the wellbeing of the community. He gave Manager Brown the floor. Manager Brown said if there was a special session of the legislature the elimination of the Hold Harmless distributions may be one of the low hanging fruit areas where they could take back \$157 million and put the Town in a bind. He said they needed to be ready whether it happened in the special session or the regular session of the legislature because it would put municipal governments in a very big bind. He said the \$1.7 million that the Town would lose equated to 22 percent of the total gross receipts taxes that the Town generated and it was a huge cut. He said the phase-out gave them time to plan on

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how to provide services in the future, but if it was eliminated it would not give them time to do anything other than to raise taxes. He said even though they could raise the gross receipts taxes by three-eighths percent, it would still not generate enough revenue to offset the loss; that they would still see a \$400,000 to \$500,000 loss in revenue on an annual basis so the Town would have to cut their budgets no matter what. He said \$500,000 would cut the Library, but he would rather spread it across all of the departments' non-essential services. He said cutting it in the middle of the year did not give them a lot of time to fix it. He said there would be a lot of planning and decision-making that would have to be done no matter what decision the state made. There was further discussion about the timeliness of adopting an ordinance to enact the tax and how they should remove Section 6 of the ordinance because there would be no reason for a sunset on the tax. Mayor Ladner said he would entertain a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1249: Adopting a Municipal Hold Harmless Gross Receipts Tax with the amendment to remove Section 6. Councilor Aiman-Smith seconded. Mayor Ladner said there was a motion and a second, and there was further discussion. Mayor Ladner 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 passed.

**C. Appointment to Library Board.** Mayor Ladner said the Town received an application from Judy Brown-Lawson to fill the one vacancy on the Library Board. He said the Chair of the Library Board, Ted Lynn, and Library Director, Eileen Sullivan, recommended the appointment. He said he would like to appoint Judy Brown-Lawson to the Library Board. The Council had no objection to the appointment.

**12. ADJOURNMENT** – Mayor Ladner asked for a motion to adjourn. Councilor Aiman-Smith moved to adjourn at 8:00 p.m. Councilor Bettison seconded the motion. 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 passed.

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Ken Ladner, Mayor

Attest:

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Ann L. Mackie, Town Clerk

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