

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM  
February 26, 2019, 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  
Ann L. Mackie, Town Clerk  
Freddie Portillo, Police Chief  
Milo Lambert, Fire Chief  
Vickie Toney, Animal Control Officer  
Jaime Embick, Community Development Director

**1. CALL TO ORDER / PLEDGE OF ALLEGIANCE** – Mayor Ladner called the meeting to order at 6:00 p.m. The Girl Scouts of the Desert Southwest presented the Colors and lead the recitation of the Pledge of Allegiance. Mayor Ladner thanked the Girl Scouts and commented that they sang quite a few New Mexico songs during the Territorial Charter Day Celebration and it was an outstanding presentation.

**2. CHANGES TO AGENDA** - None.

**3. CEREMONIES** – None.

**4. PROCLAMATIONS** – “Girl Scout Week” - March 10-16, 2019. Mayor Ladner recognized Councilor Cano and Councilor Bettison for being Girl Scouts. Councilor Bettison read the proclamation that recognized the 107<sup>th</sup> Anniversary of the Girl Scouts of the United States of America. Mayor Ladner presented the proclamation to Annette Toney, Membership Manager of the Girl Scouts of the Desert Southwest, and photos were taken with the Girl Scouts. Ms. Toney discussed the Girl Scout Program, how the cookie sales paid for the uniforms and insignias, and how the girls earned their merit badges.

**5. COUNCIL COMMENTS** – Councilor Aiman-Smith and Councilor Bettison thanked the Girl Scouts for the cookies and commended the members of the Territorial Charter Day Committee for providing great events for the Territorial Charter Day celebration. Councilor Cano thanked Mayor Ladner and Mrs. Ladner for all that they do and for participating in everything and how they were leading by example. Councilor Ray thanked Alfred Sedillos from the Sun Valley Hardware Store for giving the Prisoners of War flag for the new flag display at La Capilla Park. Mayor Ladner thanked his wife, Becky Smith Ladner, and said she was an amazing person. He also thanked the Town, Manager Brown, and Assistant Manager Marshall for all the work they did to make the inside of the Murray Hotel available to everybody for the Territorial Charter Day celebrations.

**6. APPROVAL OF MINUTES - Regular Meeting – February 12, 2019** - Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City of February 12, 2019. Councilor Bettison seconded. The Mayor asked if there was any discussion, and there was none. He asked those in favor to approve the minutes to say aye, and all four Councilors said aye. He asked if any were opposed to say nay, and there was no opposition. Motion carried.

**7. PUBLIC INPUT** – None.

**8. REPORTS**

**A. High Desert Humane Society’s Annual Report by Heidi Ogas.** Ms. Ogas provided the following report: how they took in 399 dogs and 477 cats in 2018; how they collected \$2,575 in impound fees and \$5,565.55 in licenses; how their thrift store issued 891 spay and neuter coupons; how 393 dogs were adopted and 229 dogs were returned to

their owners; how 145 cats were adopted and only three cats were returned to their owners; and how since 2007 the intake of dogs had stabilized, but the cat intake had gone up. There was further discussion.

**B. Staff Reports. – 1) Fire Chief report concerning safety and fire code inspections.** Fire Chief Lambert said recently there was concern about the fire safety being imposed on the new Mountain View Senior Living Apartments that were under construction. He said the Silver City Fire Department was very dedicated to being actively engaged in the community through public education and fire prevention. He said they met with the contractors of the Mountain View Senior Living Apartments construction site and have met with every other commercial construction site within city limits before construction begins to discuss the fire safety of their site. He said all commercial projects within the Town of Silver City are required to follow the existing fire code, and he reviewed the specific statements in the fire code that were specific to demolition and construction sites. He said he wanted to assure everyone that the Silver City Fire Department had taken all reasonable steps to ensure the safety of the construction workers, first responders, and any citizens that may be in the area of any construction project. There was further discussion and he addressed the Council's concerns.

Mayor Ladner asked for a follow-up report from Animal Control Officer (ACO) Toney. ACO Toney said she pulled six months of citations from August 1, 2018 to February 15, 2019 and reported the following number of citations: 92 for restraint and confinement for running at large; 73 for harboring unvaccinated animal; 49 for not being spayed or neutered; 27 for public nuisance; 18 for owner responsible for dog bite or cat bite on a human or other animal; 3 for abandonment; 3 for failure to license animals; 2 for adequate care; and 1 for failure to affix license tag; 1 vicious animal; 1 noise complaint; and 1 for keeping too many animals. She reviewed a map that had pins in the map for the areas of most frequent calls and she described what the color-coded pins represented. There was further discussion.

**2) Legislative update by Assistant Town Manager.** Assistant Town Manager Marshall said he had been directly tracking 76 bills with six basic topics. He said the election code was under attack or being upgraded from the election bill passed in 2018; that a major election reform bill was on the table and there would not be any accommodation coming forward for the Town of Silver City to remain on an annual election cycle. He said the other group of topics was basically under tax reform, and House Bill 6 appeared to be a combination of several different attempts over the years and was an attempt at another major tax reform bill. He said there were several bills to restore the funding levels for gas tax, so streets and roads could be maintained, and that for municipal government they were passing the buck down to the Town Councils and County Commissions to be an optional tax or by referendum. He said it was always interesting what they choose not to centralize. He said there were a couple of bills pertinent to municipal gross receipts tax, and they were considering making the eight increments all general, so the entire amount would not be allocated to specific line items that the state chose. He said it was important and would allow the Town flexibility to adjust the town's budget, however, there would be a percentage by Council choice and a percentage by referendum. He said they were also changing most of the names from gross receipts tax to sales tax. He said several bills were regarding the recreational use of marijuana with a 16 percent tax on recreational marijuana that would definitely impact the entire state's revenues. He said he testified in committee for House Bill 417 to complete the funding needs for the regional water system for Grant County which would serve about 26,000 residents and was the initial sole source of water for the Town of Hurley and also provide water security for the tri-city and all of the surrounding water associations. He said the funding was to come out of the Arizona Water Settlement Act CAP Entities Funds, and House Bill 417 was tabled in committee and would likely remain there to die. There was further discussion about the following: how House Bill 220 for a determination of discharge effect on ground water was currently in the House Judiciary Committee and was not on the calendar so may not move soon; how House Bill 255 for financial assurance under the Mining Act was sitting on the House calendar; how the concern with the gas tax was important because the bulk of money that the Town uses to maintain the roads came from gross receipts taxes and property taxes; how the Town generated approximately \$240,000 or two cents from gas tax per gallon sold in town and four years ago the Town increased property tax by one mil and dedicated to the Street Maintenance Fund and that \$400,000 per year was generated for street maintenance; how a lot of money was being pulled from the General Fund to subsidize street maintenance; and how the money for Highway 180 should be available in the state's budget, but they would need to campaign for that money through the Transportation Commission, etc.

## 9. PUBLIC HEARINGS –

**A. Approval / Disapproval of Ordinance No. 1276 amending Appendix C (Land Use and Zoning Code of 2010), Article I (General Provisions), Sections 1.3.1, 1.5.2; Article II (Definitions), Section 2.2; Article III (District Regulations), Table 3.2, Section 3.3.2 C) 3) and Section 3.4.1 C) 14), Table 3.34.2, Section 3.4.2 A) 7); Article V (Development Standards) Section 5.9.1 B, 5.9.2 A) 6), Section 5.15; Article VI (Administration), Section 6.2.12 A), Table 6.3.1, Section 6.3.14 of the Town of Silver City Municipal Code.** Mayor Ladner said the Town Council would serve as the hearing board, and he would be the presiding officer. He read how the hearing would be conducted. He gave the floor to Jaime Embick, Community Development Department Director. Ms. Embick said the project began with the update to their Comprehensive Plan in 2017, and one of the tasks she was set with was to update the Land Use and Zoning Code. She said it had been a six-month process and the County Commissioners had been notified and there was a public hearing with the Planning and Zoning Commission on December 4, 2018. She said the Council's packet included the Planning & Zoning Commission's Notice of Decision and the changes in the ordinance. She described some of the changes that included the following: minor changes to update years; to add definitions such as short-term rental use and tiny house because those terms were not in common use in the 2010 Land Use and Zoning Code; amended the Use Table to allow short-term rentals and tiny houses in certain zoning designations; the height of a wall or fence was changed to eight-feet tall; removed the height-limit of 50 feet from Commercial Highway and Industrial; and how the most changes were in Section 5.15 Signage due to a Supreme Court case; and they added specific requirements to the Planning and Zoning Commission's Notices of Decisions so they would have to specifically state their findings in making their decision. Ms. Embick answered the following questions from the Council: how tiny homes were allowed in residential categories and not allowed in the commercial or industrial categories, and short-term rentals were allowed in the residential categories, conditional-use in light commercial and highway commercial and not allowed in industrial; how they adopted the same definition of short-term rentals and tiny houses that the State of New Mexico used; and how they could only regulate size and location for signs; how the Streets and Sidewalks section of the Town Code addressed obstruction of sidewalks issues. Mayor Ladner asked the audience if they had comments, and no one came forward. He asked for a motion. Councilor Aiman-Smith moved to approve Ordinance No. 1276 amending Appendix C (Land Use and Zoning Code of 2010), Article I (General Provisions), Sections 1.3.1, 1.5.2; Article II (Definitions), Section 2.2; Article III (District Regulations), Table 3.2, Section 3.3.2 C) 3) and Section 3.4.1 C) 14), Table 3.34.2, Section 3.4.2 A) 7); Article V (Development Standards) Section 5.9.1 B, 5.9.2 A) 6), Section 5.15; Article VI (Administration), Section 6.2.12 A), Table 6.3.1, Section 6.3.14 of the Town of Silver City Municipal Code with findings and recommendations from staff. Councilor Bettison seconded. Mayor Ladner asked if the hearing board was ready to vote. Councilor Bettison asked if the motion had to state each finding number. Attorney Scavron said the motion should include the phrase, "incorporating the findings and recommendations of the Planning and Zoning Commission." Councilor Aiman-Smith amended her motion to change the ending phrase to say, "incorporating the findings and recommendations of staff and incorporating the findings and recommendations of the Planning and Zoning Commission." Councilor Bettison seconded the amendment. 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 carried.

## 10. UNFINISHED BUSINESS – None.

**11. APPROVAL OF CONSENT AGENDA** - Mayor Ladner read the following list of resolutions under the Consent Agenda:

**A.** Approval / Disapproval of Resolution No. 2019-05: Adopting a Fair Housing Policy.

**B.** Approval / Disapproval of Resolution No. 2019-06: Citizen Participation Plan CDBG Program.

**C.** Approval / Disapproval of Resolution No. 2019-07: Residential Anti-Displacement and Relocation Plan and Certification.

**D.** Approval / Disapproval of Resolution No. 2019-08: Section 3 Plan.

**E.** Approval / Disapproval of Resolution No. 2019-09: CDBG Procurement Policy.

Clerk Mackie requested approval of the annual resolutions and commented that she sent them to the Project Manager of the Local Government Division to ensure they were all still current. Councilor Bettison moved to approve the Consent Agenda as follows: Resolution No. 2019-05: Adopting a Fair Housing Policy, Resolution No. 2019-06: Citizen Participation Plan CDBG Program, Resolution No. 2019-07: Residential Anti-Displacement and Relocation Plan and Certification, Section 3 Plan, and Resolution No. 2019-09: CDBG Procurement Policy. Councilor Aiman-

Smith seconded. There was no 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 carried.

## 12. NEW BUSINESS -

**A. Approval / Disapproval of a Public Celebration Permit Application and waiver of NMSA 1978 60-6B-10 for alcohol sales near a church for the Annual Meeting of the Archaeological Society of New Mexico to be held at the Murray Hotel, 200 W. Broadway, Silver City, NM on April 26-27, 2019 with alcohol service from 5:00 pm to 7:00 pm on April 26 and from 6:00 pm to 9:00 pm on April 27. Liquor License Holder: La Esperanza Vineyard, LLC, 100 De La O, San Lorenzo, NM 88041.** William Hudson, Committee Chair of the Grant County Archaeological Society, requested approval of the public celebration permit for the sale of wine and beer at the Murray Hotel for the Archaeological Society of New Mexico's annual meeting, and he provided further details. There was further discussion about a discrepancy on the permit application for the hours of alcohol service on April 27 and how the correct time was from 6:00 pm to 9:00 pm, and that it was important that the property owner representative approved the time change. Attorney Scavron said Ms. Whitmarsh, Murray Hotel representative, should notify the Town Manager that the time change was acceptable. Mayor Ladner asked for a motion. Councilor Ray moved to approve a Public Celebration Permit Application and waiver of NMSA 1978 60-6B-10 for alcohol sales near a church for the Annual Meeting of the Archaeological Society of New Mexico to be held at the Murray Hotel, 200 W. Broadway, Silver City, NM on April 26-27, 2019 with alcohol service from 5:00 pm to 7:00 pm on April 26 and from 6:00 pm to 9:00 pm on April 27. Liquor License Holder: La Esperanza Vineyard, LLC, 100 De La O, San Lorenzo, NM 88041. Councilor Cano seconded. There was no further discussion. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**B. Approval / Disapproval to cancel the regular Council Meeting scheduled for March 12, 2019.** Councilor Bettison said she requested the meeting change or cancellation because she would be attending the National League of Cities Congressional Cities as President-Elect of the New Mexico Municipal League and would be meeting with their Congressional Delegation. Mayor Ladner asked for a motion. Councilor Cano said it was also good for her because she would be having another surgery and it would give her a few more days to recover. Councilor Cano moved to approve cancelling the Regular Council Meeting scheduled for March 12, 2019. Councilor Ray seconded. There was no further discussion. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. He asked if any were opposed, and there were none.

**13. Adjournment** – Mayor Ladner concluded the meeting and asked for a motion. Councilor Ray moved to adjourn at 7:14 p.m., and Councilor Aiman-Smith seconded. Mayor Ladner stated there was a motion and a second to adjourn. He asked for a vote of all those in favor, and all four Councilors said aye. Motion carried.

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Ken Ladner, Mayor

Attest:

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Ann L. Mackie, Town Clerk