MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
September 24, 6:00 p.m.

Present:  Also Present:
Ken Ladner, Mayor  Alex C. Brown, Town Manager
Cynthia Ann Bettison, District 1  Robert L. Scavron, Town Attorney
Lynda D. Aiman-Smith, District 2  Jim Reynolds, Town Attorney
Jose A. Ray, Jr., District 3  Ann L. Mackie, Town Clerk
Guadalupe E. Cano, District 4  Milo Lambert, Fire Chief
Kylle Marshall, Deputy Chief of Fire Prevention

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

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – “Fire Prevention Week” – October 6-12, 2019. Mayor Ladner read the proclamation and presented it to Fire Chief Milo Lambert and Kylle Marshall, Deputy Chief of Fire Prevention. Deputy Chief Marshall thanked the Mayor and Council for the proclamation and stated the Fire Department was proud to serve the Town of Silver City. He said one of the most susceptible age groups to fires were school age children so every year they invited children to their fire stations to give them tours and to teach them about fire safety, how to prevent fires, and what to do in case a fire happened in their home. He invited everyone to their upcoming event on Saturday, October 12, from 10:00 a.m. to 1:00 p.m. at the Wal-Mart parking lot. He encouraged everyone to do their part in reducing fires.

5. COUNCIL COMMENTS – Councilor Ray commented that they would do the Carnitas, Música y Mas event again during Labor Day Weekend in 2020. Councilor Aiman-Smith commented that the Gila River Festival was magnificent, and she received a lot of positive comments about it being held at Gough Park rather than on a downtown street. She commented on upcoming events and encouraged people to attend them. Councilor Bettison commented that issues with the Town’s message phone caused her not to get her messages for a while, but now it was working. She thanked the Town Council and staff for supporting her all of the years as she went up the ladder on the New Mexico Municipal League’s Board of Directors and that on October 1 she would officially begin her term as President due to the support of the Council and the wonderful staff of the Town. She said she would do well and make sure their unique needs would be heard, as well as the mining district and the southwest communities; that hopefully they could carry the day and have more people from the southern part of the state on the Board. Councilor Cano stated the New Mexico Outdoor Economic Conference would be in Silver City the next week and that Senator Heinrich and Lieutenant Governor Morales would be in town with other legislators. She announced that during the next month or longer she would not be available for many events and would be in and out of town quite a bit. She said she would be available by phone, email and text.

Mayor Ladner asked Lee Gruber to join him at the podium. He read a letter from the Mayor and Town Council and presented it to Ms. Gruber to congratulate her as a recipient of the 2019 New Mexico Governor’s Award for Excellence in the Arts. He said the award represented well deserved recognition of the joy and cultural enrichment she brought to Silver City, to New Mexico, to the southwestern United States, and to many other parts of the world through her inspired production of beautiful handmade clay designs and glazes at Syzygy Tile which was founded by Ms. Gruber and her husband, David del Junco. He also commented on her creation of the Clay Festival. Ms. Gruber thanked the Mayor, Councilors and Town staff and she described her experience in receiving the award. She said she
was truly honored to be a citizen of the Silver City community and she hoped she could continue to shine a light for the town.

6. APPROVAL OF MINUTES - Regular Meeting – September 10, 2019 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City for September 10, 2019. Councilor Ray 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. Staff Reports – Manager Brown congratulated Fire Chief Lambert for receiving an award and he asked Chief Lambert to explain. Chief Lambert said he received the State’s Carl Joe Standerfer Meritorious Service Award for the fire service in Socorro. He said it was the third largest award offered to any fire department member anywhere in the State of New Mexico. Mayor Ladner congratulated Chief Lambert and the Councilors, staff and audience applauded him.

Manager Brown reported the golf course management would change from Western New Mexico University to OB Sports, a large golf course management organization that primarily serviced golf courses in the west. He said OB Sports would take over on September 30 and Silver City would be their second golf course in New Mexico. He thanked the University for what they did to help the Town move forward after Silver Fairways went under. He said OB Sports would take over the club house, bar, pro shop and facilities.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS –
A. Approval / Disapproval of Ordinance No. 1285: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article III (District Regulations), by adding a new Section 3.3.1 K) entitled “Small Cell Wireless Communication Facilities” and incorporated herein by reference as “Appendix 1”; Providing Definitions; Providing for Permits; and Providing for Severability. Councilor Aiman-Smith gave the background of the clear and reasonable ordinance and said the purpose of the ordinance was to assert their local authority where they could, regarding the placement, construction and design review of various wireless telecommunications facilities completely within the context of federal law, state law, and the current Federal Communications Commission (FCC) declaratory ruling and order of September 27, 2018. She said it was a way to maintain what authority they could have over infrastructure of telecommunication facilities in the town. She said several citizens’ comments urged the Council to not install 5G technology. She stated that it was not the Town that would be installing any telecommunications or wireless infrastructure; that the Town could neither decline nor bring in any technologies. She provided further details and said she would offer a number of amendments, but none were considered substantive changes and were all clarifications of language. Councilor Aiman-Smith moved to approve Ordinance No. 1285: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article III (District Regulations), by adding a new Section 3.3.1 K) entitled “Small Cell Wireless Communication Facilities” and incorporated herein by reference as “Appendix 1”; Providing Definitions; Providing for Permits; and Providing for Severability with the following amendments: under Section 2 Definitions (l) the final sentence should read, “(b) designated as a historic district in accordance with the Historic District and Landmark Act; or (c) listed by the New Mexico Historic Preservation Division in the Registers of Cultural Properties.”; under Section 2 Definitions (t) (4) has antennas that each are, or could fit, inside an enclosure no more than three (3) cubic feet in volume; next amendment is Section 7(b) Permit Duration. Work described in a permit granted pursuant to this Section shall “begin” within one hundred eighty (180) days of the permit issuance date; the next amendment is under Section 11 (d) (1) the first sentence would be changed to read, “Small wireless facilities, DAS, micro wireless facilities and other similar networks on poles in public rights-of-way” and remainder of that section remains the same; under Section 18 Indemnification and she read, “Each permit issued for small wireless facilities located in Town
right-of-way or on other Town property shall be deemed to have as a condition of the permit a requirement that the wireless provider defend, indemnify and hold harmless the Town and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys’ fees and expenses) arising out of claims, suits, demands, actions or causes of action” and she said here was the new language, “that are caused by or result from the wireless provider’s, or its agent’s or contractor’s, construction, performance, operation, maintenance, repair, replacement, removal, or restoration of the small wireless facilities.” She stated those were the amendments she was proposing to Ordinance No. 1285.

Councilor Ray seconded the motion as stated. 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 carried. Councilor Aiman-Smith acknowledged Attorney Jim Reynolds for working so hard on the ordinance.

11. NEW BUSINESS –

A. Approval / Disapproval of Resolution No. 2019-35 for the execution and delivery of a loan agreement between the Town and the New Mexico Finance Authority for the purchase of various improvements to Scott Park.

Manager Brown said the Town was awarded $250,000 toward the construction of the concession stand and the bathrooms at Scott Park, but it was not enough to build the facilities. He said the last time they had about $400,000 available for construction, but the bid came in at $580,000. He said with the loan they were looking to get an additional $300,000 to go toward the construction of the concession stand and the bathrooms, and the remaining balance would go toward the repair of one of the baseball fields that had settled in the outfield. He provided further information. He said the total amount of the loan was $616,000 and was secured by the fifth increment of municipal gross receipts taxes for a period of 10 years. There were no comments from the Council or the audience. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Resolution No. 2019-35: Authorizing the execution and delivery of a taxable loan agreement and intercept agreement by and between the Town of Silver City, New Mexico (The “Governmental Unit”) and the New Mexico Finance Authority (The “Finance Authority”), evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of $616,247 together with interest thereon, for the purpose of funding the cost of various improvements to Scott Park within the Governmental Unit, paying a loan processing fee and funding a taxable loan agreement reserve account; and providing for the pledge and payment of the principal and interest due under the taxable loan agreement solely from the one-eighth of one percent Municipal Local Gross Receipts Tax imposed pursuant to Section 7-19D-9, NMSA 1978, and distributed to the Governmental Unit by the State Taxation and Revenue Department; providing for the distribution of one-eighth of one percent Municipal Local Gross Receipts Tax to be redirected by the State Taxation and Revenue Department to the Finance Authority or its assigns for the payment of principal and interest due on the taxable loan agreement pursuant to an intercept agreement; ratifying actions heretofore taken; repealing all action inconsistent with this resolution; and authorizing the taking of other actions in connection with the execution and delivery of the taxable loan agreement and intercept agreement. Councilor Ray seconded. 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.

B. Approval / Disapproval of Resolution No. 2019-36 for the execution and delivery of a loan agreement between the Town and the New Mexico Finance Authority for the purchase of firefighting equipment.

Manager Brown said it was another loan agreement in the amount of $544,000 to be used for a firetruck as well as a brush truck. He said the loan would be secured and paid with fire protection funds so it would not come out of the general fund. Mayor Ladner asked for a motion. Councilor Cano moved to approve Resolution No. 2019-36: Authorizing the execution and delivery of a loan agreement and intercept agreement by and between the Town of Silver City, New Mexico (The “Governmental Unit”) and the New Mexico Finance Authority (The “Finance Authority”), evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of $544,157 together with interest thereon, for the purpose of purchasing a new firefighting apparatus for the Governmental Unit, paying a loan processing fee; and providing for the pledge and payment of the principal and interest due under the loan agreement solely from the distribution of State Fire Protection Fund Revenues distributed by the State Treasurer to the Governmental Unit pursuant to Section 59A-53-7, NMSA 1978; providing for the distribution of State Fire Protection Fund Revenues to be redirected by the State Treasurer to the Finance Authority or its assigns for the payment of principal and interest due on the loan agreement pursuant to an intercept agreement; approving the form and terms of, and other details
concerning the loan agreement and intercept agreement; setting the maximum interest rate of the loan; ratifying actions heretofore taken; repealing all action inconsistent with this resolution; and authorizing the taking of other actions in connection with the execution and delivery of the loan agreement and intercept agreement. Councilor Ray seconded the motion. Mayor Ladner 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.

C. Approval / Disapproval of Resolution No. 2019-37 for the membership in an amended Joint Powers Agreement pertaining to the Southwest Solid Waste Authority. Manager Brown said the amendment was because of a loan that the Southwest Solid Waste Authority (SWSWA) was acquiring. He said it would be for the refinancing of a lease purchase agreement between SWSWA and Caterpillar Financial. He said the agreement would allow them to refinance the agreement and pay it off for a lower interest rate and lower time period. He said the Finance Authority chose to handle the amendment of the Joint Powers Agreement in this manner because in previous years the SWSWA had acquired loans from the Finance Authority, but in the previous years they used increments of the county environmental gross receipts taxes as the revenue for the loan. He said this time they were using net system revenues which were revenues generated by its customers. He said if necessary, to pay off the loan the Authority would have to raise rates. He said it was a good thing because they were finally self-sufficient at the landfill and did not need a cosigner like they did in the past. He said every member of the SWSWA would have to do a resolution, and that all members agreed so far. There was no further discussion. Mayor Ladner asked for a motion. Councilor Ray moved to approve Resolution No. 2019-37: A Resolution approving the form of amended and restated Joint Powers Agreement by and between Grant County, the Town of Silver City, the Town of Hurley, the Village of Santa Clara and the City of Bayard (collectively, the “members”) relating to the Southwest Solid Waste Authority (“Southwest”); authorizing the Town of Silver City to join a loan agreement by and between Southwest and the New Mexico Finance Authority (The “Finance Authority”) with respect to specific covenants; ratifying actions heretofore taken; repealing all action inconsistent with this Resolution; and authorizing the taking of other actions in connection with the execution and delivery of the amended and restated Joint Powers Agreement and the loan agreement. Councilor Cano seconded. There were no other comments. Mayor Ladner 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.

D. Approval / Disapproval of Bid #19/20-2: Swan Street and 12th Street Road Diet and Bicycle Lane Improvements for NMDOT Highway Safety Improvement Program. Manager Brown said the project was awarded to the Town under the Department of Transportation Highway Safety Improvement Program. He said the Town was awarded $239,623 to chip seal, fog seal, and restrripe parts of Swan Street and 12th Street. He said the Town received one bid for $408,852.60 for the project which far exceeded the available amount for the project. He said it was staff’s recommendation to reject the bid from Southwest Concrete and Paving. He provided further details and said due to the weather they would wait until Springtime to put it back out to bid. There was further discussion. Councilor Cano moved to approve staff recommendation to reject and rebid the Bid #19/20-2 Swan Street and 12th Street Road Diet and Bicycle Lane Improvements for NMDOT Highway Safety Improvement Program. Councilor Bettison seconded. 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.

E. Approval / Disapproval of Bid #19/20-3: Visitor Center, Pedestrian and Trailhead Improvements for NMDOT Highway Safety Improvement Program. Manager Brown said it was a Department of Transportation Safety Improvement Project and he provided the details of why the project was amended to only include the sidewalk, lighting, and signage improvements. He said the scope was fairly small and he wished they could have moved some of the funds from this project to the previous project, but NMDOT would not allow it. He said they did not receive any bids on the project, and they got permission to rebid it. There was no discussion. Councilor Bettison moved to approve staff recommendation to rebid Bid #19/20-3: Visitor Center, Pedestrian and Trailhead Improvements for NMDOT Highway Safety Improvement Program. Councilor Cano seconded. 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.

F. Appointment to the Municipal Library Community Advisory Group. Mayor Ladner stated the Town received an application from Judy Brown Lawson to continue her service on the Library Advisory Group. He said the Library
Director and the Chair recommended her reappointment. He said if there was no objection by the Council, he would reappoint Ms. Lawson. There was no objection.

12. ADJOURNMENT – Mayor Ladner concluded the meeting and asked for a motion. Councilor Aiman-Smith moved to adjourn at 6:51 p.m., and Councilor Ray 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.

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk