

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
January 23, 2020, 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
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Jaime Embick, Community Development Director

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

2. CHANGES TO AGENDA – Councilor Bettison said New Business Item 11. E. was in the wrong location and motioned to move it up to Item 8. Reports A. Staff Reports because it was a report and not for Council action; that it was mistakenly put in the wrong place. Councilor Aiman-Smith 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.

3. CEREMONIES – None.

4. PROCLAMATIONS – “Territorial Charter Day” – February 15, 2020. Mayor Ladner acknowledged all the Territorial Charter Day Committee members and recognized those present: Bart Roselli, Museum Director and Chair of the Committee, Tommy Ryan, Patsy Madrid, Al Gamboa and Kim Pierce. He asked all of them to come up to receive the proclamation. Mayor Ladner read the proclamation and thanked the Committee for all their hard work. Mr. Roselli said as the director of the history museum in town he was happy and proud that they recognized where they came from as a community. He said it was an important event in 1878 and they were still going strong. He thanked the committee members and other community members for putting together a real bang-up celebration and he talked about the upcoming events for the celebration.

5. COUNCIL COMMENTS – Councilor Cano commented on the following: encouraged people to thank the Parks crew for the beautiful parks and how six people in that department were in charge of 25 different locations in the town that included parks, the pool, and the cemetery; how she had served on the Cemetery Board for six years and how the Board was working hard to have uniformity in the new section for how the gravesites look and to make it easier for the Parks employees to not disturb graves when using their equipment; and how there needed to be an increase in the Cemetery budget because it had been the same for about a decade. Councilor Ray asked Attorney Scavron and Manager Brown if it was feasible to ask youth to join them at the meetings so they could teach them about politics and about running for office or working with the Councilors. Attorney Scavron said it would be fine for students to attend the meetings and he said civics was not taught in the Silver Consolidated School District, and that it would be an excellent idea to get the young people involved. He said Councilor Ray could ask the school administration, etc. Councilor Aiman-Smith encouraged people to attend the upcoming events and thanked all the people that volunteered to make those events fun and community supported. Councilor Bettison commented on the following: thanks to the volunteers for organizing the upcoming events; how the National League of Cities supported students with their own set of classes to mirror a council, and could serve as a model, etc.; and how she would be happy to work with Councilor Ray on reaching out to the school administration. Councilor Cano said she liked Councilor Ray’s idea and how she was on Mayor John Paul Jones’ Youth Advisory Council when she was in high school. She said that may be a good way to start. Mayor Ladner said he met with the Silver High School Council in 2019 and they talked about government, etc. Councilor Cano added that when she was on the Youth Advisory Council the students that were chosen were not all leaders necessarily, but they were people from different groups, and they were not on the Student Council so it helped a lot because there were a lot of different perspectives.

6. APPROVAL OF MINUTES - Regular Meeting – January 14, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City of January 14, 2020. 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 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 – Clerk Mackie commented that February 4 would be the first day for absentee and early voting at City Hall.

B. Discussion about the 2020 CDBG Public Participation Report and the selection of a project from the Infrastructure Capital Improvement Plan for Fiscal Year 2021-2025. Manager Brown talked about the proposed CDBG (Community Development Block Grant) project for Fiscal Year 2021. He said last year they finished up on the west side of Highway 90 on Chihuahua Hill and they were proposing to move over to the east side of Highway 90 to replace and upgrade the water infrastructure on Dorothy, Daniel, Bard, Elias and Victoria Streets. He said they already had one public meeting and received no participation from the public. There was no objection from the Council to move forward on the proposed project recommended by staff. He described the steps of the process and stated it was a requirement of the CDBG application process that the project be on the ICIP (Infrastructure Capital Improvement Plan). There was further discussion.

9. PUBLIC HEARINGS –

A. Approval/Disapproval of Ordinance No. 1288: an Ordinance to amend the Official Zoning Map from a Residential A Zoning District to Highway Commercial Zoning District for a tract of land described as: Lot Six (6) and the North nine (9) feet of Lot Five (5), Block One (1), Silver Heights Addition, Town of Silver City, Grant County, New Mexico. The property address is 1617 N. Juniper Avenue and the owner is W. Jay Garard. Mayor Ladner read the procedures for the public hearing and said the Town Council would serve as the hearing board and he would be the presiding officer. He asked the hearing board if they had any ex parte discussions or any communication from any party to the case, and they said no. He asked all parties and witnesses intending to testify to be sworn in by the Town Clerk. Clerk Mackie swore in Jaime Embick, Community Development Director. Councilor Bettison asked for the floor in order to ask a procedural question. Mayor Ladner gave her the floor. Councilor Bettison stated to Attorney Scavron that the property owner or representative was not there for the hearing. Attorney Scavron advised they could move to table the application or motion and put it later in the agenda. He said if during the presentation they had any questions at all, because the application was part of the record, or if they needed more information than what was contained in the application, then they were at a disadvantage to make a decision because they could not question the applicant. He recommended they table the application and make an effort to contact the applicant. He said if the applicant showed up before the adjournment, the case could be heard. He said if the meeting ends, everything that was tabled dies. There was further discussion and Mayor Ladner said as the presiding officer he would rather table it because the applicant should be there. Councilor Bettison moved to table Public Hearing of Ordinance No. 1288: an Ordinance to amend the Official Zoning Map from a Residential A Zoning District to Highway Commercial Zoning District for a tract of land described as: Lot Six (6) and the North nine (9) feet of Lot Five (5), Block One (1), Silver Heights Addition, Town of Silver City, Grant County, New Mexico. The property address is 1617 N. Juniper Avenue and the owner is W. Jay Garard. 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.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS –

A. Approval / Disapproval of a Change of Floor Plan / Expansion of Liquor Licensed Premises Application for expansion purposes for Liquor License No. 30644, DBA La Familia Mexican Restaurant, 503 Hudson Street, Silver City, NM. Diane Dominguez and Luis Dominguez, owners of La Familia Mexican Restaurant, were present.

Mrs. Dominguez said they had been in business for almost 17 years and had an alcohol license since 2012. She said they did an addition toward the back of their building and relocated the kitchen from the middle of the restaurant to the back end of the restaurant. She said the New Mexico Alcohol and Gaming Division wanted to make sure their distance from a church or school had not changed. There were no questions. Mayor Ladner asked for a motion. Councilor Ray moved to approve a Change of Floor Plan / Expansion of Liquor Licensed Premises Application for expansion purposes for Liquor License No. 30644, DBA La Familia Mexican Restaurant, 503 Hudson Street, Silver City, NM. 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.

B. Approval / Disapproval of a Special Dispenser Permit Application, and waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church, for the Town of Silver City Territorial Charter Day Ball on February 15, 2020 at the Murray Hotel, 200 W. Broadway, Silver City, NM with alcohol service from 7:00 pm to 10:00 pm. Liquor License Holder information: Dahl Enterprises, LLC, DBA Q's Southern Bistro, LLC, Liquor License #28098, 101 W. College Ave., Silver City, NM. The applicant was not present, and Mayor Ladner asked for Attorney Scavron's advice. Attorney Scavron said it was the same situation, but different, because the agenda item did not have the same gravity as the public hearing. He said if there was enough information in the application and there were no questions, then they could go ahead and rule on it. He read a statement that Mr. Quintana signed that said the Town Council would not consider his agenda request item if there were no representative present from his organization. Attorney Scavron said that statement obligated the Council to table the agenda item. Councilor Cano moved to table New Business 11. B. Approval / Disapproval of a Special Dispenser Permit Application, and waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church, for the Town of Silver City Territorial Charter Day Ball on February 15, 2020 at the Murray Hotel, 200 W. Broadway, Silver City, NM with alcohol service from 7:00 pm to 10:00 pm. Liquor License Holder information: Dahl Enterprises, LLC, DBA Q's Southern Bistro, LLC, Liquor License #28098, 101 W. College Ave., Silver City, NM. Councilor Ray 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. There was further discussion.

Councilor Cano moved for a short recess at 6:48 p.m. so someone could call Mr. Quintana. Councilor Bettison seconded. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. Motion carried. Mayor Ladner called the meeting back to order at 6:56 p.m.

Councilor Ray said he would like to reconsider the Council Meeting Minutes that were approved earlier. Councilor Aiman-Smith stated she had no objection. Councilor Ray referred to the Council Comments of the Minutes and said he did not say the semi-truck hit the individual. Clerk Mackie asked him to provide a correct phrase. Attorney Scavron advised to delete the phrase. Councilor Ray agreed. Councilor Aiman-Smith moved to amend the Minutes of the Regular Council Meeting of the Town of Silver City of January 14, 2020 such that in the second sentence under Council Comments to strike "an issue with a person running on the street and a semi-truck hit him". Councilor Bettison 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.

Mayor Ladner stated they had a couple of items that were tabled so they would leave them there for the time being, and in the interest of those who came for the other items that were on time, they would go to Item 11. C.

C. Approval / Disapproval of Resolution No. 2020-04: Supporting an application to NM Finance Authority under the Colonias Infrastructure Fund (for Water System Improvements to perform water storage tank renovations). Manager Brown said the resolution authorized the Town staff to submit an application for a Colonias Infrastructure grant for the renovation of the oldest of the three Chloride water tanks up by Old James Stadium. He said it was approximately \$850,000, the match would be \$85,000, and the loan component would be another \$85,000. He said they would be paying for the engineering with \$85,000 and the loan/grant would pay for construction. He said they renovated all of the water tanks, except the Chloride Flats water tanks because they were so big, and that was why they were going through the grant process to fund it. Mayor Ladner asked for a motion. Councilor Ray moved to approve Resolution No. 2020-04: Supporting an application to NM Finance Authority under the Colonias Infrastructure Fund (for Water System Improvements to perform water storage tank renovations). Councilor Aiman-

Smith seconded. There was no further discussion. 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 Resolution No. 2020-05: Supporting an application to NM Finance Authority under the Colonias Infrastructure Fund (for a Street and Drainage Improvement Project on Ridge Road, Phase II Construction from Skyview Drive to Fairway Drive). Manager Brown said it was another authorization for another application through the Colonias Infrastructure Fund for Phase II of Ridge Road. He said Phase I was from Highway 90 to Pheasant and went out to bid that week, and they were looking to bring it to the Town Council to award in March and begin construction in April or May. He said it would continue that project. He said it was a smaller project than Phase I but would be the same project scope as Phase I which would be curb, gutter, and sidewalks on the east side of Ridge Road, and bike lanes and curb and gutter on the west side of the street with no sidewalks. Councilor Ray moved to approve Resolution No. 2020-05: Supporting an application to NM Finance Authority under the Colonias Infrastructure Fund (for a Street and Drainage Improvement Project on Ridge Road, Phase II Construction from Skyview Drive to Fairway Drive). Councilor Bettison seconded. 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.

E. Discussion about the 2020 CDBG Public Participation Report and the selection of a project from the Infrastructure Capital Improvement Plan for Fiscal Year 2021-2025. See Changes to Agenda above.

F. Approval / Disapproval to cancel the regular Council meeting of February 11, 2020. Councilor Cano said she would not be available on February 11, not even to call in, because she would be attending an annual event that she had attended since before she was ever elected. She said there were several other Council members that had a schedule conflict with February 11. Councilor Cano moved to cancel the regular Council meeting of February 11, 2020. Councilor Aiman-Smith 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.

At 7:07 p.m. Mayor Ladner stated he would entertain a motion to take agenda Item 9. Public Hearing off the table. Councilor Bettison moved to take agenda Item 9. A. Public Hearings off the table. Councilor Aiman-Smith 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.

9. PUBLIC HEARINGS –

A. Approval/Disapproval of Ordinance No. 1288: an Ordinance to amend the Official Zoning Map from a Residential A Zoning District to Highway Commercial Zoning District for a tract of land described as: Lot Six (6) and the North nine (9) feet of Lot Five (5), Block One (1), Silver Heights Addition, Town of Silver City, Grant County, New Mexico. The property address is 1617 N. Juniper Avenue and the owner is W. Jay Garard.

Mayor Ladner read the procedures for the public hearing and said the Town Council would serve as the hearing board and he would be the presiding officer. He asked the hearing board if they had any ex parte discussions or any communication from any party to the case, and they said no. He asked all parties and witnesses intending to testify to be sworn in by the Town Clerk. Clerk Mackie swore in Jaime Embick, Community Development Director, and applicant Jay W. Garard. Ms. Embick presented the application and said it was an amendment to the Official Zoning Map from Residential A Zoning District to Highway Commercial. She said when the original zoning happened it split-zoned the piece of property and it had been a dentist office since 1954. She said the boundaries went through the property, so it was currently half Residential A and half Commercial. She said it was non-conforming and was grandfathered in because of the Residential A portion. She said the Highway Commercial District was intended to accommodate a broad mix of commercial uses. She stated the dentist office and any office or medical would be an allowed use. She cited the Comprehensive Plan of 2017, page 3-24 C. Development Regulations-Zoning. She said after departmental review of the application, no department had any comment. She said the Land Use Code required they contact the neighbors and there was no opposition. She showed the zoning map and an overhead view of the property, and stated Mr. Garard was retired and would like to sell the property. She showed photos of Mr. Garard's property and other properties nearby. She said to amend the Official Zoning Map at least one of the seven findings were required, and she read the seven findings. She stated it was the opinion of the Community Development Department and the

recommendation of the Planning and Zoning Commission that the zone change met the following: Finding Number 1: The proposed amendment is in substantial compliance with the Town's Comprehensive Plan. The zoning map should be updated to reflect all categories and current uses. Finding Number 2: The proposed amendment will not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan. Finding Number 4: The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code. This proposed change will stay aligned with the particular purposes of the Land Use Code, specifically purpose 1.3.3 "To promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the Town." Finding Number 7: The proposed amendment provides additional flexibility in meeting the objectives of this Land Use Code without lowering the standards of the Land Use Code. This change will not adversely impact the adjoining properties because it will not allow for a substantial use change but will match the uses which currently exist. Also, this change will correct the split zoning of the property. She asked if there were any questions. Councilor Aiman-Smith asked if there were other properties like it where there was partial residential on the same property as commercial. Ms. Embick said there were several zones that were split-zoned like it, and they corrected a lot of them on Bennet Street. She said they were moving toward correcting lines and others were case by case.

Mayor Ladner asked Dr. Garard to present his testimony. Dr. Garard said the property was a dental office since 1954 when Dr. Parrish built the office. He said he had no idea when they did the zoning map, and it was a dental office until he retired and that was when they found out that half of the property was zoned commercial and half was zoned as residential. He said a lot of businesses needed to be on commercial property; that one person was looking at it for a beauty salon, but she told the realtor if it was not all commercial, she could not put a beauty salon there. He said that was why he applied to make it all commercial. There were no questions from the hearing board. Mayor Ladner asked Dr. Garard if he had any witnesses in support of his case, and Dr. Garard said no. The Mayor asked him if that concluded his case, and he said yes.

Mayor Ladner asked if there were any persons that wished to testify in opposition to the case and two people rose in the audience. There was discussion about the fact that the two individuals had not been sworn in. The Mayor asked Attorney Scavron if it was too late to swear them in. Attorney Scavron told the Mayor he was the presiding officer, and if he thought it was in the interest of justice then they could be sworn in. Mayor Ladner said yes; that he would like everybody to have a chance for input. Attorney Scavron said it was within his discretion as the presiding officer. Clerk Mackie sworn in Carol Davis and Lisa Ross. Carol Davis said she resided in the property immediately to the north at 1621 N. Juniper and was not familiar with what Highway Commercial use was, but she would really be upset if a nightclub or Snappy Mart moved in there. She asked if there were restrictions that it would only be office use or a beauty salon because she was concerned with the noise and pollution. She said she opposed the rezoning because she did not want her peace disturbed. Lisa Ross said she lived one house further than Ms. Davis' house, and she had the same concerns. She said she was fine with a dental office, but not if there was another use for late at night with a lot of light. She said there was a dangerous intersection there, and to increase the traffic in the area would be detrimental to the city. She said another concern was if something other than a dental office was there because it would not be good for property values in the area. She said she was looking to move in a few years; that it was bad enough to have the condos move up there, and to have something that was a lot more commercial other than a nice dental office would be an issue for her.

Mayor Ladner asked Dr. Garard if he had anything else. Dr. Garard said he could not control who wanted to buy his property and the design of the building made it so it could be a business office, accountant or lawyer. He said they would have to totally tear down the building to make something like a Snappy Mart. He said the parking would not be enough for Snappy Mart or a bistro.

Mayor Ladner asked the hearing board if they were ready to render their decision. Councilor Bettison said she would like to ask questions, and they had not been asked if they had any questions. Mayor Ladner asked if there were any questions. Councilor Bettison asked Ms. Embick if she would speak to Finding Number 7 in the recommendation passed by the Planning and Zoning Commission about the fact that it would not allow for substantial use change, but would match the uses that currently existed, etc., and what could be put there in the particular area with the constraints of parking. Ms. Embick said if someone came in to do a substantial remodel, they would have to come in to their office

to do commercial plans, and the site did not have the parking for much more than an office so they could not commercially develop it into anything with a drive through and there was not enough room for stacking spaces. She said they would have to come to the Community Development Department for any commercial remodel or zoning permit. She said a zoning permit helped them regulate each individual piece of property for its size, location and capability. She said the property was already built out and was not raw land so the parking was what it was and they would have to substantially change the building. She said the part that was already Highway Commercial could already, in theory, be used for that, but it would not fit physically on the small property. She said it had an office ratio for parking. Councilor Bettison said if they came in to remodel the building to add a second or third story, that the parking would grow, but there would still be restrictions where they could be. Ms. Embick said the parking was calculated from the square footage, and they would not be able to meet the Town's Land Use Code requirement.

Mayor Ladner asked if there were any other questions from the hearing board, and there were none. He asked if the hearing board was prepared to consider the application and render their decision, and they said yes. He asked for a motion. Councilor Bettison moved to approve Ordinance No. 1288: an Ordinance to amend the Official Zoning Map from a Residential A Zoning District to Highway Commercial Zoning District for a tract of land described as: Lot Six (6) and the North nine (9) feet of Lot Five (5), Block One (1), Silver Heights Addition, Town of Silver City, Grant County, New Mexico. The property address is 1617 N. Juniper Avenue and the owner is W. Jay Garard, and using recommendations that have been presented by the Planning and Zoning Commission and she read Findings 1, 2, 4 and 7 as presented. 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.

Mayor Ladner said earlier they placed Agenda Item 11. B. on the table and asked if there would be a motion to take it off the table. Councilor Cano moved to remove Item 11. B. from the table. Councilor Aiman-Smith seconded. There was no discussion. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. Motion carried.

11. NEW BUSINESS -

B. Approval / Disapproval of a Special Dispenser Permit Application, and waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church, for the Town of Silver City Territorial Charter Day Ball on February 15, 2020 at the Murray Hotel, 200 W. Broadway, Silver City, NM with alcohol service from 7:00 pm to 10:00 pm. Liquor License Holder information: Dahl Enterprises, LLC, DBA Q's Southern Bistro, LLC, Liquor License #28098, 101 W. College Ave., Silver City, NM. Anthony Quintana apologized for being late. He said Q's did the Territorial Charter Ball the previous year, and he received permission from the St. Vincent de Paul Church. He said he provided all of the maps and had the proper security and they would be providing the alcohol for the Ball. There were no questions. Mayor Ladner asked for a motion. Councilor Ray moved to approve a Special Dispenser Permit Application, and waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church, for the Town of Silver City Territorial Charter Day Ball on February 15, 2020 at the Murray Hotel, 200 W. Broadway, Silver City, NM with alcohol service from 7:00 pm to 10:00 pm. Liquor License Holder information: Dahl Enterprises, LLC, DBA Q's Southern Bistro, LLC, Liquor License #28098, 101 W. College Ave., Silver City, NM. 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.

12. ADJOURNMENT – Mayor Ladner concluded the meeting and asked for a motion. Councilor Aiman-Smith moved to adjourn at 7:36 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.

/s/ _____

Ken Ladner, Mayor

Attest:

/s/ _____

Ann L. Mackie, Town Clerk