

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
July 10, 2018, 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
Ann L. Mackie, Town Clerk
Robert L. Scavron, Town Attorney

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

2. CHANGES TO THE AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Bettison commented on the following: thanks to everyone for their emails regarding recycling and ordinances that were on the agenda and explained that it was difficult to respond to them due to the fact that she was healing from broken fingers; reminded folks that if a Council member voted for a Notice of Intent Ordinance (NOI) that it was to move it to the discussion phase and did not mean that it had passed, and she explained the NOI process; how the 4th of July was wonderful and thanked all of the veterans, etc.; and as Vice President of the NM Municipal League she would Chair the upcoming Resolutions Committee meeting and Manager Brown also planned to attend it, and how important the work was and that it was a good position for Silver City to be in because their concerns would be heard at the meeting. Councilor Cano expressed her concern about downtown traffic issues such as drivers making u-turns in the middle of the street, people walking in front of cars, and how she witnessed a particular Police officer not stop at 6th and Bullard Street every Saturday, etc. Councilor Ray commented that he appreciated the emails about the NOI and how he wanted to make sure everything was safe regarding NOI Ordinance 1269. Councilor Aiman-Smith said the 4th of July was really fun and she gave a shout out to all of the volunteers that put together such a celebration; that it was a great reflection on the civic-minded and encouraging population that they had. She also said August 4 would be the District 2 Territorial Charter Volunteer Day and they were going to pilot a play street in District 2.

6. Approval of Minutes for the Regular Town Council Meeting held on June 26, 2018. Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of June 26, 2018. 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 – Mayor Ladner said a lot of the people that signed up for public input had to do with Notice of Intent Ordinance No. 1269 so he asked them to wait until that agenda item came up, and that he would give everybody a chance to give public input. He said Michael Mallozzi signed up to give public input on recycling, and he asked him to come forward. Mr. Mallozzi commented how the information that came out about recycling was coming from the paper and radio, and that the citizenship was not getting a message directly from the Town so they made up the story in the background and were making up ways to solve the problem. He said he met with Manager Brown, and that the Town needed to be more forward with information to the public, especially something that was important to a lot of the residents. He suggested getting information out via the Town's website and by doing public service announcements

about cleaning recycling materials, how recycling works, and the benefits the Town gets from recycling by diverting one-third of the stream into recycling as opposed to the landfill.

8. REPORTS -

A. Staff Reports. Manager Brown apologized to the Council and community about his recent comments in an article about recycling that confused the situation. He said he should have not said anything until he had more information. He explained how all of the recycling companies they had access to in Tucson, Albuquerque and El Paso continued to tell the Southwest Solid Waste Authority (SWSWA) that they were no longer taking single-stream recycling at all, and that it was stockpiling. He said the City of Albuquerque and Friedman Recycling in Albuquerque got citations because of the amount of material that they had stockpiled and became litter. He said he worked with the SWSWA and they negotiated with Friedman Recycling of El Paso and reached a deal that Friedman would accept the single-stream recycling for \$25 a ton. He said they had two options: 1) send it over the scale at the landfill for \$46 a ton or 2) send it to Friedman as single-stream for \$25 a ton. He said Friedman said they had potential new markets that they could start sending the recycling to and that in six months they would be willing to renegotiate the rate. He said there was a lot of volatility in the market, and that through his conversations with the public he learned they had to do a lot of education. He said they really did need to update the Town's website and if the Council gave him direction to use single-stream recycling they would do public service announcements to let everybody know they would continue to accept the single-stream recycling. He said in the future they needed to do a lot more education because one of the biggest problems was that the plastics and cardboard were dirty so they needed to teach people to rinse out the plastics before putting it in the recycling containers in order to make it more valuable to the recycling companies and more beneficial to the Town to continue the recycling program. He said he did a cost benefit analysis and that they had three scenarios: 1) eliminate recycling completely, 2) just accept corrugated cardboard which was the only strong market, but that would still cost \$46 a ton for everything else to go into the landfill and would cost an increase of \$1.20 per account per month, and 3) go with the single-stream recycling to Friedman in El Paso and it would cause an added cost on top of their recycling contract and be approximately 90 cents per account per month. He recommended they go forward with single-stream recycling to continue the recycling program and that he could make the adjustments in the final budget that would be brought forward at the next Council meeting. He asked for the Council's thoughts so he could bring them options for the next meeting.

Councilor Bettison commented on the following: how the extra cost would be to account holders and she repeated each cost; how she favored doing single-stream recycling, but it may not be the solution that they were all seeking when they renegotiated with Friedman in six months; the importance of educating the public about cleaning the recyclable materials; how the processing of plastics was incredibly toxic to people and the environment so the Town could not take it on; and to explain what recycling was all about, etc. Councilor Aiman-Smith commented on the following: thanked the citizens that wanted to find solutions and how she responded to them with current industry links that talked about the situation; how the Town did not decide not to recycle, but there was a national and international market shift where recycling was not being able to be exported because the major buyers were not taking it anymore; how six weeks ago the El Paso newspaper had an article about Friedman Recycling LLC with pictures to show how they were stockpiling because the markets had fallen through, etc.; how the Town was crazy supportive of recycling, but there were huge issues outside of their control; and how they needed to recognize that working with Friedman was a potentially short-term solution because of the market. Councilor Cano said she would support the 90 cent increase per account to continue the single-stream recycling and she thought it would be overwhelmingly supported by the people that reached out to her. She also mentioned that Mr. Mallozzi's input had a lot of good points about ways of communicating, and she discussed how an employee of the SWSWA shared their opinions and facts on social media about the recycling issues, but she thought it made it a bigger problem. She said it might be helpful if the Town could get the information out all at once before an employee started to say stuff. She said she also supported updating the Town's website. Mayor Ladner thanked Manager Brown for all of the work because the community had really bought into single-stream. He said the educational part was very important because single-stream gave a false sense of security. He explained how you could buy a 36-pack of water bottles and then throw them away so someone else could take care of the problem. He said the education needs to be how they could conserve what they had rather than just using up their natural resources and how a lot of fossil fuels were used for plastics. He said they needed to go to the school level and try to get the schools to participate, and he would like to see their education program focus on conserving their natural resources.

The Mayor asked Manager Brown if he had any other reports. Manager Brown reported the budget was in good shape and that he was really looking to do an overlay on 32nd Street, and he would like to use a portion of the money to do that. He said it would have to be all local money and they did have the money so he would recommend that in the final budget.

9. PUBLIC HEARINGS - None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of Notice of Intent Ordinance No. 1268: an Ordinance proposing various amendments to the Municipal Code regarding boards and committees of the Town. Councilor Aiman-Smith gave the background of Notice of Intent (NOI) Ordinance No. 1268 by stating they had a lot of citizen volunteers in the community and that the Town over time had developed a variety of citizen volunteer participation structures for people to be formally involved in Town government. She said when citizens were willing to volunteer for their government they wanted their participation to be useful and valued, and to mean something. She said the NOI stemmed in part from her own service in groups before becoming a Councilor, from talking to people, and from her own professional background as a mid-level manager in a corporation, then as a researcher, an academic, and as a consultant for various companies, etc. She said volunteers often told her they would like more clarity about what they were supposed to be doing or not doing when they volunteered on a Town group, committee, commission or task force. She discussed the fundamental changes that were included in the NOI: 1) it took out the provision that permits a person who is appointed to appeal their removal if they are absent more than three consecutive times because people serve at the pleasure of the Mayor, 2) monthly meetings were not required and was changed to quarterly meetings for greater cohesion in the group, but that did not mean they could not meet monthly if they needed to, 3) the language reduced the size of most groups to a more realistic and effective size of five voting members and two ex officio members, 4) appointed ex officio members were not entitled to vote, but were there to be a liaison to provide information and to advise, 5) removed the term "advisory board" and replaced it with "community advisory group"; 6) deleted the requirements for a Parks and Recreation Board and Golf Course Board, and 7) changed the Incentive Review Committee language so it was no longer a standing committee and would only meet when there was an application for a project participation agreement from an outside entity that wants to examine potential incentives from the Town. She said her hope was that the changes reflected in the NOI would make those that volunteer happier and make their volunteering easier, more clear, and more satisfying. Councilor Aiman-Smith moved to approve Notice of Intent Ordinance No. 1268: an Ordinance proposing various amendments to the Municipal Code regarding boards and committees of the Town. Councilor Ray seconded. Councilor Cano noticed a typographical error in the document in Section 30-24 that was noted by the Clerk. The Councilor members thanked Councilor Aiman-Smith for working on it. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. Motion carried.

B. Approval / Disapproval of Superceding Notice of Intent Ordinance No. 1269: an Ordinance amending Section 12-7-9 through 12-7-9.10 (Off-Highway Motor Vehicles - Definitions, et al.) of the NM Uniform Traffic Code adopted as the Silver City Traffic Ordinance in Chapter 50, Section 50-1 of the Municipal Code of the Town of Silver City, NM. Mayor Ladner asked Attorney Scavron to briefly explain what a Superceding Notice of Intent was. Attorney Scavron said there had been a significant number of material changes to the original Notice of Intent (NOI) that was originally proposed so they would not be voting on that ordinance. He said the new NOI had the same Ordinance number and same subject, but now superceded or replaced the original NOI. He said if the Council voted in favor of it, then that NOI would be the basis for the ordinance that they would eventually vote on. Mayor Ladner thanked Attorney Scavron, and said the NOI was sponsored by Councilor Ray and he gave Councilor Ray the floor. Councilor Ray said the attorney's changes would make it easier for the Municipal Code Company to make amendments into the existing Code, and that a number of substantial changes had been made to the original NOI in response to the public input that he received. He said under Definitions the following changes were made: 1) no longer were non-highway tires permitted on ROVs operated within the Town, 2) there was now a requirement for directional signals, and 3) the definition of Town streets was modified to exclude alleys, trails, pathways, and only include paved roadways. He said under the Operation of Roadways on Town Streets it now had language that states, "ROVs as

described herein shall not be operated on Town trails, open-spaces, riparian zones, stream beds or parks." He said there was language that states, "All ATVs and other unpermitted off-highway motor vehicles shall not be operated within the Town limits." He said the existing penalty assessment for traffic violations by operators of ROVs had been increased. He said that he and the attorney worked on it, and they wanted to make it as safe as possible. He provided further details as follows: people would have to be over the age of 18 to operate an ROV; they would have to have an on-road and off-road sticker; they would have to have a horn, signal lights, street tires, back-up lights and safety harness; passengers under the age of 18 have to wear a helmet and all drivers regardless of age have to wear eye apparatus; driver's had to have insurance; and mirrors and brakes were required, etc. Mayor Ladner asked the Council if they had questions and there was further discussion about the following: recommendation to include a sunset clause to review it again in one or two years; how the NOI had the operation of ROVs from 6:00 a.m. to 10:00 p.m. or they would get a ticket; how the fines were increased for violations; how the NOI did not meet the spirit of the State legislation Senate Bill 270 because it never implied that ROV would become a different kind of vehicle in a town, and that it was intended for farmers that needed to travel on paved roads to get to their fields without being cited; how when the Governor signed Senate Bill 270 she made it clear that the intent of the bill was not to replace or substitute vehicle usage for day to day transportation, etc.; how the manufacturers of ROVs did not consider them to be motor vehicles so they did not go through the same regulatory stuff; how they needed to make it clear to the populace what a Town Street was and what a State Highway was; concerns about enforcement and the cost of enforcement; question as to how the ordinance would ensure revenue neutrality so it would not cost the Town more; concerns that people may mistake an ROV that has one headlight and one taillight for a motorcycle when it was dark during the operating hours of 6:00 a.m. to 10:00 p.m.; thanks to Councilor Ray for changing the NOI so the ROVs would not be operated on Town trails and open spaces, and that they shall obey all motor vehicle traffic laws; discussion about lights and reflectors; how the time of operation was of concern and that Councilor Ray was willing to change it to 7:00 a.m. to 10:00 p.m.; how Councilor Ray talked with other municipalities about their ROV ordinances; how the penalties were steep; how Councilor Ray wanted to see if it would bring in revenues; and issues with liability and other possible legal issues described by Attorney Scavron and how there was no case law in New Mexico.

Mayor Ladner described the Town's policy on public input and how he would give everyone a chance to speak. Councilor Cano asked that he let people that had not spoken on the subject before to speak before others that had. Councilor Bettison moved for a short break. Councilor Aiman-Smith seconded. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. Motion carried. The Mayor called the meeting back to order at 7:12 p.m. The Mayor asked for public input from the audience members. Comments were received by Kenneth Sexton, Trent Bohl, Terry Timme, Rachelle Bergman, Dan Arzola, Shelby Hallmark, Sonia Ray, Michael Mallozzi, and Olga Ray. Mayor Ladner thanked everyone for their input and said he really appreciated their participation in this very important process. He asked for a motion. Councilor Ray thanked everyone and moved to approve a Superceding Notice of Intent Ordinance No. 1269: an Ordinance amending Section 12-7-9 through 12-7-9.10 (Off-Highway Motor Vehicles - Definitions, et al.) of the NM Uniform Traffic Code adopted as the Silver City Traffic Ordinance in Chapter 50, Section 50-1 of the Municipal Code of the Town of Silver City, NM. Councilor Cano seconded. The Mayor asked if there was further discussion. Councilor Bettison reminded everyone again that if the NOI passed then it would go out for public discussion, and she invited the public to let the Council know what they thought about the NOI. She said she also appreciated Councilor Cano's suggestion that Councilor Ray add a sunset clause. Councilor Aiman-Smith said she asked Councilor Ray five questions that were very important to her, and that she had enough reservations that she wanted to see those issues worked on. Mayor Ladner asked for a roll call vote. Councilor Cano voted aye; Councilor Ray voted aye; Councilor Bettison voted aye; and Councilor Aiman-Smith voted aye. Motion carried.

C. Approval / Disapproval of Resolution No. 2018-16: a Resolution authorizing the Mayor to negotiate and execute an amendment to a contract for employment between the Town and Alex C. Brown. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Resolution No. 2018-16: a Resolution authorizing the Mayor to negotiate and execute an amendment to a contract for employment between the Town and Alex C. Brown. Councilor Aiman-Smith seconded. Councilor Cano said she wanted to make the public aware that there were parameters in the Resolution that would be followed by the Mayor; that the Resolution did not just let the Mayor to do what he wanted. Mayor Ladner said there was a clause in the contract that limited what the Mayor could do. He 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. ADJOURNMENT – Mayor Ladner concluded the meeting and asked for a motion. Councilor Aiman-Smith moved to adjourn at 7:35 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