

RESOLUTION NO. 2019-17

**A RESOLUTION EXPRESSING SUPPORT FOR LEGISLATION AMENDING
THE POWERS AND DUTIES OF THE NEW MEXICO
MUNICIPAL BOUNDARY COMMISSION**

Sponsored by Councilor Cynthia Ann Bettison

WHEREAS, the New Mexico Municipal Boundary Commission is a State of New Mexico Agency, statutorily defined as an “independent commission”, whose primary duties and authorities are described in New Mexico Statutes Sections 3-7-1 et sec., wherein processes and procedures are described for the annexation of property contiguous to a municipality; and

WHEREAS, Section 3-7-1 NMSA describes the three methods of annexation, including a method of annexation described in Sections 3-7-11 through 3-7-16, which taken as a whole, permits the Commission to force annexation of property upon a municipality without consideration or deference to the wishes of the municipality; and

WHEREAS, Article X, Section 6 E. of the New Mexico Constitution states: “The purpose of this section is to provide for maximum local self-government. A liberal construction shall be given to the powers of municipalities. (As added November 3, 1970.)”; and

WHEREAS, such independent commission authority to force annexation upon an unwilling municipality asserting reasonable objections is a usurpation of local government authority to determine the health, welfare, and safety of its community; and

WHEREAS, the New Mexico Court of Appeals in City of Albuquerque, et al. v. State of New Mexico Municipal Boundary Commission, et al., 131 N.M. 652, 41 P.3d 933 (NMCA 2002), the Court stated that the Commission must apply statutory standards under the umbrella of “reasonableness” and that while the Commission has the authority to annex property to a municipality over the objections of that municipality, the Commission should only do so based on a finding that those objections are unreasonable under the circumstances; and

WHEREAS, the current State Statutes are deficient in mandating required findings of the Commission when reasonable objections to annexation have been expressed to the Commission by an unwilling municipality; and

WHEREAS, the Town Council of the Town of Silver City finds that the current Statutes providing for Commission rulings on petitions for annexation should be amended to include deference to reasonable municipal objections to annexation, and to include within its findings proof that it considered the reasonable objections of the municipality to such annexation;

NOW THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF SILVER CITY:

1. That the Town Council of Town of Silver City supports the efforts of the New Mexico Municipal League, and others, to amend the current State Statutes pertaining to the powers, authorities, and practices of the New Mexico Municipal Boundary Commission, with a view to requiring the Commission to defer to reasonable objections to annexations as expressed by a municipality, including a requirement to make specific findings in any decision rendered on a petition for annexation, including, but not limited to the following:

- A. Whether the municipality has adopted a comprehensive land use and zoning code, which in harmony sets standards of development which is not evident in the property sought to be annexed, including zoning districts restricting land use, density of land occupation, construction standards for roadways, management of drainage and long-term planning for intelligent growth, all designed for the health, safety and welfare of the Town and its inhabitants;
- B. Whether the municipality demonstrates that there does not presently exist sufficient sources of funds and personnel resources to expand the Town's police, fire, and animal control coverage to an expanded jurisdiction where such services would be required;
- C. Whether the municipality demonstrates that the proposed property to be annexed have infrastructures which would likely not meet Town standards for roads, emergency access, curbs, gutters, drainage and grade;
- D. Whether the municipality demonstrates the potential of significant population influx which would necessitate redistricting or otherwise modifying the manner of local self- government, which may be costly and disruptive;
- E. Whether the municipality demonstrates that its Code Enforcement Officers and Animal Control Officers would be overburdened in task and expense of enforcing existing Town codes in areas that have traditionally not been subject to municipal regulation, and whether the consequences thereof would be to the detriment of the health, safety and welfare of the existing inhabitants of the Town;
- F. Whether the municipality demonstrates that further expansion of Town jurisdiction will dilute the resources required to serve those existing areas of the Town, affecting the health, safety and welfare of the municipal population;

- G. Whether there will likely be negative financial impacts upon residents, who are unrepresented in annexation proceedings, arising from special improvement district tax assessments to be imposed to ensure conformance to municipal codes;
- H. Whether the balance between the benefits to the economy of the municipality and the increased costs borne by the municipality represent a fair share of mutual benefit; and
- I. Whether the governing body of the municipality has expressed its opposition to the proposed annexation by official action.

BE IT FURTHER RESOLVED that the foregoing shall forthwith be distributed to the New Mexico Municipal League and to those members of the State of New Mexico legislature and the public that the Mayor deems appropriate.

PASSED, APPROVED, AND ADOPTED this 11th day of June, 2019.

TOWN OF SILVER CITY

(Seal)

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk