

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
July 28, 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
James Marshall, Assistant Town Manager
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Freddie Portillo, Police Chief
Priscilla Arredondo, Town Planner
Anita Norero, Deputy Finance Director
Robert Higgins, Information Technology Director

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE – Mayor Ladner called the meeting to order at 6:00 p.m. Clerk Mackie did a roll call of the Councilors and staff.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Cano had no comments. Councilor Ray commented on public input he received from Miss Harper in District 3 about the pros and cons of wearing face masks, and how he was very impressed with her knowledge. He also commented on the uncertainty of packages of seeds from China and cautioned people to be careful. Councilor Bettison had no comments. Councilor Aiman-Smith commented on her time downtown that day and how only about half of the people were wearing masks. She encouraged everyone to read a letter to the editor in the July 28, 2020 Silver City Daily Press newspaper that talked about the blackouts in England during World War II and how if folks had said no it would have endangered everyone. She compared that to people that thought wearing a mask was an individual freedom rather than looking out for the common good. Mayor Ladner commented how he was downtown the past Saturday to pass out masks, and he saw a police officer downtown doing a great job and she had a beautiful way of approaching people and being non-confrontational. He said he was really proud of the Police Department as he watched her do that. He thanked Chief Portillo for passing out about 200 masks at that point. He asked Chief Portillo if a police officer could go to the area of Adobe Springs Café during the weekend breakfast time because there was usually a long line of people waiting to get in, and a police officer could encourage people to put on their masks. Chief Portillo said yes.

6. APPROVAL OF MINUTES - Regular Meeting on July 14, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Town Council Meeting of the Town of Silver City of July 14, 2020. Councilor Bettison seconded. The Mayor asked if there was any discussion, and there was none. 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.
Emergency Meeting on July 20, 2020 – Councilor Aiman-Smith moved to approve the Minutes of the Emergency Town Council Meeting on July 20, 2020. Councilor Ray seconded. The Mayor asked if there was any discussion, and there was none. 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.

7. PUBLIC INPUT – Clerk Mackie stated no public input was received by email or by phone.

8. REPORTS –

A. Staff Reports - Manager Brown had no reports.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of Ordinance No. 1292: An Ordinance to amend the Official Zoning Map from a Rural Zoning District to Open Space District of Town owned property on Boston Hill for tracts of land described as: Quarter: SE S: 3 T: 18S R: 14W PT SEQ Quarter: SW S: 4 T: 18S R: 14W PT SWQ MINE: NEW ISSUE-MS 71 PT NEW ISSUE MS 71 9.508 AC; Quarter: NE S: 3 T: 18S R: 14W PT SWQ MINE: GLOBE LODGE-MS 1329 14.858 Mine Acres PT GLOBE LODGE 14.858 AC; All of the Star of the West Mining Claim, M.S. 60, lying within the Atlantic Lode, M.S. 1585, situate in Section 10, T. 18S., R. 14W., N.M.P.M., Town of Silver City, Grant County, New Mexico. Applicant is the Town of Silver City. Mayor Ladner began the procedures and asked Priscilla Arredondo, Town Planner, to proceed with her presentation. Clerk Mackie swore in Ms. Arredondo. Ms. Arredondo read the presentation that was included in the Council packets for the amendment to the Official Zoning Map from Rural Zoning District to Open Space District for three parcels of land on Boston Hill. She stated Grant County donated a 14.858 acre tract of land on Boston Hill to the Town of Silver City, and the Town received another donation of 9.508 acres of land from Rebecca Smith, Janey Katz, and Suzi Calhoun, and the third parcel was a sliver of land owned by the Town of Silver City. She stated the Open Space District was intended to preserve and enhance public open space. She discussed the Town's Comprehensive Plan of 2017, page 3-24, C. Development Regulations-Zoning and how the zoning map should be updated to reflect all categories and current uses. She said the Town Departments including Code Enforcement, Utilities, Fire, Police, Public Works, Engineering, and the Meters Division, and they had no comments concerning the application. She said, as required by Section 6.2.11 of the Land Use Code of 2010, the applicant and the Community Development Department contacted 108 property owners by mail about the proposed zone change, that were identified by the Grant County tax rolls and within 300 feet of the affected area. She said only one property owner inquired and he was not opposed to the change. She showed several maps that showed the properties on Boston Hill. She said the Town Council would have to include at least one of the seven findings in their final decision, and she read all of the seven findings that were required for an amendment to the Official Zoning Map. 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 findings: 1) The proposed amendment is in substantial compliance with the Town's Comprehensive Plan; and 2) The proposed amendment will not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan; 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; and 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. Mayor Ladner asked if that concluded her case, and Ms. Arredondo said yes. He asked the Council if they had questions. Councilor Aiman-Smith asked about the mines at Boston Hill and asked if there were any potential obstacles posed by the mines. Ms. Arredondo said no because most of them were covered and most of them were covered in the last zone change. Councilor Aiman-Smith asked if the ordinance was approved how many acres all together would they have of open space. Ms. Arredondo said she did not have the total yet for the Town-owned land but would get the information to her. She said there was still Bureau of Land Management land, state-owned land, and private property on Boston Hill. Mayor Ladner asked for a motion. Councilor Ray moved to approve Ordinance No. 1292: An Ordinance to amend the Official Zoning Map from a Rural Zoning District to Open Space District of Town owned property on Boston Hill for tracts of land described as: Quarter: SE S: 3 T: 18S R: 14W PT SEQ Quarter: SW S: 4 T: 18S R: 14W PT SWQ MINE: NEW ISSUE-MS 71 PT NEW ISSUE MS 71 9.508 AC; Quarter: NE S: 3 T: 18S R: 14W PT SWQ MINE: GLOBE LODGE-MS 1329 14.858 Mine Acres PT GLOBE LODGE 14.858 AC; All of the Star of the West Mining Claim, M.S. 60, lying within the Atlantic Lode, M.S. 1585, situate in Section 10, T. 18S., R. 14W., N.M.P.M., Town of Silver City, Grant County, New Mexico. Applicant is the Town of Silver City with Finding 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. Councilor Cano seconded. There was no further discussion. Mayor Ladner asked if the hearing board was ready to vote on the ordinance, and they said yes. The Mayor 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 –

A. Selection of the third member and the Chairperson of the Town's Labor-Management Relations Board. Manager Brown said the Town's Labor Management Committee consisted of one member appointed by him and one member appointed by the three unions: the FOP (Fraternal Order of Police, Silver City Police Officers Association), AFSCME (American Federation of State, County and Municipal Employees, Council No. 18, Local No. 3370), and the

IAF (Local 2430 International Association of Firefighters, AFL-CIO (American Federation of Labor and Congress of Industrial Organizations)). He said they appointed their representative, the unions appointed their representative, and they were supposed to get together to appoint a third person. He said they could not agree on the third member and it was required that the Council appoint the third member and the chair of the committee within 48 hours which was unreasonable. He said the ordinance was written in 1975 and the requirements for notification then were not as they are today. He said he worked with both appointees and they were okay with waiving the timeframes, but because he had to appoint the Town's appointee, he had not had any discussions with their representative and the union representative. He asked that the Council remand it back to him so they could come together with a solution that worked with both parties. He said all the people they wanted to appoint had been asked so they knew their names were on the table. He said he would appreciate it if he could go back to talk to them. Councilor Cano said she was concerned about anyone who was a candidate for a political office being considered for it because anyone running for office should not have control over their employees in any way. She said it was probably technically okay, but it could set a tone, etc. and the other three candidates were really good so they should not have a problem picking one. Councilor Bettison said Manager Brown had appointed the Town representative, and her concern was that another candidate was a former Mayor of the Town and it may seem to be too much on the Town side. She recommended they suggest in the motion that Manager Brown look at the two candidates that were not affiliated with the Town in any way or were not potentially running for office. She said it would ensure an open and transparent dialog with the three members. Manager Brown said he completely agreed with Councilor Cano and Councilor Bettison. Councilor Aiman-Smith said she agreed with both of her Councilor colleagues, and she moved to remand the issue of appointment of the third member and the Chairperson of the Town's Labor-Management Relations Board to the Town Manager, Alex Brown, with full understanding that concerns about potential perceived conflicts and biases have been expressed by the Council. Councilor Bettison seconded. Councilor Ray said he wholeheartedly agreed with Councilor Cano and Councilor Bettison and he hoped Manager Brown would take that into consideration. 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.

11. NEW BUSINESS -

A. Approval / Disapproval of Notice of Intent Ordinance No. 1293: An Ordinance amending Chapter 22 of the Town of Silver City Municipal Code, creating a new Section 22-30 regarding the use of face coverings by employees and customers when inside places of business and by all members of the public when in public places.

Councilor Bettison stated she worked with Attorney Scavron and the Notice of Intent Ordinance was based on the Santa Fe Ordinance that was passed, but it had been updated to reflect the Governor's Executive Orders and particulars of research that she and Attorney Scavron had conducted. She said it was the next step and what she envisioned doing when she made her Councilor Comments on July 14 and when she did the Resolution at the July 20 Emergency Council Meeting. She said it was to enable their officers to assist business owners and employees and the general public in ensuring that masks, face shields or facial coverings that included at least two pieces of cloth were worn in public places and when exercising. She said it followed along closely with the New Mexico Governor's Executive Order and the Cabinet Secretary's Public Health Order. She said it was the only way officers could cite individuals when necessary, and it relied heavily on education and citing when necessary to ensure folks do the common good, respect each other, and to try to stop the spread of COVID-19 within Grant County and Silver City. She said they had one death in Grant County and the increasing rise of cases was a concern to her and many others. She discussed the efforts she and others were doing to encourage folks to wear masks, and how the ordinance gave consideration to people that had a doctor's note saying they were unable to wear a mask because of a medical condition. She said the proposed ordinance was fairly comprehensive and if it passed as a Notice of Intent she wanted public input, input from the Councilors about any changes, and input from the Silver City Police Department about any changes. She said the folks in the public, business owners and employees should have the backing of the Town of Silver City. She said she was concerned that the local District Attorney said she would not enforce the Public Health Order of the Governor so it was one method they could do, and she encouraged the Council to pass the Notice of Intent Ordinance so they could adjust it as needed. She said the final decision would not take place until the second Council meeting in August. She asked Attorney Scavron if he had any comments. Attorney Scavron stated the New Mexico Supreme Court would affirm or disaffirm the power of the Governor to issue orders, and he provided two scenarios of their decision and how it would affect the proposed ordinance. He said they were at least getting the process moving and the only way to get it done faster was if the Mayor would assume Riot Control Powers through a proclamation, and that was not being recommended or done. He said the Town's riot ordinance had not been touched since 1972 and it was never intended to be used for a pandemic, but was designed

to be used for civil unrest. He provided further information and stated the proposed ordinance was the best they could do in Silver City, and he recommended passing it. Councilor Bettison commented that when making the motion, under Section 22-30 C. 1. f), she would ask that the sentence end after “walking or running in public.” Councilor Cano requested to include “tow trucks” in the parenthesis of Section C. 1. d), and she explained. Mayor Ladner asked if there was any public comment, and there was none. He asked for a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1293: An Ordinance amending Chapter 22 of the Town of Silver City Municipal Code, creating a new Section 22-30 regarding the use of face coverings by employees and customers when inside places of business and by all members of the public when in public places with the following amendments: in Section 22-30 C. 1. d) within the parentheses, after indoor service calls for appliances, adding tow trucks, and under C. 1. f) ending the sentence at “walking or running in public” which meant the removal of “where maintaining a distance of six feet between other members of the public at all times is not possible”. Councilor Cano 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 Notice of Intent Ordinance No. 1294: An Ordinance approving the sale of Town owned property at 2830 Little Walnut Road, Silver City, New Mexico, all in conformance with Chapter 48, Sections 48-20 et seq. of the Town of Silver City Municipal Code. Manager Brown said the Town received three bids for the property, one bid was considered non-responsive, and the high bidder was Nick Chavez with a bid of \$37,569. He said it was staff’s recommendation to award the bid to Mr. Chavez plus all the closing and legal fees required by the process. He said it was required to pass an ordinance so that was why they were awarding the bid in this manner. There was further discussion about the ordinance process for the sale of Town-owned property and how the ordinance would take effect 45 days from the time the ordinance was granted. Mayor Ladner asked for a motion. Councilor Aiman-Smith moved to approve Notice of Intent to adopt an Ordinance 1294 approving the sale of Town owned property at 2830 Little Walnut Road, Silver City, New Mexico, all in conformance with Chapter 48, Sections 48-20 et seq. of the Town of Silver City Municipal Code. 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.

C. Approval / Disapproval of Resolution No. 2020-16: Final Quarter Financial Report Year Ending June 30, 2020. Manager Brown said they were required to approve the final quarterly report for the fiscal year and he recommended its approval. He said it included all of the budget adjustments presented at the last Council meeting except for the balance number, and he recommended they submit the quarterly report with a negative balance in the legislative appropriations for capital projects because it truly reflected the balances at the end of the fiscal year due to unreceived grant refunds. Councilor Bettison moved to approve Resolution No. 2020-16: Final Quarter Financial Report Year Ending June 30, 2020. Councilor Cano 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.

D. Approval / Disapproval of Resolution No. 2020-17: Approval and Adoption of the Budget for the Fiscal Year commencing July 1, 2020 through June 30, 2021. Manager Brown made a presentation of the budget and provided the following information: how the Town received \$10.66 million in gross receipts tax revenue; how they were projecting \$9.54 million for the next fiscal year which was a decrease of 11 percent; how they ended up with close to \$1 million more than the projected \$9.69 million in revenue for gross receipts taxes; how the projection for fiscal year 2021 was \$9.47 million which was a decrease of 11.5 percent for actuals of fiscal year 2020 or about 8.7 percent decrease for the last three revenue years; how in fiscal year 2020 they projected expenditures of \$9.5 million and they were decreasing it to \$8.6 million so it was a decrease of about \$568,000 in expenditures; how transfers out were going up to \$408,000 and were mostly all for grant match that they already received authorization for; how fiscal year 2021 had an estimated beginning cash balance of \$960,000 with budgeted revenues of \$9.5 million and budgeted expenditures of \$8.6 million and an estimated ending cash balance of a little over \$1 million or about \$327,000 over the required 1/12 reserve; and how he would like to keep the extra because of the uncertainty of the revenues. He said the expenditures would stay as they currently were. He reviewed the budgeted expenditures in each of the departments. He said the Cemetery fund increased by \$6,000 for operations at Councilor Cano’s request or a 67 percent increase. He said all of the decreases in the departments had to do with the positions that were frozen, except for the police and fire decreases that were due to retirements or resignations. He said the water/sewer fund was projected at the same revenue as last year even though they had seen a slight increase in revenue and increase in the number of accounts. He said he was not recommending

any increases in rates in water, sewer or sanitation. He said there were increases in salary and wages due to redistribution and operational when they moved some of the sanitation costs to administration, etc. He said they were being very conservative and seeing a decrease in transfers out. He said the sanitation fund was flat and there was a total increase of revenue of \$120,000 due to the utility garbage collection contract because Universal Waste Systems was repaying the Town \$120,000 for the purchase of the equipment that was transferred over to them. He said there was a drastic increase in expenditures across the board except contract services because all of the personnel costs were moved into contractual services so they could pay that contract for Universal Waste Systems. He said the Lodgers Tax Fund was seeing a 50 percent decrease in revenues as of the last few months as seen from the hotels, etc. He said they were decreasing expenditures across the board and were only looking to expend \$164,000 to \$244,000. He said the Gas Tax was projected at zero change in revenues with about \$431,000 in revenue with about \$79,000 in transfers out for grant match, etc. He reviewed the beginning cash balances, the ending cash balances, and the 1/12 reserve for each of the funds. There were no questions. Mayor Ladner asked for a motion. Councilor Cano moved to approve Resolution No. 2020-17: Approval and Adoption of the Budget for the Fiscal Year commencing July 1, 2020 through June 30, 2021. Councilor Bettison 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.

E. Appointments to the Trails and Open Space Advisory Committee. Mayor Ladner stated the Community Development Director recommended the reappointment of Peter Gorman to the Trails and Open Space Advisory Committee. He said if there were no objections from the Council, he would like to reappoint him. There were no objections. Mayor Ladner said the Community Development Director also recommended the appointment of Jay Hemphill to the Trails and Open Space Advisory Committee. He said if there was no objection, he would appoint him. There were no objections.

12. ADJOURNMENT – Mayor Ladner concluded the meeting Councilor Ray moved to adjourn at 7:29 p.m., and Councilor Bettison seconded. Mayor Ladner stated there was a motion and a second to adjourn, and he adjourned the meeting.

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk