

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
May 25, 2021, 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 Cano, District 4

Also, present:

Alex C. Brown, Town Manager
James Reynolds, Town Attorney
Freddie Portillo, Police Chief
Milo Lambert, Fire Chief
James Marshall, Asst. Town Manager
Geoffrey Plant, Silver City Daily Press
Lisa Jimenez
Eve Bessier, Past Poet Laureate
Professor Heather Frankland
Allison Waterman
Jeremy Jones Wilson
Robert Higgins
Maria C. Sublasky, Adm. Asst. to Exec Dept.

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

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – Mayor Ladner read the proclamation designating the next Silver City Poet Laureate and formally acknowledged and proclaimed Ms. Waterman as the 2021-2023 Poet Laureate. He asked if Ms. Waterman would like to make any comments. Ms. Waterman stated she was honored to have been chosen for the position and very excited to interact with the community in a create way. She vowed to make all proud. Mayor asked if any other members of the Poet Laureate committee would like to make comments. Professor Frankland commented she was happy to have Allison as the Poet Laureate. She stated that she has already started planning some adventures with only a few weeks in service and is looking forward to a great two years with Allison. Eve Bessier, the outgoing poet laureate, stated she would like to do a saying and also bequeath the Crown of Laurels to Ms. Waterman somewhere in the near future. She was happy to have her and congratulated her. Mr. Wilson thanked the outgoing Poet Laureate, Eve West Bessier and congratulated Allison. He stated he was the Co-Chair of Southwest Word Fiesta which chooses the Poet Laureate. He thanked Mayor Ladner for his ongoing support of the Poet Laureate Program and the festival. Mayor asked if there were any other comments, there were none. Mayor Ladner suggested the group contact the press to do a photo op when they do present Ms. Waterman with the Crown of Laurels.

5. COUNCIL COMMENTS –

Councilor Cano commented that she didn't know if it was the weather or what, but she has noticed that people's driving skills have gotten really, really bad in Town. School is almost out, families are out biking and walking. Be aware that pedestrians have rights too. Don't speed up when you see people trying to cross the street, which she observed downtown. Be respectful of neighbors, eventually it may be you trying to cross the street, so think about that before you drive crazy.

Councilor Ray agreed with Councilor Cano. He stated the 4th of July is around corner, try to be humane about it. Please try to keep fireworks down. He stated he noted there is a great need for water while away at Snow Lake this weekend. He asked that we try to save water here in Silver City and be mindful of what you waste. He also said he miss-read an email he received concerning the WNMU Frisbee Golf and stated he was for what they are trying to do,

and thinks it is a good thing and should be explored by the younger generation. In closing, he read a quote “Life is an opportunity, may we benefit from it. Life is beauty, may we admire it. Life is a dream, may we realize it. Life is a challenge; may we meet it.”

Councilor Bettison thanked Councilor Cano for commenting on driving. She reminded everyone to please stop at stop signs to avoid accidents. Red lights mean stop, she has seen a number of folks go through red lights. Please be careful in private parking lots, take a minute, take your time and drive the speed limit. It would be appreciated by others driving and by pedestrians.

Councilor Aiman-Smith stated as of yesterday New Mexico became the 9th state in the union to hit 70 percent of at least one shot of the Covid vaccine. In Grant County 56 percent of the population is fully vaccinated. The more we all get vaccinated, we make it safer for everybody. Secondly, the May, Southwest Drought and Monsoon report came out today from CLIMAS, a research center at the University of Arizona in Tucson. The map shows the Grant County region is the highest, in exceptional or extreme drought. If the scale got any higher, such as very exceptional drought, we would be there. Fire season has already started and the National Interagency Fire Center is predicting significant fire potential for above normal wildfire here in Southwest New Mexico in May, June, and July.

Councilor Ray notified those present that he changed his mind on getting vaccinated and took his first shot in Tucson. He will be returning two weeks for second. He was asked why he did it and stated that while in Vietnam he had to take a lot of meds and decided why not.

Councilor Bettison forgot to mention that she requested for Chief Lambert to give an update in Fireworks in Silver City as it is different from county. She felt it was important for people to know that it used to be where fireworks were allowed all year round, twenty four hours a day that you could shoot off fireworks but the ordinance changed that for Veterans, animals and for folks concerned with what that kind of noise can do to interrupt what they have come to know as a peaceful existence in Silver City. Mayor asked if there were any other comments from the Council. There were none.

6. APPROVAL OF MINUTES - Regular Meeting on May 11, 2021 – Mayor Ladner asked for a motion to approve the minutes. Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City of May 11, 2021. Councilor Ray seconded the motion as stated. Mayor asked if there was any other discussion or comments. There was none. Mayor asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye. Motion carried.

7. PUBLIC INPUT – Mayor Ladner asked Ms. Sublasky if any public input was received by email, voicemail or any other means. There was none.

8. REPORTS –

A. Mr. Brown stated Chief Portillo would be presenting on how the Police Department has been preparing for the legalization of Marijuana and deferred to the chief. Chief Portillo indicated he wanted to discuss the HB2 Cannabis Regulation Act. He commented he had met with DA Renteria last Thursday and continues to meet monthly, along with other different agencies across Grant County as well as personally, one on one, on enforcement. As of right now, there are no set guidelines or guidance as far as enforcing the Cannabis Regulation Act itself. We do know it is a work in progress, and it will be a case by case basis. Decisions made by the courts, and new case law will dictate guidelines for enforcement. He stated it was important to follow constitutional policing and act within the scope of our duties and Silver City Police Department policy. He stated he had a contact person for the Cannabis Regulation Act Committee as well as through the Chief of Police Association. There is no set guidance yet. Things they do know is that the Cannabis Control Commission was created and will be accepting applications for business licensing in September. The timeline for business sales will be from September to the end of April, 2022. We do know it is intended to mirror the Liquor and Alcohol Sales and Regulation Division. So, in the past, when there was an issue with a liquor establishment we would contact Special Investigations Division. He perceived it would be the similar with these

businesses. They would issue citations and be able to shut the establishment down. He noted that there were fines up to \$10,000.00 dollars to businesses in violation of law. They can also revoke or suspend the license. SCPD would work in conjunction with the Cannabis Control Division and he stated language allows for adoption of local laws to the extent that the Town can regulate the distance between business consumption areas, schools and daycares. Of course minors would have to be 21 years of age to be in the establishment and 21 years old to possess it. The one thing his department did get ahead of was DWI enforcement. He informed the council of a recent spike in DWI arrests stating that in 2019, there was total of 65 DWI arrests; 2020 had 76 arrests and 2021, by the end of April this year, were already at 47. A lot of impaired drivers are under the influence of drugs, and or alcohol, or a mix. Several officers have been sent to the state, Advanced Roadside Impairment Driving Enforcement for training skills to conduct more divided attention testing, to those individuals stopped. More officers will need to be sent, and probably all the field officers will need to be certified so they can have the knowledge and tools to develop probable cause and its impairment to the slightest degree. Marijuana has no level, in comparison to the blood alcohol level content of .08, which is a set standard. SCPD has had two officers, Welburn and Laramore who recently graduated from the Drug Recognition Expert Training Program. The officers with DRE certification can provide additional tests and possibly determine what those individuals are under the influence of. Chief stated he would continue to use Traffic Safety Funding to enforce this and he continues to meet regularly with the DA and will do whatever is needed. Mayor entertained questions.

Councilor Bettison asked Chief Portillo and Mr. Brown if the town was working with NMSIF in providing training. Mr. Brown stated he has not seen anything yet from NMSIF. Chief Portillo has a contact with member of Chiefs of Police Association who has also been appointed to the Cannabis Committee. Councilor Bettison stated she appreciated that the Town is being proactive. Hopefully she can ask, at the next NMML Board meeting in June what the status of the NMSIF board is regarding certification and training. She indicated she would update on it in the future. Councilor Aiman-Smith indicated she appreciates the reporting of information. She asked how you would know how a person is impaired due to marijuana and secondly how much can an individual grow. She indicated she would love to hear a follow up in six months once things begin to get clear. Mr. Brown stated that having a District Attorney and the different departments willing to work with the Town is going to make a huge difference compared to the past. He wanted to thank the District Attorney for his part in all of this. Councilor Ray asked is something can be invented to blow for marijuana like liquor. Chief stated that the problem is there is no set limit on what exactly indicates impairment and he was not aware of a device that could read THC. In response to Councilor Aiman-Smith's question on possession, Chief stated that for a 21-year old, it mirrors liquor law guidelines; possess, purchase and give other adults up to 2 ounces, up to 16 grams of concentrated marijuana and 800 milligrams of edible cannabis. As far as plants, a person can cultivate up to 6 mature and 6 immature plants with a max of 12 plants per household. Mayor asked if there were no other comments or questions. There were none.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval/Disapproval of Fraternal Order of Police Silver City Police Officer's Association – Contract Renewal Documents- Mr. Brown stated the Fraternal Order of Police Union contract will expire the end of this fiscal year. Mr. Brown stated they normally would entertain negotiating a multiple year contract but this year they took the approach to negotiate a one year contract due to the economic climate as the manager was not comfortable with making commitments over three and four year periods. Both parties agreed with one year and they would revisit it again next year. They came up with a 4.5 percent increase in pay for the membership, a shift differential increase of \$75 per month for regular Detectives and 8 hours of Straight Time for the Narcotic Detectives who did not get "On-Call" time as the other detectives. In addition, Incentive pay increased for Associate Degrees and Bachelor Degrees, and both went up by \$500. Longevity pay increased by \$50 per quarter. Another tier was added, previously it ended at 16-20 years. At the request of the Union, they included a 20 year plus category hoping to get more officers to stay on rather than retire. The last item was a 1 year contract basis. All increases were discussed in past council meetings and already included in the budget. Mayor asked if any questions. There were none. Mayor entertained a motion. Councilor Bettison moved to approve the FOP SCPOA document. Councilor Cano seconded the motion as stated. Mayor asked if there was any

discussion or comments. There was none. Mayor asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye. Motion carried.

B. Approval/Disapproval of Resolution 2021-07- For proclaiming that extreme and severe drought conditions exist within the Town and a limited ban on the sale and use of certain fireworks. Chief Lambert asked if they could discuss New Mexico fireworks Licensing Act and our own town ordinance before getting on with the resolution as it has been a few years that we have reviewed the wording. He said given the concern from persons in community, a little edification would be appropriate now. He commented that the State has a Fireworks Safety and Licensing Act that binds our hands as a municipality in multiple ways. In the act it states that a municipality or county shall not, by ordinance, regulate or prohibit the sale or use of permissible fireworks, except for aerial devices and ground audible devices. It does however allow us to make a proclamation, as has been done today. The city ordinance adopted in 2011, differs slightly in that it has a couple of reworded sections that don't match the exact wording of the state law. Within the Ordinance, the Town adopts the state law with the addition of some prohibited locations for the emission of fireworks. That being in the historic downtown areas of Bullard Street from San Vicente to College, Broadway to Cooper and one block on either side of Broadway and Bullard respectively. By state law we don't have the ability to ban fireworks altogether. We do have the ability to proclaim that a great fire danger exists by virtue of extreme or severe drought. As Councilor Aiman-Smith pointed out earlier, we are at the highest level of drought conditions available in the nation. We were typically in the extreme drought area but have moved up as of May 18, to the exceptional drought area. There is nothing beyond this as far as categorization. Our Ordinance allows us to make a proclamation banning of certain classes of fireworks such as aerial devices and ground audible devices. It does not allow us to ban outright sale or use of all fireworks. So, we want to proceed with banning of the fireworks that we can legally ban. Cones, sparklers, smoke bombs are not allowed to be banned by state. Our hands are tied, but we can restrict to barren or paved areas so that we are providing the most fire safe environment allowed. The Resolutions only bans sales inside city limits and multiple vendors will set up outside of Town limits and bring them back into town limits making it extremely difficult to enforce. We are asking to proceed with this Resolution as it is the best chance to provide safety for citizens. Chief Lambert asked if there were any questions.

Councilor Bettison asked if the Chief could speak to ordinance that limits the use and sale of fireworks within a particular time frame and the "safe and sane" fireworks. Chief Lambert stated big box and grocery stores also sell fireworks, but with the resolution, sales can be limited for those that are not "safe and sane" or non-ban able fireworks restricted to barren or paved areas. The permitted sales and use time frames allows for sales between June 30 through July 4th, from 9am to 10pm and ignition of any of those fireworks can be from June 30th to July 4th, from 9am to 10pm except for the 4th of July itself and weekend nights, excluding Sunday, which can be ignited from 9am to midnight. Councilor Bettison stated the 4th of July is Sunday this year so the timeframe would be midnight. Councilor Bettison asked if banning of open flames is still an option. Chief indicated we are still in Stage 1 restrictions, and discussion is ongoing into Stage 2, which are more robust. In previous years we have gone as far to ban open flame outdoors. Stage 2 fire restrictions include banning of campfires, charcoal grills, stove fires and other open fires for cooking and recreation. No burning of yard waste, no pressurized gas grills-if determined to be a hazard by an enforcement officer. Outdoor smoking has been banned in the past. He stated Stage 2 can get very extreme as far how far we want to limit ignition sources in public. Councilor Bettison indicated it is important for public to know that the Fire department has the authority to initiate Stage 2 and it doesn't call for any council action. Mayor asked if there was any other questions or comments.

Councilor Ray asked if there may or may not be a firework's display for the public. Chief Lambert stated the town's fireworks display is hosted by the Fire Department and they monitor conditions regularly the week before. They usually proceed with the town's display because they operate with licensed fireworks display operators, have extreme fire extinguishing equipment on ground, and have staffing on a fire engine on site. So, they provide, to an extreme degree, fire safety for the Town's fireworks show, in particular. Chances are good that it will continue to be a go unless conditions become extreme, then they will cancel the show altogether. Mayor asked if Chief Lambert had any other comments.

Chief Lambert stated to the residents of Silver City that this year may not be best year to purchase fireworks and advised for residents not to purchase private displays. He asked that the public show some restraint. Mayor Ladner entertained a motion. Councilor Aiman-Smith made a motion to approve Resolution 2021-07 for proclaiming that extreme and

severe drought conditions exist within the Town and a limited ban on the sale and use of certain fireworks. Councilor Ray seconded the motion. Mayor asked if there was any discussion or comments. There was none. Mayor asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye. Motion carried.

12. ADJOURNMENT- Mayor Ladner asked for a motion to adjourn. Councilor Ray made a motion to adjourn at 7:06pm. Council Aiman-Smith seconded the motion as stated. Mayor asked if there was any discussion, there was none. Mayor asked for a roll call. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye. Motion carried.

Ken Ladner, Mayor

Attest:

Maria C. Sublasky, Acting Town Clerk