

1. Agenda For May 12, 2020 Town Council Regular Meeting

Documents:

[01 - 2020 05 12 AGENDA REGULAR COUNCIL.PDF](#)

2. Draft Minutes Of The April 14, 2020 Town Council Regular Meeting

Documents:

[02 - 2020 04 14 DRAFT MINUTES REGULAR COUNCIL.PDF](#)

3. Ordinance 1290 Amend Chapter 38 Local Labor Board

Documents:

[05 - ORD 1290 AMEND CH 38 LOCAL LABOR BD.PDF](#)

4. Recommendation For Audit Services For Fiscal Year 2019/2020

Documents:

[06 - AUDIT SERVICES RECOMMENDATION 19\\_20.PDF](#)

5. Legal Notice For May 12, 2020 Regular Council Meeting

Documents:

[07 - 2020 05 12 LEGAL NOTICE REGULAR COUNCIL MEETING.PDF](#)



# TOWN OF SILVER CITY COUNCIL

## REGULAR MEETING AGENDA

MAY 12, 2020, 6:00 PM

REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT

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1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
2. CHANGES TO AGENDA
3. CEREMONIES
4. PROCLAMATIONS
5. COUNCIL COMMENTS
6. APPROVAL OF MINUTES
  - A. Regular Meeting on April 14, 2020. Note: The April 28, 2020 Regular Council Meeting was canceled.
7. PUBLIC INPUT
8. REPORTS
  - A. Staff Reports - Update on the budget by Manager Brown.
9. PUBLIC HEARINGS
10. UNFINISHED BUSINESS
  - A. Approval / Disapproval of Ordinance No. 1290: An Ordinance declaring the intention of the Town to continue the existence and operation of its "Local Labor-Management Relations Board", and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35, of the Town of Silver City Municipal Code.
11. NEW BUSINESS
  - A. Approval / Disapproval of Audit Services Firm Recommendation for Fiscal Year 2019/2020.
12. ADJOURNMENT

## Town of Silver City Council Members

<u>Name</u>	<u>Elected Position</u>	<u>Telephone</u>	<u>Term of Office</u>
Ken Ladner	Mayor	534-6346	03/2018 - 03/2022
Cynthia Ann Bettison	Councilor, District 1	597-7031	03/2020 - 03/2024
Lynda D. Aiman-Smith	Councilor, District 2	597-7032	03/2018 - 03/2022
Jose A. Ray, Jr.	Councilor, District 3	313-4944	03/2020 - 03/2024
Guadalupe Cano	Councilor, District 4	597-7034	03/2018 - 03/2022

### *MISSION STATEMENT OF THE TOWN OF SILVER CITY*

*Silver City is the hub of an inclusive community settled within a small town that through guided growth, honors and preserves its historical, cultural, and natural heritage while facilitating jobs, health, and education resources such that the residents and visitors may enjoy and protect the recreational opportunities of the area and high quality of life.*

*Approved by the Town Council on May 25, 2010.*

**The Council may call an EXECUTIVE SESSION pursuant to NMSA 1978 Section 10-15-1(H) for the following reasons:**

1. meetings pertaining to **issuance, suspension, renewal or revocation of a license**, except that a hearing at which evidence is offered or rebutted shall be open;
2. **limited personnel matters** which means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee;
3. deliberations by a public body in connection with an **administrative adjudicatory proceeding**;
- A. meetings for the **discussion of bargaining strategy preliminary to collective bargaining negotiations** between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;
- B. that portion of meetings at which a decision concerning **purchases in an amount exceeding \$2,500 that can be made only from one source** and that portion of meetings at which the **contents of competitive sealed proposals solicited pursuant to the Procurement Code (13-1-28 NMSA 1978) are discussed during the contract negotiation process**. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;
- C. meetings subject to the **attorney-client privilege pertaining to threatened or pending litigation** in which the public body is or may become a participant;
- D. meetings for the **discussion of the purchase, acquisition or disposal of real property or water rights** by the public body.

Note: NMSA 1978 Section 10-15-1(H) Exceptions (4) relating to students, (9) relating to public hospitals, and (10) relating to the gaming control board were not listed above since they do not apply to the Town of Silver City.

**For information on what's happening in local government,  
please visit the Town's website at [www.townofsilvercity.org](http://www.townofsilvercity.org).**

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT**  
**April 14, 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  
Jeff Fell, Assistant Fire Chief & Emergency Manager

**1. CALL TO ORDER / PLEDGE OF ALLEGIANCE** – Mayor Ladner called the meeting to order at 6:00 p.m. He welcomed everybody that was attending the remote meeting. He asked all of those in attendance to join him in the Pledge of Allegiance. He said during the meeting any person wishing to speak shall identify themselves each time they speak throughout the meeting and for each roll call vote. He asked each Councilor to identify themselves and confirm they could hear each other, and all four Councilors did so.

**2. PUBLIC INPUT** – Mayor Ladner said no one called in to sign up for Public Input.

**3. CHANGES TO AGENDA** – Councilor Ray made a motion to remove Item 12. D. from the agenda. Councilor Bettison seconded. The Mayor asked for discussion. Manager Brown discussed the reason for removing Item 12. D. Resolution No. 2020-09 from the agenda and described how he would like to bring it back for the first meeting in May to propose grants for businesses in the Metropolitan Redevelopment District rather than designating the money for the “Facades and More Improvement Grants Program”. There was further discussion. 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.

**4. CEREMONIES** – None.

**5. PROCLAMATIONS** – “**Girl Scout Week**” – **March 8-14, 2020.** Mayor Ladner said they did not have a Council Meeting on March 10 or 24, and he was pleased to announce the proclamation. He read the proclamation and asked former Girl Scouts, Councilor Bettison and Councilor Cano, if they had any comments. There was further discussion from both Councilors.

**6. COUNCIL COMMENTS** – Councilor Aiman-Smith thanked all the elected officials working with the hospital to get the advanced Medicare payment because it was important that they keep the hospital going. She also thanked Senator Heindrich’s office for holding a series of “how to” webcasts for grants and loans for small businesses at the federal level. She thanked the elected officials of the state and federal level for working to make their area better. Councilor Bettison thanked all essential workers, government workers, firefighters, volunteers across Grant County, law enforcement, first responders, hospital staff, etc. and all the folks working to provide supplies, etc. She also thanked the face mask makers of Grant County. She also encouraged people to order carry out with the local restaurants. She thanked everybody in Grant County and in the Town of Silver City for pulling together. Councilor Cano thanked the essential workers and the Fire Department for coming up with the new birthday parade concept for young children. She asked Emergency Manager Fell who people should report big gatherings or businesses that should not be open to. Mr. Fell said they should be reported to Police Chief Portillo because local law enforcement would respond to a complaint initially, but ultimately it would get handed over to the State Police. Manager Brown stated per the District Attorney the Police Department is directed to try to get voluntary compliance and if they could not, then they refer the complaint to the State Police. Councilor Ray announced that April 12-18 was National Telecommunicators Week and they should thank all of them. He asked Manager Brown to give an update of the closures. Manager Brown said Emergency Manager Fell would report on it under Staff Reports.

**7. APPROVAL OF MINUTES - Regular Meeting on February 25, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of the Town of Silver City of February 25, 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.** **Emergency Meeting on March 27, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Remote Emergency Council Meeting of the Town of Silver City of March 27, 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.** Mayor Ladner stated there were no Council Meetings on March 10 and 24 and therefore, no minutes.

## **8. REPORTS –**

**A. High Desert Humane Society’s Annual Report by Heidi Ogas.** Ms. Ogas reported on the Annual Animal Intake for 2019 for dogs and cats and stated the total for incoming dogs was 477 and they returned 109 to their owners, and the total of incoming cats was 448 and they returned 6 to their owners. She said they took in \$3,390 in impound fees and \$4933.50 in licensing. She said the shelter handed out 1,033 spay and neuter coupons which was 145 more than 2018. She said there were 506 adoptions and 211 animals returned to their owners. She compared the Town and County and said since 2015 the numbers had been pretty close. There was further discussion about the following: how Animal Control Officer Vickie Toney’s prudent and professional use of trying to control the feral cat population was evident in the report; how Animal Control Officer Toney was cross-commissioned to work on cases that deceased County Animal Control Officer Buddy Howard had been working on; how the Humane Society was open, but very limited during the COVID-19 pandemic; how donations of pet food, disinfectants and aluminum cans for recycling were being accepted at the shelter; how they were low on adoptable animals because people were home due to the COVID-19 pandemic; and how feral cats were sometimes adopted by people with ranches and barns.

**B. Staff Reports.** Emergency Manager Fell responded to Councilor Ray’s questions about closures due to the COVID-19 pandemic. He stated the closures fell into three categories: Town departments, Town properties, and public businesses. He said public businesses were following the Governor’s guidelines and the Governor decreased the number of people that could be in the businesses so a lot of businesses reached out to the Fire Department to make sure they redid their occupancy loads to match the Governor’s order. He said all the parks and Town-owned properties had been closed for a couple of weeks and Town departments like the Recreation Center, Museum and Library were closed right away when the schools closed. He said soon after that Community Development made the decision to close and some employees had been reassigned to other jobs or using various types of leave. Councilor Ray asked if they could enforce the use of face masks to protect everybody. Mr. Fell said they were following the lead of the State Department of Health and it was highly recommended that people wear masks when they go out in the community, but currently there was no mechanism to enforce it. There was further discussion and Mr. Fell advised everyone to be aware of the Department of Health’s website, [www.cv.nmhealth.org](http://www.cv.nmhealth.org). He described the features of the website, including a public dashboard and daily updates on the main website, etc. He said as of that date the website listed 1,407 cases in New Mexico, and since it started there have been 181 cases of COVID-19 hospitalizations, and currently there were 87 hospitalizations. He commented on other statistics that were available on the website.

Manager Brown said the Community Development Department was not closed; that they were just not doing business face to face. He said people could call to make an appointment with them. He said they wanted to help businesses move as much as possible with the limitations currently in place with the virus. He said only one employee was reassigned and most people were either working from home, except essential personnel like police, fire, utilities, parks, streets so they can maintain the infrastructure. He said there was no more than one person in a vehicle, and City Hall was closed, but they were still doing business by accepting payments, accounts payable, payroll, etc. He said they were trying to limit the amount of direct face to face contact between coworkers and the public; that they were trying to do everything possible to ensure the safety of the employees and the public. He said every Monday they had a conference call with the County to coordinate with them, and it was very beneficial. He said the Town’s Emergency Manager, Jeff Fell, and the County’s Emergency Manager, Gilbert Helton, were working together constantly.

## 9. ORGANIZATIONAL MEETING –

**A. Election of President Pro Tempore.** Mayor Ladner said in his absence the Mayor Pro Tem would act in his behalf and conduct the duties of the Mayor as presiding officer of the Town Council meetings. He asked for nominations. Councilor Ray nominated Councilor Cynthia Ann Bettison. Councilor Aiman-Smith seconded. The Mayor asked if there were any other nominations, and there were none. He asked for a motion to close nominations. Councilor Ray moved to close nominations for Mayor Pro Tem. Councilor Aiman-Smith 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 congratulated Councilor Bettison. Councilor Bettison thanked the Town Council members for nominating her and for voting for her to do it again. She said she greatly appreciated their faith in her.

**B. Appointments of Councilors to committee and board positions.** Mayor Ladner read the following current appointments for each Councilor: Councilor Bettison serves on the Museum Advisory Group in an advisory role and the Southwest New Mexico Council of Governments as an alternate; Councilor Cano serves on the Cemetery Board in an advisory role; Councilor Aiman-Smith services on the Library Advisory Group in an advisory role and on the Area Transportation Authority Board; Councilor Ray serves on the Dispatch Board as an alternate, on the Parks and Recreation Board in an advisory role, and on the Southwest Solid Waste Authority as an alternate; and Mayor Ladner serves on the Southwest Solid Waste Board, the Grant County Water Commission, and the Silver City MainStreet Board as an Ex Officio member. He said the appointment of representatives to the Region IV Chief Elected Officials of New Mexico Workforce Connection was currently on hold awaiting the state's reply to the Town's inquiry relative to the liability of the Chief Executive Officer and Town of Silver City in any agreement between the Town and the State. He said also on the list of appointments are Town staff who have been appointed by the Town Manager. He said if there were no objections, he would like to keep the assignments the same. He called the name of each Councilor and each Councilor stated they had no objection.

**C. Welcome to all employees and department heads and affirmation of employment in the new Administration.** Mayor Ladner said he and the Town Council, as the governing body of the Town of Silver City, wanted to welcome the Town Manager, Alex C. Brown, the Town Clerk, Ann L. Mackie, and the Town Attorney, Robert L. Scavron, to this administration. He said he also wished to confirm and welcome all department heads, Chiefs, and current employees who would continue as public servants of the Town. He said thanks to all. He asked the Council if they had any comments. Councilor Bettison said they had the most amazing group of staff people of any municipality. She commended them for all the things they were currently doing and had done to continue to move forward, and to really ensure they survived with all the townspeople during the unprecedented time they were facing. Councilor Aiman-Smith said they had a remarkably professional, far-thinking, dedicated and civic-minded staff of people working for the Town of Silver City, and she thanked all of them. Mayor Ladner thanked all the Town administration and Town departments, police, fire, first responders, and especially those who put their life on the line everyday as they served the citizens of Silver City. He said it was no more obvious than during this time of crisis that they were going through. He said it had been a pleasure working with the Town administration and all the departments. He described how crews worked in the middle of the night to clear flooded street of rocks and mud in order to get ready for the citizens the next day, and said it was an example of how dedicated their departments and administration were to the welfare and health of the citizens.

## 10. PUBLIC HEARINGS – None.

## 11. UNFINISHED BUSINESS –

**A. Approval / Disapproval of Ordinance No. 1289: An Ordinance amending the Municipal Code of the Town of Silver City, Grant County, NM, Chapter 50, Section 50-2 (Penalty Assessments), and certain provisions of the Town of Silver City Traffic Code.** Manager Brown said it was the same Notice of Intent Ordinance as presented in February; that the major changes were driving with a minor in the vehicle and parking in disabled parking spaces. There was no discussion. Councilor Cano moved to approve Ordinance No. 1289: An Ordinance amending the Municipal Code of the Town of Silver City, Grant County, NM, Chapter 50, Section 50-2 (Penalty Assessments), and certain provisions of the Town of Silver City Traffic 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.

## **12. NEW BUSINESS –**

**A. Approval / Disapproval of Resolution No. 2020-10: Acceptance and Approval of the Fiscal Year 2019 Audit.** Manager Brown asked Mike Stone, Certified Public Accountant of Stone McGee & Company, to speak.

Councilor Bettison asked for a short break so they could find out which caller was Mr. Scavron and Mr. Stone. Councilor Aiman-Smith seconded. The Mayor called 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 called the meeting back to order at 7:05 p.m.

Mike Stone said the 2019 Audit received an unmodified opinion on the financial statement, which was the highest opinion they could get, and he said their financial statements were fairly stated. He said there was only one comment in the entire audit report and that it was related to Stone McGee and Company and it was not related to the Town of Silver City. He said the Town was ready for the audit, but there were problems at Stone McGee so the one comment was their fault. He said he was very sorry, and it was very important that they understood there was no problem with the Town. Manager Brown thanked Mr. Stone and his staff for all they did because they were available to them all year long. He said it was unfair when the State Auditor required them to put blame for it being late when 90 percent of the time they were late because of changes in the rules. He said their audit did not get released until March 5, so the legislative session was already over, and their legislators did not have it to make any decisions if they needed to. He said that was the State Auditor's fault, not Stone McGee and Company, and not the Town. He said they had the best staff and finance group, and they did an excellent job because they always knew what they had on the books and could make educated decisions. Mr. Stone said they had no adjustments to the staff's numbers whatsoever; that they did an exquisite job. There was further discussion. Councilor Bettison moved to approve Resolution No. 2020-10: Acceptance and Approval of the Fiscal Year 2019 Audit. Councilor Ray seconded. 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.

**B. Approval / Disapproval of Resolution No. 2020-08: A Resolution amending the approved and adopted budget for the Fiscal Year commencing July 1, 2019 through June 30, 2020 and for municipal purpose in the Town of Silver City, NM, transferring and appropriating funds thereof.** Manager Brown said the budget adjustment was for the loans with the New Mexico Finance Authority to help with the concession stand and bathrooms at Scott Park concession stand and the brush truck in the Fire Department. He said they contracted with White Sands Construction for the concession stand and the brush truck was almost ready, but it was in Texas. He commented how crossing the state line would force a 14-day quarantine. He said the projects were not included in the original budget for Fiscal Year 2020 and they needed to start making payments on the loans; that they spent money on Scott Park already. He asked for their approval of the budget adjustment. Mayor Ladner asked for a motion. Councilor Ray moved to approve Resolution No. 2020-08: A Resolution amending the approved and adopted budget for the Fiscal Year commencing July 1, 2019 through June 30, 2020 and for municipal purpose in the Town of Silver City, NM, transferring and appropriating funds thereof. 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.

**C. Budget discussion and Council Direction for Fiscal Year 2020-2021.** Manager Brown said he previously sent out a preliminary proposal to them for a nine percent decrease in revenue by not filling open positions available to them currently, adjusting the operations, and not opening the pool. He said they would have to make some major cuts and Albuquerque was looking at a 30 percent decrease in revenue. He said they would have to make some major changes in the new few months. He said they would continue to receive revenues generated in February and March of 2020 over the next two months. He said because there were so many "what ifs" this year, he believed they should go ahead and resubmit the Fiscal Year 2020 Budget by the end of May and use May, June and July to fine tune it, and identify just how far they needed to cut services to the community. He said he thought they would see a 23 to 25 percent decrease in revenue. He proposed to work with them individually until they could start meeting in open meetings and

have better communication and fine tune next year's budget for 2021. He said he would keep the open positions open and not fill them, unless they were safety sensitive or in the Utilities Department. He said internally he would take care of operations. There was further discussion and Councilor Cano stated she wanted on the record that she desired to increase the budget for the Cemetery fund because it had not been increased in 10 years.

**D. Approval / Disapproval of Resolution No. 2020-09: A Resolution authorizing the Town Manager to transfer funds to the Corporation for Downtown Development ("Silver City MainStreet") from Tax Increment Funds accumulated through implementation of the Town's Metropolitan Redevelopment Program.** See Changes to the Agenda above.

**E. Approval / Disapproval of Bid 19/20-6: Wastewater Treatment Plant.** Manager Brown said the Town received three bids from C & E Industrial Services, Dement Electric, and Smithco Construction. He said the low bid was from C & E Industrial Services for a total amount, including gross receipts taxes, for \$224,014.67. He said it was a Colonias Infrastructure Grant Funded Program and they received \$218,640 so they could supplement and make up the difference with the Water and Sewer Fund. He said it was staff's recommendation that they award it to C & E Industrial Services. Councilor Ray moved to approve Bid 19/20-6: Wastewater Treatment Plant per staff recommendation to C & E Industrial Services Incorporated, 103 Maguey Pl, Sunland Park, NM 88063 for a total amount, including gross receipts taxes, of \$224,014.67. 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.

**F. Approval / Disapproval of Bid 19/20-7: Re-bid Swan Street and 12th Street Road Diet and Bicycle Lane Improvements.** Manager Brown said they put it out to bid once before, but the bid was way over the available funds for the project. He said once again they received one bid for the project in the total amount of \$307,024.02. He said it was a scaled back project from 12<sup>th</sup> Street up to Pope Street. He said it was substantially over the \$239,000 that was available for construction. He said they also needed to take into account the additional costs of about \$40,000 for repackaging and construction oversight so it was \$107,000 over budget for the project. He said they already requested permission from the Department of Transportation, and they authorized the Town to rebid the project, but he wanted to wait a few more months. He said it was staff's recommendation to reject the bid and rebid it in a couple of months. There was further discussion. Councilor Cano moved to approve Bid 19/20-7: Re-bid Swan Street and 12<sup>th</sup> Street Road Diet and Bicycle Lane Improvements to be rejected per staff recommendation. Councilor Aiman-Smith 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.

**G. Approval /Disapproval of Bid 19/20-8: Visitors Center Pedestrian and Trailhead Improvements.** Manager Brown said the Town only received one bid from Southwest Concrete and Paving and it was \$27,000 for construction over what was available for construction, and it did not include engineering, etc. He said it was \$116,000 over available funds so staff recommendation was to reject the bid. He said the Town got permission for a time extension for the project. Councilor Bettison moved to reject Bid 19/20-8: Visitors Center Pedestrian and Trailhead Improvements. 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.

**H. Approval / Disapproval of Notice of Intent Ordinance No. 1290: An Ordinance declaring the intention of the Town to continue the existence and operation of its "Local Labor-Management Relations Board", and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35, of the Town of Silver City Municipal Code.** Attorney Scavron said the Notice of Intent Ordinance was to accomplish two purposes. He said the trend in Santa Fe was to eliminate local boards, so they were making it harder to maintain a local board. He said the municipality first had to affirm by ordinance or resolution its intention to maintain a local labor board. He said Notice of Intent Ordinance No. 1290 did that. He said secondly there were a bunch of new provisions that must be included in the local labor board's rules and regulations and that required a significant amendment to the existing Municipal Code. He said Notice of Intent Ordinance No. 1290 incorporated all the required changes by the State Legislature. There was further discussion and Manager Brown discussed the importance of keeping their local labor board. Councilor Ray moved to approve Notice of Intent Ordinance No. 1290: An Ordinance declaring the intention of



the Town to continue the existence and operation of its “Local Labor-Management Relations Board”, and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35, of the Town of Silver City Municipal Code. 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.

**I. Appointment to the Cemetery Board.** Mayor Ladner said the Town received an application from Elizabeth Miller to continue her service on the Cemetery Board. He said the Chair of the Cemetery Board highly recommended her reappointment, and if there was no objection, he would like to reappoint Mrs. Miller. There was no objection from the Council.

**13. ADJOURNMENT** – Mayor Ladner concluded the meeting and stated the remote meetings had been a wonderful experience and he said they were fortunate to have the administration they had. He thanked all the administration, including Manager Brown, Assistant Manager Marshall, Attorney Scavron, and Clerk Mackie. He also thanked the Councilors for their Council work and their service in the community. He said they were very fortunate to have the Council they had. He thanked everybody and said they made his role as Mayor so easy. Councilor Ray moved to adjourn at 7:48 p.m., and Councilor Aiman-Smith seconded. Mayor Ladner stated there was a motion and a second to adjourn. 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.

\_\_\_\_\_  
Ken Ladner, Mayor

Attest:

\_\_\_\_\_  
Ann L. Mackie, Town Clerk

**ORDINANCE NO. 1290**

**TO ADOPT AN ORDINANCE DECLARING THE INTENTION OF THE TOWN TO CONTINUE THE EXISTENCE AND OPERATION OF ITS “LOCAL LABOR-MANAGEMENT RELATIONS BOARD”, AND FURTHER, AMENDING CHAPTER 38, ARTICLE II (COLLECTIVE BARGAINING), SECTIONS 38-22 THROUGH 38-35 OF THE TOWN OF SILVER CITY MUNICIPAL CODE**

**WHEREAS**, in 1975 and as later amended in 2008, the Town of Silver City adopted an ordinance which governed the labor-management relations between the Town, certain of its employees, and any labor or employee organization representing or seeking to represent such employees; and

**WHEREAS**, such ordinances are codified in the Town’s Municipal Code in Chapter 38, Article II; and

**WHEREAS**, as part of the comprehensive regulation of labor- management relations, the aforementioned ordinances created a Local Labor-Management Relations Board (hereinafter, the “Local Board”) all consistent with the statutes, rules, and regulations of the State; an,

**WHEREAS**, the New Mexico State Legislature has passed certain legislation which affects the substance of Article, including the creation and application of certain new rules and regulations which are incumbent upon the Town to adopt in order to keep and maintain its Local Board; and

**WHEREAS**, being the intention of the Town of Silver City to keep and maintain its Local Board, the Town Council has adopted the amendments described herein to comport with State Statutory mandates and declares its intention to continue the existence and operation of its Local Board; and

**WHEREAS**, the Town Council of the Town of Silver City finds that the amendments to

the Town's Municipal Code as made herein are necessary for the health, safety and welfare of the Town;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:**

As a matter of first concern and in compliance with §10-7E-10 NMSA 1978, the Town Council hereby affirms that the Town of Silver City intends to, and shall continue to, maintain and operate its Local Board, consistent with the rules and regulations expressed and codified in the Town of Silver City Municipal Code, Chapter 38, §§38-22 et seq., as amended, and directs the Town Manager to forward a copy of this Ordinance and any other documents as required to be submitted to the State of New Mexico Labor Relations Board. The Town Council adopts the following amendments to assure consistency between its Municipal Code provisions and those provisions mandated by the State Legislature to take effect July 1, 2020.

**Chapter 38, Section 38-22** is hereby deleted and replaced as follows:

**Section 38-22. Definitions.** All definitions set forth in NMSA 1978, §10-7E-4 are hereby incorporated herein by reference as if fully set forth in this article.

**Chapter 38, Section 38-26 (a)** and its title is hereby deleted and replaced as follows:

Section title is to be "**Rights of public employees.**"

(a) Public employees, other than management employees and confidential employees, may form, join or assist a labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion and shall have the right to refuse those activities. Further, public employees have the right to engage in other concerted activities for mutual aid or benefit. This right shall not be construed as modifying the prohibition on strikes set forth in Section 10-7E-21 NMSA 1978.

**Section 38-26 (c)** is deleted and replaced with:

(c) There shall be no union shop, agency shop, or other compulsory forms of unionization negotiated into any collective bargaining agreement with the Town government.

**Section 38-26 (g)** is deleted and replaced with:

(g) The Town shall provide an exclusive representative of an appropriate bargaining unit reasonable access to employees within the bargaining unit, including the following:

(1) for purposes of newly hired employees in the bargaining unit, reasonable access includes:

(a) the right to meet with new employees, without loss of employee compensation or leave benefits; and

(b) the right to meet with new employees within thirty days from the date of hire for a period of at least thirty minutes but not more than one hundred twenty minutes, during new employee orientation or, if the public employer does not conduct new employee orientations, at individual or group meetings; and

(2) for purposes of employees in the bargaining unit who are not new employees, reasonable access includes:

(a) the right to meet with employees during the employees' regular work hours at the employees' regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and

(b) the right to conduct meetings at the employees' regular work location before or after the employees' regular work hours, during meal periods and during any other break periods.

**A new subsection (h) under Section 38-26** is added, which states:

(A) The Town shall provide the information in the employer's records to the exclusive representative within ten days from the date of hire for newly hired employees in an appropriate bargaining unit, and every one hundred twenty days for employees in the bargaining unit who are not newly hired employees, in an editable digital file format agreed to by the exclusive representative, the following information for each employee in an appropriate bargaining unit:

(1) the employee's name and date of hire;

(2) contact information, including:

(a) cellular, home and work telephone numbers;

(b) a means of electronic communication, including work and personal electronic mail addresses; and

(c) home address or personal mailing address; and

(3) employment information, including the employee's job title, salary and work site location.

(B) The information shall be kept confidential by the labor organization and its employees or officers. Apart from the disclosure required by this subsection, and notwithstanding any provision contained in the Inspection of Public Records Act, the public employer shall not disclose the information described herein this section, or public employees' dates of birth or social security numbers to a third party.

**A new subsection (i) under Section 38-26** is added, which states:

The Town shall permit an exclusive representative to use the Town's facilities or property, whether owned or leased by the employer, for purposes of conducting meetings with the represented employees in the bargaining unit. An exclusive representative may hold the

meetings described in this section at a time and place set by the exclusive representative. The exclusive representative shall have the right to conduct the meetings without undue interference and may establish reasonable rules regarding appropriate conduct for meeting attendees. The meetings described in this section shall not interfere with the public employer's operations.

**A new subsection (j) under Section 38-26** is added, which states:

(j). An exclusive representative shall have the right to use the electronic mail systems or other similar communication systems of a public employer to communicate with the employees in the bargaining unit regarding:

(1) collective bargaining, including the administration of collective bargaining agreements;

(2) the investigation of grievances or other disputes relating to employment relations;  
and

(3) matters involving the governance or business of the labor organization.

(4) Nothing in this section prevents a public employer from providing an exclusive representative access to employees within the bargaining unit beyond the reasonable access required under this section or limits any existing right of a labor organization to communicate with public employees.

**Section 38-30(a)** is deleted in its entirety and replaced with:

(a) The Town government or its representative(s) shall not:

(1) discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

(2) interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the

decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization; provided, however, that this subsection does not apply to activities performed or expenses incurred:

(a) addressing a grievance or negotiating or administering a collective bargaining agreement;

(b) allowing a labor organization or its representatives access to the public employer's facilities or properties;

(3) performing an activity required by federal or state law or by a collective bargaining agreement;

(4) negotiating, entering into or carrying out an agreement with a labor organization;

(5) paying wages to a represented employee while the employee is performing duties if the payment is permitted under a collective bargaining agreement; or

(6) representing the public employer in a proceeding before the board or a local board or in a judicial review of that proceeding;

(7) dominate or interfere in the formation, existence or administration of a labor organization;

(8) discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;

(9) discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;

(10) refuse to bargain collectively in good faith with the exclusive representative;

(11) refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule; or

(12) refuse or fail to comply with a collective bargaining agreement.

**Section 38-33. Negotiating procedures., subsection (f) *Resolving disputes.* is deleted in its entirety and replaced with a new title and the following subsections, which shall read:**

*(f) Impasse and resolving disputes.*

(1) The following impasse procedures shall be followed by the Town and labor representatives.

(a) if an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations unless the parties can agree on a mediator. A mediator with the federal mediation and conciliation service shall be assigned by the board or local board to assist negotiations unless the parties agree to another mediator; and

(2) if the impasse continues after a thirty-day mediation period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. One arbitrator shall be chosen by the parties by alternately striking names from such list. Who strikes first shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues pursuant to Subsection H of Section 10-7E-17 NMSA 1978 and the Uniform Arbitration Act no later than thirty days after the arbitrator has been notified of selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. The costs of an arbitrator and the arbitrator's related costs conducted pursuant to this subsection shall be shared equally by the parties. Each party shall be responsible for bearing the cost of presenting its case. The decision shall be subject to judicial



review pursuant to the standard set forth in the Uniform Arbitration Act.

(3) The Town's representative(s) may enter into a written agreement with the exclusive representative setting forth an alternative impasse resolution procedure.

(4) In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the public employer to increase any employees' levels, steps or grades of compensation contained in the existing contract.

**Section 38-34 (a) is amended to include two new subsections, (5) and (6) which shall read:**

(5) The board has the power to enforce provisions of the Public Employee Bargaining act through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violations, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the board.

(6) The board shall maintain current versions of its rules on the Town's website, along with a current listing of the members of the board and shall within 30 days notify the State Board of any revisions of its rules or change in its membership.

**Section 38-34 b. is deleted in its entirety and replaced with:**

(b) *State rules to govern.* The rules adopted by the board shall be consistent with the rules promulgated by the New Mexico Public Employee Labor Relations Board. Upon a conflict between any rule or regulation in this Article and the applicable State rules, such conflict shall be decided in favor of the State rules.

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the Town of Silver City,

Grant County, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

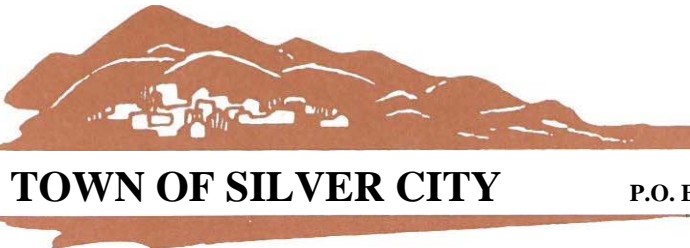
(Seal)

TOWN OF SILVER CITY

\_\_\_\_\_  
Ken Ladner, Mayor

Attest:

\_\_\_\_\_  
Ann L. Mackie, Town Clerk



**TOWN OF SILVER CITY**

P.O. Box 1188, Silver City, New Mexico 88062 (575) 538.3731 • FAX (575) 534-6377

TO: Mayor, Council Members and Mr. Brown  
FROM: Vanessa Cardenas, Purchasing Agent  
DATE: May 5, 2020  
RE: Request for Quotes; FY 19/20 Audit Services

The town has received three quotes for FY 19/20 Audit Services. Quotes were received by April 16, 2020 and opened shortly after at City Hall Purchasing Office 101 W Broadway, Silver City, NM 88061.

The following quotes were received:

AUDIT FIRM	BASE QUOTE
Stone McGee & CO CPA's	\$50,926
Kriegel Gray Shaw & Co., P.C.	\$50,400
Beasley, Mitchell & CO.	\$51,744

It is staff's recommendation to award FY 19/20 Audit Services as follows:

Request for Quotes Based on Qualifications: FY 19/20 Audit Services  
Stone, McGee & Co CPA's  
1311 N Grant  
PO Box 2828  
Silver City, NM 88062

BASE QUOTE	GROSS RECEIPTS TAX 8%	TOTAL
\$ 50,926	\$ 4,074	\$ 55,000

*Vanessa Cardenas*

Vanessa Cardenas  
Purchasing Agent

## LEGAL NOTICE

The Town of Silver City Council will hold a remote Regular Meeting on Tuesday, May 12, 2020 at 6:00 p.m. The meeting will be held remotely via Go To Meeting and in compliance with the NM Open Meetings Act. The public may attend the meeting as follows: 1) Please join the meeting from your computer, tablet or smartphone by going to this web link:

<https://global.gotomeeting.com/join/311805885>. **You can also dial in using your phone. Call** United States: **+1 (786) 535-3211**, and respond with **Access Code: 311-805-885**.

Public input may be submitted by email by 3:00 p.m. on May 12 to the Town Clerk at [townclerk@silvercitynm.gov](mailto:townclerk@silvercitynm.gov), and the comments will be read into the record during the Council meeting. The action items on the agenda include:

**Unfinished Business – A.** Approval / Disapproval of Ordinance No. 1290: An Ordinance declaring the intention of the Town to continue the existence and operation of its “Local Labor-Management Relations Board”, and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35, of the Town of Silver City Municipal Code.

**New Business - A.** Approval / Disapproval of Audit Services Firm Recommendation for Fiscal Year 2019/2020.

### **Adjournment**

Agendas are available prior to the meeting and may be on the Town's website, [www.townofsilvercity.org](http://www.townofsilvercity.org). If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid service to attend or participate in the hearing or meeting, contact the Town Clerk at 534-6346 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact The Town Clerk if summary or other type of accessible format is needed.