

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

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 and did a roll call of the Councilors and staff.

2. CHANGES TO AGENDA – Councilor Aiman-Smith made a motion to remove New Business, Item D, and postpone it to the next regular Council Meeting. 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.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Aiman-Smith thanked the local independent press, *The Silver City Daily Press*, and the Grant County Beat website for working to report various community activities, and stated she completely supported the rights of a local paper to do that reporting. She encouraged everyone to practice social distancing, mask wearing, and good hand hygiene due to the accelerated rise in positive COVID-19 cases in Grant County. Councilor Cano said she received several phone calls about mosquito problems in a pond area near Kimberly Street and Highway 15 and she asked if the Town could spray or do something. She said she attended a meeting about Gila River For All for people of color and how it was a good discussion of the next step for the Wild and Scenic River Designation and she was looking forward to the next step in the process. She shared how her sister in another state tested positive for COVID and because she wore a mask all the time, none of her coworkers or clients got COVID, so wearing a mask stopped a potential hot spot. Manager Brown responded to Councilor Cano's concerns about mosquitos and said the Town had an employee that did epidemiology and would pass out dunking donuts to treat those types of pools, and that people could call the Utility Department to report mosquitos. Councilor Ray thanked Manager Brown and staff for the fireworks show on the 4th of July and said he hoped they would keep doing it even though people complained about the noise because it was a celebration and their heritage. He said he called the number for the Governor and asked them to do a Spanish translation for their weekly or biweekly television appearances. He commented how people were getting hateful toward one another and he hoped the news media covered it well when the Council said something at their meetings, and he hoped the media would report what they actually said and not cut off their comments. He said the Council had a very hard thing to do in trying to please all of the people, and they were only four people and they tried to do things for everybody involved. He said they were going to cancel the Carnitas, Música y Mas event scheduled for September because of COVID-19, and they would wait until next year. He said he texted Lieutenant Governor Howie Morales to ask the state to hold off school until January 2021 because they were going too fast to open up things, and they needed to be concerned for the public, kids, and teachers. He said a lot of people were going to home school their kids. He said if a sporting event played another anthem or knelt down, he would not watch it. He also said the BLM (Black Lives Matter) had gone too far, and he thought all lives mattered, even the lives of babies being aborted mattered. Councilor Bettison said she wanted to discuss masks and she thanked Councilors Aiman-Smith and Cano for commenting on the effectiveness of masks. She said she received a number of

phone calls from people that shopped inside the municipality and she was concerned that most of the small and medium stores seemed to be following the mask mandate by the Governor in requesting folks to wear masks in order to be provided service, but the exception was one big box store. She discussed how people questioned the constitutionality and the appropriateness of the mandatory wearing of masks and she asked everyone to consider how speeding, running red lights, drinking and driving, and smoking indoors put others' lives at risk and those things were not done for the most part. She said putting a child in the appropriate car seat or carrier was to protect the child's life, and the wearing of seat belts was to protect their own life and the lives of others. She asked folks to wear a mask whether they were a resident, a visitor, a person coming into town to shop, etc. to protect their health and the health of others. She said she was a scientist and anthropologist and that COVID-19 was a virus and not the flu, and it had shown to affect any number of organs in the body, and not just respiratory. She said New Mexico's Doctor Scrase mentioned the COVID-19 virus could impact the reproductive health of males of all ages that tested positive whether they were symptomatic or asymptomatic, and no matter the age of the male a lifelong sterility could result. She asked everyone to please wear a mask to protect themselves and others. She said she discussed with Manager Brown how they could educate themselves and others to wear a mask to protect themselves and others, and that she had asked Attorney Scavron to learn whether the education and ordinances in Taos and Santa Fe had been effective.

Mayor Ladner asked Attorney Scavron to proceed with his report. Attorney Scavron discussed Taos' Resolution Declaring a Civil Health Emergency that required everybody over age four to wear a face covering when in public and he provided further details of that resolution. He said the Town needed to formally declare a civil health emergency for the formality of complying with the Municipal Code. He said the Santa Fe's Public Health Protection Ordinance required every person over the age of 15 to wear a face covering when in public and he provided further details of that ordinance that included a written warning for the first violation followed subsequently by a fine. He said Las Cruces had a Resolution of encouragement with no penalties and no force of law and it encouraged the use of face coverings in retail and commercial businesses. He said the bottom line was if a community did not want to protect itself or abide by the common good or by regulations designed for the common good, there was very little that law enforcement or government could do. He said the people needed to cooperate, etc. and that wearing a mask is better for themselves, their family and their community, and if they chose not to do that he was not sure how much more education was available, and mandating it may be an impossibility because of resources and space in the jail. He said he noticed that the most effective thing was community pressure by telling people to wear a mask or shaming people to wear a mask, but some people were afraid to do that. He said he was not optimistic about any kind of law enforcement without the community buying into it and at this point the overwhelming majority of the community had bought into it. He said those that exercised their own private rights, ostensibly supporting the American Constitution while ignoring the good will or the good health of their neighbor, was hypocritical and shameful.

Councilor Bettison thanked Attorney Scavron for his comments. She recalled how former Mayor Marshall said the reason why they developed resolutions and ordinances was to set the expectations how they would like the citizens to abide by the common good. She said it was something to consider. She said she did not think fining someone or arresting someone was the answer but educating someone more and that in fact it could affect sexual reproduction of any male of any age is something people needed to know and was critical. She said it was really about educating folks and informing them and providing them with the where with all to wear masks.

Mayor Ladner asked if there were other Councilor comments. Councilor Ray said he was glad Councilor Bettison and Attorney Scavron had debated on it. He said he texted Lieutenant Governor Howie Morales to ask him to ask the Governor to change her language on masks to ask people to consider wearing a mask. He said the word "consider" had a very powerful meaning to it because when you start ordering people to do things people would revolt. Councilor Cano disagreed with Councilor Ray. She said they were past the point of asking people to do things. She said as leaders in the community and members of the Council they needed to really strongly consider what the Governor was saying and do their best to let the community know they supported that. She said it was important for all the elected officials and those running for office to consider what they were doing and become better examples and wear masks.

6. APPROVAL OF MINUTES - Regular Meeting on June 23, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Town Council Meeting of the Town of Silver City of June 23, 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 she received an email from Mr. Daniel Meszler, Senior Director of Government Relations of WNM Communications, that asked if Fatbeam, LLC would be opening a local office and how many local people they might directly employ.

8. REPORTS –

A. Staff Reports - Update on the budget by Manager Brown. Manager Brown said at the next Council meeting they would have to adopt the budget for Fiscal Year 2021. He said it had been stressful trying to figure out a budget in the current economic situation, but he was fairly confident that working with a 15 percent decrease in revenue would be very conservative for the situation they were in. He said they ended Fiscal Year 2020 with gross receipts in the amount of \$10,600,000 and that was the most they had ever brought in, so they were having a really good year. He said at this point he stands to bring to them a budget that decreased revenues by 15 percent and that they would not have to do any more cuts and all of the hiring freezes that were in Fiscal Year 2020 were not in Fiscal Year 2021. He said some employees left for other positions and helped allow him to not cut more than necessary. He said they had notices out for furloughs of hours to museum and library employees, but if the receipts they get for May was less than 24 percent down from last year then he would go with the 15 percent decrease in revenue budget because May should be the lowest month. He said he would monitor the budget closely every month. He said the water and sewer fund had seen a five percent increase in revenue and a seven percent increase in consumption. He said the sanitation fund was fairly flat. He said the lodger's tax fund was hit the most; that they had budgeted \$364,000 in revenue and they were on track to hit it, but they would probably hit around \$320,000, and the tourist season brought in a quarter of what they usually had. He said in the next fiscal year in the lodger's tax fund he was budgeting \$169,000 and most of it would go to the marketing firm. He said some employees left the service of the town and for safety issues they would replace some employees so they would see some advertising to replace employees in the next few weeks.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS –

A. Approval / Disapproval of Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC. Attorney Scavron said at the last Council meeting the Notice of Intent to adopt an Ordinance granting a franchise was discussed and a representative from Fatbeam made herself available for questions and for her own presentation. It was determined that a Fatbeam representative was not present. Attorney Scavron said questions from Mr. Meszler from WNM Communications were answered by Fatbeam. Mr. Meszler said WNM was a local company and had an office in the communities they served and employed 50 to 60 employees in the community. He asked if Fatbeam would open an office in the community and employ members of the community. Attorney Scavron said when a franchise was granted there were parameters of what had to be used for consideration and it was in the Municipal Code. He said there was no requirement in the Municipal Code for the granting of a franchise that the applicant disclose how many employees would be located locally and how they would deal with service issues. He said currently there was no Comcast office in Grant County and no Century Link office in Grant County. He said it was not part of the consideration of the franchise. He provided further details and stated they could not deny a franchise because there were no local people. He said there were limited grounds for denying a franchise and he gave examples. He listed all the ways that Fatbeam had complied with the ordinance's application process. He said Fatbeam had responded to all of WNM's previous questions even though they could say it was none of their business. He said federal law required there be neutrality in competition so when he presented Fatbeam with a draft franchise ordinance it was exactly the same as given to WNM. He said Fatbeam was asking for a 10-year franchise. He said their contract was with Silver Schools to provide infrastructure and fast broadband for telecommunications for the schools because the schools were underserving their students, and this was a remedy. He recommended the Council vote for the franchise, especially in the absence of any disqualifying facts. There were no questions. Mayor Ladner asked for a motion. Councilor Aiman-Smith moved to approve Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC. 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.

11. NEW BUSINESS -

A. Approval / Disapproval of Resolution No. 2020-15: 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, New Mexico, transferring and appropriating funds thereof. Manager Brown said they had to do their final budget adjustment. He said they brought in a substantial amount of more revenue into the general fund, so they were increasing revenue projections by just over a \$1,000,000. He said the sanitation fund increased by \$143,000 and the water and sewer fund had increased by \$155,000. He said the loan for the fire equipment and the MainStreet grant were increases in revenues. He provided further details about an upgrade in the software at almost \$200,000, and how they were increasing the amount to the golf course because it was important that they become self-sufficient and start paying for upgrades and taking care of business. He said the majority of everything that was increased was mainly for grants, etc. There were no questions. Councilor Bettison moved to approve Resolution No. 2020-15: 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, New Mexico, transferring and appropriating funds thereof. 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.

B. Approval / Disapproval of Resolution No. 2020-18: Participation in Local Government Road Fund Program administered by the NM Department of Transportation (for chip seal and fog seal). Manager Brown said the resolution was for the annual chip seal Cooperative Program from the New Mexico Department of Transportation. He said it was the program they pay for their chip seal program out of. He said the grants used to be around \$200,000 and they have decreased substantially. He said the actual grant amount was for \$61,989. He said the actual chip seal project usually costs in the range of over \$200,000 and the grant subsidized the chip seal projects from year to year. He said they already had a grant for this year's project in the area of the Pine and Kimberly neighborhoods. He said this grant would be by the university and all the streets were listed on the resolution. He said it would only pay for the chip seal portion of the project and they would use the street maintenance fund to do the fog seal and the street striping. He said they would end up paying about \$110,000 to \$120,000 out of their own pocket to complete the project. There were no questions. Mayor Ladner asked for a motion. Councilor Aiman-Smith moved to approve Resolution No. 2020-18: Participation in Local Government Road Fund Program administered by the NM Department of Transportation (for chip seal and fog seal). Councilor Cano seconded. There was no 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.

C. Approval / Disapproval of Resolution No. 2020-19: a Resolution of the Town of Silver City ratifying a certain agreement between the Town of Silver City and the Southwest New Mexico Council of Governments, dated July 14, 2020, and authorizing the execution of same by the proper official of the Town of Silver City. Manager Brown said it was the annual resolution required to work with the Council of Governments and it was only for \$6,189 for the dues per year. He said Priscilla Lucero, Executive Director of the Southwest New Mexico Council of Governments, brought in about \$2,000,000 to \$3,000,000 worth of projects. He said the \$6,189 for the dues was well worth all of the support they received from Priscilla and her staff. He recommended they approve the resolution and stated he currently served as the Vice-Chair and he requested they appoint him as the representative on the board. Councilor Bettison moved to approve Resolution No. 2020-19: a Resolution of the Town of Silver City ratifying a certain agreement between the Town of Silver City and the Southwest New Mexico Council of Governments, dated July 14, 2020, and authorizing the execution of same by the proper official of the Town of Silver City and designating Mr. Alex Brown, Town Manager, as the member. Councilor Aiman-Smith seconded and said she had the pleasure of working with the staff of the Council of Governments and the return on investment was spectacular in terms of professional help and advocacy. Manager Brown said the Colonias Initiative Program cut back about \$6,000,000 from their program and Priscilla went up and advocated for the Town and the program did not cut back any of the Town's allocations for the Ridge Road and Wastewater Treatment Plant projects. He said they got another grant for \$1,300,000 for the sewer project from five or six years ago to pay for the engineering and construction of the sewer line expansion in the area. He said it was a 100 percent grant that they did not have to pay for but would just have to oversee it. 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. Selection of the third member and the Chairperson of the Town’s Labor-Management Relations Board. See Changes to the Agenda above that removed this item from the agenda and postponed it to the next Council Meeting .

E. Appointment to Cemetery Board. Mayor Ladner said the Chair of the Cemetery Board recommended Linda Nuñez to the Cemetery Board. He said if there was no objection, he would like to reappoint her. There was no objection. Councilor Cano said Ms. Nuñez used to be an employee of the Town and served on the Cemetery Board, and when she retired, she continued serving on the Cemetery Board. She said Ms. Nuñez was very valuable to the Cemetery Board and had a wealth of knowledge that none of them had.

F. Appointment to the Library Community Advisory Group. Mayor Ladner said the Chair recommended the reappointment of David Krisch, and if there was no objection, he would reappoint him. There was no objection. Councilor Aiman-Smith said she served as the appointed from the Town on the Library Advisory Group and served with David Krisch for a number of years and found him to be conscientious, responsible, and a very active member. She said she appreciated working along side him. Mayor Ladner reappointed David Krisch.

12. ADJOURNMENT – Mayor Ladner concluded the meeting and thanked Mr. Higgins for setting up the remote meeting. Her thanked the press for joining. Councilor Ray moved to adjourn at 6:59 p.m., and Councilor Aiman-Smith seconded. Mayor Ladner asked if there was any discussion, and there was none. He adjourned the meeting.

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk