

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
September 8, 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
Robert Higgins, Information Technology Director
Priscilla Arredondo, Town Planner
Tim Tavizon, Police Sergeant

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 Mayor, Councilors and staff.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – “**Constitution Week**” – **September 17-23, 2020.** Mayor Ladner read the proclamation and acknowledged the presence of Marianne Bray, Secretary and Vice Regent of the Jacob Bennett Chapter of the Daughters of the American Revolution.

5. COUNCIL COMMENTS – Councilor Bettison thanked the New Mexico Municipal League’s (NMML) staff, Executive Director AJ Forte, and the Executive Committee for the successful 63rd Annual Conference which was held virtually for the first time. She said they decided there will always be a virtual component of the Annual Conference in the future so folks may attend, including Past Presidents, and individual municipalities that could not afford to send folks to attend the conference. She discussed the event and how her role as President would end when the new President, Neil Segotta, Mayor of Raton, would begin his term as President on October 1, 2020. She named the other new members of the Executive Committee that would begin their terms on October 1, and how she looked forward to working with them as the Immediate Past President.

Councilor Aiman-Smith said the virtual business meeting of the NMML Annual Conference was great and it was a great way to address the needs of distancing and togetherness at the same time. She commented how the New Mexico Health Department website had a dashboard where you could track a variety of statistics of the Coronavirus, and she encouraged everyone to become familiar with it. She stated as of that date 89 people tested positive in Grant County and two people lost their lives to the Coronavirus. She encouraged everyone to exercise their right to vote and how they could contact the County Clerk to request an absentee ballot application.

Councilor Cano commended Councilor Bettison for all she had done as President of the NMML, and how it was a hard job trying to get 106 municipalities to work together, but this year was quite difficult for the NMML. She said no other President had to go through what she went through and she did it with a lot of grace and kept them all together in the state, and not just the community. She commented that PNM was asking people to keep their air conditioners at a steady temperature and to consider running major appliances after 9:00 p.m. She said she had been approached by several residents that asked about the mask mandate signs that were hung downtown, and how they wanted to know who paid for them and who put them up. She asked Manager Brown and he stated the Silver City MainStreet Project paid for them and put them up. Councilor Cano said she recently read a social media post by a 12 year old resident from Silver City, and reached out to her and got her permission to share her message at the Council Meeting. She read the message written by Elena Morales, daughter of Lieutenant Governor Howie Morales, that described how hard it had been with the Coronavirus: how she missed her Grandpa and spending time with her extended family; how she missed her teammates

and people's smiles; and how she missed playing with friends and their activities, and would rather be outside than inside. Ms. Morales' message concluded with a message to her peers to believe, have faith and hope that they can beat the Corona, and to please wear a mask and stay safe. Councilor Cano said Elena's words gave her insight on what the youth of their community were feeling. She said their community had gone through some tough times lately, as had other towns across the state, and other states across the country. She said they were not alone in what they were going through, yet there were some people that acted like they were facing some sort of unfair persecution because they were being asked to follow the same Public Health Orders as every other New Mexican. She stated if there was an issue with water and it had to be boiled for safety, they would do it without protest, and if they had to stay inside due to severe smoke because of a forest fire, they would do that too. She said they were asking everybody to come together for the entire community and wear a mask for a short time, and people were acting petulant and were referring to the Council as Nazis on social media. She suggested they stop and think about what they were doing to the community's children and not forget that the young people of the community looked up to them for leadership and guidance, and they owed it to them and their futures to do what was best for them. She said the kids had taken the brunt of their changes, yet they were doing an amazing job of rolling with whatever comes next. She said they understood the concept that the more they wear the mask, the faster it will all be over and they can get back to school, sports and seeing their friends. She said if they get it and were able to do it, then the adults should be able to figure it out, too. She asked that people consider not just what their wants and needs were, but to think about the young people in the community. She said they deserved to live their lives free of danger and they should do what they were able to do to make that happen. Councilor Cano also discussed the recent Town Ordinance that confirmed the Governor's Health Orders and how the big difference was that now the Silver City Police Department had the authority to enforce the Ordinance. She said she was surprised to learn from several local business owners that they had been told the Police Department would not be enforcing the Ordinance on direct orders from the Mayor. She asked if it was true, what authority did the Mayor have to go against the Governor's mandate, why did he not mention that he would not enforce the Ordinance before they passed the Ordinance, why were the new signs put up downtown about the mask mandate, and what were they supposed to tell the local business owners that were thankful to have the support of local law enforcement. She said if it was not the decision that was made, then it needed to be made perfectly clear because there was a lot of confusion in the town about it and they needed to know what to tell people.

Councilor Ray explained why he voted no against the recent Ordinance to mandate face coverings. He said he understood that it was for the safety of the public, but there were people including himself, that had health issues and could not breathe with a mask on. He said he would go with mask guidelines if the mask would just cover the mouth and not the nose and mouth so he could breathe through his nose. He said he hoped Councilor Bettison and the Governor would take health issues into consideration. He commented on an article in the Silver City Daily Press and said he did not have a change of heart concerning the Ordinance; that he was against it in the beginning and he was still against it. He said he felt that a mask did not protect him and it hindered his breathing. He commented how the Silver City Daily Press was very biased when they talked about the town not having certain fiestas, and how they failed to mention the Carnitas, Musica y Mas Fiesta, and he questioned if it was because the organizers were Spanish. He said it was very wrong and close to being prejudiced. He said he was getting calls about the Citizens Advisory and Review Board for the Silver City Police Department, and he flat out told them he was against it. He said the Mayor and Council had nothing to do with it, and they were not running the Police Department, but the Police Chief was. He questioned why they would want someone to interfere with the Police force, and stated every entity had bosses so let them do it. He said he talked to numerous people and they were all against it. He said it should have never gotten this far to have a review board, and how it could lead to other review boards for the Mayor, Council, Fire Department, etc. He said everybody was doing their best job. He discussed Planned Parenthood and how on April 7, 2020 there were 41 people from the House of Representatives in favor of it and 27 from the Senate in favor of it. He said he was against abortions, how Governor Michelle Lujan Grisham was for abortions, and he asked where they were headed and said they needed to stop those people. He said things were getting out of hand when they had no shame in cutting people down and putting things on Facebook, and they were adding fuel to the fire. He said the rest of the country and world were watching them bicker among themselves. He said to stick to what was in your heart and not what special groups wanted. He commented on the Governor's recent Public Health Order and how it said all New Mexicans should stay in their homes for all but the most essential activities and services. He said they were trying to control everybody's lives and little by little they would do it. He read that unless a health care provider instructed otherwise all individuals shall wear a mask except when eating and drinking, and how that might help, and he welcomed comments from Councilor Bettison. He commented that every single veteran was

being scarred by war and by the people. He said he was a Trump supporter and would vote for President Trump in the upcoming Presidential Election. He commented on his recent fall while he was running, and ended by saying God Bless America and every one in it.

Councilor Bettison thanked the key note speakers at the NMML Annual Conference: Governor Michelle Lujan Grisham, former Governor Garrey Carruthers, and Lieutenant Governor Howie Morales. She said all of them gave a very unifying message about the need to work to prevent COVID-19 and to move forward together as New Mexicans. She thanked Tim Eichenberg, State Treasurer, and Brian Colón, State Auditor, for their impressive remarks at the conference. She also thanked Councilor Cano for her kind words, for asking Elena Morales if she could speak her words, and for her comments. She discussed the most recent information from the Oakridge National Laboratory in Tennessee about COVID-19 and how the most important thing to know from the study was that the primary entry was through the nose, and she explained. She said to Councilor Ray there was a medical exemption in the Ordinance that said the exact same thing as the Governor's Public Health Order, and there was a reason why it was extremely important to cover the nose if at all possible. She said it was still the right of the store owner to say, "No shirt, No shoes, No mask, etc." because it was their private business. She said their officers were not there to provide you with entry and it was their right as a business owner not to accept the medical exemption. Councilor Ray thanked her and said he wanted to do things correctly.

Mayor Ladner addressed Miss Morales' comments and said the Mayor did not have the authority to issue orders to the Police Department; that the Police Department came under the supervision of the Town Manager. He said they had been enforcing the mask law since around March and the technique was to use education. He said when the Council passed the Ordinance there was a grace period before the fines would start, and he explained. He asked Manager Brown how they were enforcing the mask law. Manager Brown said police officers would not stop their car to issue someone a citation, but they would issue a citation in the performance of their duties if they were called by Central Dispatch. He said the public needed to call Central Dispatch. He said the first thing a police officer would do, would be to ask for voluntary compliance and they would try to educate the person. He said if that did not work, the officer would move on. He said they did not want an incident to escalate into something larger than a face mask violation. He said the officer would deal with each situation accordingly. Councilor Cano clarified that the questions about the Ordinance being enforced were her words because she was the person receiving the phone calls from business owners; that the words she read at that point were not made by Elena Morales. Mayor Ladner said the purpose of what they were doing was to try to get community members to wear a face mask; that everything he read and studied showed that it was to their advantage to wear a face mask, etc. He commended the Police and Fire Departments for passing out masks to people that did not have masks. He said in the last two to three weeks more and more people were wearing their face mask, and he thought the method of Mr. Brown and the Police Department was working and was accomplishing what they were trying to do. He said the COVID-19 numbers for Southwest New Mexico and Grant County were doing very well.

6. APPROVAL OF MINUTES - Regular Meeting on August 25, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Town Council Meeting of the Town of Silver City of August 25, 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.

7. PUBLIC INPUT – Mayor Ladner asked Clerk Mackie if any public input was received by email. Clerk Mackie said no public input was received.

8. REPORTS –

A. Staff Reports – Budget Update from Alex C. Brown, Town Manager. Manager Brown said he wanted to talk about the status of their gross receipts tax revenues which was the largest source of revenue for the Town. He said as of August 2020 there was an \$11,000 change in gross receipts tax from last year. He said they were actually doing pretty well, and the \$11,000 difference was very small considering they already brought in \$1.9 million in gross receipts taxes this year. He said he compared different categories of businesses that report to the Town, and the biggest was retail, second was food, and third largest was health care. He said as of last month those three categories were keeping their gross receipts tax numbers up, especially retail and food sales. He said if the gross receipts tax revenues for September

came in as the past few months, he would recommend they hire a couple more employees in the Parks and Streets Departments because they had been short on staff since November 2019. He said the Library and Museum were closed, but have been able to catch up on a lot of other work that had built up over the years. He said probably at the next Council meeting he would bring a budget adjustment so they could add a couple of positions for Parks and Streets Departments. He said the Water and Sewer Fund was doing better than last year because of the warm weather and an increase of active accounts in their water system; that it had increased since February more than they had seen in a couple of years. He attributed the increase in accounts to the increase in gross receipts tax revenues, too. He said the category that was hit the hardest was food and accommodations, and that it had decreased by 30 percent from last year which was quite substantial. He said the Town received awards from the CARES Act in the amount of \$486,000 in general services to help offset some of the extra expenses because of COVID, and they also received about \$360,000 for the business retention program. He said they hoped to get it out in the next few weeks to help businesses in their community. He said Hurley and Bayard also received funds and between all of them, they received almost \$700,000 which would help out the businesses of the community. He said they would have a vigorous advertising campaign to make sure all businesses knew about it, and they would not have a complex application process. He said it would hopefully help out the Town's budget as well as the businesses. Councilor Ray thanked Manager Brown for saying he would hire more people in the Parks Department.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of Resolution No. 2020-21: A Resolution adopting the 2022-2026 Infrastructure Capital Improvement Plan (ICIP). Manager Brown said the state required them to adopt an ICIP every year, and they used it when awarding funds and for grant programs. He said it went out to all of the departments and staff and they tried to get public input. He said the top five on the list had funding sources identified and in those cases they got a lot of funds already generated and built up for a lot of the projects. He talked about the Ridge Road Project and the Gough Park / City Hall / Recreation Center Project that was three projects in one, and he explained how those three were part of a Recreation Master Plan. He talked about the Little Walnut Project and how they were working on right-of-way acquisitions so they could get to the city limits. He said they were working with the firm that was selling the lots in the Vistas de Plata Subdivision for the spec homes, but some utility work was needed so they would start working on that. He said the water fluent re-use project was to increase their capacity from the wastewater treatment plant up to the golf course so they would not have to supplement affluent water with potable water in late June and July for the golf course. He said the Historic Waterworks Building was part of the Recreation Master Plan Project and they wanted to consider it for a trailhead for the Continental Divide Trail. He said they hoped to make it the hub of their trails system. He asked if there were any questions. Councilor Bettison recommended the completion of Phase III on Cactus Street because folks on Cactus Street would like to see it completed, and that she had asked for it ever since she became a Councilor in 2009. She said it was listed in 2022 as number 19. Manager Brown said they could move it up to number 10. Councilor Aiman-Smith commented that it was the first ICIP that did not include the MainStreet Plaza because it was done. She acknowledged the work on the Little Walnut improvements and how it was a grueling process to do the right-of-way work on it. She said she was thrilled to see the Historic Waterworks Building as part of the entire master plan. Manager Brown told Councilor Cano that a lot of cemetery stuff had been added to the list. Councilor Bettison moved to approve Resolution No. 2020-21: A Resolution adopting the 2022-2026 Infrastructure Capital Improvement Plan (ICIP). 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. Notice of Intent Ordinance No. 1295: An Ordinance permitting the transfer of ownership of Town-owned property in exchange for privately-owned property commonly known as the “Hearst Millsite” located within the Town of Silver City, all pursuant to Chapter 48, Section 48-21 et seq., of the Town of Silver City Municipal Code.

James Marshall, Assistant Town Manager, presented the details of Notice of Intent Ordinance 1295. He said the Ordinance would cause a property swap between the Rydeski's and the Town. He said the Town was the current owner of 1.114 acres of land outside of the Town limits on Grandview and the Rydeski's were the owners of 3.781 acres commonly known as the “Hearst Millsite” within the Town limits. He said the Town had been seeking the property

before Councilor Bettison was on the Council. He said the property was a cleanup site and it had been done. He said they went through tens of thousands of records on the property, and the records had been reviewed by the Environmental Protection Agency (EPA) and the New Mexico Environment Department. He said Phase I had been completed on the property and they made arrangements for Phase II to be completed on the property once the Town had ownership of it. He said the piece of property was on the Trails and Open Space Plan and they would not need to modify the dirt. He said the property values were in the Town's favor per the Fair Market Analysis that was provided to the Council in their packet. There was further discussion and Mayor Ladner thanked Mr. Marshall and the Community Development Department for chipping away on the master plans that were sitting on the shelf. He asked for a motion. Councilor Cano moved to approve Notice of Intent Ordinance No. 1295: An Ordinance permitting the transfer of ownership of Town-owned property in exchange for privately-owned property commonly known as the "Hearst Millsite" located within the Town of Silver City, all pursuant to Chapter 48, Section 48-21 et seq., of the Town of Silver City Municipal Code. Councilor Ray seconded the motion. 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. Appointment to the Trails and Open Space Advisory Committee. Mayor Ladner said the Town received an application from Jody Norman to serve on the Trails and Open Space Advisory Committee, and the Community Development Department Director recommended her appointment. He said if there was no objection, he would appoint Ms. Norman. There was no objection. He said it gave them a full slate of members on that committee.

12. ADJOURNMENT – Mayor Ladner concluded the meeting Councilor Ray moved to adjourn at 7:06 p.m., and 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.

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk