

1. 6:00 P.M. July 27,2021 Town Council Meeting Materials

Documents:

[2021 07 27 AGENDA REGULAR COUNCIL.PDF](#)

2. 6:00 P.M. July 27,2021 Town Council Meeting Materials

Documents:

[2021 07 13 DRAFT MINUTES REGULAR COUNCIL MEETING.PDF](#)  
[RES 2021-15 FINAL BUDGET ADJUSTMENT FY 2021-2022.PDF](#)  
[RES 2021-16 FINAL QUARTERLY REPORT FY 2020-2021.PDF](#)  
[RES 2021-17 FINAL BUDGET APPROVAL FY 2021-22.PDF](#)  
[ORD 1304 AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES.PDF](#)  
[RECOMMENDATION LETTER FOR CDBG BID WATER SYSTEM IMPROVEMENTS.PDF](#)  
[2021 07 27 LEGAL NOTICE REGULAR COUNCIL.PDF](#)



# TOWN OF SILVER CITY COUNCIL

## REGULAR MEETING AGENDA

JULY 27, 2021, 6:00 PM

GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM

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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 July 13, 2021.
7. PUBLIC INPUT
8. REPORTS
  - A. Staff Reports.
9. PUBLIC HEARINGS-
  - A.
10. UNFINISHED BUSINESS
11. NEW BUSINESS
  - A. Approval / Disapproval of a Special Dispenser Permit Application for-
    - a. August 7, 2021, Knights of Columbus Car Show.
    - b. September 3-5, 2021, Carnitas, Musica y Mas Festival 2021.
  - B. Approval / Disapproval of Resolution 2021-15 -- Approving of FY 21 Budget Adjustments.
  - C. Approval/ Disapproval of Resolution 2021-16 -- Approving FY 2021 4<sup>th</sup> Quarter Report.
  - D. Approval/Disapproval of Resolution 2021-17-- Approving of FY 2022 Budget.
  - E. Approval/Disapproval of Notice of Intent Ordinance 1304 -- An Ordinance Amending Chapter 4 (Alcoholic Beverages), Article I (In General), Sections 4-1 through 4-31, and Article II (Licenses), Sections 4-32 through 4-36 of the Municipal Code of the Town of Silver City, Grant County, New Mexico.
  - F. Approval / Disapproval of Bid 2020 CDBG Water System Improvements – Chihuahua Hill East Water System Improvements.
  - G. Appointment of Labor – Management Relations Board.
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

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### ***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.*

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**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**;
4. 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;
5. 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;
6. meetings subject to the **attorney-client privilege pertaining to threatened or pending litigation** in which the public body is or may become a participant;
7. 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**  
**July 13, 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 Managers  
James Reynolds, Town Attorney  
Freddie Portillo, Police Chief  
Milo Lambert, Fire Chief  
Geoffrey Plant, Silver City Daily Press  
Jaime Embick, Community Development Director  
Jeff Fell, Assistant Fire Chief  
Kylle Marshall, Fire Marshall  
Roger Cruzan, Fire Inspector  
Roger Lanse, Grant County Beat  
Nancy Cliff and Craig Pruis, Landmark Certificate  
Carol Ann Fugagli, Climation Workshop  
Various members of the Silver City Fire Department  
Maria C. Sublasky, Acting Town Clerk  
Katherine Kunnert, Town Clerk

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE** – Mayor Ladner called the meeting to order at 6:00 p.m. Mayor Ladner stated first he wanted to recognized Police Chief Portillo, Fire Chief Lambert and quite a few members of the Police and Fire Departments. He also wanted to introduce the new Town Clerk, Katherine Kunnert.

**2. CHANGES TO AGENDA** – None.

**3. CEREMONIES**

**A. Presentation of Certificate for Silver City Landmark Status (905 W. 12<sup>th</sup> Street).** – Mayor stated Nancy Cliff and Craig Freas would be receiving the certificate. Ms. Embick stated according to Section 4.2.5 of the Land Use Code it allows a homeowner to nominate their home that is on the State or National Register as a Silver City Landmark. She stated the homeowners, Nancy Cliff and Craig Freas approached the Historic Design Review Committee and provided information of how important their home is to the Town of Silver City. Ms. Embick said the information they provide included the architectural style, previous owners, what it was used for, when they purchased the home and what has been remodeled. Nancy Cliff and Craig Freas met with the Historic Design Review Committee in April and were awarded the certificate but wanted to wait until there was an in-person Town Council Meeting to receive it. Ms. Embick stated this program is open to anyone who owns a home or commercial business within the four Historic Districts of the Town and can contact the Community Development Department to meet with the Historic Design Review Committee to nominate their own property. Ms. Embick said it does qualify the owner for special tax programs with State of New Mexico and Federal Government. They also receive the certificate from the Town to recognize their achievement and their pursuit to preserve the Towns historical homes and businesses. Mayor Ladner asked if anyone had any questions and there were none. Mayor asked Nancy Cliff and Craig Freas to approach the podium. Mayor Ladner then read the certificate, which stated, “Having met the standards in the 2010 Land Use and Zoning Code of the Town of Silver City, 905 West 12<sup>th</sup> Street is hereby acknowledged as a Town of Silver City Landmark Structure. Certified this 23<sup>rd</sup> day of April 2021.” Mayor Ladner said on behalf of the Town of Silver City it was a pleasure to present the certificate to them. Nancy Cliff and Craig Freas said their home is a brick bungalow and is on the New Mexico Register and they purchased the home in 1993. Craig Freas said they added an addition to the home but the original structure is intact and remains as it was originally built in 1918. He stated the home is 103 years old and everyone is welcome to stop by and take a look. Nancy Cliff said the home was originally owned by the Borensteins who still show interest in the property even though they no longer live here anymore.

**B. Letter of Commendation to be presented to Jeff Fell.** – Mayor Ladner said he would present the Letter of Commendation from the podium and invited anyone else who would like to join him to congratulate Jeff Fell. Mayor Ladner was joined by Assistant Fire Chief Jeff Fell, all four Councilors, Manager Alex Brown, Fire Chief Lambert, Police Chief Portillo, and other supporting officers. Mayor Ladner read the letter to Assistant Fire Chief Jeff Fell and thanked him and said it was a pleasure to present the letter on behalf of the city employees and elected officials. Assistant Fire Chief Jeff Fell thanked everyone and said when he volunteered and was appointed to this position, in no way did he know what was in store. Assistant Fire Chief Jeff Fell said he humbly accepted the letter, but by no means was it an individualist achievement. He stated there were a lot of people in our community that all stepped up. He said he had been with the City for 18 years and trained with the Fire Department and Emergency Medicine throughout those years. He stated, “Those of us who get into public service work, it’s times like these he felt they trained for, which was to bring people together for the greater good of the community.” Councilor Cano congratulated Assistant Fire Chief Jeff Fell and appreciated him informing the community on social media with all the Covid updates. Councilor Ray thanked Assistant Fire Chief Jeff Fell and said he has done tremendous job and wanted to commend all the people that work for the Town of Silver City, including the Fire Department, Police Department and EMS. Councilor Aiman-Smith thanked Assistant Fire Chief Jeff Fell and said it’s because of him, Silver City has the highest vaccination rates in the State and the community should continue getting vaccinated. Councilor Bettison also thanked Assistant Fire Chief Jeff Fell, the Fire Department and Police Department for ensuring Grant County was safe, protected, and had the correct information throughout the pandemic. Alex Brown said he echoed everything everyone has stated and said it has been a really stressful year and a half for everyone. Alex Brown said he had weekly meetings with Chief Lambert, Chief Portillo and James Reynolds and having their knowledge and support really made things easier. Chief Lambert thanked Assistant Fire Chief Jeff Fell for his sacrifice and said he’s been a beacon in this pandemic and his organizational prowess was a benefit to the entire community.

**4. PROCLAMATIONS** – None.

**5. COUNCIL COMMENTS** – Councilor Ray stated he like the 4<sup>th</sup> of July parade and wishes next year it would go through downtown. He stated he wishes next year to close downtown and have a party so the community can come together. Councilor Ray also said they are planning the Carnitas, Musica y Mas Fiesta for the first weekend in September. He stated there will be ten different bands, a beer garden, and a bull riding contest. Councilor Aiman-Smith said she has been enjoying the Open Spaces and outdoor trails and she thinks it’s going to be extraordinary and thinks it is wonderful that they are supporting the outdoor recreation. She also stated the downtown festivities are picking up, including the Clay Festival on the 17<sup>th</sup> and hopes the community starts coming out. Councilor Cano thanked the Fire Department for their quick response to the large fire on Mountain View Road on June 24<sup>th</sup>. She stated that she has received a lot of calls about people speeding downtown and hoped we could try to prevent that from happening. She also said she attended a Cannabis Legalization Conference because of the new law allowing recreational cannabis use. Councilor Cano said the New Mexico Municipal League is having a workshop for all elected officials and other government officials next week and encourages everyone to attend because it will be very informative. She stated Mr. Marshal has formed a committee that has been meeting about this and requests to be on that committee and would like to be the sponsor of the ordinance. Councilor Cano also stated that she thinks it would be really helpful if Lisa Jimenez could write an article informing the public about what the Council can and cannot do regarding business licenses and how businesses decide to come to Silver City because the public is very misinformed. Mayor Ladner thanked the Firemen and Policemen for providing masks to the public every Saturday because the virus is not dead and we still need to be careful and get vaccinated.

**6. APPROVAL OF MINUTES -**

**Regular Meeting on June 22, 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 June 22, 2021. 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** – Carolyn Fugagli introduced herself as the Education and Outreach Director for the Upper Gila Watershed Alliance, which is a Watershed Protection Nonprofit Organization based in Silver City. She stated she attended the meeting to advertise and promote a free Climathon called From Scraps to Substance that is happening on July 30<sup>th</sup> and 31<sup>st</sup>. She said a Climathon is a day and a half of workshops and the topic is composting. She said there is a lot of material they are trying to keep out of our landfill so they are trying to promote composting on two different realms. Ms. Fugagli said one is to promote composting in people’s backyards and the second is to try to find ways to elevate composting on a larger scale for local businesses in Silver City on a volunteer basis. She said it is for anyone fourteen and older and food and snacks are provided by Upper Gila Watershed Alliance. She stated they will have experts in the field give some background information about composting and then they will divide into teams. She stated on Saturday they will start brainstorming to come up with ideas and judges will decide the best idea. The team with the best ideas will win \$800 dollars. She said she really wants the youth involved and even has the Quarter Culture Club from the college attending. Their plan is to implement it throughout the year. She left flyers with her contact information and all the ways to register for the workshops.

**8. REPORTS**

**A. Staff Reports.** – None.

**9. PUBLIC HEARINGS** – None.

**10. UNFINISHED BUSINESS** – None.

**11. NEW BUSINESS**

**A. Approval / Disapproval of BID 20/21-6 RE-BID VISITORS CENTER PEDESTRIAN & TRAILHEAD IMPROVEMENTS** – Alex Brown stated this was the fifth re-bid on this project and they finally received a bid that came in within budget. He said this bid was put out in three bid lots, one was the Base Bid which was the sidewalks and lighting behind the Visitor’s Center as well as the signage over the bridge across the big ditch. He said Bid Lot number two was the closure of one of the exits out to highway 90 from the Visitor’s Center parking lot and the third was the bus shelter. Mr. Brown stated they did get two bids and one came in within budge from Southwest Concrete and Paving. He said he has discussed this with Public Works and they will be able to do the closure of the exit driveway themselves as well as the bus shelter. He stated they have some bus shelters at the Market Street facility that were purchased from Corre Caminos about ten years ago and will use one of those within the next year or so. Mr. Brown said it is their recommendation to award the Base Bid to Southwest Concrete and Paving for \$206,556.00. Mayor Ladner asked if there were any question, and there none. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Bid 20/21-6 Re-Bid Visitors Center Pedestrian and Trailhead Improvements per staff recommendation to Southwest Concrete and Paving Incorporated for the Base Bid in the amount of \$206,556.00 plus applicable gross receipts tax with (8.0000%) for a total construction cost of \$223,080.48. Councilor Ray seconded. Mayor asked if there was any discussion, and there was none. Mayor said those in favor say aye. All four Councilors said aye. Mayor said opposed say nye, and there were none. Motion carried.

**B. Appointment to the Municipal Library Community Advisory Group.** – Mayor Ladner said the Chair of the Municipal Library Community Advisory Group has recommended that Mr. Ted Lynn be reappointed and if there were no objections from the Council, he would like to reappoint him. Council had objections. Mayor Ladner said with no objections, he hereby reappoints Mr. Ted Lynn to the Municipal Library Community Advisory Group.

**C. Appointment to the Cemetery Board.** – Mayor Ladner said the Chair of the Cemetery Board has recommended that Mr. Paul Baca be reappointed and if there were no objections from the Council, he would like to reappoint him. Council had no objections. Mayor Ladner said with no objections, he hereby reappoints Mr. Ted Lynn to the Cemetery Board.

Mayor Ladner said he had one final comment. He stated one of the most important resources a city can have is access to reliable information when it comes to legal matters. He said Mr. Jim Reynolds has recently been hired as the Attorney for the Town of Silver City. Mayor asked Mr. Reynolds to stand and

comment. Mr. Reynolds thanked the Mayor and said though he's been on the job for some time, officially and unofficially, he has attended a lot of Council Meetings in the past so it felt like a gathering of old friends. Mr. Reynolds said he was glad to be in his position, glad to be working with Alex Brown and all the staff and he really appreciated it. Mayor thanked him and said it is reassuring to have information when it comes to legal matters.

**12. ADJOURNMENT** – Mayor Ladner asked for a motion to adjourn. Councilor Aiman-Smith made a motion to adjourn at 6:42 p.m. Council Ray seconded. Mayor Ladner asked if there was any discussion, there was none. Mayor said those in favor say aye. All four Councilors said aye. Motion carried.

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Ken Ladner, Mayor

Attest:

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Katherine Kunnert, Town Clerk

DRAFT

**STATE OF NEW MEXICO  
MUNICIPALITY OF SILVER CITY  
RESOLUTION NO. 2021-15**

**A RESOLUTION AMENDING THE APPROVED AND ADOPTED BUDGET FOR THE  
FISCAL YEAR COMMENCING JULY 1, 2021 THROUGH JUNE 30, 2022 AND FOR  
MUNICIPAL PURPOSE IN THE TOWN OF SILVER CITY, NEW MEXICO,  
TRANSFERRING AND APPROPRIATING FUNDS THEREOF.**

**WHEREAS**, the Town Council adopted a budget for the Town of Silver City for the fiscal period beginning the first day of July 2021 through the last day of June 2022; and

**WHEREAS**, unanticipated obligations and revenues have now been revealed requiring and justifying the budgetary increases as follows; and

**WHEREAS**, it has been determined that resources are available, and are sufficient to provide for requirement as set forth above in the designated funds, respectively; and

**WHEREAS**, the Town Clerk of the Town of Silver City has submitted the same to the Council and the Council has received said recommended adjustments, Appendix "A" attached hereto, and found them to be acceptable and in conformance with the needs of the Town of Silver City's Budget for the fiscal year 2021-2022;

**NOW THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Silver City, Grant County, New Mexico;

**SECTION I:** The budget approved by the Town is hereby amended for fiscal period July 1, 2021 to June 30, 2022 pursuant to the Town Manager's aforesaid recommendation.

**SECTION II:** That the Local Government Division of the State Department of Finance and Administration is hereby requested to authorize and approve the budgetary increases, decreases, and transfers enabled by this Resolution.

**SECTION III:** The Town Council, considering the need, safety and welfare of the Town, had determined and approved the adoption of this Resolution.

**SECTION IV:** This Resolution shall be in full force and effect from and after its passage as provided by law.

**PASSED, ADOPTED AND APPROVED** by the Town Council of the Town of Silver City this 27th day of July, 2021.

(Seal)

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

Attest:

\_\_\_\_\_  
Katherine Kunnert, Town Clerk



**STATE OF NEW MEXICO  
MUNICIPALITY OF SILVER CITY  
RESOLUTION NO. 2021-16**

**FINAL QUARTER FINANCIAL REPORT  
YEAR ENDING JUNE 30, 2021**

**WHEREAS**, the Governing Body in and for the Town of Silver City, State of New Mexico, developed a budget for the fiscal year 2020-2021; and

**WHEREAS**, the final quarterly report has been reviewed and approved to ensure the accuracy of the beginning balances used on the fiscal year 2021 budget; and

**WHEREAS**, it is hereby certified that the contents in this report are true and correct to the best of our knowledge and that this report depicts all funds for fiscal year 2021;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** that the Governing Body of the Town of Silver City, State of New Mexico, hereby approves the final quarterly report for fiscal year 2021 hereinafter described as Appendix "A" and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

**PASSED, APPROVED, AND ADOPTED** on this 27th day of July, 2021.

**MUNICIPAL GOVERNING BODY OF SILVER CITY, NEW MEXICO**

(Seal)

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

Attest:

\_\_\_\_\_  
Katherine Kunnert, Town Clerk

**STATE OF NEW MEXICO  
MUNICIPALITY OF SILVER CITY  
RESOLUTION NO. 2021-17**

**APPROVAL AND ADOPTION OF THE BUDGET FOR THE FISCAL YEAR  
COMMENCING JULY 1, 2021 THROUGH JUNE 30, 2022**

**WHEREAS**, the Governing Body in and for the municipality of Silver City, State of New Mexico, has developed a budget for the fiscal year 2021-2022; and

**WHEREAS**, said budget was developed on the basis of need and through cooperation with all user departments, elected officials and other department supervisors; and

**WHEREAS**, the official meetings for the review of said documents were duly advertised in compliance with the State Open Meetings Act; and

**WHEREAS**, it is the majority opinion of the Town Council that the proposed budget meets the requirements as currently determined for fiscal year 2021-2022;

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the Governing Body of the Municipality of Silver City, State of New Mexico, hereby adopts the budget hereinabove described as Appendix "A" and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

**PASSED, APPROVED, AND ADOPTED** on this 27th day of July, 2021.

**MUNICIPAL GOVERNING BODY OF SILVER CITY, NEW MEXICO**

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

(Seal)

\_\_\_\_\_  
Cynthia Ann Bettison, Councilor

\_\_\_\_\_  
Lynda D. Aiman-Smith, Councilor

\_\_\_\_\_  
Jose A. Ray, Jr., Councilor

\_\_\_\_\_  
Guadalupe E. Cano, Councilor

Attest:

\_\_\_\_\_  
Katherine Kunnert, Town Clerk

**NOTICE OF INTENT**

**TO ADOPT AN ORDINANCE AMENDING CHAPTER 4 (ALCOHOLIC BEVERAGES), ARTICLE I (IN GENERAL), SECTIONS 4-1 THROUGH 4-31, AND ARTICLE II (LICENSES), SECTIONS 4-32 THROUGH 4-36 OF THE MUNICIPAL CODE OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO**

**The Council of the Town of Silver City, Grant County, New Mexico hereby gives notice of its intention to adopt an amendment to the Town of Silver City Code of Ordinances. This notice is hereby given the title as follows:**

**ORDINANCE NO. 1304**

**AN ORDINANCE AMENDING CHAPTER 4 (ALCOHOLIC BEVERAGES), ARTICLE I (IN GENERAL), SECTIONS 4-1 THROUGH 4-31, AND ARTICLE II (LICENSES), SECTIONS 4-32 THROUGH 4-36 OF THE MUNICIPAL CODE OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO**

**Sponsored by Councilor Cynthia Ann Bettison**

**WHEREAS**, the State of New Mexico regulates the sale of alcoholic beverages under the provisions of the “Liquor Control Act,” NMSA 1978, § 60-3A-1 et seq.; and

**WHEREAS**, pursuant to the Liquor Control Act, as amended, the State of New Mexico permits municipalities a means to adopt local option provisions of the Liquor Control Act, and pursuant to NMSA 1978, § 7-24-1 by ordinance to impose an annual municipal license tax upon persons holding state licenses under the provisions of the Liquor Control Act; and

**WHEREAS**, in Chapter 4, Article I, Section 4-1, et seq., of the municipal code of the Town of Silver City, the Town has adopted local option provisions of the Liquor Control Act and an annual municipal license tax upon persons holding state liquor licenses; and

**WHEREAS**, the New Mexico state legislature amended the Liquor Control Act in a comprehensive manner by passing HB 255 during the 2021 regular session, which was signed by the governor on March 17, 2021; and

**WHEREAS**, the Town Council finds that the Town should also amend its local ordinances concerning the sale and dispensing of alcoholic beverages in order to comply with the recent amendments by the State to the Liquor Control Act and said amendment to the local ordinance is appropriate for the health, safety and welfare of the Town and its inhabitants;

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

1. Chapter 4 (Alcoholic Beverages), Article I (In General), Sections 4-1 through 4-31, Article II (Licenses), Sections 4-32 through 4-36, are amended in their entirety to read as follows:

**ARTICLE 1. - IN GENERAL**

**Sec. 4-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverages.*

(1) The term "alcoholic beverages" means any and all distilled or rectified spirits, potable alcohol, powdered alcohol, frozen or freeze-dried alcohol, brandy, whisky, rum, gin, aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol.

(2) The term "alcoholic beverages" does not include medicinal bitters.

*Beer* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water. The term "beer" includes such liquors as porter, beer, ale, and stout.

*Brewer* means a person who owns or operates a business for the manufacture of beer.

*Cider* means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears that contains not less than one-half of one percent alcohol by volume and not more than eight and one-half percent alcohol by volume.

*Club* means:

- (1) Any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state:
  - a. With a membership of not less than fifty (50) members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who under the constitution and bylaws of the club, have all voting rights and full membership privileges; and
  - b. Which group is the owner, lessee, or occupant of premises used exclusively for club purposes; and
  - c. Which group the director finds:
    1. Is operated solely for recreation, social, patriotic, political, benevolent, or athletic purposes; and
    2. Has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for such exemption as soon as it is eligible; or
- (2) An airline passenger membership club operated by an air common carrier that maintains or operates a clubroom at an airport terminal. As used in this paragraph, the term "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration.

*Department* means the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act (NMSA 1978, § 60-3A-1 et seq.), and "department" means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act.

*Director* means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act, and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act.

*Dispenser* means any person licensed under the provisions of the Liquor Control Act, selling, offering for sale, or having in the person's possession with the intent to sell alcoholic beverages, both by the drink for consumption on the licensed premises and in unbroken packages, including locally produced growlers, for consumption and not for resale off the licensed premises. For the purposes of this chapter, dispenser also includes, without limitation, a small brewer, craft distiller, and winegrower (winery) as defined by and specified according to the provisions of the Liquor Control Act.

*Distiller* means a person engaged in manufacturing spirituous liquors.

*Governing body* means the board of county commissioners of a county or the town/city council or city commissioners of a municipality.

*Growler* mean a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of New Mexico produced beer, wine or cider for consumption off premises.

*Hotel* means an establishment or complex having a state resident as a proprietor or manager and where, in consideration of payment, food and lodging are regularly furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five (25) sleeping rooms.

*License year* means all licenses provided for in this chapter shall begin July 1 each year and end on June 30 the following year.

*Minor* means any person under 21 years of age.

*Package* means a container of alcoholic beverages that is filled or packed by a manufacturer (a distiller, rectifier, brewer, winer) or wine bottler for sale by the manufacturer or wine bottler to wholesalers.

*Person* means an individual, corporation, firm, partnership, co-partnership, association, or other legal entity.

*Public Celebration* means any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or intermittent basis, any activities held on an intermittent basis, or other type of public celebration held within the town.

*Rectifier* means a person who blends, mixes or distills alcohol with other liquids or substances for the purpose of making an alcoholic beverage for the purpose of sale other than to the consumer by the drink, and includes all bottlers of spirituous liquors;

*Restaurant.*

- (1) The term "restaurant" means any establishment having a state resident as a proprietor or manager, that is held out to the public as a place where food is prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen, and the employees necessary for preparing, cooking, and serving food.
- (2) The term "restaurant" does not include establishments, as defined in the rules promulgated by the director, serving only hamburgers, sandwiches, salads, and other fast food.

*Retailer* means any person licensed under the provisions of the Liquor Control Act, selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises.

*Special dispenser's permit* means a permit, approved by the town council and issued by the director to dispense alcoholic beverages at a public celebration held within the town.

*Spirituous liquors.*

- (1) The term "spirituous liquors" means all alcoholic beverages as stated in the definition of alcoholic beverages.
- (2) The term "spirituous liquors" does not include fermented beverages such as wine, beer, cider and ale.

*Wine* means all alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, and which does not contain less than one-half percent nor more than twenty-one (21) percent alcohol by volume.

*Winegrower or winer* means a person who owns or operates a business for the manufacture of wine and cider.

*Winery* means a licensed premise where a winegrower manufactures and stores wine or cider.

**Sec. 4-2. - Unlawful to drink in public places.**

- (a) It shall be unlawful for any person to consume alcoholic beverages in, on or at any public place, or for any person who is an owner or proprietor to sell, serve, furnish or permit the consumption of alcoholic beverages in any public place or private club, except establishments or premises having a license to dispense alcoholic beverages. However, alcoholic beverages may be dispersed and consumed during public celebrations wherein a special dispenser's permit has been issued and in compliance with all state statutes and town regulations.
- (b) For the purposes of this section public place is defined as any public street, alley, sidewalk, public way, park, cemetery, school yard, sports field, or open space; and any place or business open to the use of the public in general, open to public view, or to which the public has access. However, for the purposes of this section, the municipal golf course shall not be considered a public place.



**Sec. 4-3. - Selling or giving liquor to minors prohibited.**

It shall be unlawful for a minor to buy, attempt to buy, receive, possess or permit himself or herself to be served with alcoholic beverages, except that a parent, legal guardian, or adult spouse of a minor may serve alcoholic beverages to that minor on real property, other than licensed premises, when said minor is under the control of the parent, legal guardian, or adult spouse who is actually, visibly, and personally present at the time such alcoholic beverage is served to the minor.

**Sec. 4-4. - Sale to intoxicated persons.**

It shall be a violation of this chapter for any person to sell, serve, give, or deliver any alcoholic beverage to, or to procure or aid in the procurement of any alcoholic beverage for an intoxicated person, if that person selling, serving, giving, delivering, procuring or aiding in the procurement knows or has reason to know that person buying, receiving service or receiving of such alcoholic beverage is intoxicated.

**Sec. 4-5. - Minors prohibited in liquor establishments; exception.**

- (a) Any person licensed pursuant to the provisions of the Liquor Control Act (NMSA 1978, § 60-3A-1 et seq.) or any employee, agent or lessee of that person who permits a minor to enter and remain in any area of a licensed premises that is prohibited to the use of minors is guilty of a violation of the Liquor Control Act and this chapter.
- (b) A minor shall not enter or attempt to enter any area of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors, except as authorized by regulation or as necessitated by an emergency.

**Secs. 4-6—4-31. – Reserved.**

## **ARTICLE II. – LICENSES**

### **Sec. 4-32. - Sale and possession.**

The sale or the possession for the purpose of sale, or offering for sale, of alcoholic beverages is hereby prohibited within the town except as hereinafter provided.

### **Sec. 4-33. - Town liquor license.**

Before any person shall establish or engage in the business of selling, offering for sale and dispensing alcoholic beverages within the town, such person shall procure from the town's clerk or designee a retailer's license, a dispenser's license, a club license, or a restaurant license, which includes either an A restaurant license for the sale and service of beer and wine only, an A restaurant license including a New Mexico spirituous liquors permit, or a B restaurant license for the sale and service of beer, wine, and spirituous liquors. The licenses enumerated above must be renewed annually for each license year.

### **Sec. 4-34. – Application requirement.**

Every applicant for any license required by the provisions of this article shall first have obtained the appropriate state license from the State Alcoholic Beverage Control Division of the Regulation and Licensing Department according to the provisions governing the issuance of state licenses pursuant to the Liquor Control Act (NMSA 1978, § 60-3A-1 et seq.), and shall be made in the same manner as prescribed or practiced for the issuance of other licenses by the town.

### **Sec. 4-35. – Fees, payment, hours of operation, permits.**

- (a) *Date due and rate.* Pursuant to the provisions of NMSA 1978, § 7-24-1, every applicant for a license required under this article and every applicant for renewal of a license issued under this article, before receiving the license or renewal thereof, shall pay to the town clerk, or designee, on or before July 1 annually, the following designated license fee for each place of business in the town:

- (1) Retailer's license ..... \$250.00.
  - (2) Dispenser's license ..... \$250.00.
  - (3) Club license ..... \$250.00.
  - (4) Restaurant license ..... \$250.00.
- (b) *Hours of Sale.* The holder of a town liquor license may sell, serve, dispense or furnish alcoholic beverages only between the hours and times specified and established by the Liquor Control Act.
- (c) *Special dispenser's permit.* Any person holding a dispenser's license within the town's municipal boundaries may dispense alcoholic beverages at a public celebration upon receiving approval from the town's governing body, and paying the appropriate fee to the department. Persons granted a special dispenser's permit pursuant to the provisions of the Liquor Control Act, NMSA 1978, § 60-6A-12, shall pay to the town a fee of \$25.00 per day for each day the permittee dispenses alcoholic beverages. The permittee shall be subject to all state and local laws and regulations regulating dispenser's privileges and disabilities.
- (d) *Alcoholic Beverage Delivery Permit and Third-Party Delivery.* Persons granted an alcoholic beverage delivery permit issued pursuant to the provisions of the Liquor Control Act may deliver alcoholic beverages within the town's boundaries, or contract with a third-party alcohol delivery service for delivery of alcoholic beverages, if applicable, within the town only upon the terms, conditions, and provisions specified and established by the Liquor Control Act, all state law, and town regulations.

**Sec. 4-36. – Penalties.**

- (a) Any person convicted of violating the provisions of this chapter shall be subject to punishment as prescribed by general penalty section 1-9 of Chapter 1.
- (b) Failure of a licensee to pay the license tax imposed by this chapter shall be subject to appropriate action by the governing body of the town, as provided in NMSA 1978, § 7-24-3, relating to closing of establishments.

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**PASSED, ADOPTED AND APPROVED** by vote of the Town Council of the Town of Silver City, Grant County, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

TOWN OF SILVER CITY

(Seal)

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

ATTEST:

\_\_\_\_\_  
Katherine Kunnert, Town Clerk

Consideration of the final adoption of such proposed ordinance will not take place until at least two (2) weeks subsequent to the date of this notice and only at a public meeting called and held in accordance with Section 3-17-3, N.M.S.A. 1978. Consideration of adoption of said ordinance is currently scheduled for and will not take place prior to August 24, 2021.

\_\_\_\_\_  
Katherine Kunnert, Town Clerk

\_\_\_\_\_  
Date

TO: Mayor, Council Members and Mr. Brown  
 FROM: Olivia Britton, Acting Purchasing Agent  
 DATE: July 22, 2021  
 RE: Bid# 20/21-7 2020 CDBG Water System Improvements  
 CDBG #20-C-NR-I-01-G-14

The Town has received two bids for the above referenced project. Bids were received on June 20, 2021 @ 11:00 a.m. and opened shortly after at the office of Stantec, 3400 Hwy 180 E, Suite A. Silver City, NM 88061.

The following bids were received:

CONTRACTOR	BASE BID, ADDITIVE ALTERNATE #1 AND ADDITIVE ALTERNATE #2
J & S Plumbing and Heating, LLC.	\$ 458,931.00
Ducross Construction, LLC.	\$ 500,025.40
Dub-L-EE, LLC.	\$ 579,992.87
File Construction LLC.	\$ 582,919.30

It is staff's recommendation that the following items of work be awarded:

Base Bid-	\$ 401,121.00
Additive Alternative #1	\$ 31,590.00
Additive Alternative #2	\$ 26,220.00
<b>Total Amount of Bid</b>	<b>\$ 458,931.00 w/o NMGRT</b>

It is our recommendation that an award be made to J & S Plumbing & Heating, LLC. for the Base Bid including Additive Alternative #1 and #2 in the amount of \$458,931.00 plus applicable gross receipts tax (8.0000%) for a total construction cost of \$495,645.48. Our recommendation is contingent upon DFA/CDBG concurrence and contractor clearance.

Sincerely,

*Olivia Britton*

Olivia Britton  
 Acting Purchasing Agent

## LEGAL NOTICE

The Town of Silver City Council will hold a public hearing during their regular Council meeting scheduled for Tuesday, July 27, 2021 at 6 p.m. at the Grant County Administration Center, 1400 Hwy. 180 East, Silver City, New Mexico. The public is invited to attend. The agenda will include:

**Approval of Minutes:** Regular Meeting on July 13, 2021.

### NEW BUSINESS

**A. Approval / Disapproval of a Special Dispenser Permit Application for-**

- a. August 7, 2021, Knights of Columbus Car Show.
- b. September 3-5, 2021, Carnitas, Musica y Mas Festival 2021.

**B. Approval / Disapproval of Resolution 2021-15 --** Approving of FY 21 Budget Adjustments.

**C. Approval/ Disapproval of Resolution 2021-16 --** Approving FY 2021 4<sup>th</sup> Quarter Report.

**D. Approval/Disapproval of Resolution 2021-17--** Approving of FY 2022 Budget.

**E. Approval/Disapproval of Notice of Intent Ordinance 1304 --** An Ordinance Amending Chapter 4 (Alcoholic Beverages), Article I (In General), Sections 4-1 through 4-31, and Article II (Licenses), Sections 4-32 through 4-36 of the Municipal Code of the Town of Silver City, Grant County, New Mexico.

**F. Approval / Disapproval of Bid 2020 CDBG Water System Improvements –** Chihuahua Hill East Water System Improvements.

**G. Appointment of Labor –** Management Relations Board.

### Adjournment

Agendas are available prior to the meeting and may be obtained at City Hall, 101 W. Broadway and City Hall Annex, 1203 North Hudson, or on the Town's website, [www.townofsilvercity.org](http://www.townofsilvercity.org). If you have any questions regarding the public hearing, you may contact the Town Clerk at City Hall, 101 W. Broadway or call 534-6346. 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.