

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
June 12, 2018, 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-Finance Director
Yolanda C. Holguin, Acting Town Clerk
Robert L. Scavron, Town Attorney

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Ladner called the meeting to order at 6:00 p.m.

2. CHANGES TO THE AGENDA – None

3. CEREMONIES –

4. PROCLAMATIONS – "**Wild, Wild West Pro Rodeo Week" - June 13 - 16, 2018.** There was no representative present from the Wild, Wild West Pro Rodeo Association. Mayor Ladner read the proclamation.

5. COUNCIL COMMENTS – Councilor Ray thanked Fire Chief Milo Lambert and Fire Inspector II Kylle Marshall for fixing the problem downtown; commented that the Blues Festival was a good weekend but there were too many animals, dogs in the park during the event, asked if that was allowed, and stated that service animals were okay. Councilor Aiman-Smith encouraged the public to check out the crosswalks at the corner of 12th St & Virginia, a pilot project, painted designs by Diane Leyba Igalls and intern Patty Countryman of Pilot of the Art in the Crosswalk Project; and noted the Police Department would be conducting saturation patrols and check points to include texting and cell phone use while driving. Councilor Bettison thanked all who worked on the District I Territorial Charter Day clean-up at Hidden Park; that she broke both middle fingers in a work-place accident; described the work and accomplishments done at Hidden Park; suggestions for possible use of Hidden Park, a natural wilderness area in upper part of District 1, a unique and quiet area; getting rid of hazards in the area; that the Blues Festival was a wonderful time; upcoming events Pro Rodeo, Silver City Museum's Ice Cream Social, Chamber's 4th of July Parade, and invited all to the WNMU's Museum Fleming Hall Limited Preview of the renovation in joint celebration of the Clay Festival. Councilor Cano commented on the surgery she had last week and her accessibility to events; always good and awesome to have a room full of people and would consider their concerns seriously; asked when the Golden Dragon building was going to be done and that it was being used for yard sales. Manager Brown stated the contract gave them a year to get the usable space inside up to code and two years to complete the project. He said that yard sales should not be happening and he would have Community Development look into the yard-sale issue. Mayor Ladner thanked all who volunteered to make the Family Fun Day a real success and that Councilor Bettison was a real trooper working with her injury at Hidden Park

6. Approval of Minutes for the Regular Town Council Meeting held on May 22, 2018. Councilor Aiman-Smith moved to approve the Minutes of the Regular Council Meeting of May 22, 2018. Councilor Bettison seconded. The Mayor asked if there was any discussion, and there was none. He asked those in favor to approve the minutes to say aye, and all four Councilors said aye. He asked if any were opposed to say nay, and there was no opposition. Motion carried.

7. PUBLIC INPUT – Mayor Ladner stated that if the public signed up to speak on an agenda item, he asked them to wait to speak until the item comes up. There was no public input.

8. REPORTS -

A. Update on the Holloman Air Force Base F-16 Training over the Gila National Forest and local area. Retired Colonel Susan Beck reported on the Holloman Air Force Base (HAFB) F-16 Training proposal; her experience working with F-16 and systems that surround them and thanked the community members who helped her get up to speed with the issue and her willingness to meet with the Council. She commented on her visit to HAFB to clear up the misconceptions, questions and concerns on the issue. She commented on the shortage of Air Force pilots currently 2,000 causing the expanded training activating a third squadron at HAFB; the sufficient upgrades to the F-16s being built now bringing about the need of expanded air space for pilots to train on the new F-16 features; on the current air space available and best possible use at HAFB, White Sands Missile Range (WSMR) multi-service test range primary mission of support of missile development and test programs for all military forces, government agencies and other private contractors making all other training secondary; the challenge in scheduling training at WSMR and the use of other air space nearby. She discussed the two proposals and the air spaces. Her discussion continued on the National Environmental Policy Act (NEPA) process; that Headquarters Air Force was the lead; opportunity for public input; draft Environment Impact Statement delayed later in the year which was good for Grant County to educate AF on what they don't know of Grant County reference the economy, education, endangered species, environment, veterans issues, children, where the residential areas were in the Gila, wildlife, recreation, and ranching to make an informed decision; process to send comments and input; and HAFB hosting visits with communities. She informed the Council that she would be presenting at WNMU on June 13th and would be willing to provide briefing to groups and stated that she and her husband have lived in the area since 2016.

B. Staff Reports: 1) Fire Chief Milo E. Lambert will report on fire restrictions effective June 6, 2018 due to extreme drought and local fire conditions. Chief Lambert reported that Stage 2 restrictions had been enacted in the Town, that these restrictions were extreme and gave the details of the restrictions; burn permits not being issued; biggest change was in the sale and use of all possible prohibited fireworks had been enacted; state law prohibits municipalities from banning fireworks in a blanket statement and its entirety; speaking with fireworks vendors; conversations on ignition of a fire, feeling free to contact Central Dispatch; the importance of posting and educating the public in current conditions; and the meeting being another avenue to present the restrictions to the public. Discussion continued on municipalities having limited jurisdiction to prohibit the sale of fireworks but no such limitation on the right of a municipality to ban the ignition of fireworks.

Chief Portillo gave an update on the area of complaints talked about at the last meeting; the amount seized; getting intel information; that several arrests had been made; making the public aware of using the Task Force and other resources; other areas in the Town that were priorities; and that they would continue to be aggressive on the drug issue. He spoke on the victim notification; putting a tracking system in place for documentation that victims were being notified; doing spot checks on detective cases to alleviate some of the issues on victim notification. Manager Brown commented on the information sent out to the Council; putting out weekly reports; per the stats the department was very busy; and thanked the department for all they do.

9. PUBLIC HEARINGS - None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of a Public Celebration Permit Application and a waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church for the Volunteer Center of Grant County's "Uncommonly Good Evening" event at 501 E. 13th Street, Silver City, NM on June 30, 2018 with alcohol service from 6:00 p.m. to 10 p.m. Liquor License Holder: Little Toad Creek, LLC, DBA Little Toad Creek Brewery, Liquor License #67085, 203 S. Mill Road, Silver City, NM. Kristin Lundgren from the Volunteer Center requested the approval of the public celebration permit application, a waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church and gave details of the event. There was discussion on the time the event and alcohol service would end. Councilor Cano

moved to approve a Public Celebration Permit Application and a waiver of NMSA 1978 Section 60-6B-10 for alcohol sales near a church for the Volunteer Center of Grant County's "Uncommonly Good Evening" event at 501 E. 13th Street, Silver City, NM on June 30, 2018 with alcohol service from 6:00 p.m. to 10 p.m. Liquor License Holder: Little Toad Creek, LLC, DBA Little Toad Creek Brewery, Liquor License #67085, 203 S. Mill Road, Silver City, NM to include changing the time of the event from 6 pm to 10 pm and alcohol services from 6 pm to 9:30 pm. Councilor Ray seconded. There was no further discussion. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

B. Approval / Disapproval of two Public Celebration Permit Applications for the Silver City Arts and Cultural District and CLAY Festival's "Clay Festival Dance" to be held on July 21, 2018 at Market Street east of Bullard Street, Silver City, NM with alcohol service from 6:00 p.m. to 10:00 p.m. Liquor License Holder: Little Toad Creek, LLC, DBA Little Toad Creek Brewery, Liquor License # 67085 and #63013, 203 S. Mill Road, Silver City, NM. Lee Gruber, Founder of the CLAY Festival, requested the approval of the two public celebration permit applications for their upcoming dance. Ms. Gruber explained the site know as the "Stub Street" on Market Street from Bullard to the Big Ditch, and that by using that street, traffic would not be affected on the main street, easily fenced off and to control those coming and going interested in alcohol. Councilor Ray moved to approve two Public Celebration Permit Applications for the Silver City Arts and Cultural District and CLAY Festival's "Clay Festival Dance" to be held on July 21, 2018 at Market Street east of Bullard Street, Silver City, NM with alcohol service from 6:00 p.m. to 10:00 p.m. Liquor License Holder: Little Toad Creek, LLC, DBA Little Toad Creek Brewery, Liquor License # 67085 and #63013, 203 S. Mill Road, Silver City, NM. Councilor Aiman-Smith seconded. There was no further discussion. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

Councilor Bettison moved for short recess at 6:50 p.m. Councilor Aiman-Smith seconded. Mayor Ladner said there was a motion and a second for a short recess. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mayor Ladner called the meeting back to order at 7:00 p.m.

C. Approval / Disapproval of Notice of Intent Ordinance No. 1269: an Ordinance amending Section 12-7-9 through 12-7-9.9 (Off-Highway Motor Vehicles - Definitions, et al.) of the NM Uniform Traffic Code adopted as the Silver City Traffic Ordinance in Chapter 50, Section 50-1 of the Municipal Code of the Town of Silver City, NM. Councilor Ray presented the details of Notice of Intent Ordinance No. 1269 and commented on the use of side-by-sides on Town streets; importance of safety and education; noise level of a side-by-side compared to other vehicles and ATVs; driver and passengers using safety belts; operation and equipment safety requirements, posting of speed limit signs; use of street tires approved by DOT; time of day to use them; age limit of 18 for use; helmet and safety glasses requirement; not ATVs with handle bars but a steering wheel; use of the right hand side of the road; required operating stickers of OH and On-Road and insurance; compared size and weight to a small car; education on safety and use of side-by sides; and our responsibility to obey the law. He stated that if it passes, a public meeting would be held on Wednesday, June 20th at 6 pm at the Grant County Administration Building to discuss the issue. He acknowledged that this would cause some issues for the police department and asked that we all help each other. Councilor Bettison stated that she would ask for clarification on the time frame for operation/ use of OHVs under discussion.

Mayor Ladner gave everyone the opportunity to speak and asked all to be brief, concise, and respect others who provide input. The following spoke in opposition of the NOI – Rachele Bergman, Kenneth Sexton, Eileen Kingsley, Sara Boyett, and Terry Timme Following are their comments: need of clarification on required license, insurance and following all or some of the operation and equipment requirements; following all the same rules of the road like other motor vehicles; objection to and removal of exceptions in paragraph C and D of Section 12-7-9.3 allowing ATVs to drive adjacent to road; need of clarification on where someone on a ATV can ride; concern on the lack of detail of the descriptions of actual safety equipment, discussed a safety consumer report that claimed that they have become safer within the last 15 years with statistics, need of guidance from the State of NM reference age of vehicle and safety equipment; adding language to clarify operations and safety and right-of-way in relationship to public safety and accidents, and grammar corrections to clarify the age for use of safety helmets; people texting and driving without

giving it their full attention, in an epidemic of distracted driving and police force stretched so thin that they would not be able to enforce; admired all the effort that has gone into the requirements to make the vehicles safer; has been proven study after study that people see what they expect to see, going with the most conservative and safest route; passing the ordinance would encourage intrusion of the San Vincent Creek Trail where motorized vehicles were not allowed; the Recreation Off-Highway Vehicle Association position statement that ROVs were not intended for public streets and highway use, a letter received that passing of the ordinance would have them reconsider their decision of moving to the area.

The following spoke in favor of the NOI - Al Gamboa, Jack Harrison, John Vanatter, Ray Teran, Michelle Carrillo, Eddy Madrid, Scott Terry, Tony Garcia, Kim Clark, and Dan Arzola. Following are their comments: ROVs on city street had to be legally equipped; that there would always be idiots out there, the same idiots in full-size pick-ups, up to the community and police department to police ourselves; thanked the Council for listening to them; good source of revenue for small business with regular maintenance and customizing them, do have safety features similar to a car and should follow the same rules of a vehicle; all opinions should be appreciated and respected and side-by-sides should be driven on the road and that was common sense, needs to be given a chance, and the need to police ourselves; they too had concerns and questions, need of clarification of safety regulations, our obligation to follow the laws and drive safely; further dialogue needed; need of defined regulations specific to side-by-sides; not much smaller than the two white vehicles outside; follow all the rules, registration, license, insurance, traffic, like driving a vehicle; that tourist pulling their RVs were asking about ROVs just like electric charging systems; side-by-side were safer than a small car, they had harnesses and roll bars, owned by older people and weren't as loud as other things; there was a lot of support of the NOI 1269, that Councilor Ray had put a lot of time, homework, and effort to mitigate questions and concerns, all motorized vehicles were dangerous; and matter of enhancing the quality of life in Silver City like a lot of the southwest was enjoying. Councilor Ray thanked all for their comments and moved to approve Notice of Intent Ordinance No. 1269: an Ordinance amending Section 12-7-9 through 12-7-9.9 (Off-Highway Motor Vehicles - Definitions, et al.) of the NM Uniform Traffic Code adopted as the Silver City Traffic Ordinance in Chapter 50, Section 50-1 of the Municipal Code of the Town of Silver City, NM. Councilor Cano seconded. Councilor Aiman-Smith had comments of great concerns as follows: possible benefits to the Town rather than the individual pleasure of ROV owners being a cause for the NOI; all registrations, licenses, plates and stickers handled by Motor Vehicle Department, possible program/vision by a business owner to create short term registration and permit in Town to fund additional burden of law enforcement and encouraged Councilor Ray to explore if other towns had done this; operation of ROVs on Town streets, users need to know the difference of Town streets from State highways; the potential operation and misuse of a ROVs on Town pathways, utility easements, trails, sidewalks, and private property; that the State changed the law of ROVs on paved roads specifically for agriculture use and does not apply within the Town limits; could not see how it commands people to obey traffic signals and signs; driving on the side of the road thinking they could ride on the sidewalk; noise issue and difference in the requirements; largest concern was enforcement, creating a huge burden needing more resources to manage it; and even though Councilor Ray stated it would not allow ATV's there were a number of comments referencing ATVs. Chief Portillo stated he did not support the NOI, that UTVs, were made for the outdoors, in the mountains. He commented on issues and concerns passing the ordinance would create, public safety, manpower issue, additional hazard on the roadways, crashes, calls for service, noise complaints, alcohol related accidents, and over all fatalities, and input from the department he had received was not in support of the ordinance. Councilor Bettison echoed the concerns of Councilor Aiman-Smith and Chief Portillo, commented on the process of approval to use ORVs on State highways; importance of being a safe driver; could be worked with and the need of tightening up the language; and that information from the Police Department was critical. Councilor Cano commented that the County passed use of ORVs; on the Eco tourism path the state was taking; continued conversation if the NOI was passed; people who drive the ORVs do know how to drive and were responsible; and need to be mindful of all members of the community. Councilor Ray commented as follows, "We need to try it, there will always be those for and against it, let's give it a shot." Councilor Bettison had concerns but was in support of moving forward with continued discussion and tightening up the language. Mayor Ladner thanked Councilor Ray for his efforts, would like to see it go forward and to hear from the Police Chief that the department would be able to handle it. Mayor Ladner asked for a roll call vote. Councilor Ray voted aye; Councilor Cano voted aye; Councilor Bettison voted aye; and Councilor Aiman-Smith voted nay. Motion carried.

D. Approval / Disapproval of Resolution No. 2018-14: a Resolution for the participation in the Local Government Road Fund Program administered by the NM Department of Transportation (for a chip seal and fog seal road project). Manager Brown explained that the resolution would allow the Town to accept a grant that had been awarded to the Town; the process of resolution to allow staff to apply has been done; the project was included in the budget for FY2020; and a list of the streets was included. Councilor Cano moved to approve Resolution No. 2018-14: a Resolution for the participation in the Local Government Road Fund Program administered by the NM Department of Transportation (for a chip seal and fog seal road project). Councilor Ray seconded. Mayor Ladner asked for a roll call vote. Councilor Cano voted aye; Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; and Councilor Ray voted aye. Motion carried.

E. Approval / Disapproval Resolution No. 2018-15: a Resolution authorizing the submission of a NM Community Development Block Grant Program (CDBG) Application to the Department of Finance and Administration (for a street and drainage improvement project). Manager Brown stated that the resolution would authorize Town staff to submit an application to the CDBG program; the application maximum amount had been raised to \$750,000; their requirement of submitting application with the project closest to \$750,000 and then a phased project as well; the project would be in the Chihuahua Hill area where water lines replacements were done last year; gave a list of the streets; full project application cost would be \$748,638.25, phased project \$647,546.54 and the Town's match would be \$75,000 which would be in next year budget. Councilor Ray moved to approve Resolution No. 2018-15: a Resolution authorizing the submission of a NM Community Development Block Grant Program Application to the Department of Finance and Administration (for a street and drainage improvement project). Councilor Cano seconded. Mayor Ladner asked for a roll call vote. Councilor Ray voted aye; Councilor Cano voted aye; Councilor Bettison voted aye; and Councilor Aiman-Smith voted aye. Motion carried.

F. Appointment to the Lodgers Tax Advisory Board. Mayor Ladner stated that the Town received one application from Kevin Hubbs, and the Chair of the Lodgers Tax Advisory Board recommended his appointment. He said he would appoint Mr. Hubbs if there was no objection from the Council. There was no objection.

12. ADJOURNMENT – Mayor Ladner concluded the meeting and asked for a motion. Councilor Aiman-Smith moved to adjourn at 8:10 p.m. Councilor Ray seconded. Mayor Ladner stated there was a motion and a second to adjourn. He asked for a vote of all those in favor, and all four Councilors said aye. Motion carried.

/s/

Ken Ladner, Mayor

Attest:

/s/

Yolanda C. Holguin, Acting Town Clerk