

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
June 22, 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 Manager
James Reynolds, Town Attorney
Freddie Portillo, Police Chief
Milo Lambert, Fire Chief
Geoffrey Plant, Silver City Daily Press
Jaime Embick, Community Development Director
Robert Higgins, IT Director
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. Acting Clerk Sublasky did roll call of the Mayor, Councilors and staff.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Mayor Ladner stated first on the list tonight was Councilor Bettison. Councilor Bettison congratulated everyone in Grant County who has been vaccinated and encouraged anyone who hasn't received the vaccination to get vaccinated. Councilor Aiman-Smith congratulated Priscilla Lucero who has been appointed to the Water Trust Board and thanked the local newspaper for publishing a really educational article about Priscilla, written by Lisa Jimenez. She also stated that she will not be running for Council again due to health reasons. Councilor Cano commented that a couple months ago they passed an ordinance that it would be a citable offense if you parked on a handicap ramp or curb cut. She stated she thinks they need a policy where the person receives a written warning and would appreciate it if this issue could be considered in the future. Councilor Ray told Councilor Aiman-Smith that it has been nice to have her as a backup and he really appreciated her. He also stated he received his second Covid vaccination. Mayor Ladner said he wanted to thank the community for pulling together this last year and a half and thinks the community is stronger for it. Mayor Ladner added now that business is reopening, they can still require masks and to please respect that request. He would also like face-to-face meetings again.

6. APPROVAL OF MINUTES -

Regular Meeting on June 08, 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 8, 2021. Councilor Ray Seconded. The Mayor asked if there was any discussion, and there was none. He asked for a roll call vote and those in favor to approve the minutes to say aye. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

7. PUBLIC INPUT – None.

8. REPORTS

A. Staff Reports. – None.

9. PUBLIC HEARINGS-

A. Approval/Disapproval of Ordinance No 1303 – An Ordinance to amend the Official Zoning Map for a tract of land from the Residential A Zoning District to the Open Space Zoning District described as: The Hearst Mill Site Designated by the Surveyor General as Lot No. 996, and embracing a portion of Section Thirty-Five, in Township Seventeen South, of Range Fourteen West, New Mexico Meridian, in the Pinos Altos Mining District, Grant County, New Mexico, containing four and sixty-six hundredths of an acre, except the following part thereof (“tract”): Beginning at Corner No. 2 of the property, MS No. 996, thence S. 0°30’ E., 149.7 feet to Corner No. 1 of the property; Thence S. 63°03’ E., 196.4 feet to Corner No. 6 of the property; Thence N. 89°50’ E., 46.0 feet to the SE Corner of this tract, said SE Corner being on Line 5-6 of the property; Thence N. 17°42’ W., 281.19 feet to the NE Corner of this tract, said NE Corner being on line 2-3 of the property; Thence S. 77°55’ W., 140.0 feet along said Line 2-3 of the property to Corner No. 2 of the property and place of beginning. Said tract containing 0.97 acres more or less. – Mayor Ladner read the procedures for the hearing and asked if any members of the hearing board had any ex-parte discussions or communication from any party concerning the case. Clerk Sublasky did a roll call and all Councilors stated they had no ex-parte discussions. Mayor Ladner asked all parties and staff members that intended to give testimony to identify themselves and be sworn in by the Town Clerk. Clerk Sublasky swore in Jaime Embick and Alex Brown. Mayor Ladner continued reading the procedures, then asked Ms. Embick to present a brief synopsis of the application. Ms. Embick read through a PowerPoint presentation for the zone change to amend from a Residential A Zoning District to an Open Space Zoning District. She stated on October 13, 2020, the Town Council passed Ordinance No. 1295; permitting the transfer of ownership of town-owned property in exchange for privately-owned property, commonly known as the “Hearst Millsite.” The Town of Silver City plans on using this property as Open Space for a park. She displayed Section 3.1.12 LUC 2010. Open Space (OS), and stated the Open Space District is intended to preserve and enhance public open space. The purposes served by such lands include recreational uses such as hiking and bicycling, preservation of scenic vistas, preservation of sensitive lands, protection of natural vegetation, wildlife and land forms, and protection of natural areas for such natural processes as flooding to occur without damaging development. She displayed a map of the land showing that it is currently Residential A and it would change to Open Space Zoning which would be the same zoning category that was just changed to the property on Boston Hill. She showed multiple photographs of the current condition of the property and explained how the land would need some work, for example removal of trees, curb, gutter and paving. She explained how the property was used as a mining mill site but has been vacant for several decades. She stated that when the Town Council makes the final decision, they shall, at a minimum, make at least one of the following findings. 1.) The proposed amendment is in substantial compliance with the Town’s Comprehensive Plan. 2.) The Proposed amendment will not adversely affect the implementation of the goals and policies of the Town’s Comprehensive Plan. 3.) The proposed amendment is justified in order to correct a mistake in the Town’s Comprehensive Plan (an error in the assumptions about the property, surrounding uses, population forecasts, rate of land consumption or other factors). 4.) The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code. 5.) The proposed amendment responds to changed conditions, such as changes in assumptions on capital investments, road locations, population trends, land committed to development, density, use or further studies that have been completed since adoption of the Land Use Code. 6.) The proposed amendment is necessary in order to respond to State and/or Federal legislation. 7.) The proposed amendment provides additional flexibility in meeting the objectives of this Land Use Code without lowering the standards of the Land Use Code. She displayed ZC 21-02 Recommendation which is the Recommendation of the Planning and Zoning Commission that this Map Amendment/Zone Change be approved as it meets required findings #1, #2, #4 and #7. She said at the time of writing the staff report, she had had no further comment on the matter but did receive a phone call yesterday from a Robert Cross who is on the Board of the Gardens which is on the adjacent property to the north. Mr. Cross said he would like the Town to look into a Green Space Zoning category which would not allow any wheeled vehicles and only have it for walking paths. Councilor Bettison asked what would be the use of this space and Ms. Embick said that Mr. Brown and her discussed a nine-hole Disc Golf course. Ms. Embick asked Mr. Brown if he had spoken with anyone else for uses of the property and Mr. Brown said no, he has not. Councilor Bettison asked if 4-wheeled motorized use would be restricted to the parking area and Ms. Embick said yes. Councilor Aiman-Smith asked how often does the area flood and Ms. Embick stated she thought every year from the creek on the west side of the property. Mayor Ladner asked if there were any more questions, and there were none.

Mayor Ladner asked if the Hearing Board was ready to consider this application and render its decision. Mayor Ladner then asked for a roll call. Councilor Bettison said yes; Councilor Aiman-Smith said yes; Councilor Ray said yes; and Councilor Cano said yes. Mayor then asked for a motion. Councilor Bettison moved to approve Ordinance No 1303, an Ordinance to amend the Official Zoning Map for a tract of land from the Residential A Zoning District to the Open Space Zoning District described as: The Hearst Millsite Designated by the Surveyor General as Lot No. 996, and embracing a portion of Section Thirty-Five, in Township Seventeen South, of Range Fourteen West, New Mexico Meridian, in the Pinos Altos Mining District, Grant County, New Mexico, containing four and sixty-six hundredths of an acre, except the following part thereof (“tract”): Beginning at Corner No. 2 of the property, MS No. 996, thence S. 0°30’ E., 149.7 feet to Corner No. 1 of the property; Thence S. 63°03’ E., 196.4 feet to Corner No. 6 of the property; Thence N. 89°50’ E., 46.0 feet to the SE Corner of this tract, said SE Corner being on Line 5-6 of the property; Thence N. 17°42’ W., 281.19 feet to the NE Corner of this tract, said NE Corner being on line 2-3 of the property; Thence S. 77°55’ W., 140.0 feet along said Line 2-3 of the property to Corner No. 2 of the property and place of beginning. Said tract containing 0.97 acres more or less with the following findings per the recommendation of the Planning and Zoning Commission, #1, #2, #4 and #7. Councilor Bettison asked Mr. Reynolds if he required her to read those into the record and Mr. Reynolds said just the numbers. Councilor Cano seconded. Mayor Ladner then 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.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS

A. Approval / Disapproval of Resolution 2021-11 – for proclaiming that extreme and severe drought conditions exist within the Town and a limited ban on the sale and use of certain fireworks.

– Chief Lambert stated our drought situation has not improved. He said this month to date, we have had 14 grass fires and he thinks it’s prudent to continue and extend the Resolution to ban the sale and use of fireworks. He said he has had numerous discussions with members of the public requesting to continue this Resolution because there is a lot of fear and apprehension about what may come of this season. Chief Lambert asked to please continue and extend the Resolution of banning the sale and use of fireworks. Councilor Ray asked Chief Lambert if he would still have his fireworks this 4th of July. Chief Lambert said the City’s Display Fireworks Show will continue. Chief Lambert stated they use trained professionals that ignite the fireworks in a very barren area, under strict Federal Regulations and have fire extinguishing crewmen on site. Chief Lambert said what this Resolution bans is the sale and use of commercial grade aerals from Walmart and fireworks stands. Chief Lambert said the sale of some fireworks will still be allowed, we don’t have the ability to ban sparklers, fountains, and cones. Chief Lambert said any fireworks over six feet and ground audible devices, such as Black Cats, Chasers, and Whistlers will be banned. Councilor Aiman-Smith thanked Chief Lambert for continuing public safety. Mayor Ladner asked if there were any questions, and there were none. Mayor Ladner asked for a motion. Councilor Aiman-Smith moved to approve Resolution 2021-11 for proclaiming that extreme and severe drought conditions exist within the Town and a limited ban on the sale and use of certain fireworks. Councilor Ray seconded. Mayor Ladner then 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 2021-12 – A Resolution authorizing changes to the Town of Silver City Sanitation Rates.

– Mr. Brown stated under current Town Ordinances, he was required to review water, sewer, waste water, and sanitation collection rates every year when working through the budget process. Mr. Brown stated he had many discussions about the budget and was informed the rates would need to be increased by 3%. Mr. Brown said normally, what they would have done at the Council Meeting was adopt these rate increases along with a Resolution to be submitted at the same time as the preliminary budget. Mr. Brown said for some reason this year, DFA decided they didn’t need to have a Resolution and we could just submit the preliminary budget without a Resolution. Mr. Brown said they went ahead and increased it so the preliminary budget did include a 3% increase in rates. Mr. Brown stated that if the Resolution does not pass tonight, they can still amend the final budget in July. Councilor Bettison asked if there was an age for a senior rate and if they have to ask for that rate. Mr. Brown said the age is 62 and they will have to tell utility billing that they are seniors. Councilor Bettison stated that it

should be posted on the website and other news organizations and Mr. Brown agreed to do so. Councilor Aiman-Smith asked if the increase applies to residential and commercial accounts and Mr. Brown said yes. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Resolution 2021-12, a Resolution authorizing changes to the Town of Silver City Sanitation Rates. Councilor Ray seconded. Mayor Ladner then 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 2021-13 – A Resolution authorizing the mayor to negotiate and execute an amendment to a contract for employment between the Town of Silver City and Alex C. Brown. – Mr. Brown stated under the contract that was negotiated in November 2020, they did agree that he would not take an increase of more than 5%. Mr. Brown said at that time, he told the Mayor he would only take any increases the Town was able to give exempt employees which are in the same category as himself. Mr. Brown did say they did budget a 4.5% increase for the exempt employees and any future increases would have to come back to the Council. Mr. Brown said going forward any increases stipulated by contract will have to be reviewed at budget time. Mayor Ladner, Councilor Ray and Councilor Bettison all stated Mr. Brown deserved it. Mayor Ladner asked for a motion. Councilor Aiman-Smith moved to approve Resolution 2021-13, a Resolution authorizing the mayor to negotiate and execute an amendment to a contract for employment between the Town of Silver City and Alex C. Brown. Councilor Ray seconded. Mayor Ladner then 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. Approval/Disapproval of Resolution 2021-14 – A Resolution to notify the Grant County Clerk of all Elective Positions to be filled at the Regular Local Election to be held on November 2, 2021. – Counselor Bettison stated this is a required formal legal Resolution per NMSA 1978 Section 1-22-4A notifying the County Clerk about the upcoming Regular Local Elections that we have selected to occur in November of odd years. Councilor Bettison wanted to make sure the public knows that the current positions that are to be filled at this next Regular Local Election on November 2nd are one Mayor for a four-year term; one District 2 Councilor for a four-year term; one District 4 Councilor for a four-year term; and one Municipal Judge for a four-year term. Councilor Bettison said this Resolution will serve as the Legal Notice to the County Clerk. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Resolution 2021-14, a Resolution to notify the Grant County Clerk of all Elective Positions to be filled at the Regular Local Election to be held on November 2, 2021. Councilor Ray seconded. Mayor Ladner then asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

12. ADJOURNMENT – Mayor Ladner asked for a motion to adjourn. Councilor Ray made a motion to adjourn at 6:57 p.m. Council Aiman-Smith seconded. Mayor Ladner asked if there was any discussion, there was none. Mayor Ladner asked for a roll call. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; Councilor Cano voted aye. Motion carried.

/s/

Ken Ladner, Mayor

Attest:

/s/

Katherine Kunnert, Town Clerk