

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
November 09 2021, 6:00 p.m.**

Present:

Ken Ladner, Mayor
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 Reynolds, Town Attorney
Melinda Hobbs, Captain SCPD
Alfred Sedillo, Town Clerk
Maria C. Sublasky, Admin Asst. to Exec. Department

- 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE** - Mayor Ladner called the meeting to order at 6:00 p.m. The Mayor welcomed everyone, the news media and the members of the community.
- 2. CHANGES TO AGENDA** - None.
- 3. CEREMONIES** – None.
- 4. PROCLAMATIONS** – “**Family Court Awareness Month**” – Mayor Ladner read the Proclamation to the public, there was no one at the meeting to accept the Proclamation.
- 5. COUNCIL COMMENTS** – Councilor Aiman-Smith congratulated the election winners and wanted to thank and encourage those who ran and did not win not to give up. She also wanted to make everyone aware of the increase in Covid cases in the County. She saw an article in the Albuquerque Journal that Grant County had the second highest new covid cases in the United States. Councilor Aiman-Smith wanted to thank Geoffrey Plant from the Daily Press for writing the article of her time of service with the Town Council.

Councilor Cano thanked the people of District 4 for her re-election. She appreciated those who voted for her or not and for taking their time to go out and vote. Councilor also thanked Acting Clerk Tina Sublasky for all the work she has done until the new clerk has come on board. She also wanted to thank Mayor Ladner and Councilor Ray for doing an excellent job at the celebration of the Mural at La Capilla. She stated that it was brought to her attention why the State Pledge is not done at the meetings and asked if it could be thought about for the future. Last she wanted to thank Mr. Brown and Chief Portillo for the bump on Kelly Street and relayed problems with it and wanted to see if they could give a report on it as there were issues with the speed bump location.

Councilor Ray’s first comment was why he didn’t approve of Mrs. Vasquez appointment. He stated he has said many times in a Town Council meeting and to people that he cannot and will not support anyone that supports abortion. His second comment was about some people who asked him why the Daily Press put down that there was no love lost between himself and Frances Vasquez. His response was that he did not know, to ask the Daily Press as they were the ones that put it down. Councilor Ray stated the he received an email about reciting the Pledge of Allegiance and he strongly stands behind his comments to say the Pledge of Allegiance. He also had a question for Captain Hobbs of the Silver City Police Department if there were any issues with side by sides in any part of Silver City. He was informed that there were none. Councilor Ray commended the Mayor for his cooking abilities. He welcomed Alfred Sedillo, new Town Clerk.

Mayor Ladner asked if anyone had the time to go see the murals located downtown and the other at La Capilla, and thanked all of the people who were part of the two dedications. Also, Mayor Ladner thanked Mr. Brown and his staff for installing the recent bike racks and the installation of another one at the Main Street Plaza.

6. APPROVAL OF MINUTES – 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 October 26, 2021. Councilor Ray seconded the motion. No discussion. Mayor asked that all in favor say aye. All in favor. Mayor asked those opposed to say nay. There were none opposed. Motion carried.

7. PUBLIC INPUT – Mayor Ladner called Alfred Ogas up to speak under public input. Mr. Ogas thanked the council for allowing him to speak and stated that he was very excited about being on the committee for Bataan Park. Mr. Ogas stated he would like to see some of the Council members be a part of some of the committees that were in his hand-out. He said there will be quite a few volunteers starting with a walk from Silver City to Santa Clara and from Hurley to Santa Clara and from there a parade to the venue at Bataan Park, all happening on April the 9th. Mr. Ogas stated that there were 110 soldiers from Grant County in the Death March and 55 came back. After 80 years he felt that it was time to do something in their memory. Mr. Ogas asked if the Council could help with the advertising. Mr. Ogas advised the Council that the committees next meeting will be November 17th at the American Legion Hall at 10:00 and invited them to attend.

Next to speak was Linda Pafford, she started with a brief review of her previous comments stating that page 6 of the Cannabis Ordinance was discriminatory of a single class of medical THC consumption smoke and that there will be no place other than a Cannabis lounge where she could consume it and that is also discriminatory against the homeless. She stated that a Cannabis consumption area is not a solution because they will be a limited number of them causing her to leave to get a few puffs of her medicine, and drive back which also causes driving in the unstable faze of consumption. Plus, she added these areas' locations will sell their own products and not want her to bring her own previously purchased or home-grown products, and that it would be discriminatory against the poor and medical users. The state also provides for outside consumption, this Ordinance did not. Ms. Pafford stated if police were going to be patrolling and handing out citations to those smoking in public and tourists would not be allowed to smoke at restaurants that sell liquor and would have to leave instead of stepping outside for 5 minutes.

8. REPORTS – Alex Brown introduced Alfred Sedillo as the new Town Clerk and thanked Tina as she has done two or three jobs, her job, Clerk's job and when Celia has been gone, her job. She has done a spectacular job and he really appreciated it. Mayor Ladner want to thank Alfred and Tina stating that Tina hit the ground running and took over where Ann had left off and Alfred had stepped right into the mold.

9. PUBLIC HEARINGS – Approval/Disapproval of Ordinance 1307: An Ordinance amending Appendix C, Land Use and Zoning Code of 2010, Article III, District Regulations, Section 3.2, Use Table, and Section 3.3, Use Regulations, Subsection 3.3.1m Use-Specific Standards, by adding a new paragraph 3.3.1 H), entitled “Cannabis Establishments,” of the Municipal Code of the Town of Silver City, Grant County, New Mexico, to provide zoning and regulations of Cannabis Establishments pursuant to the Cannabis Regulation Act of 2021. Mayor Ladner read the Ordinance 1307 description and stated that the Council would serve as the Hearing Board and him as Mayor would be the presiding officer and James Marshall acting Community Development Director would be testifying on behalf of the Town. Mayor Ladner called all interested parties or witnesses who desired to testify, including any other staff members who intended to present testimony or who were available for questioning to rise to be sworn in by the Town Clerk. He stated that anyone not sworn in would not be able to testify or participate in the hearing. He announced that any member of the public who wished to testify would be held to the same 5-minute limit as public input. Councilor Cano asked the Town attorney if he was going to be sworn in because she had questions for him. Mr. Reynolds advised Councilor Cano that he did not have to be sworn in because he was just giving his legal opinion. At that time, Clerk Alfred Sedillo swore in James Marshall and Linda Pafford.

Mayor Ladner then stated that the meeting would proceed with acting Community Development Director James Marshall who would present a brief synopsis of the events that have transpired, and act as Chief Witness for the Town. Councilor Cano asked about any ex-parte that was not asked about, and Attorney Reynolds replied that ex- parte did not pertain to this issue. Councilor Cano proceeded to say that there was an Open Meeting Act violation as not adequate notice had been given on the website, 24 hours' notice in lieu of 72 hours' notice. It was brought to her attention by the public and she was concerned. Mr. Reynolds stated that it was published in the newspaper within the 72 hours Mr. Reynolds was not aware what violation Councilor Cano was speaking about. Councilor Cano proceeded to read the

violation from the Open Meetings act stating that on page 16 of the Open Meeting Act (Agenda) that the agenda needed to be posted within 72 hours of the meeting if a website was being maintained. She stated that a member of the public contacted her saying that it was posted at 3:32 pm. Councilor Cano wasn't sure if that was a violation or not. Attorney Reynolds stated that it was published with plenty of time. Mayor Ladner asked Councilor Cano if she had any other questions, Councilor Cano did not. Mayor Ladner asked Mr. Reynolds if it was okay to proceed and Mr. Reynolds said, "yes". Mayor Ladner proceeded to ask Mr. Marshall to give his brief synopsis of the events that have transpired in the town. Mr. Marshall stated that the Ordinance 1307 went in front of the Planning and Zoning Commission on November 2nd. The notice of decision was in their packet, the changes were discussed with Mr. Reynolds which pertains to the allowable usage and zoning along with the issues presented by Ms. Pafford which were discussed at long length. The Commission voted three to zero to recommend approval of Ordinance to the Town Council. Mayor Ladner asked if there were any questions for Mr. Marshall. There were none from the Council. Mayor Ladner had a few questions in terms of the category called CLT, it is to his understanding this is an area that has not been incorporated in the Town's zoning map yet. Mr. Marshall stated the Commercial Light Zone is described and there are criteria in the land use code however the council has never described any area as Commercial Light Zone. The following was discussed: the 300-foot radius around the schools and La Capilla Park; the D Johnson Clean Air Act was amended to remove actual measurements for business-designated smoking zones; and enforcement. Attorney Reynolds clarified that the ordinance prohibits smoking around a business, so there would no smoking in public. James Marshall stated that Police would enforce the law; land-code issues would be enforced by Code Enforcement Officers; and criminal parts would go under any uniformed officer within the department. Councilor Aiman-Smith asked about the business and the public actual use, and Section 6 of the ordinance. Mr. Marshall explained that the definition for public place is consistent with the cigarette smoking, which was recently passed. Attorney Reynolds further explained that currently, there were no rules from the state to define a cannabis-consumption area. He added that the State is working on the specifics of the regulations. Discussion followed on the fact that once the Legislature amends that state statute, the Town would amend the ordinance. Mr. Marshall added that if the Town did not have regulations by a certain date in 2022, any offensive activity may be grandfathered in.

The Mayor apologized to Ms. Pafford and allowed her to comment as long as she did not replicate her earlier comments. Ms. Pafford read several definitions and requested replacement of paragraph 6 with one that incorporates the rule for smoking.

Mayor Ladner then asked the Hearing Board if they were ready to render their decision and asked for a motion. Councilor Cano made the motion to **Approve of Ordinance 1307: An Ordinance amending Appendix C, Land Use and Zoning Code of 2010, Article III, District Regulations Section 3.2, Use Table, and Section 3.3, Use Regulations, Subsection 3.3.1m Use-Specific Standards, by adding a new paragraph 3.3.1 H), entitled "Cannabis Establishments," of the Municipal Code of the Town of Silver City, Grant County, New Mexico, to provide zoning and regulations of Cannabis Establishments pursuant to the Cannabis Regulation Act of 2021.** Motion was seconded by Councilor Ray. Mayor Ladner called for a roll call. Town Clerk Alfred Sedillo did a roll call vote. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

10. UNFINISHED BUSINESS – Mayor Ladner read that an appointment of a councilor to serve in District 1 which vacancy created by the resignation of Cynthia Bettison and that councilor will serve until December 31, 2023. He appointed Lucian Farmer as Council member District 1 and asked the consent of the Council by stating I consent, "or" I do not consent and after which the council member may make a brief statement. Councilor Cano did not consent she proceeded to say that she wanted to be perfectly clear that she does not know this man, has never met the man and does know what he brings; she read his resume but never spoke to him and felt without speaking to him she could not consent. Councilor Ray did not consent with no explanation. Councilor Aiman-Smith stated she consented to the appointment because she had two trusted colleagues who knew Lucian for a very long time and felt he would make an excellent addition to the council. Mayor Ladner stated his appointment did not get consented. Mayor Ladner said he might not make another appointment until the new Council is seated.

11. NEW BUSINESS –

A. Approval/Disapproval of the Affirmation of Local Board - Mayor Ladner continued with new business by reading Approval/Disapproval of the Affirmation of Local Board, as required by State of New Mexico Public Employees Bargaining Act, Section 10-7E-10. D (1). Mayor Ladner called on Mr. Brown who stated that Town and the Unions associated with the Town agreed that they would like to continue the local Labor Board. Mayor Ladner asked if there were any questions for Mr. Brown being none Mayor Ladner asked for a motion. Councilor Aiman-Smith made a motion to Approve the Affirmation of Local Board as required by State of New Mexico Public Employees Bargaining Act, Section 10-7E-10. D (1). Councilor Ray seconded the motion. Mayor Ladner asked for a roll call. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

B. Appointment of Mayor Pro-Tem. Mayor Ladner read from the pocket hand book from the New Mexico Municipal League on page 4, regarding Section (3-12-3A) on the duties of the mayor Pro-Tem and proceeded to open the floor for nominations. Mayor Ladner indicated that those nominated would serve through December 31st, 2021. as Mayor Pro-Tem. Councilor Ray nominated Councilor Aiman-Smith to serve as Mayor Pro-Tem. The Mayor entertained a second as a show of support. Councilor Aiman-Smith seconded the nomination. Mayor Ladner asked those in favor to state aye. Councilor Aiman-Smith stated aye; Councilor Ray stated aye. Mayor Ladner asked those opposed to state nay and Councilor Cano stated nay. Motion carried. Mayor Ladner stated two Councilors for and one opposed with Councilor Cano the opposed.

C. Closed Executive Session pursuant to NMSA 1978 Section 10-15-1(H) (6) for Discussion of matters subject to the attorney-client privilege pertaining to threatened or pending litigation on which the public body is or may become a participant. Mayor called for a motion. Councilor Aiman-Smith made a motion to go into Closed Executive Session pursuant to NMSA 1978 Section 10-15-1(H)(6) for the Discussion of matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant. Councilor Cano seconded the motion. Mayor Ladner asked for a roll call. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

Mayor Ladner made a comment stating if he made another appointment for District 1 Councilor, that it would be his last one for this year.

After a short five-minute break, the Council moved into the Red Room for Closed Executive Session. The Mayor called the meeting back to order at 7:45 pm stating the matters discussed in the closed meeting were limited only to those specified in the motion for closure and he asked for a roll call vote. Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Mayor Ladner asked if any were opposed, and there were none. Motion carried. no action taken Mayor Ladner asked for affirmation of Councilors, all affirmed.

12. ADJOURNMENT - Mayor Ladner stated this concluded the business of the Town of Silver City, and asked for a motion to adjourn. Councilor Ray made a motion to adjourn at 7:45 pm. Councilor Aiman-Smith seconded the motion. All in favor. Mayor asked all opposed say nay, there were none opposed. Motion carried.

/s/
Ken Ladner, Mayor

Attest:

/s/
Alfred Sedillo, Town Clerk