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TOWN OF SILVER CITY COUNCIL
REGULAR MEETING AGENDA
JULY 14, 2020, 6:00 PM
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. CHANGES TO AGENDA

3. CEREMONIES

4. PROCLAMATIONS

5. COUNCIL COMMENTS

6. APPROVAL OF MINUTES - Regular Meeting on June 23, 2020

7. PUBLIC INPUT

8. REPORTS
   A. Staff Reports: Update on the budget by Manager Brown.

9. PUBLIC HEARINGS

10. UNFINISHED BUSINESS
    A. Approval / Disapproval of Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC.

11. NEW BUSINESS
    A. Approval / Disapproval of Resolution No. 2020-15: a Resolution amending the approved and adopted budget for the Fiscal Year commencing July 1, 2019 through June 30, 2020, and for Municipal Purpose in the Town of Silver City, New Mexico, transferring and appropriating funds thereof.
    B. Approval / Disapproval of Resolution No. 2020-18: Participation in Local Government Road Fund Program administered by the NM Department of Transportation (for chip seal and fog seal).
    C. Approval / Disapproval of Resolution No. 2020-19: a Resolution of the Town of Silver City ratifying a certain agreement between the Town of Silver City and the Southwest New Mexico Council of Governments, dated July 14, 2020, and authorizing the execution of same by the proper official of the Town of Silver City.
    D. Selection of the third member and the Chairperson of the Town’s Labor-Management Relations Board.
    E. Appointment to Cemetery Board.
    F. Appointment to the Library Community Advisory Group.

12. ADJOURNMENT
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.

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;
   A. 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;
   B. 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;
   C. meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;
   D. 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.
MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
June 23, 2020, 6:00 p.m.

Present:
Ken Ladner, Mayor
Cynthia Ann Bettison, District 1
Lynda D. Aiman-Smith, District 2
Jose A. Ray, Jr., District 3
Guadalupe E. Cano, District 4

Also, present:
Alex C. Brown, Town Manager
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Freddie Portillo, Police Chief
Jeff Fell, Assistant Fire Chief & Emergency Manager
Robert Higgins, Information Technology Director

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE – Mayor Ladner called the meeting to order at 6:00 p.m. He welcomed everybody that was attending the remote meeting and did a roll call of the Councilors and staff. He also announced that Joanie Griffin, Jessica Woods and Graham Taylor would participate in the meeting.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Bettison thanked everyone in town and all of the businesses and visitors that were in Grant County for everything they were doing to make sure the COVID-19 safe practices were being done. She also commented on the recent appointment of the New Mexico Municipal League’s (NMML) Executive Director, AJ Forte, and how she was confident in his ability to ensure the viability of the NMML and the municipalities. Councilor Ray thanked the U.S. Forest Service for giving local businesses some business as they work on the Tadpole Fire. He said he attended the rally for law enforcement to support their police officers, and said he was surprised at the mix of people that attended. He said they have to support law enforcement. He commended Terry Baca, a Forest Service employee, that kept a camp very clean and kept the campers informed about the local fires. He said the Forest Service was doing their job and that people should be sure to pack it in and pack it out. Councilor Aiman-Smith acknowledged the Interstate Stream Commission (ISC) for making the decision to no longer fund the project halting the Gila River diversion, and she thanked the members of the ISC for working towards the good of the community. She congratulated the Silver City MainStreet Program for receiving their 2020 National MainStreet accreditation. She encouraged people to respond to the 2020 Census and how it meant a lot to the future of their area in terms of how they were counted and how they were funded. She encouraged people to read a recent Daily Press editorial about the importance of the Census. Councilor Cano said she attended the Black Lives Matter protest and the law enforcement rally. She thanked Chief Portillo and the Silver City Police Department for making sure both gatherings were peaceful, and that everybody seemed to get along. She thanked Chief Portillo for his timely report in the newspaper and for clarifying things.

6. APPROVAL OF MINUTES - Regular Meeting on May 26, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Town Council Meeting of the Town of Silver City of May 26, 2020. Councilor Bettison seconded. The Mayor asked if there was any discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried. Note: The Regular Council Meeting scheduled for June 9, 2020 was canceled.

7. PUBLIC INPUT – Clerk Mackie stated no public input was received by email.

8. REPORTS –

June 23, 2020 Draft Minutes Regular Council Meeting Page 1 of 4
A. Sunny 505 report from Joanie Griffin, Chief Executive Officer of Sunny 505. Ms. Griffin reported on the impact that the COVID-19 pandemic had on the tourism market and stated they were working closely with the New Mexico Tourism Department and the Governor’s Office. She said they were promoting Silver City through their media outreach, social media, etc. She said for the Fiscal Year 2021 tourism marketing their advertising would focus on what people could do when it was safe to travel, and the images would feature wide open spaces and individuals rather than crowds. She said they were awarded a $40,000 grant and the Governor would allow them to roll that funding into Fiscal Year 2021, and the advertising would start in August or September. She discussed cooperative advertising and how they had applied for a grant. She said for Fiscal Year 2020 they trimmed their budget by 25 percent with a total budget of $149,077. She discussed the plans for Fiscal Year 2021 and how they would work with Grant County and the New Mexico Tourism Department, and talked about their plans for advertising, etc. She said she believed Silver City stood to thrive and discussed how people would travel by car and not by air. She said Silver City was a car destination. She said people wanted to be in places where there were wide open spaces and no crowds. She said the advertising would include COVID-19 safe practices. There was further discussion.

B. Staff Reports - Manager Brown stated he would like to report on the police state first. He said he had received several inquiries about the use of force policy and questions about the operations of the Police Department. He said the comments and questions were not of a negative nature but were just inquiries. He said he had talked with the Mayor about the inquiries and the Mayor said they should get in front of it and get as much correct information out to the public as possible. He discussed how they could work with a group of interested people to inform them, etc. Chief Portillo discussed how a citizen named Andy Payne asked for the police policy manual and wanted to put together a citizens’ advisory committee and get ideas from the public. He said the committee would work with staff, and the officers with boots on the ground would be part of it, to help educate the committee and to get the information out there and be more transparent. He said the goal was to have more public relations, to build a bridge to start communications, and to get as many officers and staff involved, especially the younger officers to help develop them. He said it was in the beginning stages. Manager Brown asked the Mayor and Councilors for suggestions. There was further discussion about giving access to any group who was interested, to be totally transparent, to have community conversations to get broader input from the community, to be more inclusive, etc. Mayor Ladner thanked Chief Portillo for all he was doing and that he had a great Police Department.

Update on the budget by Manager Brown. Manager Brown said he was still not at a point to make a final decision and that the budget would change throughout the fiscal year as they got information about the economy. He stated they had 167 newly opened water accounts in the last few months because a lot of people were moving in from out of state. He said they had a total of 6,700 water accounts and 167 new accounts was a dramatic increase for the community. He said the total revenues for the water and sewer fund was projected at $6.3 million and it was currently at $6.5 million. He said a lot of the increase was due to people being home, taking care of their yards, growing gardens, etc. He said the last two months of lodgers’ tax revenues were pretty ugly. He said in May 2019 they brought in $36,000 and in May 2020 they only brought in $8,000. He said the gas tax (street maintenance fund) was doing pretty well with two cents for every gallon sold, especially since things were starting to open up again and people wanted to take trips in their cars. He said for the general fund he was looking at a 15 to 22 percent decrease in the budget or about $1 million to $1.5 million. He said in May they saw a 7.65 percent decrease in revenue from the previous year, but the revenues for the month of April went up 8.65 percent which actually matched what he thought might happen when he looked at 2001, 2003 and 2008 when there were large layoffs and major issues with the economy in Grant County. He said the retail was the same as the previous year, but a big part of the increase came from food sales. He said in 2019 there was a total of $3.5 million in food sales and in May 2020 they saw $5.8 million in food sales. He said he did not see as much of a drastic decrease as anticipated, and he was looking at a range of a 14 to 15 percent decrease. He said the hiring freezes for the unions and the 3.9 percent decrease in pay for all the employees should take care of the 14 to 15 percent decrease in the budget. He said the special session of the state legislature just allocated some funds for municipalities which ranged from $750,000 to $1.5 million for next year. He said he thought they would be okay with their current revenues and expenditure cuts. He said if they did receive funds from the state, they could add some employees to some of the departments with frozen positions, and the furloughs may be extended a month or perhaps canceled. He said with the 8.65 percent increase in gross receipts taxes in the last month and the months prior to the shutdown, they received $10.6 million dollars in gross receipts tax which was the most gross receipts taxes ever brought in. He said in Fiscal Year 2022 they would start getting internet gross receipts tax sales which would add...
about 10 percent to their revenue. He said if the Census numbers came under 10,000, and if they did not pass any of the hold harmless gross receipts taxes, they would be able to get 100 percent of their hold harmless back. He said for Fiscal Year 2020 they phased out $550,000 of hold harmless and in Fiscal Year 2021 they were looking at losing $660,000. He said the following year they would bring back $660,000 plus the internet sales which would be good for the budget. He said they started decreasing expenditures in April, so they were able to increase the ending cash balance. He said the ending cash balance was supposed to end up with $850,000, but they would end up with $1.4 million. He said he would take that money to pay off a lot of the small loans and get rid of debt. There was further discussion.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -
A. Approval / Disapproval of Notice of Intent Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC. Attorney Scavron said the matter came to the Town when Fatbeam, LLC informed the Town they had won the bid to install high speed and broadband internet for the Silver Schools. He said during the process they decided they wanted to get a franchise to be able to operate a broader service for the town. He introduced Jessica Woods with Fatbeam, LLC. Ms. Woods said they won the bid for the Silver School District project to build them fiber and they were currently working with an engineering firm. She asked Graham Taylor to provide details since he coordinated the project with the Silver School District. Mr. Taylor said Ms. Woods handled the regulatory issues and he worked with school districts and city and county governments. He said they were awarded a contract to build a fiber network to help enhance some of the capabilities for the school district, and they hoped to put in additional investment into the community to provide alternate internet connectivity options. He provided information about Fatbeam, LLC. There was further discussion about the following: how there were internet difficulties in Silver City; how Fatbeam was a commercial provider and an open access provider and worked with other wireless providers and entities that provided residential services; how Fatbeam’s first priority was with the school district and their business model was to bring greater connectivity to smaller communities; how Fatbeam had an agreement with PNM to use existing pole lines and they were working with CenturyLink to utilize existing facilities for underground work; how their contract with the school district was for five years, but they were looking for a 10 year franchise agreement with the Town; how their intention was to be in Silver City for the long term; and how real progress had been made, due to the schools and universities, in providing broadband to small rural towns. Mayor Ladner said he would entertain a motion. Councilor Aiman-Smith moved to approve Notice of Intent Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC. Councilor Bettison seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried. Mayor Ladner said the final vote on the ordinance would be during the July 14 Council meeting.

B. Approval / Disapproval of Resolution No. 2020-13: A Resolution of the Town Council of Silver City, New Mexico, authorizing the submission of a New Mexico Community Development Block Grant Program Application to the Department of Finance and Administration/Local Government Division; and authorizing the Mayor to act as the Town of Silver City’s Chief Executive Officer and Authorized Representative in all matters pertaining to the Town of Silver City’s participation in the Community Development Block Grant Program (for water system improvements). Manager Brown said the Town continued to apply for CDBG grants; that it was one of the programs they had been successful with. He said they just completed the 2019 street project on the west side of Highway 90 in the Chihuahua Hill neighborhood. He said this application would be for the final phase of the waterline replacement in the Chihuahua Hill neighborhood on the east side of Highway 90. He said the total grant was $652,596.00 with the Town match being $65,259.60. He said the actual grant amount was $607,236.00 and the match was $65,259.60. He said they had actually spent $42,000 of that on engineering so they would have to come up with $22,000 if they were successful in acquiring the grant. Mayor Ladner said he would entertain a motion. Councilor Ray moved to approve Resolution No. 2020-13: A Resolution of the Town Council of Silver City, New Mexico, authorizing the submission of a New Mexico Community Development Block Grant Program Application to the Department of Finance and Administration/Local Government Division; and authorizing the Mayor to act as the Town
of Silver City’s Chief Executive Officer and Authorized Representative in all matters pertaining to the Town of Silver City’s participation in the Community Development Block Grant Program (for water system improvements). Councilor Cano seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. **Motion carried.**

C. Approval / Disapproval of Resolution No. 2020-14: Supporting a Public-Private Economic Development MainStreet Project. Manager Brown said it was the annual resolution stating the Town partnered with the MainStreet Project for services for the next year. He said the MainStreet Project had been doing a tremendous job, especially over the last couple of years which had been some of the most productive years. He said it had been great working with Charmeine Wait, Executive Director of the Silver City MainStreet Project, and he recommended they approve the Resolution. He provided more information about economic development services and the MainStreet contract. Councilor Ray moved to approve Resolution No. 2020-14: Supporting a Public-Private Economic Development MainStreet Project. Councilor Cano seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. **Motion carried.**

12. ADJOURNMENT – Mayor Ladner concluded the meeting. Councilor Aiman-Smith moved to adjourn at 7:14 p.m., and Councilor Ray seconded. Mayor Ladner stated there was a motion and a second to adjourn. 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.**

___________________________________
Ken Ladner, Mayor

Attest:

___________________________________
Ann L. Mackie, Town Clerk
ORDINANCE NO. 1291

AN ORDINANCE GRANTING A TELECOMMUNICATIONS FRANCHISE TO FATBEAM, LLC.

Sponsored by: Councilor Aiman-Smith

WHEREAS, the Town of Silver City (the Franchising Authority) has determined that the financial, legal and technical ability of Fatbeam, LLC, (the “Grantee”), is reasonably sufficient to provide services, facilities, and equipment necessary to meet the present and future telecommunications needs of the community; and

WHEREAS, the Town of Silver City desires into a Franchise Agreement with Fatbeam, LLC, for the operation of a telecommunication system on the terms set forth herein:

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF SILVER CITY:

This Ordinance shall be known and may be cited as the Fatbeam Franchise Ordinance.

Section 1. - Grant of franchise.

There is hereby granted by the Town of Silver City (the Town or Municipality) to Fatbeam, LLC, its successors and assigns, the right and privilege to do a telecommunications business within said Town of Silver City and to place, erect, lay, maintain and operate in, upon, over and under the streets, alleys, avenues, thoroughfares, and public highways, places and grounds within said town, poles, wires and other appliances and conductors for all telephone and other communication purposes. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, or at the option of Fatbeam, LLC, its successors and assigns, may be laid underground, and such other apparatus may be used as may be necessary or proper to operate and maintain the same. Any and all changes made by Fatbeam, LLC solely for the benefit of Fatbeam, LLC specific reasons in the location of the poles, wires, cables, underground conduits, manholes and other communications facilities shall not require the Town to pay for the change in any street, roadway or traffic control facility caused by the change of Fatbeam, LLC and the cost thereof shall be paid by Fatbeam, LLC, subject to the exceptions outlined below and in Section 4.

Section 2. - Excavations.

It shall be lawful for Fatbeam, LLC, its successors and assigns, to make all needful excavations in any of the streets, alleys, avenues, thoroughfares, and public highways, places and grounds in said town for the purpose of placing, erecting, laying and maintaining poles or other supports or conduits or such wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. The work shall be done in compliance with the necessary rules, regulations, ordinances or orders, which may during the continuance of this franchise be adopted from time to time by the Town of Silver City.
Section 3. - Restoration.

Whenever Fatbeam, LLC, its successors and assigns, shall disturb any of the Town's infrastructure within the Town's rights-of-way for the purpose aforesaid, it or they shall restore the same good order and condition as soon as practicable all in conformance with current standards and requirements contained in the Town's Municipal Code without unnecessary delay, and failing to do so the Town of Silver City shall have the right to fix a reasonable time within which such repairs and restoration of the Town's infrastructure within the Town's rights-of-way shall be completed, and upon failure of such repairs being made by Fatbeam, LLC, its successors and assigns, the said Town shall cause the repairs to be made at the expense of Fatbeam, LLC, its successors and assigns.

Section 4. - Relocation.

Nothing in this ordinance shall be construed in any way to prevent the proper authorities of the Town of Silver City from sewering, grading, planking, rocking, paving, repairing, altering or improving any of the streets, alleys, avenues, thoroughfares, and public highways, places and grounds within the Town's public rights-of-way in or upon which the poles, wires or conductors of Fatbeam, LLC shall be placed, but all such work or improvements shall be done if possible so as not to obstruct or prevent the free use of said poles, wires, conductors, conduits, pipes or other apparatus. In the event that the Town requires that Fatbeam, LLC move, alter, change, adapt or conform its facilities, where such move is necessary, reasonable and for reasons pertaining to the health, welfare and safety of its citizens, Fatbeam, LLC shall pay the cost of the relocation. Prior to such move in the pre-design phase of any such project, the Town and Fatbeam, LLC shall coordinate such activity to avoid unnecessary relocation and cost for both parties. If such move is for aesthetic purposes, for the Town's benefit to compete with Fatbeam, LLC as a telecommunications service provider or which is necessitated for the development of a non-roadway structure, the Town shall reimburse Fatbeam, LLC for relocation. If such move is for the benefit or convenience of, or at the request of a third party, including a private developer or development, such costs shall be borne by the third party. The Town shall not require Fatbeam, LLC to remove or relocate its facilities or vacate any street, alley or other public way incidental to any public housing or renewal project without reserving Fatbeam, LLC's right therein or without requiring Fatbeam, LLC to be compensated for the costs thereof.

Section 5. - Moving aerials.

Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of Fatbeam, LLC to permit the passage of any building, machinery or other object moved over the roads, streets, alleys, avenues, thoroughfares and public highways within the Town, Fatbeam, LLC will perform such a rearrangement within a reasonable period after written notice from the owner or contractor-mover desiring to move said building, machinery or other objects. Said notice shall bear the approval of the Town, shall detail the route of movement of the building, machinery or object, shall provide that the costs incurred by Fatbeam, LLC in making such a rearrangement of its aerial facilities will be borne by the contractor-mover and shall further provide that the contractor-mover will indemnify and save Fatbeam, LLC harmless of and from any and all damages of claims whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the facilities of Fatbeam, LLC, and if required by Fatbeam, LLC, shall be accompanied by cash deposit or a good and sufficient bond to pay any and all such costs as estimated by Fatbeam, LLC.
Section 6. - Payment by grantee.

In consideration of the rights, privileges, and franchise hereby granted, said Fatbeam, LLC, its successors and assigns, shall pay the Town of Silver City from and after the date of the acceptance of this franchise an amount equal to three percent of the monthly recurring revenues received for basic local exchange service within the Town limits of Silver City for in town services listed in Appendix A, less net uncollectibles (“Franchise Fee”). Payment shall be made quarterly on or before 60 days after the end of each calendar quarter. The Franchise Fee shall also serve as payment of any license, privilege or occupation tax or fee for revenue or regulation, franchise fee, or any permit or inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter, or other forms of excise or revenue taxes based upon or measured by revenues, employees, payroll, property, facilities or equipment of Fatbeam, LLC to be imposed by the Town of Silver City upon Fatbeam, LLC during the term of this franchise. Notwithstanding that no permit or inspection fees will be assessed upon Fatbeam, LLC by the Town, Fatbeam, LLC shall apply for permits and inspections pursuant to the requirements of the applicable provisions of the Town's Municipal Code.

Section 7. - Term.

The rights, privileges and franchise herein granted shall continue and be in force for the period of ten years from and after the date this ordinance becomes effective, except that it is understood and agreed that either party may terminate this ordinance after 180 days notice in writing. This ordinance shall be subject to any and all state or federal legislative enactments. The right to cancel this franchise agreement on the part of the Town shall be limited to cause wherein the franchisee has demonstrated a pattern of non-compliance with the franchise agreement and the obligations thereunder.

Section 8. - Reservation of rights.

By accepting this ordinance, Fatbeam, LLC reserves all rights under the law including, but not limited to, those rights arising under section 253 of the Federal Telecommunications Act and the law of the State of New Mexico. In the event additional and subsequent telecommunication franchise agreements are adopted by the Town, Fatbeam, LLC will be offered the opportunity to adopt and operate under any new franchise provisions which are in variance with the provisions herein.

Section 9. - Inspection of Fatbeam, LLC's books.

Fatbeam, LLC shall make available to the Town, upon reasonable advance written notice of no less than 30 days, such information pertinent only to enforcing the terms of this ordinance in such form and at such times as Fatbeam, LLC can reasonably make available. Subject to New Mexico public records laws, any information that is provided to the Town and/or that the Town reviews in camera is confidential and proprietary and shall not be disclosed or use for any purpose, other than verifying compliance with the terms of this ordinance. If such information is provided to the Town, it shall be immediately returned to Fatbeam, LLC upon review. The Town will not make copies of such information.

Section 10. - Indemnification.

Subject to and in compliance with New Mexico Tort Claims Act, including state, federal and
the New Mexico Public Regulation Commission laws, the Town and Fatbeam, LLC shall indemnify and save the other harmless from any liabilities, claims or demands (including the costs, expenses and reasonable attorney's fees on account thereof) that may be made by anyone for personal injuries, including death, or damage to tangible property, resulting from the negligence and/or willful misconduct of that party, its employees or agents in its performance under this ordinance. The Town and Fatbeam, LLC shall defend the other at the other's request against any such liability, claim or demand. The Town and Fatbeam, LLC shall notify the other promptly of written claims or demands against such party of which the other party is responsible hereunder.

Section 11. - Effective date.

This ordinance shall, if accepted by Fatbeam, LLC, as signified by Fatbeam, LLC's filing with the Town Manager of the Town of Silver City its written acceptance of all the terms and conditions of the ordinance, take effect and be in force 30 days from the passage and approval of this ordinance.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 14th day of July, 2020.

TOWN OF SILVER CITY

(Seal)

_______________________________
Ken Ladner, Mayor

Attest:

_______________________________
Ann L. Mackie, Town Clerk
APPENDIX A. [LISTING OF CATEGORIES]

LISTING OF SERVICE CATEGORIES INCLUDED IN GROSS REVENUE FOR CALCULATION OF FRANCHISE FEES:

- Business Local Access—Including Flat Rate, Multiparty, and Extended Area Service.
- Business Measured Usage Local Access Service.
- Flat Usage Local Access Trunks.
- Low Income Telephone Assistance Program Local Access.
- Measured Rate Local Access Trunk Usage.
- Message Rate Local Access Trunk Usage.
- Public Access Line (PAL) Service.
- Residential Local Access—Including Flat Rate, Multiparty, and Extended Area Service.
- Residential Measured Usage.

THE FOLLOWING IS A NON-EXCLUSIVE LISTING OF CATEGORIES OF REVENUE NOT REPRESENTING THE RETAIL SALE OF LOCAL ACCESS SERVICES AND THEREFORE EXCLUDED FROM THE DEFINITION OF GROSS REVENUES AND, THEREFORE, ARE NOT INCLUDED IN THE CALCULATION OF ANY FEE DUE TO THE TOWN:

- Proceeds from the sale of bonds, mortgages, or other evidences of indebtedness, securities or stocks.
- Bad debt write-offs and customer credits.
- Revenue from directory advertising.
- Any amounts collected from customers that are to be remitted to a federal or state agency as part of a Universal Service Fund or other government program, including but not limited to support for the hearing impaired.
- Any amounts collected for taxes, fees, or surcharges and paid to the federal, state or local governments.
- Revenues from internet access.
- Revenues from digital or other electronic content, such as computer software, music and video downloads.
- Revenues from equipment sales, rentals, installation and maintenance.
- Revenues from any carrier purchased for resale.
- Revenues from private line services not for switched local access service.
STATE OF NEW MEXICO
MUNICIPALITY OF SILVER CITY
RESOLUTION NO. 2020-15

A RESOLUTION AMENDING AND ADOPTED BUDGET FOR THE
FISCAL YEAR COMMENCING JULY 1, 2019 THROUGH JUNE 30, 2020 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 2019 through the last day of June 2020; 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 2019-2020;

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, 2019
to June 30, 2020 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
14th day of July, 2020.

(Seal)

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk
### TOWN OF SILVER CITY

**SCHEDULE OF BUDGET ADJUSTMENTS**

*Appendix A*

**FISCAL YEAR:** FY 2020  
**Resolution Number:** 2020-15

<table>
<thead>
<tr>
<th>(A) RESOLUTION NUMBER</th>
<th>(B) FUND</th>
<th>(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)</th>
<th>(D) APPROVED BUDGET</th>
<th>(E) ADJUSTMENT</th>
<th>(F) ADJUSTED BUDGET</th>
<th>(G) PURPOSE</th>
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<tbody>
<tr>
<td>2020-15 001</td>
<td>REVENUE</td>
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<td>Increased Revenues - NMFA Loan SC Fire Department Equip</td>
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</table>

$898,192

Mayor  
(Date)
# TOWN OF SILVER CITY
## SCHEDULE OF BUDGET ADJUSTMENTS
### Appendix A

**FISCAL YEAR:** FY 2020  
**Resolution Number:** 2020-15

<table>
<thead>
<tr>
<th>(A) RESOLUTION NUMBER</th>
<th>(B) FUND</th>
<th>(C) EXPENDITURE</th>
<th>(D) APPROVED BUDGET</th>
<th>(E) ADJUSTMENT</th>
<th>(F) ADJUSTED BUDGET</th>
<th>(G) PURPOSE</th>
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<td>EXPENDITURE</td>
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<td>2020-15 553</td>
<td>EXPENDITURE</td>
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<td>$164,424</td>
<td>Increased Expenditures - NMFAP Loan - Fire Department Equip</td>
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<td>2020-15 423</td>
<td>EXPENDITURE</td>
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<td>Increased Expenditures - NMFAP Debt Service (Silico Renovation)</td>
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<td>Decreased Expenditures - Coloniais Grant - Ridge Rd.</td>
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$1,771,268

Mayor  
(Date)
## TOWN OF SILVER CITY
### SCHEDULE OF BUDGET ADJUSTMENTS

**Appendix A**

<table>
<thead>
<tr>
<th>FISCAL YEAR:</th>
<th>FY 2020</th>
</tr>
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<tbody>
<tr>
<td>Resolution Number:</td>
<td>2020-15</td>
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<table>
<thead>
<tr>
<th>RESOLUTION NUMBER</th>
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<th>(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)</th>
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<th>(F) ADJUSTED BUDGET</th>
<th>(G) PURPOSE</th>
</tr>
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<tbody>
<tr>
<td>2020-15</td>
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<td>Decrease Transfer to Governmental GRT (Internal Services)</td>
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</table>

Original Budgeted Transfers not needed or able to do.  
$0

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Mayor
(Date)
## TOWN OF SILVER CITY
### SCHEDULE OF BUDGET ADJUSTMENTS

**Appendix A**

<table>
<thead>
<tr>
<th>Resolution Number</th>
<th>(B) FUND</th>
<th>(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)</th>
<th>(D) APPROVED BUDGET</th>
<th>(E) ADJUSTMENT</th>
<th>(F) ADJUSTED BUDGET</th>
<th>(G) PURPOSE</th>
</tr>
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<tbody>
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<td>2020-15 310</td>
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<td>2020-15 428</td>
<td>TRANSFER TO</td>
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<td>2020-15 418</td>
<td>TRANSFER FROM</td>
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<td>($37,274)</td>
<td>Increase Transfer from Silco Theater</td>
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</table>

**New EOY Transfers**

$0

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Mayor  
(Date)
RESOLUTION NO. 2020-18

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the Town Council of Silver City and the New Mexico Department of Transportation have determined that it is in the public interest to enter into a Cooperative Agreement with regard to a certain road project within the Town of Silver City; and

WHEREAS, the total cost of the project will be $82,652.00 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation’s share shall be 75% or $61,989.00; and
b. The Town of Silver City’s proportional matching share shall be 25% or $20,663.00; and

c. The Town of Silver City shall pay all costs, which exceed the total amount of $82,652.00;

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Silver City that:

1. The Town of Silver City shall and does hereby enter into a Cooperative Agreement, Control Number HW2 L100461, with the New Mexico Department of Transportation for a Local Government Road Fund Project for fiscal year 2020/2021 with a project scope:
   “Project development, construction and materials for a Chip Seal and Fog Seal – (1) Grant Street – College Avenue north to Dead End; (2) Grant Street - US Hwy 180 to 11th Street; (3) Santa Rita Street – 12th Street to College Avenue; (4) West Street – 12th Street to College Avenue; (5) 10th Street – Grant Street east to Dead End; (6) 10th Street – Santa Rita Street to West Street; (7) 11th Street – Pope Street to Grant Street; (8) 11th Street – West Street east to Dead End; (9) 12th Street – Pope Street to Mississippi Street; (10) 13th Street – Pope Street to Santa Rita Street.”
2. The referenced Cooperative Agreement project is adopted and has priority standing.
3. The Cooperative Agreement terminates on December 31, 2021 and the Town of Silver City incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

PASSED, ADOPTED, AND APPROVED this 14th day of July 2020.

(Seal)

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk
RESOLUTION NO. 2020-19


WHEREAS, The Town of Silver City is a member of and desires to have the services of the Southwest New Mexico Council of Governments; and

WHEREAS, it is necessary that an agreement setting forth the services to be performed by the Southwest New Mexico Council of Governments for The Town of Silver City be entered into and it is a requirement of the New Mexico State Laws; and

WHEREAS, it is necessary to set forth the sum to be paid by The Town of Silver City to the Southwest New Mexico Council of Governments, as annual dues, for said services; and

WHEREAS, it is the desire of The Town of Silver City to accomplish these purposes:

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF SILVER CITY THAT:

1. The AGREEMENT referred to in the caption of this Resolution (a copy of which is attached hereto and made a part hereof) expresses the desires and intent of THE TOWN OF SILVER CITY.

2. The AGREEMENT set above is hereby ratified and approved by the authorized representatives of THE TOWN OF SILVER CITY and is hereby authorized and instructed to affix their signature thereto.

3. A Certified copy of this Resolution (together with the Agreement) shall be filed at the Southwest New Mexico Council of Governments.

PASSED, ADOPTED, AND APPROVED by the Town Council of the Town of Silver City, Grant County, New Mexico, this the 14th day of July, 2020.

(Seal)  
Ken Ladner, Mayor

Attest:

______________________________  
Ann L. Mackie, Town Clerk
AGREEMENT

This AGREEMENT, entered into by and between the Southwest New Mexico Council of Governments (hereinafter known as COG), and the Town of Silver City a Member of said Southwest New Mexico Council of Governments (hereinafter known as Member) is as follows:

1. COG agrees to furnish the following services to Member:

   (a) Provide an updated statistical data base of federal and state statistics.
   
   (b) Furnish technical assistance to Member as requested by Member in planning development.
   
   (c) Coordination of planning with other Members of COG and various other State of New Mexico and local agencies.
   
   (d) Furnish management, advice and assistance to Member as Member requests in implementing their plans.
   
   (e) Furnish clearinghouse and environmental review of all projects of Member and where requested by Member, assist in the development of material for clearinghouse review.
   
   (f) Assist Member in developing Infrastructure Capital Improvement Plan.
   
   (g) Assist Member, when requested, in the development of Community Development Block Grant applications, as well as, assistance in monitoring and compliance.
   
   (h) Assist Member in the preparation of applications for funding under various State and Federal grants.
   
   (i) Assist Member with economic development activities.
   
   (j) Assist Member, with the development of housing initiatives and programs.
   
   (k) Assist Member in the preparation of applications under Department of Transportation.
   
   (l) Represent membership, when requested, under NM Department of Transportation for program funding.
   
   (m) Assist Member with Capital Outlay process.
   
   (n) Provide training that will benefit the membership.
2. Member agrees to furnish the following:

(a) To remain a voting member of the Southwest New Mexico Council of Governments and to participate in its policy development and administration.

(b) Will designate Alex C. Brown, Town Manager (name), to be the Member (email address) townmanager@silvercitynm.gov.

(c) To pay, in one lump sum, annual dues in the amount of $6,189.00 into the treasury of COG as payment for these services.

Total Assessment for Fiscal Year 2020-2021 is $6,189.00

(d) Such payment shall be for all services rendered to Member, by COG, for the period beginning July 1, 2020 and ending June 30, 2021. Such sum shall be expended by COG of which Member is a voting member, or as such budget may be amended following laws and regulations.

This Agreement is entered into on the 14th day of July, 2020 in Silver City, New Mexico.

Name of Local Unit of Government: Town of Silver City

(SEAL)

________________________________________
Ken Ladner, Mayor

ATTEST:

________________________________________
Ann L. Mackie, Town Clerk

================================================================================================

SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS

________________________________________
Aaron Sera, Chairman

Priscilla C. Lucero, Secretary/Treasurer
LEGAL NOTICE

The Town of Silver City Council will hold a remote Regular Meeting on Tuesday, July 14, 2020 at 6:00 p.m. The meeting will be held remotely via Go To Meeting and in compliance with the NM Open Meetings Act. The public may attend the meeting as follows:

Town of Silver City Council Meeting on Tuesday, July 14, 2020 at 6:00 PM (MDT). Please join the meeting from your computer, tablet or smartphone.

https://global.gotomeeting.com/join/380645317. You can also dial in using your phone.

United States: +1 (786) 535-3211. Access Code: 380-645-317. Public input may be submitted by email by 3:00 p.m. on July 14 to the Town Clerk at townclerk@silvercitynm.gov. Please enter “Public Input” in the subject line of the email. The comments will be read into the record during the Council meeting.

The action items on the agenda include:

**Approval of Minutes:** June 23, 2020 Regular Council Meeting

**Unfinished Business:** A. Approval / Disapproval of Ordinance No. 1291: An Ordinance granting a Telecommunications Franchise to Fatbeam, LLC.

**New Business:**

A. Approval / Disapproval of Resolution No. 2020-15: a Resolution amending the approved and adopted budget for the Fiscal Year commencing July 1, 2019 through June 30, 2020, and for Municipal Purpose in the Town of Silver City, New Mexico, transferring and appropriating funds thereof.

B. Approval / Disapproval of Resolution No. 2020-18: Participation in Local Government Road Fund Program administered by the NM Department of Transportation (for chip seal and fog seal).

C. Approval / Disapproval of Resolution No. 2020-19: a Resolution of the Town of Silver City ratifying a certain agreement between the Town of Silver City and the Southwest New Mexico Council of Governments, dated July 14, 2020, and authorizing the execution of same by the proper official of the Town of Silver City.

D. Selection of the third member and the Chairperson of the Town’s Labor-Management Relations Board.

E. Appointment to Cemetery Board.

F. Appointment to the Library Community Advisory Group.

**Adjournment**

Agendas are available prior to the meeting and may be on the Town's website, www.townofsilvercity.org. 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.