

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
January 12, 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 E. Cano, District 4

Also, present:

Alex C. Brown, Town Manager
James Reynolds, Attorney
Ann L. Mackie, Town Clerk
Freddie Portillo, Police Chief
Jaime Embick, Community Development Director
Priscilla Shoup, Town Planner
Manny Jaure, Code Enforcement Officer
Robert Higgins, Information Technology Director

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE – Mayor Ladner called the meeting to order at 6:00 p.m. Clerk Mackie did a roll call of the Mayor, Councilors and staff.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Ray commented on the following: how the Town should research and do something about the long-term care facilities in Silver City; his concerns and negative experiences while visiting his relative; how the municipality had its own rights to ask what could be done to repair the community and protect the residents and should not leave it up to the Governor; he described how the community and businesses were suffering; how House Bill 74 pertained to people that could register to vote after they got out of prison, whether they had felony convictions or not and in his opinion it was very wrong and would lead New Mexico to being a safe haven; and how the people that created the mural on Bridges Street were thankful to the residents. Councilor Bettison said Happy New Year to everyone. Councilor Aiman-Smith thanked Manager Brown for having such professional staff in the Utilities Department and she acknowledged the crew that diligently worked on her street to clear a blockage on the main sewer line and cleaned up the big mess. Councilor Cano had no comments. Mayor Ladner expressed his sympathy to Councilor Ray and Clerk Mackie for their loss over the holiday, and he said he hoped the coming year would be bright and healthier for all the citizens.

6. APPROVAL OF MINUTES - Regular Meeting on December 8, 2020 – 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 December 8, 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. **Special Meeting on December 21, 2020** - Mayor Ladner asked for a motion to approve the minutes. Councilor Aiman-Smith moved to approve the Minutes of the Special Council Meeting of the Town of Silver City of December 21, 2020. Councilor Ray seconded. The Mayor asked if there was any discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried. Mayor Ladner said the regular Council Meeting that was scheduled for December. 22, 2020 was canceled.

7. PUBLIC INPUT – Mayor Ladner asked Clerk Mackie if any public input was received, and she said no.

8. REPORTS – None.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of Appeal 20-01: A Variance Request to allow a carport structure to remain in the twenty-foot front setback of the property addressed as 1307 North Loop, Silver City, NM. The applicant is Gilbert Helton. Mayor Ladner read the procedures for the public hearing. He said he would be the presiding officer and the Council would be the hearing board. He asked if any members of the hearing board had any ex parte communication or discussion with any person or party in the case. He asked Clerk Mackie to do a roll call. Councilor Bettison stated Mr. Helton contacted her via her Town Councilor message machine in early December. She said she returned his phone call, but did not know what it was about and left a message for him. She said he did not call her back or enter any further communication. She said there had been no ex parte discussions. Councilor Aiman-Smith said she had no ex parte discussion. Councilor Ray said no. Councilor Cano said she had no ex parte discussion. Mayor Ladner continued reading the procedures of the public hearing. He asked all parties and witnesses intending to testify, including those staff members who intended to present testimony or who would be available for questioning, to please raise their hands in order to be identified and sworn in by the Town Clerk. The following persons were identified and sworn in: Priscilla Shoup, Jaime Embick, Manny Jaure, and Gilbert Helton. Mayor Ladner pointed out that only those individuals that were sworn in would be able to offer testimony, serve as a witness, or otherwise participate in the hearing.

Mayor Ladner asked Ms. Embick to present the application for the hearing board's consideration. Ms. Embick, Community Development Director, presented details from the Staff Report that was included in the Council Meeting packet. She read the Request as follows: Approval/ Disapproval of Appeal 20-01: A Variance Request to allow a carport structure to remain in the twenty-foot front setback of the property addressed as 1307 North Loop, Silver City, NM. The applicant is Gilbert Helton. She read the Background as follows: A carport was constructed on June 4, 2020, at 1307 North Loop without a Town of Silver City Zoning Permit or a Building Permit issued by the State of New Mexico Construction Industries Division. The construction was reported to Code Enforcement by the Community Development Director and a site visit was made. The contractor was still on site and Mr. Helton was given several options which included having it removed at that time by the contractor. Mr. Helton applied for a variance on September 21, 2020 citing COVID-19 as the main reason for his variance request. On November 9, 2020, the application for a Variance was denied by the Planning and Zoning Commission. Mr. Helton filed an appeal of this decision on December 14, 2020, citing "The lack of a written and signed complaint may have occurred by mistake or it may have happened arbitrarily or capriciously or by a manifestation abuse of discretion." Ms. Embick stated they had not had an appeal in a long time and she would next report on the Appeal Standards. She read the five standards as follows: 1) The decision maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgement. 2) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility. 3) The decision maker made the decision on standards not contained in this or other Town ordinances. 4) The decision maker made an error in applying a standard or measuring a standard. 5) The Appellant has provided evidence demonstrating that the decision appealed from creates an undue hardship or unfairness when balanced against the strict enforcement of the Land Use Code. Ms. Embick read the Requirements for Application as follows: 1) In applying adopted Town plans, policies and ordinances arriving at the decision, and she stated there needs to be one or more errors in these areas, 2) In the appealed action or decision, including its stated facts, and 3) In acting arbitrarily or capriciously or manifestly abusing discretion. She said her Staff Report included applicable Land Use Codes. She said next in her report was her response as the Community Development Director to the Applicant's Notice dated December 14, 2020. She said next on the Staff Report was the Departmental Review and no department director had any comments. She said for the Citizen Participation Report on the last page of her Staff Report, she had two new responses since the report was written. She received a phone call from Ann Shannon on January 11, 2021. She said Ms. Shannon called to say that she was afraid Mr. Helton would extend the walls down farther and it would block her view when entering on to North Loop from her driveway. She said Ms. Shannon said she was not in favor of it because it lessens the appearance of the neighborhood. She said she received an email on January 12, 2021 from Lydia Roybal and she read the email in its entirety into the record as follows: "I want to respond to a letter I received regarding a variance request for a carport structure on 1307 North Loop. I will not be able to attend the meeting as my father is very ill, but I do want to comment on this. My Husband Kenneth Bustillos and I totally agree that Mr. Helton should be able to keep us carport. We should all be able to do what we can to protect our vehicles. We believe the zoning on carports is very

unfair; twenty feet into our driveway is way too much. We pay our mortgages on our property and we should be able to have a carport. There are carports all over the city that are not 20 feet from the sidewalk; they are going up all the time. It isn't fair that some people get to have one and some don't. As I know some of them have been there many years, but there's a lot that are new. If this ordinance isn't changed then all those carports should be taken down. We want a carport since we only have a one-car garage. There are only two places that have them, U-Haul and the other place on the highway, I can't remember the name, neither one of them ever mentioned this ordinance. The one by the highway said we would need a building permit, but they would get it; they never mentioned anything about this ordinance. The only way we found out about it was when we got a letter when you first had the hearing. We do not agree that Mr. Helton should take down his carport. The only way he should take it down is if all the other carports all over town take theirs down. Thank you, Kenneth and Lydia Bustillos." Ms. Embick concluded her report. Councilor Ray asked if there were a procedure people had to take to make a complaint and if it was in writing or by mouth. Ms. Embick said the answer was in her Staff Report in Section 8.1 on page 2. She said Mr. Helton misquoted the section in his application. She read Section 8.1 of the Land Use Code of 2010. She said in this case she was the reporting party; that she lives directly across the street from the property and she was the one that saw the carport being constructed. She said according to the Land Use Code she had a duty to act to enforce it.

Mayor Ladner asked the proponent, Gilbert Helton, to present his testimony. Mr. Helton said there was no permit from the Town of Silver City or the State because of the fact that he ordered the carport prior to the COVID-19 pandemic locally. He explained how busy he got, as the Grant County Code Enforcement Officer, to work on how to get businesses operating, etc. He said the carport installers showed up in the afternoon and erected probably 90 percent or more of it, all except the trimming. He said the next morning they finished and that was when he was notified there was a 20-foot setback violation. He heard first from Code Enforcement Officer Jaure and Community Development Director Embick that he had to take it down. He explained how he felt about it because it was a big amount of money for someone like himself. He said when he heard there was no permit for being in the setback, he started making phone calls and it was almost impossible to find out how to determine how to handle it at that point. He said according to the Notice of Appeal that he submitted, he believed that when applying the adopted Town's policies, plans and ordinances and arriving at the decision, there was no mention that Article 8 of the Land Use Code required that the Town of Silver City, through the Community Development Department Director, receives a written and signed complaint alleging a violation of the Land Use Code. He said the reason for the written and signed complaint from anybody that feels that it is a nuisance helps prevent a conflict of interest and a mistake or arbitrary or capricious decision by the Town of Silver City. He said he felt, and that he had a little bit of experience enforcing codes from a different jurisdiction and a different level of government, but in his training, he had been told it was almost necessary to have a written and signed complaint before a nuisance can be determined. He said that was not taken into consideration on his Notice of Appeal. He said the Notice of Determination also reflected that Officer Jaure said he (Mr. Helton) reported another individual's carport in the neighborhood being in violation of the setback. He said that was taken out of context because he merely gave Officer Jaure several instances, not just that one, and he explained how another individual was allowed to get a permit for the 20-foot setback. He said the evening his variance request was not approved; the other individual's variance was approved. He said it was taken out of context and he did not give anyone that person's address so they could investigate it. He said he contacted at least 46 property owners which is approximately 50 percent of his neighborhood and overwhelmingly none of them had complaints about his carport. He said they were very surprised to learn there was such a big setback on the driveway. He said he learned that driveways were exempt from the 20-foot setback so he did not see any reason why a carport could not be erected on your driveway which is exempt from the 20-foot setback. He said it did not impede anything whatsoever; it did not impede traffic or get in the way of any infrastructure because the easements are on the backside of his property. He said he never intends to put walls on his carport, and he never will. He said there were carports in the Town of Silver City in Residential A with walls. He said he did not know if they were erected before the update of the Land Use Code or not. He said his point was that the precedent had already been set by the Town of Silver City. He said he understood why he could not have communication with the Council members so there would be no conflict of interest, but when the complainant is allowed to have free will communication with the bodies making determinations, big decisions that may affect him negatively, he felt that was just as wrong as him trying to talk to the Council about it. He said he thinks that was another reason why it was written in the Land Use Code. He said a written and signed complaint

would not be coming from the individual that leads the Community Development Department that was making the decisions against him and his neighbors. He said it was also stated in the Notice of Determination that he be denied his variance request because he worked as a Code Enforcement Officer. He said it was true that he worked as a Code Enforcement Officer. He said they also said he should know better, and then said he did his due diligence with the information he had and the situation he was faced with the onset of COVID-19, and everything was helter skelter at that time. He said a Code Enforcement Officer in the jurisdiction he worked for could not be compared with the Town of Silver City's Code Enforcement Officer because they had different policies, procedures and ordinances so it could not be a determination to allow a variance. He said the Notice of Determination also mentioned that he had a garage, and the individual that was approved for a variance did not have a garage. He said no where in the Land Use Code said having a garage was a metric for approval or disapproval. He discussed the types of carports in the town with or without garages or two garages, and how he did not see that as a determination either. He said he applied to serve on the Planning and Zoning Commission, and that he spoke Spanish which was important for the Commission so they could communicate to the Spanish-speaking population in the community. He discussed things that were taken out of context at the Planning and Zoning Commission meeting. He said he hoped the Council understands why he felt that the Community Development Director should recuse herself from any further involvement in the issue because he believed her personal ideas had influenced the determination of not allowing me to have a variance when a very similar one was approved in the same meeting when he was disapproved. He said he heard variances should not be easily procured for activities that have never been allowed and prior to a precedence being set, however, in this case the precedence has already been set and he did not feel there was anything wrong with having carports on driveways because driveways were exempt from the 20-foot setback. He discussed how COVID-19 affected the way they conduct business and how it was influenced negatively. He said he wanted to do his part to help the town to move forward and make things better for everybody because everybody in his neighborhood felt they should have the choice to erect carports, and it would not take away from the character of the neighborhood. He talked about a neighbor that was allowed an opportunity to get a permit from the Town and the State after they had already started the construction. He said he had only been threatened to take his carport down, and he intended to have a court hearing in Municipal Court because the permits were not pulled. He asked that he be given the same opportunity to pull the permits so he would be on the same playing level that everyone else was at. He said he wanted to do that, but the Town of Silver City continued his court hearing and that he could have already had it resolved. He said he still had not been given the same opportunity as the other individual who was approved a variance request for a carport on the 20-foot setback when his was disapproved. He concluded his testimony.

Mayor Ladner thanked Mr. Helton and asked the Council if there were any questions for the applicant or for staff. Councilor Bettison said she had questions for Ms. Embick and Mr. Helton. She asked Ms. Embick if it was accurate to state that driveways were exempt from the 20-foot setback. Ms. Embick said yes because they were not considered to be a structure. She said the difference between a carport and driveway was that a carport was considered a structure in the Town's Land Use Code and also by the State of New Mexico's Building Code. She said a driveway was allowed in the front setback and considered a fence or mailbox because it was not considered a structure, whereas, a carport was considered a structure. Councilor Bettison asked Mr. Helton if his statement was correct that indicated he purchased the carport prior to the onset of COVID-19, meaning he purchased and ordered it prior to determining if a permit was necessary. Mr. Helton said he purchased the carport within weeks prior to the onset of COVID-19, however, he hired a contractor with an expectation that they pulled the permit. He said he intended to do that when the Town of Silver City confronted him and explained that the 20-foot setback was being violated. He said that was one of the hardships he talked about, and the flow of information was not there at that point in time. Councilor Bettison stated she noticed over a three-month difference between the time the carport was reported to Code Enforcement by the Community Development Director on June 4th or thereafter, and that Mr. Helton did not attempt to apply for a variance until September 21st. She asked Mr. Helton if that was correct. Mr. Helton said it was correct and he was cited into Municipal Court and the hearing dates were changed at least three times. He said they had to wait to get on the agenda and there may have been meetings that were canceled, too. Councilor Bettison said the Town did not make laws that were retroactive and if an ordinance was put in place the Town did not retroactively apply them, especially in the Land Use Code. Ms. Embick said she was correct and cited Section 8 of the Land Use Code for Non-Conforming Uses and said uses and structures that were in place at the time of the Land Use Code cannot be deemed illegal. She said all over town were structures that

were built before 2010 that were called “Non-Conforming Uses” or another term was “grandfathered”. She said there were a couple of them that were in place before the 2010 Land Use Code. She addressed Mr. Helton’s comments about the construction that was being done across the street and that it was reported at the time, and she said what they were doing was well within the Land Use Code, but they did not know it needed permits. She said they came in to do all the paperwork and they received the permits within that week. Councilor Bettison asked Attorney Reynolds if he would clarify the fact that when an ordinance was adopted that they were not retroactive and were from that point forward. Attorney Reynolds said it was correct and that was usually stated in the law as Ms. Embick had stated. He said it was a general proposition of law that you cannot enforce something that causes a hardship from a previous time when the law was not in effect, that it goes forward. Councilor Bettison concluded her questioning.

Mayor Ladner gave Councilor Aiman-Smith the floor. Councilor Aiman-Smith asked Ms. Embick to confirm that a driveway did not require the 20-foot setback since you would be driving into it from the street and any structure that would want to be placed in the driveway would have a 20-foot setback. Ms. Embick said that was correct and she read the definition of “structure” out of the Land Use Code. Councilor Aiman-Smith asked about the role of the Planning and Zoning Commission. Ms. Embick said they were a decision-making body just as the Council, and they had an executive and judicial role like the Council does, so when hearing a variance, they were practicing a judicial role. She said in the case of a variance they are the decision-making body and the Council hears the appeal. Councilor Aiman-Smith asked if part of the role of the Planning and Zoning Commission would be to address to do something about setbacks or was that from another body. Ms. Embick said in 2017 the Planning and Zoning Commission and the Community Development Department addressed the issue of setbacks and she provided details. Councilor Aiman-Smith thanked Ms. Embick and said those were her only questions.

Mayor Ladner gave the floor to Councilor Cano and she asked about the Planning and Zoning Commission meeting that had two applications for a variance for the same thing as a carport when one was approved and there other one was not approved. She asked Ms. Embick why one was allowed in one neighborhood and the other one was not allowed, and to not talk about permits. Ms. Embick said the decision was made, not by herself, but by the Planning and Zoning Commission. She said the circumstances for a variance were met by the first applicant because one of the hardest findings to meet for a variance was that the problem was not caused by direct action of the applicant, and in the case of the other carport, it was not caused by that applicant. She said the Commission decided in this case that it was the direct action of the applicant that caused the issue. She said that was the main decision-making point that the Commission used. She said the two cases on the face looked like a carport in a 20-foot setback neighborhood. She said the Notice of Decision that was in their packet had the process that the other applicant went through, and it was 180 degrees different than this case, and that was the decision the Planning and Zoning Commission came to. Councilor Cano asked if everything was dealt with in court, would Mr. Helton be able to apply for a new variance for the same thing? Ms. Embick said that would be a question for Attorney Reynolds because it would still not comply with the Land Use Code. Councilor Cano asked Attorney Reynolds to respond. Attorney Reynolds said if Mr. Helton receives an unfavorable decision from the Council, he would have the opportunity to appeal to District Court. He said once District Court makes its decision, it is final, and you could not go back and do it again.

Mayor Ladner gave the floor to Councilor Ray, and he said it was a hard decision for everybody, and that he thought sometimes they have to look a little bit the other way. He said he meant that not all things were perfect; and he felt for Mr. Helton, Ms. Embick, and Attorney Reynolds. He said personally he would like to see if something could be done so both parties agreed, maybe Ms. Embick could change her mind and maybe Mr. Helton could change his mind, and meet on common ground. He said he hoped Ms. Embick could bypass it and that nobody mentioned it was an eyesore and some people take things for granted. He said he hoped Mr. Helton could have it.

Mayor Ladner asked if there were any other questions from the Council, and there were none. He asked Mr. Helton, the applicant, if he had any witnesses that had been sworn, to speak in support of his application. Mr. Helton said no, not that had been sworn, but he received other letters. The Mayor asked Mr. Helton if that concluded his case in chief. Mr. Helton said he was not sure what Ms. Embick was referring to about the 180 degrees, but the Notice

of Decision reflects that she was the one that stated that she felt the two cases were 180 degrees different, and that was an example of others that had been denied in this case; that he was requesting to leave a structure. He said that was why they needed a written and signed complaint because it could be construed as her opinion and her opinion only since it was in her neighborhood and right across the street from her house. He said that case was not in front of her house and that individual was able to get permits and he had it constructed in the setback. He said nothing would have ever been said about it if this had never occurred. He said he did not want special treatment; that he just wanted to be treated as fair as other people have been treated. He said if he made a mistake then he can correct that. He said he was willing to make things correct to move forward; that it was a big expense and he looked around to see what kind of information he could gather when the information flow was not available to him. He said he thought he was doing the right thing because a lot of other places had a carport like him on the 20-foot setback. He said some were changed before the Land Use Code and some were after, and he wanted to be treated the same way as everyone else. He said all of his neighbors were in support of it, and they felt that it was a choice they should be able to have; that he wanted to work with the Town of Silver City so they could move forward in a positive way.

Mayor Ladner asked if any person that had been sworn would like to testify in opposition to the application, and there were none. He asked if there was anything the proponent wanted to be reflected in the record. Ms. Embick said no. The Mayor asked Mr. Helton if he had anything else to be reflected in the record, and Mr. Helton said no. The Mayor asked if the hearing board had any questions or comments, and there were none. He asked the hearing board if they were ready to consider the application and render its decision. Clerk Mackie did a roll call vote. Councilor Bettison stated she was prepared to render a decision. Councilor Aiman-Smith said she was prepared to render a decision. Councilor Ray said yes. Councilor Cano said yes, but she wanted to say that the case was in her Council District so she was supposed to make the motion, but she was not going to make the motion because the motion was supposed to be in the affirmative by using reasons why they should not approve it. She said she supported Mr. Helton. Mayor Ladner asked for a motion. Councilor Bettison moved to Reject Appeal 20-01: A Variance Request to allow a carport structure to remain in the 20-foot front setback of the property addressed as 1307 North Loop, Silver City, New Mexico. The applicant is Gilbert Helton. The rejection is based on the Staff Opinion, which states "In its review of the case and appeal, the Community Development Department is of the opinion that none of the Requirements for Application have been met and the decision of the Planning and Zoning Commission should be wholly affirmed, allowing enforcement of the Land Use Code to proceed." She asked Attorney Reynolds if moving to reject means you vote aye to reject and nay if you do not want to do that. Attorney Reynolds said correct, to move to reject you vote aye on it, and if you want to vote in favor of the proponent you would vote nay. Councilor Aiman-Smith seconded. Councilor Cano asked Attorney Reynolds for clarification on the voting. Attorney Reynolds said a nay vote would be in support of the appellant, Mr. Helton. Councilor Bettison said if you vote aye to reject, that was for the Town, and voting nay was for Mr. Helton. Councilor Ray said okay. Mayor Ladner asked Clerk Mackie to do a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye to reject 20-01; Councilor Ray voted nay; and Councilor Cano voted nay. Mayor Ladner broke the tie vote by voting aye to reject it. He said he voted the same as Councilor Bettison and Councilor Aiman-Smith. Motion carried.

Councilor Bettison moved for a short break at 7:24 p.m. Councilor Aiman-Smith seconded. Mayor Ladner asked all those in favor to say aye, and all four Councilors said aye. Motion carried. The Council returned at 7:30 p.m.

10. UNFINISHED BUSINESS –

A. Appointment to the Planning and Zoning Commission. Mayor Ladner stated the Town received an application from Glenda Troutman Rivera and it was his intention to appoint her to the Planning and Zoning Commission. He asked if there were any objections from the Council. Councilor Cano expressed her concern that the Planning and Zoning Commission in the past served District 2 and 3, and she believed Ms. Rivera lived in District 1 which was great. She said if there was going to be another appointment soon, she respectfully insists that it be from District 4; that it was time for every district to have a representative on such an important committee. Mayor Ladner said it was certainly their goal and he asked Councilor Cano to try to recruit someone from that district that would qualify. Mayor Ladner asked if there were any objections to the appointment of Glenda Troutman Rivera. Councilor Ray objected. The Mayor said he appreciated Councilor Ray's opinion, and he asked if there were any other objections. Councilor Cano asked Councilor Ray if his objection was based on his last objection that they had another applicant or could it wait until that issue was resolved. Councilor Ray said there needed to be diversity of people on all the boards, and that was why he objected.

Councilor Cano agreed with Councilor Ray and said she was opposed. The Mayor said it appeared two Council members were objecting, and he wanted to handle it democratically. Mayor Ladner made a motion to appoint Glenda Troutman Rivera to the Planning and Zoning Commission. Councilor Bettison seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted nay; and Councilor Cano voted nay. Mayor Ladner voted aye to break the tie and Glenda Troutman Rivera was appointed to the Planning and Zoning Commission. He said there was still one more position available and it was a good opportunity for qualified candidates.

11. NEW BUSINESS -

A. Approval / Disapproval of Resolution No. 2021-01: Open Meetings. Clerk Mackie stated it was the annual Resolution for Open Meetings that was done every first meeting in January. She said it was the same as the last few years and she only changed the Council Meeting dates for 2021, and the rest of the Resolution was the same. She said the approved Resolution would be posted later this week on the Town's website under the Government tab, then under Resolutions tab. There were no questions. Mayor Ladner asked for a motion. Councilor Bettison moved to approve Resolution No. 2021-01: Open Meetings. Councilor Ray 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.

B. Approval/Disapproval of BID 20/21-3: Re-Bid Visitors Center Pedestrian & Trailhead Improvements. Manager Brown said it was the third time they put the same project out to bid. He said they were going to have to recommend to reject the one bid that was received from Dement Electric of Silver City. He said they actually would have been able to award the bid if Dement Electric had complied with the federal guidelines that required that they become a prequalified contractor and subcontractor on the State Department of Transportation website. He said they did not register so they were not prequalified. He said it was a federal-funded project that had a lot of strict requirements and all contractors had to be prequalified with the state. He said staff recommends to reject the bid, rebid the project and get the project done. There was further discussion about providing workshops to help the local contractors to qualify. Manager Brown said he would ask the Southwest New Mexico Council of Governments to help with training. Mayor Ladner asked for a motion. Councilor Bettison moved to reject Bid 20/21-3: Re-Bid Visitors Center Pedestrian & Trailhead Improvements per staff's recommendation. Councilor Ray seconded. Councilor Bettison reminded the other Councilors that if they voted aye the bid would be rejected per staff's recommendation, and if they voted nay it would not be rejected. The Mayor 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 Ray moved to adjourn at 7:43 p.m., and Councilor Aiman-Smith 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.

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk