

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON JANUARY 23, 2018 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	J. R. Doporto	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
	Wanda Durham	Councilor
Absent:	Ward 3	Vacancy
Also Present:	Steve McCutcheon	City Administrator
	Michael Hernandez	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	Luis Camero	Director of Engineering Services
	John Lowe	Community Dev. Director
	Ron Myers	Director of Utilities
	Wendy Hammett	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Kent D. Waller	Police Chief
	Patrick Cass	Public Works Director

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00      **Call Meeting to Order**

0:00:08      Invocation - Pledge of Allegiance

0:00:32      **1. Approval of Agenda**

0:00:35      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Anaya Flores to approve the Agenda

0:00:40      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doport, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:00:58      **2. Routine and Regular Business**

- A. Minutes of the Regular City Council Meeting held on January 9, 2018
- B. City Personnel Report
- C. Contracts and Agreements:
  - 1) Consider Approval to Lease Equipment to Center of Excellence for Hazardous Material Management (CEHMM)
- D. Purchasing:
  - 1) Consider Approval to Advertise Invitation to Bid Cavern City Air Terminal Runway Markings Improvements
  - 2) Consider Approval to Award Bid 2017-34 to Greer Construction for Cavern Theatre Electric Project
  - 3) Consider Approval to Purchase from Summit Truck Group through a CES Contract a Solid Waste Grapple Truck
  - 4) Consider Approval to Reject and Re-Advertise Invitation for Bids for Improvements to the Audio/Visual System for Walter Gerrells Performing Arts Center Project
- E. Monthly Reports:
  - 1) Monthly Report, Arts & Culture, Nov & Dec 2017
  - 2) Monthly Report, Sports & Recreation, December 2017
- F. Board Appointments:
  - 1) Executive Committee: Appointment: City Councilor Leo Estrada
- G. Set Date: February 27, 2018
  - 1) Consider Approval of An Ordinance Authorizing the City of Carlsbad to Amend Ordinance 2010-01 for the purpose of increasing the Aggregate Principal Amount of the New Mexico Environment Department Clean Water State Revolving Fund (NMED) Loan Number CWSRF010

0:01:21      **Mayor Janway asked Mr. McCutcheon to discuss Item C.1 Consider Approval to Lease Equipment to Center of Excellence for Hazardous Material Management (CEHMM)**

**Mr. McCutcheon** explained Item C.1 is an equipment lease for the Center of Excellence for Hazardous Material Management. He explained several years ago the Council approved the request to become fiscal agent for some specialized equipment that CEHMM received by a grant through the State of New Mexico. He explained the equipment was used to make bio diesel from algae. He said CEHMM is still in operation but the entity which granted this equipment is out of business. **Mr. McCutcheon** explained staff worked with CEHMM and their attorney to put together a lease agreement so they can continue to utilize a large portion of the equipment. He added CEHMM is interested in purchasing the equipment which is valued over \$25,000. He explained the city is still the fiscal agent and will work with CEHMM to get an appraisal and work out a sales agreement.

0:02:56      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve Routine and Regular Business

0:03:03      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doportto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:03:20      **3. Consider Approval of Water Services Outside City Limits, known as Carlsbad 960, L.L.C for Vista Encantada Development**

**Mr. McCutcheon** explained staff has been working with the developer. He said this area is south of Carlsbad and is outside the city limits. He added the cost to develop outside the city limits is substantially more than developing in the city. He said the water service will run approximately five times more than the amount charged for city residents. He added that at this time annexation is not possible. He added the Mayor has been involved in the process and this request has been before the Water & Sewer Board several times.

**Mayor Janway** stated staff supports the application for water services outside the city limits. He explained staff prefers annexation but because of the location of the property, annexation will have to be in the future as development occurs. He explained in the meantime this RV Park, with a full clubhouse, will help Carlsbad meet housing needs in our community.

**Mr. Craig Stevens**, Water and Sewer Board Chairman, explained the Water Board considered this application and felt this was important to the city and the industries which need employee housing. **Mr. Russell Hardy**, Water and Sewer Board, said as he and Mr. Stevens sit on the Carlsbad Department of Development Board and are proponents of economic development in Carlsbad, they feel it is necessary to move forward. He said this project will provide 1,595 RV spaces. He added these spaces will help meet the needs of the additional work force housing needed now and in the future.

**Councilor Doss** said he understands this development is solely at the cost of the developer and will not have a financial impact on the city. He said it will be an advantage to the city and will enhance the city's ability to bring retirees into the community.

0:07:07      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Anaya Flores to approve Water Services outside the City Limits, known as Carlsbad 960, LLC for Vista Encantada Development

0:07:13      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doportto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:07:49      **4. Consider Approval of the Notice of Candidates for Office and the Precinct Board Members for the City of Carlsbad, March 6, 2018 Regular Municipal Election**

**Ms. Mireles** explained in connection with the Regular Municipal Election this Notice lists the qualified electors for public office, along with the Voting Convenience Centers and Precinct Board member for each location. **Councilor Doss** asked when Absentee and Early Voting begins. **Ms. Mireles** explained Absentee Voting begins on Tuesday, January 30th and Early Voting begins February 14th.

0:09:40      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Doporto to approve Notice of Candidates for Office and the Precinct Board Members for the City of Carlsbad, March 6, 2018 Regular Municipal Election

0:09:51      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:10:04      **5. Consider Approval of Request for Temporary Use Application to allow Temporary Housing as a Temporary Use at 2009 San Jose Blvd., Carlsbad, NM; Applicant : David Maley**

**Mr. Patterson** explained this request is for Temporary Housing at 2009 San Jose Blvd. He said according to the site plan the applicant plans to locate 150 RV spaces and 19 crew housing spaces. He said the Planning and Zoning Commission recommend approval. **Councilor Rodriguez** asked what type of roadway and entrance would there be onto San Jose Boulevard. **Mr. Patterson** said the applicant said they would put down an all-weather surface.

0:11:57      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve request for Temporary Use Application to allow Temporary Housing as a Temporary Use at 2009 San Jose Blvd., Carlsbad, NM; Applicant: David Maley

0:12:04      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:12:18      **6. Consider Approval of Request for Temporary Use Application to allow Temporary Housing as a Temporary Use at 3401 Harvest Ln., Carlsbad, NM; Applicant: Tom Barrett**

**Mr. Patterson** explained this item is a request for Temporary Housing at 3401 Harvest Lane. He said the applicant has met all of the requirements and the Planning and Zoning Commission recommend approval. **Councilor Rodriguez** said he noticed the NMED permit for the septic is not the applicants' name. **Mr. Patterson** said according to

the applicant the NMED has reviewed the system and the permits are approved. **Mr. Barrett** explained when the permits were pulled he was in negotiations to purchase the property and the previous owner pulled the permits. He said he has since become sole owner of the property and the permit will transfer with ownership. **Mr. McCutcheon** added typically when permits are transferred they are renamed to keep the responsibility to the current owner of the property. **Councilor Doporto** asked how long the Temporary Housing Permits are approved for. **Mr. Patterson** said if approved the permit will be for the next five years.

0:16:14      **Motion**

The motion was made by Councilor Doporto and seconded by Councilor Shirley to approve Request for Temporary Use Application to allow Temporary Housing as a Temporary Use at 3401 Harvest Ln., Carlsbad, NM; Applicant: Tom Barrett

0:16:23      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:16:38      **7. Consider Approval of Ordinance No. 2018-01, an Ordinance Adopting Amendments to the Bob Forrest Youth Sports Complex Advisory Board Ordinance**

0:16:55      **A. Public Hearing**

0:16:59      **Mayor Janway** asked if anyone would like to speak in favor of the Ordinance. **Mr. Lowe** explained when the Sports Complex Advisory Board was started the board met as often as needed to work on Facility Use Regulations and construction. He said the construction is now complete and the Sports Complex is well organized. He added the Board feels there is no longer a need to meet on a monthly basis and have recommended the Board meet quarterly. **Mr. McCutcheon** added that the Ordinance will also bring the Will Merchant Sports Complex under the Bob Forrest Youth Sports Complex Board. **Mr. Lowe** said the Sports Complex Board will provide oversight to the contractor who currently operates Will Merchant.

0:19:08      **Mayor Janway** asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:19:17      **B. Consider Ordinance No. 2018-01**

0:19:23      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Doporto to approve Ordinance No. 2018-01, an Ordinance Adopting Amendments to the Bob Forrest Youth Sports Complex Advisory Board Ordinance

0:19:30 **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doport, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:19:46 **8. Consider Approval of Resolution No. 2018-03, A Resolution to be included in an Application to the State Coordinator of Arts & Cultural Districts in the Economic Development Department (EDD) who staffs for this program the New Mexico Arts Commission of the Department of Cultural Affairs (DCA), requesting to be authorized as said state Arts & Cultural District**

**Mr. Lowe** and **Mr. Britt** explained this application will be hand delivered to Santa Fe next Tuesday. **Mr. Lowe** added the department is very confident in receiving the designation. **Mr. Britt** said the department is excited to deliver the application and thanked MainStreet and Creative Carlsbad for all the help.

0:22:00 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Anaya Flores to approve Resolution No. 2018-03, a Resolution to be included in an Application to the State Coordinator of Arts & Cultural Districts in the Economic Development Department (EDD) who staffs for this program the New Mexico Arts Commission of the Department of Cultural Affairs (DCA), requesting to be authorized as said state Arts & Cultural District

0:22:06 **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doport, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:22:27 **9. Consider Approval of Resolution No. 2018-04, A Resolution determining the Delinquency of Payment for Water, Sewer, and/or Garbage service as Certified by the City Treasurer**

**Ms. Riordan** explained by State Law any unpaid bill is set to become a lien against the property. She said as published by the city and in the letters that went out to each property owner, any appeals come before the governing body. She explained the governing body will hear all appeals, protests, and objections. She added the process designated by State Law is that the lien becomes a lien against the property not the individuals.

**Councilor Rodriguez** asked if the lien is required to be made public in the event of the property being sold. **Ms. Riordan** explained all the approved liens are filed with the County Clerk's office and become part of the title record.

**Councilor Doss** asked if the liens carry an interest rate. **Ms. Riordan** said by State Law there is an annual interest rate associated with the liens. **Councilor Doss** asked if the city recovers the cost of filing each lien. **Ms. Riordan** said there is no process in State Law for recovering the cost of filing.

**Ms. Melissa Salcido** explained the lien process was started in May 2017 with outstanding balances of \$173,000 and approximately \$81,000 has been recovered. **Mayor Janway** asked if there is a process that the individuals can follow. **Ms. Salcido** said tonight she can talk to the individuals and get their contact information. She explained she will research their accounts and contact the property owner tomorrow.

0:26:42 **Mayor Janway** asked if anyone would like to speak to the Council. **Mr. Ramon Felix** explained he purchased two properties and was not aware that the lien would go against his property, rather than to the individual who opened the account. He said in 2015 he rented the property, when the tenants left he went to the water department to see if they owned anything, he said he was told no, so he gave the tenants their deposit back. He received a notice that three different people owe for 2015, 2016, and 2017. He said when he checked with the water department he was told money was not owed, so he is unsure what to do. **Mr. McCutcheon** asked Mr. Felix to give his name and account number to Ms. Salcido and she would research. **Councilor Doss** explained that a letter of no responsibility can be signed, so the property owner is not responsible for the water bills of each renter.

**Mr. Jimmy Broughton** explained that he is the owner of three properties and between the three he owes \$745.00. He said he has made a \$25.00 payment because at this time he is in between jobs. He asked if there is any way to avoid the liens being placed on the properties and to make payment arrangements. He said he has filled out the letter of no responsibility so in the future he will not be responsible for the water bills of his renters. **Mr. McCutcheon** said payment arrangements can be made. **Mayor Janway** asked Mr. Broughton to talk to Ms. Salcido to arrange the payments.

**Mr. Zachary Barry** explained he purchased his property in May/June and the water was turned off. He said he turned the water on and in October he received a letter that Mr. Harvey Rodriguez owed \$167.00. He said when he purchased the property he had a title search completed and was not aware of the amount owed. **Mr. McCutcheon** asked if Council would authorize the City Administration to review the detail of these accounts and settle the accounts with prior authorization. **Councilor Doss** added the other recourse would be with the title company if they did not pick up that there was a lien or a problem on the property. **Mr. McCutcheon** added that the title companies do typically check with the city but there could be an error on the cities part. **Mr. Barry** said he spoke with the water department on October 26, 2017 and was told they made a mistake and advised him to come before Council.

**Mr. Jack Alford** explained he purchased his property in 2015. He said he went to the water department before he purchased and was told there were no liens on the property. He explained he received three lien letters from dates prior to him owning the property and does not feel like he should be responsible. **Mr. McCutcheon** explained staff would review the situation.

**Ms. Alva Sanchez Leaton** explained her mother passed and away and left the home to her and her siblings. She said they had a squatter take up residence in the home. She explained they requested that she leave and involved the police but she refused to leave and the police said it was a civil matter. She explained she had to retain an attorney to

evict her and it took over a year to get her out of the house. She said the squatter never paid rent, damaged her mother's house and she left the water bill. Ms. Leaton explained the water bill is not a lot but explained if she pays for it the woman will be free to open the water and again not be responsible for the water bill. She said she has the paperwork to show that the woman was evicted.

**Mayor Janway** asked if anyone else would like to speak regarding the Resolution. No one appeared. **Mayor Janway** asked the Council to authorize the city administration to review and settle the water issues as necessary.

0:40:35      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Resolution No. 2018-04, a Resolution determining the Delinquency of Payment for Water, Sewer, and/or Garbage service as certified by the City Treasurer and giving Administration the authority to review each case individually and settle the issues as necessary

0:40:56      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:41:10      **10. Consider Approval of Resolution No. 2018-05, A Resolution requiring the removal of the buildings and debris at 201 S. 11th Street, Owner: Lake & Laveda Bennett**

Ms. Riordan explained there is an error on the Agenda, this item is a weed and debris removal not a building removal. She said this item is a residential lot which is untidy with weed and debris. She added the fire department and code enforcement are concerned that as the weeds dry up they could become a fire hazard and recommend removal. Councilor Doss asked if the property was occupied. Ms. Riordan said it does not appear to be.

0:45:51      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Shirley to approve Resolution No. 2018-05, a Resolution requiring the removal of the weed and debris at 201 S. 11th Street, Owner: Lake and Laveda Bennett

0:45:59      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:46:10      **11. Consider Approval of Resolution No. 2018-06, A Resolution requiring the removal of the weeds and debris at 611 N Oak Street, Owner: Zora Dick Estate**



Ms. Riordan explained this property is a lot in a residential neighborhood. She said the concern from Code Enforcement and the Fire Department is as the weeds dry they can become a fire hazard.

0:47:30      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve Resolution No. 2018-06, a Resolution requiring the removal of the weeds and debris at 611 N. Oak Street, Owner: Zora Dick Estate

0:47:36      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doportto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:47:53      **12. Consider Approval of Resolution No. 2018-07, A Resolution requiring the removal of the weeds and debris at 1001 W. Stevens Street, Owner: Billy Dycus**

**Ms. Riordan** explained this is a large lot in a residential neighborhood. She said this lot has a significant accumulation of weeds and also has some native vegetation that probably won't be taken. She said the lot is unsightly and may become a hazard once the weeds dry.

0:49:41      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Resolution No. 2018-07, a Resolution requiring the removal of the weeds and debris at 1001 W. Stevens Street, Owner: Billy Dycus

0:49:48      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doportto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:50:00      **13. Miscellaneous Reports**

**Mayor Janway** said Miscellaneous Reports are included in the packet.

0:50:06      **14. Council Committee Reports**

**Councilor Doss** asked if notification for a possible quorum is needed for the Bat Brigade. **Mayor Janway** said that a possible quorum will be posted. **Councilor Shirley** said he and Councilor Doss attended the Energy Communities Alliance (ECA) Conference in Las Vegas. He said the WIPP Project was discussed. He added Councilor Doss sits on the Executive Board of the ECA. **Councilor Doss** added that WIPP is the prime topic of conversation within the Nuclear Community.

0:52:00      **15. Adjourn**

0:52:07      **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Shirley to Adjourn

0:52:15      **Vote**

The vote was as follows: Yes - Shirley, Anaya Flores, Doporto, Doss, Estrada, Rodriguez; No - None; Absent- Durham; Vacancy - Ward 3; the motion carried.

0:52:30      **Adjourn**

There being no further business, the meeting was adjourned at 6:54 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

DRAFT