

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON FEBRUARY 13, 2018 AT 6:00 P.M.**

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

0:00:01      Invocation - Pledge of Allegiance

0:00:35      **Mayor Janway gave an update on the Brine Well situation.**

**Mayor Janway** explained that Senate Bill 226 which transfers some of the Motor Vehicle Excise Tax from the General Fund to the Road Fund has passed unanimously and is now on the Governor's Desk. He explained for the first three years, this fund will go to the Brine Well Remediation Effort. He added this along with the funding the city and county have agreed to, will put the financing effort close to where it needs to be to remediate the Brine Well. He said additionally, House Bill 319 which reorganizes the Brine Well Authority has passed through the House. **Mayor Janway** added he and staff

appreciate the many Carlsbad residents who have traveled to Santa Fe over the past few weeks to share their concerns about our town's safety. He extended a special thank you to chairman John Heaton, who has been shepherding this effort. He also gave thanks to Representative Cathrynn Brown, Senator Carroll Leavell, Representative Jim Townsend, Senator Gay Kernan, Senator Ron Griggs, as well as Don Purvis, George Veni, the Carlsbad City Council, the Eddy County Commissioners, the Bat Brigade and the Carlsbad Chamber of Commerce, the Department of Development and the many other citizens who have spoken out in favor of this year's Brine Well bills. **Mayor Janway** added this was truly a community effort.

0:03:18 **Councilor Doss** congratulated and thanked Mr. Heaton, Don Purvis, George Veni, and everyone else who went to Santa Fe. He said we all need to call the Governor's Office at 505/476-2200 and ask her to support Senate Bill 226 in support of the Brine Well.

**Councilor Rodriguez** said he would like to echo the compliments and kudos to Mr. John Heaton. He said he really appreciates all the efforts of Mr. Heaton, Mr. Veni, and Mr. Purvis.

**Councilor Estrada** said he echoes what has been said and added he has made the call to the Governor's Office for support of SB 226.

**Councilor Anaya Flores** commended everyone for all of their hard work on the Brine Well Remediation.

**Councilor Durham** thanked everyone for their endless hours of working on this remediation. She said when everyone works together things are possible.

**Councilor Shirley** said the unanimous decision is so telling of the work that was done throughout the session. He thanked Mr. Heaton and everyone who worked tirelessly for this effort.

**Councilor Doporto** said the vote shows the effort that was put forth and he thanked everyone involved.

0:08:31 **Mr. McCutcheon** congratulated the Mayor and Council for coming together on very short notice. He said he believes the Council led the way in this effort by a unanimous vote to support a difficult funding situation.

**Mayor Janway** said he mentions Mr. John Arthur Smith because he feels Mr. Smith holds the key to the budget. He explained Mr. Heaton had a long meeting with Mr. Smith and that is one of the keys that unlocked the door. **Mayor Janway** said it was a great team effort, and he said as Councilor Doss stated we need to keep after this and make sure the remediation is completed.

0:10:32 **1. APPROVAL OF AGENDA**

0:10:36 **Motion**

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

0:10:41 **Vote**

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

0:10:54 **2. CONSIDER APPROVAL OF RESOLUTION NO 2018-09, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2017-18 FISCAL YEAR BUDGET**

**Mrs. Gonzales** reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2017-2018 Fiscal Year Budget highlighting the General Fund, the Lodgers' Tax Non Promotional Fund, and the Lodgers' Tax Promotional Fund.

**Councilor Doss** said all items were approved by the Budget Committee with the exception of the restoration of the Historic Marquee at the Cavern Theater. He added he feels that is an appropriate use for the Marquee because the Marquee can also be used to promote other functions throughout the city.

0:13:15 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Durham to approve Resolution No. 2018-09, a Resolution making certain Budgetary Adjustments to the 2017-18 Fiscal Year Budget

0:13:21 **Vote**

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

0:13:32 **3. CITY OF CARLSBAD FINANCIAL STATEMENTS - DECEMBER 2017**

**Ms. Hammett** reviewed the revenues and expenditures as of December 2017 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:14:48 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on January 23, 2018
- B. Minutes of the Special City Council Meeting held on January 26, 2018
- C. City Personnel Report
- D. Contracts and Agreements
  - 1. Consider Approval of Memorandum of Agreement between the City of Carlsbad and Eddy County to joint file an Application to NM Department of

Transportation, Traffic Safety Division for funding the Community DWI Program

2. Consider Approval of 2016 General Obligation (GO) Bond Library Grant Agreement

E. Purchasing:

1. Consider Approval to Award Bid No 2018-01 to Masek Rocky Mountain Golf Cars for 4 Year Lease of 40 Golf Carts at Lake Carlsbad Golf Course

2. Consider Approval to Award Bid to Constructors Inc., for the Joint County/City Standpipe Phase 2 Project

F. Monthly Reports:

1. Monthly Report, Municipal Court, January 2018

2. Monthly Report, Personnel, January 2018

3. Monthly Report, Utilities, December 2017

0:15:11 **Mayor Janway asked Mr. McCutcheon to discuss Item E.1 Consider Approval to Award Bid No. 2018-01 to Masek Rocky Mountain Golf Cars for a 4 year lease of 40 Golf Carts at Lake Carlsbad Golf Course; and Item E.2 Consider Approval to Award Bid to Constructors Inc., for the Joint County/City Standpipe Phase 2 Project**

**Mr. McCutcheon** explained that Item E.1 is a request to Award Bid 2018-01 to Rocky Mountain Golf Cars for a 4 year lease for 40 golf carts. He said this was the lowest qualified bid. He said the city will pay for the golf carts and will receive all the revenue from the rental of the golf carts.

**Mr. McCutcheon** explained that Item E.2 is approval to Award Bid to Constructors, Inc. for Phase 2 of the Standpipe Road Project. He said the engineers estimate was \$3.2 million and the bid came in at \$3 million. He said staff recommends approval.

**Councilor Doss** asked if there is a timeline for Phase 1 and 2. **Mr. McCutcheon** said Phase 1 is about an 8 month project and Phase 2 will be about a 6 month project with some overlap.

**Councilor Doss** said turn signals need to be added to the lights at Mesa and Lea. **Mr. McCutcheon** said Mr. Hernandez and the Mayor have spoken to Ray Romero of the County and they will give him that information. **Mayor Janway** added he will meet with Mr. Romero in the morning.

0:20:19 **Motion**

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

0:20:26 **Vote**

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

0:20:47 **5. CONSIDER APPROVAL OF LAKE CARLSBAD MUNICIPAL GOLF COURSE ADVISORY BOARD RECOMMENDATION TO ADOPT GOLF COURSE FEE STRUCTURE**

**Mr. McCutcheon** explained with the transition at the Golf Course some of these fees were charged by the Pro and will now be charged by the City. He said the Golf Course Board recommends approval.

0:21:45 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Shirley to approve Lake Carlsbad Municipal Golf Course Advisory Board Recommendation to Adopt Golf Course Fee Structure

0:21:53 **Vote**

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

0:22:07 **6. CONSIDER APPROVAL OF RESOLUTION NO 2018-10, A RESOLUTION AUTHORIZING THE CITY OF CARLSBAD TO OPEN AND MAINTAIN BANK ACCOUNTS WITH FIRST AMERICAN BANK**

**Ms. Hammett** explained the city would like to invest idle funds into First American Bank. She explained First American Bank has opened a branch in Carlsbad. She said the city would like to invest \$600,000 from the Solid Waste Fund into a CD.

**Councilor Doss** said that amount exceeds the FDIC insured amount. He asked if First American Bank is pledging bonds as security against the deposit. **Ms. Hammett** said yes.

0:23:34 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Durham to approve Resolution No. 2018-10, a Resolution authorizing the City of Carlsbad to open and maintain Bank Accounts with First American Bank

0:23:41 **Vote**

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

0:23:52 **7. CONSIDER APPROVAL OF RESOLUTION NO 2018-11, A RESOLUTION AUTHORIZING THE CITY OF CARLSBAD TO OPEN AND MAINTAIN BANK ACCOUNTS WITH MORETON CAPITAL MARKETS, LLC**

**Ms. Hammett** explained Moreton Capital Markets specialize in tailored investment programs for Municipalities, Counties, and other Governmental Entities. She said they are currently working with Eddy County and she has spoken to the Eddy County Treasurer and they are very pleased with the level of customer service and the returns they have received on their investments.

0:24:53      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Doporto to approve Resolution No. 2018-11, a Resolution authorizing the City of CARlsbad to open and maintain Bank Accounts with Moreton Capital Markets, LLC

0:25:01      **Vote**

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

0:25:17      **8. CONSIDER APPROVAL TO AWARD RFP 2017-31 TO MSL PRODUCTIONS FOR MANAGEMENT SERVICES FOR THE WALTER GERRELLS PERFORMING ARTS CENTER**

**Mr. McCutcheon** explained this is a contract for MSL Productions for Management Services for the Walter Gerrells Performing Arts Center. He explained this is the same company that the city has used in the last two contract cycles. He said there were two bidders and the decision by the Walter Gerrells Performing Arts Center Board was to recommend MSL Productions for a four year contract. He said MSL in the last two years has not had control over the Civic Center because of the collapse. He explained the Civic Center should be ready for occupation on March 1, 2018.

**Councilor Shirley** said he feels MSL Productions has done an outstanding even through tough situations.

**Councilor Doporto** agreed with Councilor Shirley and added MSL Productions have done a great job managing the Center will all the issues they have had.

0:28:11      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Doporto to approve to Award RFP 2017-31 to MSL Productions for Management Services for the Walter Gerrells Performing Arts Center

0:28:46      **Vote**

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

0:29:05      **9. CONSIDER APPROVAL OF RESOLUTION NO 2018-12, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

**Mr. McCutcheon** explained this is the standard Resolution for following statute to dispose of obsolete and unusable City property.

0:29:59        **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Doporto to approve Resolution No. 2018-12, a Resolution declaring certain city property unusable or obsolete

0:30:03        **Vote**

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

0:30:17        **10.    CONSIDER APPROVAL OF ORDINANCE NO 2018-02, AN ORDINANCE TO CONSIDER ADOPTION OF A \$50 FEE FOR ANNEXATION PETITIONS TO THE CITY'S ZONING ORDINANCE FEE SCHEDULE, CHAPTER 56, PURSUANT TO SECTION 56-150, CARLSBAD CODE OF ORDINANCES**

**Mr. McCutcheon** explained under the cities new guidelines the city will file the annexations with the County to ensure they are property filed.

0:31:40        **A.    Public Hearing**

0:31:42        **Mayor Janway asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:32:00        **B.    Consider Ordinance No 2018-02**

0:32:04        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Ordinance No. 2018-02, an Ordinance to consider Adoption of a \$50 fee for Annexation petitions to the City's Zoning Ordinance Fee Schedule, Chapter 56, Pursuant to Section 56-150, Carlsbad Code of Ordinances

0:32:27        **Vote**

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

0:32:39        **11.    CONSIDER APPROVAL OF ORDINANCE NO 2018-03, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL DISTRICT TO "C-1" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.20 ACRE PROPERTY, LOCATED AT 801 NORTH HALAGUENO, LEGALLY DESCRIBED AS LOT 13, BLOCK 178, EVARTS SUBDIVISION, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES: APPLICANT: SHARON BENTLEY**

0:33:28      **A.      Public Hearing**

**Mr. Patterson** explained this request is to change the zoning at 801 N. Halagueno Street which is a property directly west of CVS Pharmacy. He said the request is to change from "C-2" Commercial to "C-1" Commercial zoning. He explained "C-1" is a more restrictive commercial zoning. He explained the applicant currently has an in home business and has expressed concern over her ability if something were to happen to the property or the structure, to rebuild and continue use of the property. He explained the Planning Department and the Planning and Zoning Commission recommend approval.

**Councilor Doss** asked if this change will create a spot zone. **Mr. Patterson** said it will create a spot zone but said in this case the zoning will be more restrictive and still fits the neighboring properties.

0:35:14      **Mayor Janway** asked if anyone would like to speak regarding the **Ordinance**. **No one** appeared and the **Mayor** declared the public hearing closed and reconvened the Council in regular session.

0:35:32      **B.      Consider Ordinance No 2018-03**

0:35:36      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Durham to approve Ordinance No. 2018-03, an Ordinance Rezoning Part of "C-2" Commercial District to "C-1" Commercial District for an approximately 0.20 Acre Property, located at 801 North Halagueno, legally described as Lot 13, Block 178, Evarts Subdivision, pursuant to Ordinances: Applicant: Sharon Bentley

0:35:46      **Vote**

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

0:36:02      **12.      CONSIDER APPROVAL OF ORDINANCE NO 2018-04, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 1.03 ACRE PROPERTY, LOCATED AT 1020 NORTH MESA STREET, LEGALLY DESCRIBED AS LOT 15, BLOCK D, RIO VISTA REPLAT #3, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES: APPLICANT: AMANDA MASHAW**

0:36:49      **A.      Public Hearing**

**Mr. Patterson** explained this request is to change zoning from "R-2" Multi-Family Residential Zoning to "C-2" Commercial Zoning. He said the subject site lies directly south of the Ross business on north Mesa Street. He explained the zone change would



not create a spot zone. He said the Planning Department and the Planning and Zoning Commission recommend approval.

**Councilor Rodriguez** asked if this includes the entire lot up to the first home to the south. **Mr. Patterson** said this would include the property up the home to the south. **Councilor Rodriguez** asked if this will create a problem for the property owners with access to their property. **Mr. Patterson** said it may make it harder for the property owner to access the rear of their property. **Mr. Patterson** explained you must consider if the zoning is changed, anything allowed in "C-2" will be allowed to the property.

0:40:13 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

**Ms. Shelly Garriett**, Real Estate Agent for applicant, stated that Hamilton Roofing has been in business for over 40 years. She said at this time the business is located in a semi residential area and Hamilton would continue to run the business as they do now.

0:41:06 **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.**

0:41:19 **B. Consider Ordinance No 2018-04**

0:41:24 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Doporto to approve Ordinance No. 2018-04, an Ordinance rezoning Part of "R-2" Residential District to "C-2" Commercial District for an approximately 1.03 Acre Property, located at 1020 North Mesa Street, legally described as Lot 15, Block D, Rio Vista Replat #3, pursuant to Section 3-21-1 ET. SEQ. NMSA 1978 and Sections 56-150(B) and 56-140(I), Carlsbad Code of Ordinances: Applicant: Amanda Mashaw

0:41:35 **Vote**

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

0:42:12 **10. CONSIDER APPROVAL OF ORDINANCE NO 2018-05, AN ORDINANCE AUTHORIZING THE SALE OF APPROXIMATELY 2.7 ACRES OF PROPERTY IN THE AIRPORT INDUSTRIAL PARK, 5212 PETROLEUM DRIVE, TO BES PROPERTIES LLC**

**Mr. McCutcheon** explained the city was approached by Mr. Brininstool to look at this property. He explained the city does own this property and verified there is no infrastructure on the property. He explained the last time the city had a qualified appraisal on Airport Industrial Park Property the appraisal came in at \$10,000 per acre. He said this offer is for over \$30,000 per acre. He explained the Ordinance has been

published according to State Statute. He added after the sale of this property staff will have the property reappraised and offer 3 more properties for sale.

0:44:17        **A.     Public Hearing**

0:44:18        **Mayor Janway asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:44:41        **B.     Consider Ordinance No 2018-05**

0:44:45        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Durham to approve Ordinance No. 2018-05, an Ordinance authorizing the Sale of Approximately 2.7 acres of Property in the Airport Industrial Park, 5212 Petroleum Drive, to BES Properties, LLC

0:44:52        **Vote**

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

0:45:06        **14.     COUNCIL COMMITTEE REPORTS**

**Mayor Janway** invited the City Councilor Candidates present to introduce themselves.

**Mr. Denton McCullough** stated he is running for City Council Ward 3. He said he decided to get involved because he does not think Carlsbad is living up to its potential. He said we need a cleaner, more beautiful Carlsbad and he would like to work towards that.

**Mr. Bill Niemeier** stated he is running for City Council Ward 3. He said he would like to bring Carlsbad Affordable Housing, Beautification, and some bigger city amenities while we are going through this growth.

**Mr. Jason Chavez "JJ"** stated he is running for City Council Ward 2. He said his agenda is we come together, together. He said to work together as a Council to beautify Carlsbad and make it a better place for us, our kids, and our grandkids.

**Mr. Chad Ingram** stated he is running for City Council Ward 1. He said his platform is expect more. He said expect more out of our Council, our City, and our State.

0:48:15        **Councilor Doss** asked everyone to go vote and mentioned that Early Voting begins tomorrow, February 14th.

**Councilor Doporto** mentioned that with the Standpipe construction the traffic is going to get bad. He said be careful on the roads and continue to support the businesses at the intersection.

**Councilor Durham** commended Councilor Shirley and his church for the event on Friday, A Night to Shine with the Tim Tebow Foundation. She explained there were 500 events held across the country on Friday night. She said she had the opportunity to be a buddy and explained everyone had a wonderful time. She said it was a joy and these types of things make our community special and for those with special needs. **Councilor Shirley** said it was great and thanked Councilor Durham.

0:51:11      **15. ADJOURN**

0:51:16      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Durham to approve Ordinance No. 2018-05, an Ordinance Authorizing the Sale of Approximately 2.7 acres of Property in the Airport Industrial Park, 5212 Petroleum Driver, to BES Properties, LLC

0:51:26      **Vote**

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

0:51:42      **Adjourn**

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

\_\_\_\_\_  
Mayor

ATTEST:

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