

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON MAY 24, 2016 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Wesley A. Carter	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
	Janell E. Whitlock	Councilor
Absent:	Sandra K. Nunley	Councilor
	J. R. Doporto	Councilor
Also Present:	Steve McCutcheon	City Administrator
	Stephanie Shumsky	Deputy City Administrator
	Annette Barrick	City Clerk
	LaVelta Jenkins	City Treasurer
	Jeff Patterson	Planning, Eng., & Reg. Director
	Luis Camero	Public Works Utilities Director
	Thomas Carlson	Public Works Director
	Richard Lopez	Fire Chief
	Kent D. Waller	Police Chief
	Patsy Jackson-Christopher	Director of Arts & Culture
	Steve Hendley	Director of Parks & Recreation

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**

0:00:04      Invocation - Pledge of Allegiance

0:00:39      **Mayor Janway explained there are special guests in the audience today, Boy Scout Troop 208 and County Commissioner, Susan Crockett.**

0:01:54      **1. APPROVAL OF AGENDA**

0:01:57      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve the Agenda

0:02:04       **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:02:21       **2.       PRESENTATION OF APRIL 2016 FINANCIAL REPORT**

**Ms. Jenkins** reviewed the revenues and expenditures as of April 30, 2016 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:03:50       **3.       CONSIDER APPROVAL OF RESOLUTION NO 2016-27, A RESOLUTION ADOPTING THE INTERIM BUDGET FOR FISCAL YEAR 2016-2017**

**Mr. McCutcheon** explained the City has received strong recommendations from DFA to produce a zero balanced budget. He explained a zero budget is where expenses and revenues are equal. He said the City was able to achieve a zero based budget and maintain the projects needed to go forward. He said the projects going forward are already paid for. **Mr. McCutcheon** thanked the Mayor and members of the Budget Committee for the efforts put forward on the budget.

0:07:11       **Councilor Doss** said as chairman of the Budget Committee he would like to thank the staff and Mr. Fierro for all of their work on the budget.

0:08:08       **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve Resolution No. 2016-27, a Resolution adopting the Interim Budget for Fiscal Year 2016-2017

0:08:17       **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:08:29       **4.       ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on May 10, 2016
- B. City Personnel Report
- C. Check Register-April 2016
- D. Purchasing:
  - 1) Consider approval to Award RFP 2016-08, Third Party Claims Administration and Adjusting Services to Chaparral Claims and Investigations pending the successful negotiation of the contract
  - 2) Consider approval to Award of a CES Contract to Accent Landscaping to construct the Site Improvements to the Soccer Facility Phase of the Bob Forrest Youths Sports Complex Expansion Project
  - 3) Consider approval to Reject and Rebid Bid No 2016-09, Sewer Lift Station Replacement

- 4) Consider approval to Advertise Invitation for Request for Proposal for On-Call Professional Engineering and Architectural Services
  - 5) Consider approval to conduct Annual Bids for Goods and Services for the 2016-2017 Fiscal Year
- E. Monthly Reports:
- 1) Arts and Culture Monthly Department Report, April 2016
  - 2) Planning, Engineering & Regulation Department Monthly Report, April 2016
  - 3) Sports and Recreation Monthly Department Report, April 2016
  - 4) Transportation and Facilities Department Monthly Report, March 2016
  - 5) Utilities Department Monthly Report, April 2016
- F. Contracts and Agreements:
- 1) Consider approval of extension of Agreement between the City of Carlsbad and John A. Heaton, Jr. for the services of a Golf Professional
  - 2) Consider approval of Services Agreement between the City of Carlsbad and the Eddy County Board of Commissioners for FYE17 Budget Year
- G. Set Date: (June 28, 2016)
- 1) An Ordinance Amending Section 16-29 of the Code of Ordinances, City of Carlsbad, New Mexico to Increase the Maximum Compensation of an Acting Municipal Judge
  - 2) An Ordinance Adopting Amendments to the Carlsbad Code of Ordinances, Chapter 56- Zoning Ordinance Pursuant to Code of Ordinances Section 56-150 and Section 3-17-1 and 3- 18-1 NMSA 1978

0:08:51        **Mayor Janway asked Mr. McCutcheon to discuss Item D.2 Consider approval to Award of a CES Contract to Accent Landscaping to construct the Site Improvements to the Soccer Facility Phase of the Bob Forrest Youth Sports Complex Expansion Project**

**Mr. McCutcheon** explained staff has been in the process to finalize all the construction at the Sports Complex. He said this item is to request authority to award a CES contract to Accent Landscaping. He explained Accent Landscaping has completed other work at the Sports Complex and it has been satisfactory. He said Mr. Burns and Mr. Camero reviewed the contract and both feel the price is fair. He said if staff moves forward the project can be completed in time for soccer season. He said staff is recommending approval.

0:10:10        **Councilor Carter** explained he is on the Sports Complex Board and has been a part of the soccer league. He explained that typically the fall season for soccer has over 700 kids. He said the lighting is a big need and these improvements will be a huge addition to the Sports Complex.

0:10:49        **Motion**

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

0:10:53        **Councilor Shirley** wanted to clarify that all funds for the Sports Complex come out of the tax revenue from the taxpayers. **Mr. McCutcheon** said yes all the funds for the Sports Complex come from the special approved fund.

0:11:25        **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:11:44        **5. CONSIDER APPROVAL OF A NM SMALL BREWER LICENSE, APPLICATION #: 991425, FOR MILTON'S BREWING, LLC LOCATED AT 108 E. MERMOD STREET; APPLICANT: LUCAS MIDDLETON**

**Mr. McCutcheon** explained Milton's Brewing has complied with the administrative process and requires Council approval to complete the process.

0:12:47        **Mr. Lucas Middleton** said he was born and raised in Carlsbad and wants to invest in the Community. He said the brewery received the Federal approval and this is the last step to return to the State for final approval.

0:13:28        **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve a NM Small Brewer License, Application #991425, for Milton's Brewing, LLC located at 108 E. Mermod Street; Applicant: Lucas Middleton

0:13:33        **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:13:59        **6. PRESENTATION BY CARLSBAD MAINSTREET REGARDING THE CAVERNFEEST EVENT TO BE HELD ON JUNE 11, 2016 IN DOWNTOWN CARLSBAD**

**Councilor Shirley** said he is excited that MainStreet and the City of Carlsbad will co-sponsor the CavernFest on Saturday, June 11, 2016. He said the idea was to make the opening of the Farmer's Market bigger and to draw attention to the downtown shops. He said there are lots of activities planned throughout the day for children and families. He explained Little Texas will be playing for free in the evening. He said tonight the request is to serve alcohol in restricted areas at the event.

0:15:23        **7. CONSIDER REQUEST FROM MAINSTREET TO ALLOW THE SALE OF ALCOHOL ON A PORTION OF MERMOD AND CANYON STREETS DURING THE CAVERNFEEST EVENT**

**Mr. McCutcheon** explained staff has worked with the Eddy County Sheriff, the Chief of Police, and MainStreet to protect the City, the County, and MainStreet from the liability of alcohol sales. He said staff has researched and does not believe there is prohibition

against the event. He said staff will continue to research and the event requires Council approval.

**Councilor Shirley** said this is being used as a fundraiser for Carlsbad MainStreet and a lot of the funds raised will be for tickets into the beer garden and the VIP tickets. He said the idea is to have separate areas where only people 21 and over are allowed. He said staff and MainStreet are hoping this is a successful event that will be carried on into future years. He added it has been challenging to get through some of the hurdles but is worth it to bring great entertainment to Carlsbad.

**Councilor Doss** said the record indicates that the County did not approve the request. **Commissioner Crockett** said the request has not been presented to the County. She explained there is a fall back clause on the Courthouse lawn that states if alcohol is sold on the Courthouse lawn the County reversion clause states the property reverts back to the original owners. She added she is the vice chairman of the MainStreet board and the event is very important.

0:20:23 **Councilor Whitlock** said it is her understanding that there is a City ordinance that states no drinking in public, so how is this possible. **Mr. McCutcheon** said the ordinance is in place, but added that Council has allowed alcohol in public on some occasions, if all security requirements required by State Law have been met.

0:21:45 **Motion**  
The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve the request from MainStreet to allow the sale of Alcohol on a portion of Mermod and Canyon Street during Cavernfest Event

0:21:51 **Vote**  
The vote was as follows: Yes - Carter, Doss, Rodriguez, Shirley; No - Whitlock, Anaya Flores; Absent- Doporto, Nunley; The motion carried.

0:22:20 **8. CONSIDER APPROVAL OF APPEAL OF FLOODPLAIN MANAGER'S DENIAL OF A FLOODPLAIN DEVELOPMENT PERMIT AND REQUEST FOR A VARIANCE FROM THE CITY'S FLOOD DAMAGE PREVENTION ORDINANCE, SECTION 8-132(1), FOR PROPERTY LOCATED AT 708 W. RIVERSIDE DRIVE LOCATED IN FLOODPLAIN ZONE AE; APPLICANT: BART FRINTZ FOR DRAPER & BETTIE ANN BRANTLEY**

**Ms. Georgia Goad** said as the Floodplain Manager she is required to deny the application because of the base flood elevation issues. She explained the applicant is requesting a 2 foot variance which will be 2 feet below the base flood elevation. **Councilor Shirley** asked if this is a removal of a structure and building of another structure. **Ms. Goad** said yes. **Councilor Shirley** asked if the structure that was removed was below the base flood elevation. **Ms. Goad** said yes.

**Councilor Doss** asked what the elevation was of the last variance Council approved. **Ms. Goad** said the other variance was closer to 3 feet difference and added Council has approved several.

0:24:05      **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve Appeal of Floodplain Manager's denial of a Floodplain Development Permit and request for a variance from the City's Flood Damage Prevention Ordinance, Section 8-132(1), for property located at 708 W. Riverside Drive located in Floodplain Zone AE; Applicant: Bart Frintz for Draper & Bettie Ann Brantley

0:24:13      **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:24:33      **9. CONSIDER APPROVAL OF ORDINANCE NO 2016-13, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 2.36 ACRE PROPERTY, LOCATED TO THE EAST OF SAN JOSE BOULEVARD, LEGALLY DESCRIBED AS LOTS 5-21, BLOCK 1, SOUTHRIDGE SUBDIVISION, AND LOTS 12-22, BLOCK 2, SOUTHRIDGE 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: ELLIS AND ELVA LEATON**

0:25:25      **A. Public Hearing**

**Mr. Patterson** explained this request is for a zone change from "R-1" to "C-2" for approximately 2.36 acre property. He said the Planning Department recommended denial and the Planning and Zoning Commission also recommended denial.

**Councilor Doss** asked if this property has been looked at in the past. **Mr. McCutcheon** said while he has been with the City this property has not come before Council.

0:27:05      **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

**Mr. Ellis Leaton**, property owner, said the property was incorporated into the City in 1951. He said if the City would have put streets in the property would be more valuable. He said he has a buyer for the property who would use the property for his trucking business.

0:29:31      **Councilor Carter** explained typically if there is a large block of land owned by a developer or land owner they put in the infrastructure. He said the infrastructure includes street, water, and sewer. He explained there is a infrastructure reimbursement that can be applied for which will pay 15%.

0:31:26 **Mayor Janway** asked if anyone else would like to speak in favor of the Ordinance, no one appeared. He asked if anyone would like to speak against the Ordinance.

0:31:46 **Ms. Hernandez** said her father has lived in the area for over 40 years. She explained she has a petition with signatures that are against the zone change. She said previously there were complaints about a pipeline going through the property.

**Councilor Rodriguez** said he is familiar with the property. He said the line that was talked about is a DCP right of way that almost splits the property in half.

0:34:33 **Mayor Janway** asked if anyone would like to speak regarding this Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:34:43 **B. Consider Ordinance No 2016-13**

0:34:47 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Florez to deny approval of Ordinance No. 2016-13, an Ordinance rezoning part of "R-1" Residential District to "C-2" Commercial District for an approximately 2.36 acre property, located to the East of San Jose Boulevard, legally described as Lots 5-21, Block 1, Southridge Subdivision, and Lots 12-22, Block 2, Southridge 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: Ellis and Elva Leaton

0:35:19 **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:36:22 **10. CONSIDER APPROVAL OF ORDINANCE 2016-14, AN ORDINANCE ANNEXING A PORTION OF LAND CONTAINING 0.47 ACRES MORE OR LESS, CONTIGUOUS TO THE CITY OF CARLSBAD, NEW MEXICO, LOCATED NORTH OF EAST WOOD AVENUE, LEGALLY DESCRIBED AS LOT 1, BLOCK 6, RIVERSIDE FARMS AMENDED, BLOCK 6, PURSUANT TO THE PETITION METHOD PROVIDED FOR IN SECTION 3-7-1, ET SEQ. NMSA 1978; APPLICANT: DALLAS GRANGER**

0:37:02 **A. Public Hearing**

**Mr. Patterson** explained this request is to annex the property into the City. He said the Planning and Zoning Commission and the Planning Department have recommended approval.

**Councilor Carter** asked if there is a time frame that the applicant has to be on City sewer service. **Mr. Mike Hernandez** said that Council can set a time frame.

**Ms. Shumsky** explained when the City installs a new sewer line the properties that are able to connect to the line have 5 years to connect to the line. She added that the properties are charged for sewer when the line is installed.

**Mr. Granger** said the property is already connected to City sewer service.

0:40:31 **Mayor Janway** asked if anyone would like to speak regarding this Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:40:47 **B. Consider Ordinance No 2016-14**

0:40:52 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve Ordinance 2016-14, an Ordinance annexing a portion of Land containing 0.47 acres more or less, contiguous to the City of Carlsbad, New Mexico, located North of East Wood Avenue, legally described as Lot 1, Block 6, Riverside Farms Amended, Block 6, pursuant to the petition method provided for in Section 3-7-1, et. Seq. NMSA 1978; Applicant: Dallas Granger

0:40:58 **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:41:13 **11. CONSIDER APPROVAL OF ORDINANCE 2016-15, AN ORDINANCE ESTABLISHING "R-R" RURAL RESIDENTIAL DISTRICT IN CONJUNCTION WITH THE ANNEXATION OF AN APPROXIMATELY 0.47 ACRE PROPERTY LOCATED AT 510 E. WOOD AVENUE, LEGALLY DESCRIBED AS LOT 1, BLOCK 6, RIVERSIDE FARMS AMENDED BLOCK 6, PURSUANT TO SECTION 3-21-1, ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES; APPLICANT: DALLAS GRANGER**

0:42:01 **A. Public Hearing**

**Mr. Patterson** explained this application goes hand in hand with the previous annexation. He said the property is surrounded by residential and some industrial zoning. He said the Planning and Zoning Commission has recommended approval.

0:42:52 **Mayor Janway** asked if anyone would like to speak regarding this Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:43:10        **B.        Consider Ordinance No 2016-15**

0:43:17        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Ordinance 2016-15, an Ordinance establishing "R-R" Rural Residential District in conjunction with the annexation of an approximately 0.47 acre property located at 510 E. Wood Avenue, legally described as Lot 1, Block 6, Riverside Farms amended Block 6, pursuant to Section 3-21-1, et. Seq. NMSA 1978 and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinances; Applicant: Dallas Granger

0:43:24        **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:43:36        **12.        CONSIDER APPROVAL OF ORDINANCE 2016-16, AN ORDINANCE FOR A LEASE AGREEMENT BETWEEN THE CITY OF CARLSBAD AND CARLSBAD COMMUNITY KITCHEN, INC. FOR USE OF CITY-OWNED PROPERTY, LOCATED AT 402 S. ALAMEDA STREET FOR A COMMUNITY MEAL PROGRAM**

0:44:01        **A.        Public Hearing**

**Mr. McCutcheon** explained the City has had a long standing relationship with the Community Kitchen. He said Ms. Shumsky has been working with the new leadership of the Community Kitchen on a lease agreement. He said staff feels the agreement is good for the citizens and for the City of Carlsbad and recommend approval. He said the Community Kitchen provides meals to indigents in the community.

0:45:19        **Ms. Shumsky** explained the lot to the south is inadvertently shown as part of the property. She explained the exhibit will need to be modified and should only include the two lots that the building is on. She said if there is a problem the Ordinance will come back before Council.

0:46:17        **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.**

0:46:32        **B.        Consider Ordinance No 2016-16**

0:46:37        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Doss to approve Ordinance 2016-16, an Ordinance for a Lease Agreement between the City of Carlsbad and Carlsbad Community Kitchen, Inc. for use of City-owned property, located at 402 S. Alameda Street for a community meal program with the understanding that the adjustment to the actual size of the property be included

0:47:05        **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:47:15        **13.      COUNCIL COMMITTEE REPORTS**

**Councilor Carter** said the Cavemen Baseball team won the State Baseball Championship. He said as a homecoming last weekend the Fire Department and the Police Department escorted the team through town. He thanked Chief Lopez and Chief Waller for doing a great job on such short notice and making a memory the kids will never forget. **Mayor Janway** added it was outstanding and that he really appreciates them. **Ms. Shumsky** said the City is on target to complete the waterpark in mid-June. She explained staff meets weekly to discuss construction and operation and management of the facility.

0:50:24        **Mr. Jared Rostro** said he would like to address some issues before Council. He said there is a huge problem on E. Riverside, Church St., Blodgett, Elmdale, Rosedale, Ferndale, and Vine with speeders in the area. He said he hopes that speed humps/speed bumps or something to slow the traffic. He said with the waterpark there will be an increase of traffic in that area. He said when he has called the police at night due to drag racing and loud music at the beach it takes 45 minutes for an officer to arrive. He said he urges Council to place speed humps and stop signs in the area. He said he has a petition going around the neighborhood for the implementation of stop signs, and speed humps and gates in the area and beach parking lots.

**Mayor Janway** asked Mr. Carlson and Chief Waller to review the area and do what is needed to get the problems resolved.

0:56:40        **Councilor Doss** invited everyone to the Memorial Day Parade on Monday to honor the veterans.

0:57:19        **14.      ADJOURN**

0:57:23        **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Rodriguez to Adjourn

0:57:29        **Vote**

The vote was as follows: Yes - Carter, Whitlock, Anaya Flores, Doss, Rodriguez, Shirley; No - None; Absent- Doporto, Nunley; The motion carried.

0:57:49      **Adjourn**

There being no further business, the meeting was adjourned at 6:59 p.m.

\_\_\_\_\_/s/Dale Janway\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_/s/Annette Barrick\_\_\_\_\_  
City Clerk