

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON MAY 25, 2010 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Paul C. Aguilar	Councilor
	Nick G. Salcido	Councilor
	Sandra K. Nunley	Councilor
	Richard Graves, Jr.	Councilor
	Judith E. Waters	Councilor
	Wesley Carter	Councilor
	Richard Doss	Councilor
	Fred Woody	Councilor

Absent: None

Also Present:	Harry Burgess	City Administrator
	Eileen P. Riordan	City Attorney
	Amanda J. McDougall	City Clerk

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

0:00:01 **Invocation - Pledge of Allegiance**

0:00:53 **Recognition of the Student Advisory Council**
Councilwoman Nunley introduced the Student Advisory Council.

0:03:59 **1. APPROVAL OF AGENDA**

0:04:06 **Motion to approve Agenda**
The motion was made by Councilman Waters and seconded by Councilman Aguilar to approve the May 25, 2010 Agenda.

0:04:24 **Vote**
The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:04:44 **2. BUDGET REVIEW AS OF APRIL 30, 2010**

Mr. Burgess reviewed the revenues and expenditures as of April 30, 2010 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:12:13 **Motion to approve Budget Review**

The motion was made by Councilman Carter and seconded by Councilman Salcido to approve the Budget Review as of April 30, 2010.

0:12:24 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:12:42 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of regular City Council meeting held on May 11, 2010
- B. City Personnel Report
- C. Check Register, Bills and Petty Cash
- D. Purchasing Matters:
 - 1) Consider approval of Annual Bid for various materials, supplies and services for fiscal year 2010-2011
- E. Contracts and Agreements:
 - 1) Consider approval of Agreement between the City of Carlsbad and Garden Mart, Inc., for Grounds Maintenance and Grave Opening and Closing Services at the City of Carlsbad Cemetery
 - 2) Consider approval of first Agreement between the City of Carlsbad and Chaparral Claims & Investigations, LLC, for Claims Administration and Adjustment Services
 - 3) Consider approval of a Joint Powers Agreement between the City of Carlsbad and Carlsbad Municipal School District and Eddy County for the provision of School Resource Officers
 - 4) Consider approval of Agreement between the City of Carlsbad and the NM Department of Transportation, Traffic Safety Bureau for the Selective Traffic Enforcement Program
 - 5) Consider approval of Grant Award for the Retired and Senior Volunteer Program (RSVP) Agreement with the Corporation for National and Community Service
 - 6) Consider approval of the Services/Purchase Agreement between the City of Carlsbad and the Eddy County Board of Commissioners in the amount of \$603,477.00
- F. Miscellaneous Requests:
 - 1) Consider approval of request from the Aguilera Family for use of the San Jose Plaza on Saturday, June 19, 2010 for a family gathering from 10:00 a.m. to 7:00 p.m.

2) Consider approval of request from the First United Methodist Church for use of the Beach Bandshell on Sunday, July 4, 2010 from 8:30 a.m. to 12:00 noon for a community service

G. Overnight Travel:

1) Mayor Dale Janway: Washington, DC on May 11, 2010 to May 13, 2010 for promotion of the City of Carlsbad

H. Department Reports:

- 1) Community Development Department Report for April, 2010
- 2) Carlsbad Fire Department Report for April, 2010
- 3) Carlsbad Police Department Report for April, 2010
- 4) Transportation and Facilities Department Report for April, 2010
- 5) Utilities Department Report for April, 2010

I. Boards and Committee Appointments:

1) **Brine Well Technical Committee:**

Regina Ballard, Harry Burgess, Ned Elkins, Bob Forrest
John Heaton, Courtney Herrick, Len Kaskiw, Dewayne Kicker
Stan Patchet, Don Purvis, George Veni and Jack Volpato

2) **P & Z Ordinance Review**

Councilor Fred Woody

Golf Course Advisory Board

Councilor Fred Woody (Ex-Officio)

Drug Task Force Community

Councilor Richard Graves

Landfill/Solid Waste Committee

Councilor Fred Woody

Airport Advisory Committee

Councilor Dick Doss

Carlsbad MainStreet

Councilor Richard Graves

Carlsbad Veteran's Memorial Board

Councilor Richard Graves

Walter Gerrells Performing Arts & Exhibition Center Advisory Board

Councilor Fred Woody

Carlsbad DWI Board

Councilor Judi Waters

Carlsbad Beautification Committee

Councilor Judi Waters

Councilor Paul Aguilar

Sunset Gardens Cemetery Study

Councilor Dick Doss

Carlsbad Cemetery Board

Councilor Dick Doss

North Mesa Senior Rec Center

Councilor Fred Woody

Otis Water

Councilor Dick Doss

Carlsbad Chamber Board

Councilor Wesley Carter

Carlsbad Library Board

Councilor Sandy Nunley

Double Eagle Committee

Councilor Wesley Carter

Mayor's Student Advisory Council

Councilor Sandy Nunley

J. Resolutions:

1) Consider approval of Resolution No. 2010-19, a Resolution supporting the Keep Carlsbad Beautiful Program and Agreement regarding Litter Control and Beautification Grant Funds

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to approve the Routine and Regular Business.

0:13:16 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:13:34 **4. CONSIDER APPROVAL OF A VARIANCE FROM THE CITY'S ZONING REGULATIONS, SECTION 56-119 (2) (A)-AREA REGULATIONS IN THE "C" RESIDENTIAL ZONE TO ALLOW A SIDE-YARD SETBACK VARIANCE OF 2', WHICH WILL ALLOW THE CONSTRUCTION OF A GARAGE 3' FROM THE SIDE PROPERTY LINE AT 1502 W. TANSILL, OWNER: MARK A. WILLIAMS**

A. Public Hearing

Ms. Shumsky explained that the Planning and Zoning Commission recommended approval of the request to complete construction of a garage. **Mr. Williams** explained that he began construction on the garage 19 years ago but since then had foot surgery and was unable to finish. He explained that he had been approached by Code Enforcement regarding the snow cone truck parked in his yard. He explained that he was using it for storage and if the Council granted approval of the variance he would complete the construction on the garage and use it for storage.

0:18:23 **Discussion regarding the timeframe to finish the construction**

0:19:25 **B. Consider Variance**

Mayor Janway declared the protest hearing closed and reconvened the Council in regular session.

0:19:30 **Motion to approve Variance**

The motion was made by Councilman Graves and seconded by Councilman Carter to approve the Variance from the City's Zoning Regulations, Section 56-119 (2) (a)-Area Regulations in the "C" Residential Zone to allow a side-yard setback variance of 2', which will allow the construction of a garage 3' from the side property line at 1502 W. Tansill, Owner: Mark Williams.

0:20:28 **Mr. George Hurd explained that he felt enforcement actions were not being carried out equally or fairly among the citizens and how it should be done fairly.**

0:23:05 **Mr. Edward Hinojos explained that he is a contractor and a friend of Mr. Williams. He explained that the people of Carlsbad need to be treated equally.**

0:25:05 **Councilman Carter explained that the Code Enforcement officers have a very tough job and that they correspond with people from all parts of town, of every race and financial class; demonstrating the fairness and equality given to the citizens.**

0:28:22 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:28:44 **5. CONSIDER APPROVAL OF REQUEST FOR A SPECIAL USE PERMIT FOR A HOME OCCUPATION AT 918 ALAMOSA STREET (ZONED "B" RESIDENTIAL) TO ALLOW AN AUTO REPAIR BUSINESS, OWNER: RAYMOND GEE III**

A. Public Hearing

Ms. Shumsky explained that the Planning and Zoning Commission recommended approval of the request. She explained the process for obtaining a special use permit in the B Residential zone and the nature of Mr. Gee's business.

Councilman Doss and **Councilman Graves** explained that Mr. Gee runs a very clean operation and that he is an honest and fair automobile repair man.

0:31:52 **B. Consider Special Use Permit**

Mayor Janway asked if anyone else would like to speak regarding this issue. No one appeared and the Mayor declared the protest hearing closed and reconvened the Council in regular session.

0:32:01 **Motion to approve Special Use Permit**

The motion was made by Councilman Doss and seconded by Councilman Graves to approve the request for a Special Use Permit for a Home Occupation at 918 Alamosa Street (zoned "B" Residential) to allow an auto repair business, Owner: Raymond Gee III.

0:32:11 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:32:28 **6. CONSIDER APPROVAL OF ANNUAL SPECIAL LICENSE: A) MEXICANA PAWN AND GIFT SHOP, 3103 NATIONAL PARKS HIGHWAY**

Ms. Shumsky explained that every year certain businesses are required to obtain approval from the City Council in order to continue conducting business in town, specifically pawn shops. She explained that recently the other pawn shops in town had been approved but because at that time Mexicana Pawn and Gift Shop was not able to

provide the required bond they were left off until they were able to provide it, and now they were seeking their annual use permit.

0:33:43 **Motion to approve Annual Special License**

The motion was made by Councilman Aguilar and seconded by Councilman Salcido to approve an Annual Special License for Mexicana Pawn and Gift Shop, 3103 National Parks Highway.

0:33:54 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:34:12 **7. CONSIDER RESOLUTION NO. 2010-20, A RESOLUTION FINDING THE BUILDINGS OR STRUCTURES AT THE PROPERTY COMMONLY KNOWN AS 207 NORTH THIRD STREET TO BE RUINED, DAMAGED, AND DILAPIDATED AND FINDING THE PREMISES TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS: REQUIREING THE REMOVAL OF THE BUILDING, STRUCTURE, RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS, OWNER: RHONDA HARDESTY.**

Mr. K. C. Cass, Building Inspector explained that the building was completely destroyed by fire. He explained that there were dogs in the yard along with lots of large debris and weeds. He said it was a considerable hazard to public safety and the citizens of Carlsbad. He explained how frail the structure was.

0:36:12 **Ms. Rhonda Hardesty**

Ms. Hardesty read a letter that she wrote to Council explaining that if they allowed her, she would have the property cleaned up by the end of June 2010. **Ms. Riordan** explained that Ms. Hardesty's plan would meet the deadlines.

0:38:01 **Mr. Fontaine Garrett explained that he had tried to start the clean up in February but because of the weather he was unable to. He explained that he had access to the equipment to clean up the property and that he owned the property next door increasing his interest in cleaning up Ms. Hardesty's property.**

0:39:27 **Motion to table Resolution**

The motion was made by Councilman Doss and seconded by Councilman Waters to table Resolution No. 2010-20 until the last meeting in June to give Ms. Hardesty the opportunity to resolve the situation.

0:39:49 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:40:21 **8. CONSIDER APPROVAL OF RESOLUTION NO. 2010-21, A RESOLUTION ADOPTING FY 2010-2011 INTERIM BUDGET**

Mr. Burgess gave an overview of the proposed Interim Budget.

0:48:42 **Motion to approve Resolution No. 2010-21**

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to approve Resolution No. 2010-21 adopting FY 2010-2011 Interim Budget.

0:48:50 **Vote**

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

0:49:07 **9. CONSIDER CONTINUATION OF LEGAL SERVICES REGARDING BRINE WELL, INCLUDING EXPANDED SCOPE AND FEES**

Mr. Burgess explained that the City had engaged in services with Domenici Law Firm to represent them in the brine well situation, particularly to gain access to the site to conduct monitoring and characterization studies. He explained that five committees had been formed to create a plan with regard to the impending collapse of the brine well. He explained that I & W had been reimbursing funds to the City but they recently filed for bankruptcy changing the playing field. He explained the effects of the recent bankruptcy on the City and how the City is moving forward with the changes. He explained that one of the effects was that while Mr. Domenici agreed to continue on with his services however there will be additional costs. He explained that the City has already spent 30 of up to 60 and that he was requesting an additional 30 so that he does not have to go back to Council requesting smaller increments in the event that more funding is needed.

0:52:40 **Discussion regarding:**

- The Trustee in bankruptcy
- Bankruptcy attorney
- City's creditor status regarding the brine well
- Status of the progress regarding the original Injunction
- Action against the State for allowing the well

0:59:37 **Mr. Garry Adams explained that he would like to see a reoccurring update to the general public regarding the brine well. He explained that there needs to be more public awareness of the progress being made with regard to the situation.**

1:01:03 **Motion to approve continuation of Legal Services**

The motion was made by Councilman Graves and seconded by Councilman Waters to approve continuation of Legal Services regarding Brine Well including expanded scope and fees.

1:01:15

Vote

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

1:01:31

10. COUNCIL COMMITTEE REPORTS

None to report.

1:01:55

Motion to adjourn

The motion was made by Councilman Nunley and seconded by Councilman Doss to adjourn.

1:02:00

Vote

The vote was as follows: Yes - Aguilar, Carter, Doss, Graves, Nunley, Salcido, Waters, Woody; No - None; Absent - None. The motion carried.

1:02:25

Adjourn

There being no further business, the meeting was adjourned at 7:05 p.m.

____/s/ Dale Janway_____
Mayor

ATTEST:

____/s/ Amanda McDougall_____
City Clerk