

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON MAY 8, 2018 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	Jason O. Chavez	Councilor
	Jason Shirley	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor

Absent:

Also Present:	Michael Hernandez	City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	John Lowe	Community Dev. Director
	Ron Myers	Director of Utilities
	Wendy Hammett	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	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**

0:00:01      Invocation – Pledge of Allegiance

0:00:36      **Mayor Janway announced Mr. Gary Lane, was present to update the Council on the Carlston Ranch Project.**

**Mr. Lane** gave a presentation highlighting:

- Construction topography
- Offsite infrastructure
- Branding
- Public Improvement District Attorney
- Design
- Conditions, Covenants, and Restrictions

Mr. Lane thanked Mayor and Council for their time and said he looks forward to returning with updates.

0:07:06        **Mayor Janway introduced Mr. Kenny Rayroux, Assistant County Manager, who is present to give an update on Lea Street and Standpipe Road.** Mr. Rayroux introduced Mr. Randy Pettigrew with Pettigrew and Associates to give a brief update on Phase 1 and Phase 2. Mr. Pettigrew explained both projects Phase 1 and Phase 2 are active and under construction. He explained a delay of project will be received for Phase 1 for a 15 to 30 day delay due to the time it is taking Windstream and TDS to move their utilities. He said the original deadline date was July 20th and will now be pushed into August. Mr. Pettigrew explained that Phase 2 is moving along smoothly and so far all of the conflicts have had work around solutions. He added Phase 1 is funded for 1.2 million and Phase 2 is funded for 2.8 million.

0:13:21        **1. APPROVAL OF AGENDA**

0:13:25        **Motion**

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

0:13:28        **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:13:47        **2. CONSIDER APPROVAL OF RESOLUTION NO 2018-30, A RESOLUTION ADOPTING THE INTERIM BUDGET FOR FISCAL YEAR 2018-2019**

Mr. Hernandez explained the interim budget summary has been included in each of the Council packets. He said the summary highlights the major funds and the changes to each of those funds. He said staff has seen an upward trend in both the lodgers' tax and the gross receipts tax and this interim budget reflects that. He thanked all the Directors for being careful with budget preparations regarding personnel and operating expenses. He explained crucial positions have been recommended for Police and Fire to handle the current growth. He added all budget line items have been reviewed and approved by the Budget Committee. Mr. Hernandez added this is a good budget with a lot of projects still moving forward in the city.

Ms. Hammett explained that beginning with Fiscal Year 2018-2019 Interim Budget the DFA has updated or improved the current method for submitting budgets, budget adjustments, and quarterly and year-end financial reports. She said moving forward all financial information must be submitted in excel or CSB format through the local government budget management system. She added this enhanced method allows DFA the opportunity to more accurately compare and analyze local government revenues and expenditures and improves the process of preparing the Comprehensive Annual Financial Report. Ms. Hammett explained the city has a solid budget for FY

2018-2019. She recognized and thanked the Budget Committee: Chairman Councilor Rodriguez, Councilor Carter, Councilor Anaya Flores, and Councilor Shirley for their support, guidance, and expertise throughout the budget process. She explained overall the city budget has a fiscal year deficit but as in past years the city does budget a contingency and a surplus will likely be recognized throughout the fiscal year. She added in addition she is confident the upward trend in GRT revenue will continue allowing the city to prove overall fund balance and invest excess funds into further infrastructure and other worthwhile capital projects. She added with a high degree of collaboration from city staff, the Budget Committee, along with the Mayor and Mr. Steve McCutcheon's leadership, the FY 2018-2019 budget is presented for approval.

0:18:26        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Resolution No. 2018-30, a Resolution Adopting the Interim Budget for Fiscal Year 2018-2019

0:18:35        **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:18:54        **Mayor Janway thanked the Budget Committee, Administration, and Mr. McCutcheon for all of their work on the Budget.**

0:19:07        **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 24, 2018
- B. City Personnel Report
- C. Purchasing:
  - 1. Consider Approval to Award RFP 2018-09 to Ben Jenkins Auctioneers for the City of Carlsbad Auctioneer Services
  - 2. Consider Approval to Purchase the Right of Way from the State Land Office for the Tatum Wells Waterline Extension
- D. Contracts and Agreements:
  - 1. Consider Approval of Lease Agreement between the City of Carlsbad and Toni Balzano DBA Bad Girl Enterprises for Concession Services at Port Jefferson
- E. Monthly Reports:
  - 1. Municipal Court Monthly Report, April 2018
  - 2. PERD Monthly Report, March & April 2018
  - 3. Personnel Monthly Report, April 2018
  - 4. Transportation & Facilities Monthly Report, February 2018
- F. Board Appointments:
  - 1. Disability Advisory Board: Appoint Tarrant Blake, remainder of 4 year term
  - 2. Carlsbad Department of Development: Appoint Councilor Jason Shirley

0:19:29        **Mayor Janway asked Mr. Hernandez to discuss item D.1 Consider Approval of Lease Agreement between the City of Carlsbad and Toni Balzano DBA Bad Girl Enterprises for Concession Services at Port Jefferson**

**Mr. Hernandez** explained that the city went out for RFP for Concession Services and received one bid from Bad Girl Enterprises. He added Mr. Lowe has initiated improvements to the facility and it looks great. He said staff is recommending approval of the agreement.

0:20:26        **Motion**

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

0:20:32        **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:21:00        **4. PRESENTATION OF NATIONAL PUBLIC WORKS WEEK PROCLAMATION**

**Councilor Anaya Flores** read the Proclamation stating National Public Works Week May 20 - 26, 2018.

0:23:23        **5. CONSIDER APPROVAL OF REQUEST FROM DAWSON GEOPHYSICAL COMPANY REGARDING 3-D SEISMIC SURVEY IN PARTS OF CARLSBAD**

**Mr. Hernandez** explained Mr. Greg Dearsley with Dawson Geophysical met with staff about conducting a seismic survey south of town and in the city limits. He explained staff had initial concerns due to the Brine Well being in the near location. He explained the city contracted AMEC Foster Wheeler to provide a technical evaluation of Dawson's proposed work and the potential conflicts with the Brine Well. **Mr. Hernandez** added Dawson Geophysical has moved the location approximately 3 miles south of the Brine Well.

0:24:35        **Mr. Dearsley** explained that Dawson Geophysical planned to locate further north into the city limits but because of the timing, Dawson was not able to get permitted in time. He explained Dawson is now trying to acquire permission to place receivers and vibrators at the Airport.

**Mr. Saul Alanis** with AMEC Foster Wheeler explained AMEC conducted a ground vibration study using the facts of the geophysical investigation. He explained the findings were due to the distance and the force being applied the vibration that will impact the Brine Well cavern will be about 10% of the normal daily traffic. He added the impact is low and AMEC does not expect the impact to register on their systems at the cavern.

**Councilor Rodriguez** asked if the 10% is of the daily load. **Mr. Alanis** explained it is 10% of a fully loaded semi that would travel down that road.

0:27:06      **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Request from Dawson Geophysical Company Regarding 3-D Seismic Survey in parts of Carlsbad

0:27:14      **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:27:30      **6. CONSIDER APPROVAL OF REQUEST FROM MAINSTREET TO SERVE ALCOHOL (BEER AND WINE) ON CITY STREETS DURING CAVERNREST HELD ON JUNE 9, 2018**

**Mr. Hernandez** explained that MainStreet has requested to have alcohol served on the city streets during the Cavern Fest.

**Councilor Shirley** explained in the past a full bar has been served and this year the request is for beer and wine only. He explained the area will be fenced off and will have about four times the security than what is required by law.

**Ms. Hammel** explained Cavern Fest is a family event. She added the event is only required to have 5 security guards but they will have 20 security guards. She said MainStreet is requesting for the city to provide safe ride for the event. **Ms. Hammel** said it is going to be a great event and invited everyone to attend.

0:30:14      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve Request from Carlsbad MainStreet to serve Alcohol (Beer and Wine) on City Streets during CavernFest held on June 9, 2018

0:30:19      **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:30:44      **7. CONSIDER APPROVAL OF RESOLUTION 2018- 31, A RESOLUTION SUPPORTING CHELSEA INVESTMENT CORPORATION'S EFFORTS TO RENOVATE THE MISSION AND LA POSADA APARTMENTS, AN AFFORDABLE HOUSING PROJECT**

**Mr. Patterson** explained these apartments have been in need of renovation for several years. He said a few affordable housing companies have come in and tried to renovate but the funding has not worked out. He explained Chelsea Investment Corporation has been approved for tax credits from the State and are also financing through a bank

through the Affordable Housing Project Plan. He said this Plan requires the governing body to issue a Resolution in support of the renovation. **Mr. Patterson** said the Planning Department is requesting approval.

**Councilor Walterscheid** asked what the city will have to do with this project. **Mr. Patterson** explained the city will not be involved with the project and added the Resolution is just to declare that the city supports these efforts. He added this Resolution does not obligate the city to the project in anyway.

0:33:28      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Resolution No. 2018-31, a Resolution supporting Chelsea Investment Corporation's efforts to Renovate the Mission and La Posada Apartments, an Affordable Housing Project

0:33:42      **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

0:34:00      **8. CONSIDER APPROVAL OF ORDINANCE NO 2018-10, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL DISTRICT TO "C-1" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.33 ACRE PROPERTY, LOCATED AT 1032 NORTH ALAMEDA STREET, LEGALLY DESCRIBED AS LOT 2, BLOCK 147, LAKESIDE COUNTRY CLUB SUBDIVISION UNIT 1, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES**

0:34:44      **A. Public Hearing**

0:34:54      **Ms. Riordan** explained because she owns property near the requested rezone she has the appearance of a conflict so she will step down as the council on this matter. She explained Mr. Rich Olson who is an outside attorney who does not live in the city and therefore has no conflict with this Ordinance will represent the city.

0:35:26      **Mr. Patterson** explained the subject property lies at 1032 North Alameda Street and is currently zoned R-1 zoning. He explained the Planning Department recommended denial to the Planning and Zoning Commission. He explained reason for denial was that changing zoning to Commercial zoning does not fit with the neighborhood and does not support the Comprehensive Plan and the zone change will create a spot zone. He added the Planning and Zoning Commission also recommend denial.

0:37:18 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance. He asked that everyone keep their comments to a maximum of 2 minutes each.**

**Mr. Baraibar**, Silva Law Firm, explained that he is the potential buyer of the property. He said he has been considering many possibilities to alleviate the concern of the community. He said he realizes people are concerned that if the property is sold it could become something other than a law firm. He said he would like to offer to purchase the property in cash and deed it to the city with the city deeding it back to him with the possibility of reverter. He explained that with this reverter if the property ever becomes anything other than a law firm or a residence the city would become immediate owners of the property. He explained the law firm is a personal injury firm and will not generate a lot of traffic. He added he believes the purchase will bring value to the community. He said he has spoken to Mr. Olson and Mr. Patterson about the possibility of a reverter.

**Councilor Walterscheid** asked where the firm's main office is based. **Mr. Baraibar** said the main office is in Odessa, Texas. He added they also have an office in Lovington, New Mexico and Hobbs, New Mexico and are looking to expand into Carlsbad.

**Councilor Shirley** asked why this property rather than a property already zoned commercial. **Mr. Baraibar** said his boss has a knack for picking the best properties and he feels this property would work great for the firm.

0:44:01 **Mayor Janway asked if anyone else would like to speak in favor of the Ordinance, no one appeared.**

0:44:10 **Mayor Janway asked if anyone would like to speak against the Ordinance.**

**Ms. Judy Ledford** explained she has lived next door to this property since the early 90's. She read a letter submitted to the Planning and Zoning Commission where she addressed her concerns stating the property is not adjacent to a residential neighborhood, but is within the neighborhood and would serve no public good.

**Mr. Dick Van Dyk** explained he lives in this neighborhood and at one time this was the neighborhood to live in. He said he would like to preserve this area as residential and added the neighborhood petition has 98 signatures who all agree. He said people will seek out a good attorney they do not have to be at the end of a residential street. **Mr. Van Dyk** said he is asking Councils consideration to leave the neighborhood as a residential area.

0:55:47 **Mr. Baraibar** announced that he withdraws his request because he is not going to go against the residents and the community.

0:56:25 **Ms. Ann Cross** said this neighborhood has been battling rezoning since the 50's and 60's. She said she has lived on Tracy Place all her life and she wants to raise her kids in the same environment. She said in 2003 Judi Waters saved the area from commercialization. She wants the Council to understand when this comes up again that it is a snowball and there is already a stack of lawsuits and the neighborhood will continue to sue until everyone leaves them alone.

**Ms. Kendall McCarty** said she is new to the community from Houston. She said she feels very strongly about this because she has had to continually move from suburb to suburb in Houston because of similar situations. She said the preservation of this one lot can be the entire future of this neighborhood.

**Mr. John Bowan** said he has lived on Tracy Place for 40 years. He said this neighborhood has been approached half a dozen times to change zoning for potential law firms, or dental firms moving into the neighborhood. He said they have had to seek legal action to stop commercialization of the neighborhood and he is requesting denial.

1:00:11 **Mayor Janway explained since there has been a withdrawal of the request, Council will reconvene into regular session.**

1:00:24 **Mr. Olson** explained since the withdrawal was not from the applicant, the Council needs to vote on the Ordinance.

1:00:46 **B. Consider Approval**

1:00:46 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to deny approval of Ordinance No. 2018-10, an Ordinance rezoning Part of "R-1" Residential District to "C-1" Commercial District for an approximately 0.33 Acre Property, located at 1032 North Alameda Street, legally described as Lot 2, Block 147, Lakeside Country Club, Subdivision Unit 1, Pursuant to Section 3-21-1 ET. SEQ. NMSA 1978 and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinances

1:00:57 **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

1:01:21 **9. COUNCIL COMMITTEE REPORTS**

**Mayor Janway** appointed a Mayor's Task Force for the Golf Committee. He appointed Councilor Carter as the chairman, Council Anaya Flores, Councilor Estrada, and Mr. John Lowe. He said the task of this Committee will be to work with the Golf Board to review current RFP's for Golf Course Concession to determine the best path moving forward and to return to Council within 30 days with a recommendation.



1:02:37      **10. ADJOURN**

1:02:40      **Motion**

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

1:02:49      **Vote**

The vote was as follows: Yes - Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent- None; the motion carried.

1:03:05      There being no further business, the meeting was adjourned at 7:04 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

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

DRAFT