

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON JUNE 8, 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 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.

0:00:00 Start Recording [6:01:11 PM]

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

0:00:39 **Mayor Janway awarded Anita Saler with an Outstanding Citizen Award for all of her efforts toward the Carlsbad Honor Gaurd and honoring Carlsbad's Veterans**

0:03:17 **1. APPROVAL OF STATEMENT REGARDING CLOSED SESSIONS**

Mayor Janway stated that pursuant to the requirements of the Open Meetings Act, the minutes should reflect that the matters discussed in the closed meeting held on May 27 and 28, 2010, were limited only to those matters relating to personnel matters as specified in the motion for closure.

0:03:48 **Motion to approve Statements**

The motion was made by Councilman Doss and seconded by Councilman Graves to approve the statement regarding the Closed Sessions held May 27 and 28 2010.

0:03:57

Vote

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

0:04:14

2. APPROVAL OF AGENDA

0:04:18

Motion to approve Agenda

The motion was made by Councilman Aguilar and seconded by Councilman Salcido to approve the June 8, 2010 Agenda.

0:04:27

Vote

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

0:04:44

3. ROUTINE AND REGULAR BUSINESS

- A. Minutes of regular City Council meeting held on May 25, 2010
- B. City Personnel Report
- C. Purchasing Matters:
 - 1) Consider approval of award of Bid No. 2010-06 to Greer Construction in the amount of \$307,533.92 for covered parking at the Municipal Transit Facility (ARRA)
 - 2) Consider award of RFP No. 2010-26 to Windstream Communications in the amount of \$29,885.74 for an Integrated Telephone System with Voice Over IP Capability
- D. Contracts and Agreements:
 - 1) Consider approval of Agreement between the City of Carlsbad and the Carlsbad Animal Clinic for the provision of City Animal Licenses
 - 2) Consider approval of Agreement between the City of Carlsbad and the Allied Veterinary Services, PC, dba: Animal Care Center for the provision of City Animal Licenses
- E. Miscellaneous Requests:
 - 1) Consider approval of request from the local chapter of the NAACP #6301 for the Annual Juneteenth Celebration at Martin Luther King Park on Saturday, June 19, 2010 from 9:00 a.m. to 7:00p.m.
- F. Overnight Travel:
 - 1) Councilor Fred Woody; Albuquerque, NM for NM Municipal League, Policy Committee Meeting on June 18, 2010 to June 20, 2010
 - 2) Councilor Nick Salcido; Albuquerque, NM for NM Municipal League, Policy Committee Meeting on June 18, 2010 to June 20, 2010
- G. Department Reports:
 - 1) Personnel Department Report for May, 2010
- H. Resolutions:

1) Consider approval of Resolution No. 2010-22, a Resolution declaring certain City property to be obsolete and unusable (Finance Department and Community Development Department)

0:05:27 **Motion to approve Routine and Regular Business**

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

0:05:41 **Vote**

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

0:05:58 **4. CONSIDER APPROVAL OF ORDINANCE NO. 2010-14, AN ORDINANCE AMENDING ORDINANCE NO. 2009-19 REGARDING THE CITY OF CARLSBAD RECYCLING ADVISORY BOARD; INCREASING THE NUMBER OF MEMBERS OF THE BOARD FROM FIVE TO SEVEN**

0:06:19 **Motion to approve Ordinance No. 2010-14**

The motion was made by Councilman Carter and seconded by Councilman Doss to approve Ordinance No. 2010-14, amending Ordinance No. 2009-19 regarding the City of Carlsbad Recycling Advisory Board; increasing the number of members of the Board from five to seven.

0:06:30 **Vote**

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

0:06:48 **5. CONSIDER APPROVAL OF ORDINANCE NO. 2010-16 REZONING PART OF "R" RURAL RESIDENCE DISTRICT TO "D-2" GENERAL COMMERCIAL DISTRICT AND AMENDING SECTIONS 56-38 AND 56-36 FOR 16.75 ACRES LOCATED AT THE SOUTHWEST CORNER OF UNIVERSITY DRIVE AND WEST PIERCE STREET, APPLICANT: OZARK CIVIL ENGINEERING, INC.**

Ms. Shumsky explained that the request was for a zone change on University and Pierce. She explained the current zoning of the property and that the applicant was proposing to change about 16 acres to "D-2" General Commercial so that they could construct a general retail use on the site. She said that the Planning and Zoning Commission recommended approval.

Mr. Scot McGee, Ozark Civil Engineering representing Lowe's explained that 6 acres are zoned rural residential currently and in order to keep it simple they requested that the entire 16 acres be zoned "D-2." He asked for the support of the Council. He explained that the goal date of the store opening was fall of next year.

0:10:08 **Motion to approve Ordinance No. 2010-16**

The motion was made by Councilman Graves and seconded by Councilman Waters to approve Ordinance No. 2010-16 rezoning part of "R" Rural Residence District to "D-2" General Commercial District and amending Sections 56-38 and 56-36 for 16.75 acres located at the southwest corner of University Drive and West Pierce Street, Applicant: Ozark Civil Engineering, Inc.

0:15:04

Vote

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

0:15:23

6. CONSIDER APPROVAL OF GENERAL SURFACE USE AGREEMENT WITH YATES PETROLEUM CORPORATION TO DRILL ON CITY PROPERTY, OUTSIDE THE CITY LIMITS (CHEVRON BOT #6H, TOWNSHIP 24 SOUTH, RANGE 29 EAST, EDDY COUNTY, NEW MEXICO), INCLUDING A VARIANCE FOR WELL PAD SIZE (300'X 300') AND A VARIANCE FROM INSURANCE REQUIREMENTS

Mr. Richard Aguilar explained that Yates was continuing their pattern of drilling and nothing had changed from their previous request. He explained that with regard to their insurance they were going from \$1,050,000 to \$1 million but they have the \$25 million umbrella coverage. He explained that they were requesting to change the pad size from 150' x 150' to 300' x 300.' He stated they would be paying the city 10,000, as in the past.

0:17:22

Motion to approve agreement and variance requests from Yates Petroleum

The motion was made by Councilman Aguilar and seconded by Councilman Graves to approve the General Surface Use Agreement with Yates Petroleum Corporation to drill on City property, outside the City limits (Chevron BOT #6H, Township 24 South, Range 29 East, Eddy County, New Mexico), including a variance for well pad size (300'x300') and a variance from insurance requirements.

0:17:30

Vote

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

0:17:46

7. CONSIDER APPROVAL OF GENERAL SURFACE USE AGREEMENT WITH YATES PETROLEUM CORPORATION TO DRILL ON CITY PROPERTY, OUTSIDE THE CITY LIMITS (CHEVRON BOT #1H, TOWNSHIP 24 SOUTH, RANGE 29 EAST, EDDY COUNTY, NEW MEXICO), INCLUDING A VARIANCE FOR WELL PAD SIZE (300'X 300') AND A VARIANCE FROM INSURANCE REQUIREMENTS

Mr. Aguilar explained that this request was the exact same thing as the last request (number 6 on the agenda) except that they are changing their drilling pattern from west to east to north to south.

0:19:26 **Discussion regarding the well location and well type**

0:20:30 **Motion to approve agreement with Yates Petroleum and variance requests**

The motion was made by Councilman Graves and seconded by Councilman Carter to approve the General Surface Use Agreement with Yates Petroleum Corporation to drill on City property, outside the City limits (Chevron BOT #1H, Township 24 South, Range 29 East, Eddy County, New Mexico), including a variance for well pad size (300'x300') and a variance from insurance requirements.

0:20:38 **Vote**

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

0:21:03 **8. CONSIDER APPROVAL OF REQUEST FOR THE CREATION AND DEVELOPMENT OF A VETERANS' MEMORIAL PARK**

Mr. Joe Epstein and Mr. Jim Dickman, Veterans Memorial Committee came forward. **Mr. Epstein** explained that the committee was responsible for creating a Veterans' memorial park. He explained that they have chosen the Bataan Recreation area for their memorial. He explained that it was in the flood zone but it would not be a problem. He explained the benefits of the area and their plans for the park. He explained that they would get endorsements and donations to help with funding the park.

Mr. Dickman explained that they would start with the Spanish-American war and move forward and how they would like to use the park as an illustration to educate the public about the cost of freedom, that freedom is not free.

0:32:33 **Discussion regarding:**

- Medal of honor monument
- Dedication of the Memorial Park
- Various existing military monuments in town
- Maintenance of park grounds
- Park Helicopter
- Funding
- Continuation of current activities at the Bataan Recreation Area

0:40:30 **Motion to approve request for development of a Veterans' Memorial Park**

The motion was made by Councilman Carter and seconded by Councilman Graves to approve the request for the creation and development of a Veterans' Memorial Park.

0:40:43 **Discussion regarding handicap accessibility at the memorial park**

0:42:55

Vote

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

0:43:16

9. PRESENTATION BY CETANE ENERGY REGARDING PROJECT STATUS UPDATE

Mr. Richard Aves and Ronnie Walterscheid of Cetane Energy came forward. **Mr. Aves** thanked the City Council for the support they have received for their project. He gave a power point presentation regarding Cetane Energy highlighting:

- Timeline of events
- Benefits of Renewable Diesel
- Expansion of the facility
- Structure of the contract with the City
- Summary of what Cetane Energy will do with their product
- Processing of their product

Mr. Aves explained that because of the level of proprietary information with the technology they are creating any questions Council may have can be answered via e-mail or phone. He also encouraged them to visit the plant.

0:55:24

10. CONSIDER APPROVAL OF RECOMMENDATION FROM MAYOR JANWAY REGARDING THE APPOINTMENT OF A POLICE CHIEF

Mayor Janway read a memo addressed to the Council appointing E. Thomas Whitten to the position of Police Chief.

0:55:52

Motion to approve Mayor Janway's recommendation for Police Chief

The motion was made by Councilman Graves and seconded by Councilman Doss to approve the recommendation from Mayor Janway appointing E. Thomas Whitten as Police Chief.

0:56:00

Vote

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

0:56:21

11. DISCUSSION FROM JERRY SAMANIEGO REGARDING SLURRY SEAL

Mr. Samaniego explained that he has appeared before Council several times in the last 5 years requesting WIPP Acceleration Funds in order to expand his highway maintenance business. He explained that while he was never approved for WIPP Acceleration funds he was given a lot of feedback, which included to go out and find

work. He explained that had found a contract and ordered a slurry seal truck and that when the job was just about to get started he was stopped and told that Mr. Burgess did not want slurry seal used on the job, he wanted asphalt. He explained that he was there to encourage the Council to consider the use of slurry seal instead of asphalt. He explained the uses of slurry seal and urged the Council to consider the use of slurry seal on the Canal Street project.

Mr. Burgess explained that the City went through a bid process in which they specified replacing the removed asphalt with new asphalt, it was bid upon and granted to the lowest bidder. He explained that Mr. Samaniego was not one of the bidding entities on the contract nor was he the current contractor; therefore, he did not have standing in the request he was making. He explained that the contractor did approach the City about using slurry seal and that the price was the same as to use hot mix. He explained that they chose to use hot mix because that was the tried and true and the original design. He explained that the City has not considered slurry seal in any form to be the same product as asphalt. He explained that the issue was that slurry seal is inferior to asphalt, if we are going to have a road and make it last, asphalt will last longer. He explained why the City does not use slurry seal giving specific examples.

Discussion was held regarding the airport slurry seal project.

Councilman Carter explained the reasons why the City could not change the specifications of the contract.

Discussion was held regarding:

- The experience requirements on the contracts
- Process being used by the current contractor and status of the Canal Street project
- Quality of the slurry seal at the airport
- Mr. Samaniego demonstrating his work to the City
- State procurement process

Mayor Janway invited Mr. Samaniego to get with Mr. Camero to go over his concerns, he said that he thought the pilot demonstration was a good idea and thanked Mr. Samaniego for appearing before the Council to make a presentation.

1:31:47 **12. CONSIDER RESOLUTION NO. 2010-23, A RESOLUTION FINDING THE BUILDING OR STRUCTURE AT THE PROPERTY COMMONLY KNOWN AS 910 NORTH MAIN STREET TO BE RUINED, DAMAGED, AND DILAPIDATED AND FINDING THE PREMISES TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS; REQUIRING THE REMOVAL OF THE BUILDING, STRUCTURE, RUINS, RUBBISH, WRECKAGE, WEEDS, AND DEBRIS**

Mr. Rick Jackson, Building Inspector explained that the property was in really bad shape and poses danger to the community. **Ms. Dana Chapler** explained that she and her husband own and operate C & R Pecan Service which is the adjoining property to 910 N. Main and that she has been able to get in contact with Ms. Burns who owns the property and that Ms. Burns was allowing her the opportunity to make an offer on the property. She explained what they would use the property for.

Mr. Burgess and **Ms. Riordan** explained the timeline and process of the resolution. They explained that if approved there would still be a window of opportunity for Mrs. Chapler to obtain the property before the City starts demolition and clean up.

1:37:25 **Ms. Riordan explained to Council what their options were regarding this property**

1:38:30 **Mrs. Chapler explained that the offer was going to be made the following day and if accepted, they would be able to start the clean up immediately**

1:39:16 **Discussion regarding approving the resolution and Ms. Chapler coming back at the next meeting to be held June 22, 2010 to give an update of the status of the property**

1:40:27 **Motion to approve Resolution No. 2010-23**

The motion was made by Councilman Doss and seconded by Councilman Woody to approve Resolution No. 2010-23 finding the building or structure at the property commonly known as 910 N. Main Street to be ruined, damaged, and dilapidated and finding the premises to be covered with ruins, rubbish, wreckage, weeds, debris; requiring the removal of the building, structure, ruins, rubbish, wreckage, weeds, and debris.

1:40:40 **Vote**

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

1:40:56 **13. CONSIDER RESOLUTION NO. 2010-24, A RESOLUTION FINDING THE BUILDING OR STRUCTURE AT THE PROPERTY COMMONLY KNOWN AS 1714 RADIO BOULEVARD TO BE RUINED, DAMAGED, AND DILAPIDATED AND FINDING THE PREMISES TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS; REQUIRING THE REMOVAL OF THE BUILDING, STRUCTURE, RUINS, RUBBISH, WRECKAGE, WEEDS, AND DEBRIS**

Mr. Jackson explained all of the deficiencies with the property and stated that it would take a lot to bring the building up to code.

Mr. Herman Weldy explained that he inherited the property in 2003 and at that time there was a cesspool which he covered up and boarded the windows and left it until four months ago when a woman approached him about renting the home. He explained that the conditions were for her to install a septic tank in place of paying rent. He said instead she moved in without installing a septic tank. He explained that the code enforcement officers had been out there several times and that he had had a lot of trouble with her. He said he did not think he could afford to fix the house up but he would like the opportunity to tear down the structure and clean up the property himself. **Councilman Carter** asked him how long it would take for him to do so. **Mr. Weldy** said it would take him 4 months. **Councilman Carter** said 90 days should be sufficient.

1:44:55 **Motion to approve Resolution No. 2010-24**

The motion was made by Councilman Carter and seconded by Councilman Aguilar to allow Mr. Weldy 90 days to clean up the property at 1714 Radio Boulevard.

1:45:09 **Vote**

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

1:45:43 **14. COUNCIL COMMITTEE REPORTS**

None to report.

1:46:00 **Adjourn**

There being no further business, the meeting was adjourned at 7:47 p.m.

___/s/ Dale Janway_____
 Mayor

ATTEST:

___/s/ Amanda McDougall_____
 City Clerk