

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON JULY 14, 2009 AT 6:00 P.M.**

Present:	Bob Forrest	Mayor
	Paul C. Aguilar	Councilor
	Wesley Carter	Councilor
	Brad Day	Councilor
	Jeff Diamond	Councilor
	Ned Z. Elkins	Councilor
	Nathan A. McDonald	Councilor
	Nick G. Salcido	Councilor

Absent:	Sandra Nunley	Councilor
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Also Present:	Harry Burgess	City Administrator
	Eileen P. Riordan	City Attorney
	Amanda J. Asbury	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 **Call Meeting to Order**

0:00:03 **Invocation - Pledge of Allegiance**

0:00:28 **Mayor Forrest announced that Councilwoman Nunley was out of town and would not be able to attend the meeting.**

0:00:31 **1. APPROVAL OF AGENDA**

0:00:41 **Motion to approve Agenda**

The motion was made by Councilman Elkins and seconded by Councilman Aguilar to approve the July 14, 2009 Amended Agenda.

0:00:46 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - None; Absent - Nunley. The motion carried.

0:01:02 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Regular City Council meeting held June 23, 2009
- B. City Personnel Report
- C. Purchasing:
 - 1) Award Bid No. 2009-11 to M & M Excavating, Inc. for the Double Eagle Reservoir in the amount of \$1,136,258.63
 - 2) Award Bid No. 2009-13 to URS Corporation for 2009 Sewer Interceptor Upgrade in the amount of \$243,210.
- D. Contracts and Agreements:
 - 1) Consider approval of Agreement between the City of Carlsbad and Carlsbad Character Counts!
 - 2) Consider approval of Agreement between the City of Carlsbad and New Mexico Department of Transportation for the FY 2009-2010 Transportation Program (Welfare to Work)
 - 3) Consider approval of reauthorization of Grant Agreement between the City of Carlsbad and the Department of Finance & Administration, Local Government Division, amending project 05-L-G-1469 for Carlsbad Museum & Fine Arts Center Equipment and Improvements - Expand Purpose, Extend Time
 - 4) Consider approval of reauthorization of Grant Agreement between the City of Carlsbad and the Department of Finance & Administration, Local Government Division, amending project 06-L-G-1629 for Carlsbad Museum & Fine Arts Center Change to Renovations and Improvements - Extend Time
 - 5) Consider approval of reauthorization of Grant Agreement between the City of Carlsbad and the Department of Finance & Administration, Local Government Division, amending project 07-L-G-5248 for Pecos River Village Renovations - Expand Purpose
 - 6) Consider approval of Agreement between the City of Carlsbad and New Mexico Finance Authority Board for the City of Carlsbad-Drinking Water Revolving Loan Fund from the American Recovery & Reinvestment Act of 2009 (ARRA)-Project #2313 ADW in the amount of \$1,973,610
 - 7) Consider approval of Agreement between the Carlsbad Police Department and the Traffic Safety Bureau for the Selective Traffic Enforcement Program (S.T.E.P.) in the amount of \$4,982
 - 8) Consider approval of Joint Powers Agreement (SRO) with the Eddy County Sheriff's Department and Carlsbad Municipal Schools for the provision of School Resource Officers
 - 9) Consider approval of Memorandum of Understanding between the City of Carlsbad and Eddy County for a Justice Assistance Grant (JAG) in the amount of \$16,000.00 for overtime in relation to school events
- E. City of Carlsbad Department Monthly Reports:
 - 1) Personnel Department Report for June 2009
 - 2) Utilities Department Report for May 2009
- F. Set date for Ordinances:
 - 1) An Ordinance Increasing the Judicial Education Fee to the State Imposed Amount (Aug. 11, 2009)

2) An Ordinance Amending Ordinance No. 2006-03 and Section 44-38 of the Carlsbad City Code Regarding Garbage and Rubbish Collection fees (Aug. 11, 2009)

G. Set date:

1) To consider a Special Use Permit request from Krystal Patterson, to allow for a massage therapy business at her residence located at 606 N. 4th Street and zoned "B" Residence District (August 25, 2009)

H. Board/Committee Appointments and Reappointments:

Appointments:

Carlsbad Youth Sports Complex Advisory Committee: David Rhoades
Southeastern New Mexico Economic Development District/Council of Government (SNMEDD/COG) Southeast RPO (SERPO): Stephanie Shumski-
ADA Coordinator

0:01:11 **Councilman Diamond request that item D. 6 be pulled. and Councilman Day requested that item C.2. be pulled as well.**

0:01:40 **Motion to approve Routine and Regular Business**

The motion was made by Councilman Elkins and seconded by Councilman Salcido to approve the Routine and Regular Business with the exception of items D. 6 and C. 2 which were pulled for further discussion.

0:01:46 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - None; Absent - Nunley. The motion carried.

0:01:58 **C. 2. Award Bid No. 2009-13 to URS Corporation for 2009 Sewer Interceptor Upgrade in the amount of \$243,210.**

Councilman Day stated that he requested this item be pulled because he would have to abstain from the vote.

0:02:20 **Motion to approve item C.2.**

The motion was made by Councilman Elkins and seconded by Councilman Diamond to award Bid No. 2009-13 to URS Corporation for 2009 Sewer Interceptor Upgrade in the amount of \$243,210.

0:02:24 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Diamond, Elkins; No - None; Abstained - Day; Absent - Nunley. The motion carried.

0:02:38 **D. 6. Consider approval of Agreement between the City of Carlsbad and New Mexico Finance Authority Board for the City of Carlsbad-Drinking Water Revolving Loan Fund from the American Recovery & Reinvestment Act of 2009 (ARRA)-Project #2313 ADW in the amount of \$1,973,610.**

Councilman Diamond explained that he was proud of the work done by Mr. Burgess and Council in obtaining this funding from the NMFA and that it was a terrific opportunity to improve our city water lines and water service. He explained that it was important that the public know that the City is getting funding in places other than water rate and tax increases.

0:04:34 **Motion to approve item D. 6.**

The motion was made by Councilman Diamond and seconded by Councilman Carter to approve the agreement between the City of Carlsbad and New Mexico Finance Authority Board for the City of Carlsbad-Drinking Water Revolving Loan Fund from the American Recovery & Reinvestment Act of 2009 (ARRA)-Project #2313 ADW in the amount of \$1,973,610.

0:04:39 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - None; Absent - Nunley. The motion carried.

0:04:53 **3. AWARD BID NO. 2009-10, TO AMERISEAL OF OHIO INC., FOR AIRPORT RUNWAY RESURFACING INCLUDING ALTERNATE 1, FOR A TOTAL PRICE OF \$468,796.**

Mayor Forrest explained that Council approved a \$300,000 improvement at the Airport and that Mr. Chandler had already invested two to three million dollars of his own money into the airport and it how it is a really nice facility. He explained the scope of the project and where the money to fund the project would come from and that it was not one that the FAA would fund.

0:06:25 **Motion to approve Bid No. 2009-10**

The motion was made by Councilman Aguilar and seconded by Councilman Diamond to award Bid No. 2009-10 to Ameriseal of Ohio Inc., for Airport Runway Resurfacing including alternate 1, for a total price of \$468,796.

0:06:33 **Mr. Jerry Samaniego explained why he did not find the bid to be fair and the reasons that he was unable to place a bid himself for the project.**

0:08:25 **Discussion regarding the specifications of the RFP for the Airport Runway Resurfacing project and the procurement process**

0:12:15 **Vote**

The vote was as follows: Yes - McDonald, Aguilar, Carter, Day, Diamond, Elkins; No - Salcido; Absent - Nunley. The motion carried.

0:12:36 **4. CONSIDER CONTRIBUTION OF \$25,000 TO THE EDDY- LEA ALLIANCE TO COMPLETE THE PURCHASE OF LAND FOR ECONOMIC DEVELOPMENT PURPOSES**

Mayor Forrest explained that this is the project between Lea & Eddy County and the City of Hobbs and the City of Carlsbad. He explained that a recent survey indicated that there are 40 more acres of land than originally thought and because of that the cost went over budget by \$75,000 plus they would also like to have money on hand for liability insurance. He explained that each entity would be contributing \$25,000. He explained that the hope for this land was that it would be the next Yucca Mountain in terms of nuclear waste.

0:15:50 **Councilman Elkins explained that a repository was only one of many options that the land could be utilized for. He explained that every time they have tried to bid on a major project they do not have a piece of land free and clear with the infrastructural capability and with the purchase of this land they would not be limited anymore.**

0:16:35 **Motion to approve contribution of \$25,000**

The motion was made by Councilman Diamond and seconded by Councilman Elkins to approve the contribution of \$25,000 to the Eddy-Lea Alliance to complete the purchase of land for economic development purposes.

0:16:40 **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - McDonald; Absent - Nunley. The motion carried.

0:16:54 **5. DISCUSSION REGARDING THE CREATION OF A VETERANS MEMORIAL BOARD**

Councilman Diamond explained the action being taken against the VFW, DAV and the Lakeside Veterans Club by the State of New Mexico to have their charters pulled and all of their assets liquidated. He explained that the assets were earned by the members here; therefore, they should stay here. He also explained that the Mayor has spoken with Congressman Teague to hold a meeting with both state organizations to see about that money and property going to the City of Carlsbad to use to construct a veterans memorial and if the building remained, use it as a permanent veterans recreation and information center to be operated by the City. He explained that a veterans board needs to be appointed by the Mayor to organize and construct a veterans memorial in Carlsbad. He stated that he would like the Council's support in allowing the City Attorney to draft an Ordinance to form a veterans board.

0:22:32 **Discussion regarding establishing a board through City Ordinance**

0:26:33 **Mr. Charles Beason, World War II Veteran, commended Councilman Diamond for his efforts and explained why Councilman Diamond's proposal was the most probable solution to their problem.**

0:27:50 **Decision to start the proceedings to pass an Ordinance appointing a Veterans Board.**

0:28:21 **6. ELECT VOTING DELEGATE AND ALTERNATE FOR THE NEW MEXICO MUNICIPAL LEAGUE ANNUAL CONFERENCE**

Mayor Forrest asked Councilman Aguilar to be the Voting Delegate and discussion was held regarding who would be the Alternate.

0:29:58 **Nomination**

The motion was made by Councilman Elkins and seconded by Councilman Diamond to elect Councilman Aguilar as the Voting Delegate and Councilman McDonald as the Alternate and in the event that Councilman McDonald can not attend Councilman Carter shall be the Alternate.

0:30:24 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - None; Absent - Nunley. The motion carried.

0:30:36 **7. CONSIDER ORDINANCE NO.'S 2009-09, 2009-10, AND 2009-11, REZONING PART OF "R" RESIDENCE DISTRICT TO "D-2" GENERAL COMMERCIAL DISTRICT AND AMENDING SECTIONS 56-38 AND 56-36 OF THE CARLSBAD CITY CODE; THE PROPERTY IS GENERALLY DESCRIBED AS BEING NORTHWEST OF THE INTERSECTIONS OF PIERCE STREET AND CALLAWAY DRIVE**

0:32:08 **Discussion regarding:**

- The reasons for the recommendation for denial from the Planning Staff of the zone change mainly sighting that the majority of the property is in the flood zone
- Zoning the flood zone as a commercial zone and how misleading it would be to potential developers
- Flood Zone requirements compliance
- Legal issues regarding the property
- Mr. Maley obtaining an excavation permit
- Lack of a hydrologic study
- Expediting the FEMA process quicker
- The City's lack of a Flood Plain Administrator
- Ms. Shumsky working with Eddy County's Flood Plain Administrator
- Amount of acreage of the property that is inside the flood zone
- Determination of Base Flood Elevation
- Lack of excavation permits from the City of Carlsbad and the Corps of Engineers
- Time frame of application to be processed by FEMA
- Liability to the City of Carlsbad by changing the zone of this property
- Ordinance adopting the Federal standards regarding building in the flood zone

- Placing a warning on the Ordinance regarding the provisions for FEMA approval

0:59:40 **Consider Ordinances**

Mayor Forrest declared the public hearing closed and reconvened the Council in regular session. Ms. Riordan explained why she drafted three separate ordinances. She explained that none of the three properties were completely in the floodway. Councilman Day explained that because the location of the floodplain is likely to change so it didn't make sense to try to select one parcel over the other or to draw a demarcation line that is likely going move.

1:03:16 Motion to approve Ordinance Nos. 2009-09, 2009-10, 2009-11
 The motion was made by Councilman Day and seconded by Councilman McDonald to approve Ordinance No.'s 2009-09, 2009-10 and 2009-11 rezoning part of "R" Residence District to "D-2" General Commercial District and Amending Sections 56-38 and 56-36 of the Carlsbad City Code; the property is generally described as being northwest of the intersections of Pierce Street and Callaway Drive.

1:03:58 **Councilman Diamond stated that there should be an explicit understanding that Mr. Maley was apply for the excavation permit and remediate any problems if there were any problems.**

1:04:22 **Vote**
 The vote was as follows: Yes - McDonald, Aguilar, Carter, Day, Diamond, Elkins; No - Salcido; Absent - Nunley. The motion carried.

1:04:44 **8. CONSIDER ISSUANCE OF STATE LIQUOR LICENSE APPLICATION A-595648, K & P CATERING, INC. DBA: THE STOCK EXCHANGE & OLD CITY HALL, 220 W. FOX STREET, CARLSBAD, NM FOR A RESTAURANT (BEER AND WINE ON-PREMISES CONSUMPTION ONLY LICENSE)**

1:05:19 **Motion to approve Liquor License**
 The motion was made by Councilman Elkins and seconded by Councilman Diamond to approve the issuance of State Liquor License Application A-595648, K & P Catering, Inc. dba: The Stock Exchange & Old City Hall, 220 W. Fox Street, Carlsbad, NM for a Restaurant (Beer and Wine on-premises consumption ONLY License.

1:05:26 **Councilman Diamond explained what a wonderful benefit that area of town is now that it is transforming into an entertainment district.**

1:05:41 **Vote**
 The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:05:53 **Mr. Zinc explained the hours and the different functions that would be hosted at the Restaurant**

1:06:44 **9. CONSIDER REQUEST FROM BULLS EYE, LLC, ROBERT WEST-OWNER FOR A SPECIAL LICENSE TO CONDUCT A STATE CERTIFIED CONCEALED CARRY TRAINING COURSE, LIVE FIRE PROFICIENCY PORTION, AT THE CITY OF CARLSBAD SHOOTING RANGE (OCCASIONALLY ON WEEKENDS, CONTINGENT UPON FACILITY AVAILABILITY)**

Mr. Robert West came forward and explained that he would like to conduct his training at the shooting range.

1:07:46 **Motion to approve request from Bulls Eye, LLC**

The motion was made by Councilman Diamond and seconded by Councilman McDonald to approve the request from Bulls Eye, LLC, Robert West-owner for a Special License to conduct a State Certified Concealed Carry Training Course, live fire proficiency portion, at the City of Carlsbad Shooting Range (occasionally on weekends, contingent upon facility availability.)

1:07:52 **Discussion regarding scheduling use and segregated use of the facility**

1:12:08 **Vote**

The vote was as follows: Yes - McDonald, Salcido, Aguilar, Carter, Day, Diamond, Elkins; No - None; Absent - Nunley. The motion carried.

1:12:21 **10. COUNCIL COMMITTEE REPORTS**

Discussion was held regarding the funding application for San Jose Blvd. being turned down for the fourth time, the need to keep pursuing funding for that project and other ways the City could fund the project.

Discussion was held regarding installation of a bridge over Dark Canyon.

Mayor Forrest announced that there would be a meeting on July 16, 2009 at 6:30 p.m. at the Pecos River Village regarding the I & W Brine Well.

1:17:32 **Adjourn**

There being no further business, the meeting was adjourned at 7:17 p.m.

___/s/Bob Forrest_____

Mayor

ATTEST:

___/s/ Amanda J. Asbury_____

City Clerk