

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON SEPTEMBER 13, 2016 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	J. R. Doport	Councilor
	Wesley A. Carter	Councilor
	Janell E. Whitlock	Councilor
Absent:	Jason Shirley	Councilor
	Richard Doss	Councilor
Also Present:	Steve McCutcheon	City Administrator
	Stephanie Shumsky	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Annette Barrick	City Clerk
	Wendy Hammett	Finance Director
	Jeff Patterson	Planning Director
	Luis Camero	Director of Engineering Services
	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**

0:00:02      Invocation – Pledge of Allegiance

0:01:48      **Ms. Therese Rodriguez** read a proclamation declaring all Fridays during the 2016-2017 school year as Cavemen and Cavegirls Spirit Day. She urged all citizens to wear blue and white in support of our high school athletes.

0:03:26      **1. APPROVAL OF AGENDA**

0:03:33      **Mayor Janway explained he would like Item 4.E.2 Consider approval of request from Curtis McKinney, Metal Shop Live, LLC to amend the current contract**

**to receive an increase in the monthly payment pulled from the Agenda and be placed on the next Agenda.**

0:03:54      **Motion**

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

0:04:03      **Vote**

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

0:04:25      **2. CONSIDER APPROVAL OF THE ACCEPTANCE OF THE FY 2016-2017 CITY OF CARLSBAD FINAL BUDGET AS APPROVED BY THE NM DEPARTMENT OF FINANCE ADMINISTRATION**

**Ms. Wendy Hammett** said the City received an approval letter for the FY 2016-2017 budget from DFA. She explained the Budget was approved with no modifications or amendments.

0:05:27      **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Anaya Flores to approve the Acceptance of the FY 2016-2017 City of Carlsbad Final Budget as approved by the NM Department of Finance Administration

0:05:33      **Vote**

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

0:05:46      **3. PRESENTATION OF THE JULY 2016 FINANCIAL REPORT**

**Ms. Hammett** reviewed the revenues and expenditures as of July 31, 2016 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:06:39      **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting Held on August 23, 2016
- B. City Personnel Report
- C. Check Register
- D. Purchasing:
  - 1) Consider approval of the Annual Street Improvement Plan for FY 2016-2017
  - 2) Consider approval of the acceptance of a Grant offer from the FAA for Resurfacing of Runway 8-26 at the Cavern City Air Terminal
  - 3) Consider approval to Award Bid No. 2016-28, to Maxwell Asphalt Sealing Specialists, for the Resurfacing of Runway 8-26 at the Cavern City Air Terminal
  - 4) Consider approval to Advertise Request for Proposals for Professional Design Services for the Dark Canyon Bridge Project

- E. Contracts and Agreements
  - 1) Consider approval of the Agreement between the City of Carlsbad and the Stoller Newport News Nuclear, Inc. for Landfill Engineering Services
- F. Set Date (October 11, 2016)
  - 1) An Ordinance Amending Section 2-290.53 of the Code of Ordinances, City of Carlsbad, New Mexico regarding the City of Carlsbad City Tree Advisory Board to Change the Membership Requirements to allow one Member to be a resident of Eddy County
- G. Monthly Reports
  - 1) Municipal Court Monthly Report, August 2016
  - 2) Personnel Department Monthly Report, August 2016

0:06:58 **Mayor Janway asked Mr. McCutcheon to discuss Item E.1 Consider approval of the Agreement between the City of Carlsbad and the Stoller Newport News Nuclear, Inc. for Landfill Engineering Services**

**Mr. McCutcheon** explained Item E.1 is the approval of an agreement between the City of Carlsbad and Stoller for monitoring the old landfill located on Illinois Camp Road in La Huerta. He added this agreement does not include the other two landfills that belong to the County. He said staff is glad to have Stoller under contract to monitor the landfill which is required by the Environment Department.

**Councilor Whitlock** asked if there is an end date to monitoring the landfills. **Mr. Camero** said there is a 30 year post closure care period. He explained the landfill closed in 1989 and that the year 2020 should be the 30 year period.

0:08:59 **Councilor Doporto** added he is glad to see Item D.1 Consider approval of the Annual Street Improvement Plan for FY 2016-2017. He said he is glad the budget allowed \$1 million to be used in street repairs.

0:09:39 **Motion**

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

0:09:45 **Vote**

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

0:10:02 **5. CONSIDER APPROVAL OF RESOLUTION NO. 2016-42, A RESOLUTION AUTHORIZING FILING OF AN APPLICATION TO THE NM WATER TRUST BOARD**

**Mr. McCutcheon** explained this would replace the \$7 million NMFA loan that staff brought before Council over a year ago to continue the effluent project. He said staff received direction from the Council to continue to seek grants. He said the City has received one grant and has completed some work on the effluent project. He said this is

an application for a loan in the amount of \$1.2 million and a grant in the amount of \$1.8 million totaling \$3 million. He said if the City is successful in receiving the loan, staff would need to budget in the next fiscal year the loan of \$1.2 million. He explained eventually the amount should be offset by the savings in water that is used in the parks. He said he appreciates Mr. Camero and staff for putting the application together and trying to move forward.

**Councilor Rodriguez** said he would like to see staff continue to apply for grants because if the City does not ask the answer will always be no.

0:12:23      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Doporto to approve Resolution No. 2016-42, a Resolution Authorizing Filing of an Application to the NM Water Trust Board

0:12:29      **Vote**

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

0:12:40      **6. CONSIDER APPROVAL OF RESOLUTION NO. 2016-43, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

**Mr. McCutcheon** explained this is the standard Resolution for following statute to dispose of obsolete and unusable City property.

0:13:10      **Motion**

The motion was made by Councilor Doporto and seconded by Councilor Rodriguez to approve Resolution No. 2016-43, a Resolution Declaring certain City Property Unusable or Obsolete

0:13:20      **Vote**

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

0:13:29      **7. CONSIDER APPROVAL OF ORDINANCE NO. 2016-18, 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**

0:14:43      **Remove from Table**

0:14:46      **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Carter to remove Ordinance No. 2016-18, 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 from the Table

0:15:05        **Vote**

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

0:15:21        **A.    Public Hearing**

**Mr. Patterson** explained this is the same item that was previously heard with one change. He explained at the last meeting when this item was considered he was directed to meet with the mobile food vendors in the community to discuss the State Regulations that were referenced in the document. He said he and State Representative Catherine Brown met with local food vendors and they were able to voice their concerns to Representative Brown who will act on the State level. **Mr. Patterson** said the amendment made was removing any direct reference to any state regulations to mobile food establishments and simplified the language. He explained it reads that all local and state requirements should be met. He said all other items remain as previously proposed.

0:16:38        **Councilor Carter** asked what is being proposed for carports and setbacks. **Mr. Patterson** said currently the zoning ordinance prohibits property owners from placing any structure within their front setback. He said for R-1, single family residential zoning, the set back is 30 feet from the front property line. He said the amendment being proposed will allow residents to place carports within the front set back without securing a variance from the Planning and Zoning Commission. He said property owners will be required to obtain a building permit to place or build a carport. He said this is the recommendation of the Planning Department and noted that the Planning and Zoning Commission recommend denial and want to keep the process as is; which would require a variance approved.

**Councilor Whitlock** asked if she is in favor of some of the amendments but not all of them how can Council act on it. **Ms. Riordan** explained this is just a proposed ordinance and specific portions can be amended as requested.

**Councilor Rodriguez** said during the carport permit process he would like to ensure that carports are open sided, not to be used for storage, and he would like the height to stay uniform. He asked if the requirements would vary for those built by the homeowner or those bought from a manufacturer. **Mr. Patterson** said if the homeowner constructs one out of wood, the building code has provisions that need to be met. He explained if the homeowner intends to put in a metal structure, an engineered drawing is required when applying for a permit.

**Councilor Rodriguez** explained he wants to clarify that carports are for cars and trucks, not for RV storage. **Mr. Patterson** said yes and that can be specifically added. **Mr. Rodriguez** said he would like to add no RV storage.

**Mayor Janway** said his concern would be that the carports be structurally anchored properly. **Mr. Patterson** said the engineered drawings are supposed to come with the proper anchoring techniques and the building inspector will monitor.

0:23:11 **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.

0:23:34 **B. Consider Ordinance No 2016-18**  
**Mayor Janway** asked Ms. Riordan to discuss the grandfather clause. **Ms. Riordan** explained that grandfathering, if allowed, applies only to currently legally built buildings.

0:25:43 **Motion**  
The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve with the following amendments: carports to be structurally anchored, open sided, no storage, no RV storage, height and width restrictions, and maintain the current setbacks.

0:27:13 **Vote**  
The vote was as follows: Yes - Whitlock, Anaya Flores, Doporto, Estrada, Rodriguez, Carter; No - None; Absent- Doss, Shirley; The motion carried.

0:27:50 **8. CONSIDER APPROVAL OF ORDINANCE NO. 2016-24, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.22 ACRE PROPERTY, LOCATED AT 618 WEST PIERCE STREET, LEGALLY DESCRIBED AS LOT 2, BLOCK 181, WESTFALL SUBDIVISION, PURSUANT TO SECTION 3- 21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES**

0:28:33 **A. Public Hearing**  
**Mr. Patterson** explained this item is a request for a zone change. He said the business was a dentist office. He said the property is currently zoned R-2 and the property use is going to continue in a similar manner which is commercial property use. He said the change will not create a spot zone and the Planning Department and the Planning and Zoning Commission recommend approval.  
**Councilor Whitlock** asked if there are any covenant restrictions on the property. **Mr. Patterson** said no, not to his knowledge

0:30:18 **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.

0:30:37 **B. Consider Ordinance No 2016-24**

0:30:39 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Anaya Flores to approve Ordinance No. 2016-24, an Ordinance Rezoning part of "R-2" Residential District to "C-2" Commercial District for an approximately 0.22 Acre Property, located at 618 West Pierce Street, legally described as Lot 2, Block 181, Westfall Subdivision, pursuant to Section 3-21-1 et. seq. NMSA 1978 and Sections 56-150(B) and 56-140(I), Carlsbad Code of Ordinances

0:30:46 **Vote**

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

0:31:02 **9. COUNCIL COMMITTEE REPORTS**

**Councilor Rodriguez** said the panel of speakers at the Oil & Gas Summit were extremely intelligent people. **Mayor Janway** added this was one of the best summits yet.

**Mr. McCutcheon** explained staff has been working with Ms. Cross on the rebuild of project playground. He said the rebuild began about 2 years ago and several tests have been completed. He explained the engineers who supplied the materials and helped with the original build completed an engineering assessment and suggested a path forward. He said a tremendous community effort is developing for the rebuild. He said the date for the rebuild is September 28, 2016 through October 2, 2016. He said volunteers are being booked through the United Way. He added there has been a lot of support and said Ms. Cross has done a tremendous job putting the rebuild together. He supplied Council with a list of tools and other items needed.

**Mayor Janway** welcomed Dr. and Mrs. Murray to the meeting.

0:35:15 **10. ADJOURN**

0:35:17 **Motion**

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

0:35:23 **Vote**

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

0:35:37

**Adjourn**

There being no further business, the meeting was adjourned at 6:39 p.m.

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Mayor

ATTEST:

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City Clerk

DRAFT