

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON SEPTEMBER 8, 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
	Jim Grantner	Councilor
	Sandra Nunley	Councilor
	Nick G. Salcido	Councilor
Absent:	None	
Also Present:	Harry Burgess	City Administrator
	Eileen P. Riordan	City Attorney
	Annette Barrick	Deputy 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**

0:00:11            **Start Recording [6:01:55 PM]**

0:00:12            **Invocation - Pledge of Allegiance**

0:00:45            **1. STATEMENT REGARDING CLOSED SESSION HELD AUG.  
25, 2009**

**Mayor Forrest** 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 August 25, 2009, were limited only to those matters relating to threatened/pending litigation as specified in the motion for closure.

0:01:02            **Motion to approve Statement**

The motion was made by Councilman Diamond and seconded by Councilman Carter to approve the Statement regarding the Closed Session held August 25, 2009.

0:01:05                    **Councilman Diamond explained that having a joint meeting with the County Commission was a good experience and that Commissioner Lara expressed to him that they should meeting at least once if not twice a year to discuss matters of mutual concern**

0:01:28                    **Vote**  
The vote was as follows: Yes - Aguilar, Carter, Nunley, Diamond, Elkins, Grantner, Day, Salcido; No - None; Absent - None. The motion carried.

0:01:52                    **2. APPROVAL OF AGENDA**

0:01:56                    **Motion to approve the Agenda**  
The motion was made by Councilman Day and seconded by Councilman Aguilar to approve the September 8, 2009 Agenda.

0:02:01                    **Vote**  
The vote was as follows: Yes - Aguilar, Carter, Nunley, Diamond, Elkins, Grantner, Day, Salcido; No - None; Absent - None. The motion carried.

0:02:16                    **Mayor Forrest recognized the new Museum Director, Patsy Jackson**

0:02:42                    **3. BUDGET REVIEW AS OF JULY 31, 2009**

**Mr. Burgess** reviewed the revenues and expenditures as of July 31, 2009 for the General Fund and selected Enterprise and Special Funds contained within the City Budget. He also explained that there was a decrease in Gross Receipts Taxes received for the month of June and that staff would be monitoring the situation very closely.

0:08:46                    **Motion to approve the Budget Review**  
The motion was made by Councilman Aguilar and seconded by Councilman Salcido to approve the Budget Review as of July 31, 2009.

0:08:51                    **Vote**  
The vote was as follows: Yes - Aguilar, Carter, Nunley, Diamond, Elkins, Grantner, Day, Salcido; No - None; Absent - None. The motion carried.

0:09:08                    **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Special Joint City Council and Eddy County Commission meeting held August 19, 2009
- B. Minutes of Regular City Council meeting held August 25, 2009
- C. City Personnel Report
- D. Purchasing:
  - 1) Award RFP No. 2009-41, to Springtime Janitorial for Professional Janitorial Services at City Parks and Sports Complex

- 2) Consider rejecting Award of Bid No. 2006-09, the Purchase of Harroun Farm Property and re-advertise invitations for bids
  - 3) Consider Equipment Lease with John Deere Credit, for a Z820A Z-Trac Commercial Mower for the City Water Department
- E. Contracts and Agreements:
- 1) Amendment to 5316 Grant Application from New Mexico Department of Transportation, TANF Program for funding to assist the Carlsbad Municipal Transit System for fiscal year 2010
  - 2) Memorandum of Agreement between New Mexico Department of Transportation for fiscal year 2010, U.S.C., and City of Carlsbad, Section 5311 Program for a total amount of \$484,395.55
  - 3) Consider Resolution 2009-33, Section 5311 Grant Application from New Mexico Department of Transportation for funding to assist the Carlsbad Municipal Transit System for public transportation to the communities of Carlsbad, Loving and Southern Eddy County
  - 4) Consider Resolution 2009-34, Section 5316 Grant Application from New Mexico Department of Transportation JARC Program for funding to assist the Carlsbad Municipal Transit System
  - 5) Consider approval of Resolution 2009-35, Section 5317 Grant Application from New Mexico Department of Transportation New Freedom Program for funding to assist the Carlsbad Municipal Transit System
- F. Set Date:
- 1) Set date to consider approval of an Ordinance authorizing the sale of approximately 41.17 acres of real property in the Carlsbad Airport Industrial Park, Unit 5 to Eddy County (September 22, 2009)
- G. City of Carlsbad Department Monthly Reports:
- 1) Personnel Department Report for August 2009

0:09:13                    **Mayor Forrest asked that item D.1. be pulled for further discussion**

0:09:22                    **Motion to approve the Routine and Regular Business**  
 The motion was made by Councilman Diamond and seconded by Councilman Grantner to approve the Routine and Regular Business with the exception of item D. 1. which was pulled for further discussion.

0:09:37                    **Vote**  
 The vote was as follows: Yes - Aguilar, Carter, Nunley, Diamond, Elkins, Grantner, Day, Salcido; No - None; Absent - None. The motion carried.

0:09:53                    **D. 1. Award RFP No. 2009-41 to Springtime Janitorial for Professional Janitorial Services at City Parks and Sports Complex**

**Mr. Burgess** explained the time frame of the service contracts. He explained that two proposals were received, one from Springtime Janitorial and another from S & J Services. He explained the five items the award was based on.

0:12:29                    **Jonathan Samaniego, S & J Services**

**Mr. Samaniego** stated he did not feel that he received a fair chance in obtaining the contract. **Mayor Forrest** asked him to name some of his clientele. **Mr. Samaniego** stated that he mostly did work for his father.

0:13:44                    **Ms. Jessica Moya stated that she visits the park a lot and the bathrooms are not very clean and whomever is cleaning them should not be getting paid to do so due to a poorly done job**

0:13:53                    **Mr. Jerry Samaniego explained that the parks play an important part in tourism and people should not have to leave the beach area having had a bad experience. He explained that his son was very experienced and he did not feel that his son was given a fair chance regarding the request for proposal**

0:15:52                    **Motion to approve item D. 1.**

The motion was made by Councilman Diamond and seconded by Councilwoman Nunley to award RFP. No. 2009-41 to Springtime Janitorial for professional janitorial services at city parks and the sports complex.

0:16:04                    **Vote**

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

0:16:35                    **5. CONSIDER ISSUANCE OF STATE LIQUOR LICENSE APPLICATION A-602225, TO BECKY JO MILLER, DBA: M & S STEAKS AND SEAFOOD, 710 S. CANAL STREET, CARLSBAD, NM RESTAURANT LICENSE (BEER & WINE ONLY)**

0:17:12                    **Motion to approve Liquor License**

The motion was made by Councilman Aguilar and seconded by Councilman Salcido to approve the issuance of State Liquor License Application A-602225 to Becky Jo Miller, d.b.a. M&S Steaks & Seafood, 710 S. Canal Street, Carlsbad, NM for a restaurant license, (Beer and Wine Only.)

0:17:46                    **Vote**

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

0:18:25                    **6. CONSIDER ISSUANCE OF STATE LIQUOR LICENSE APPLICATION A-602634, MOOSE LODGE NO. 2095, 2012 STANDPIPE ROAD, CARLSBAD, NM (CLUB LIQUOR LICENSE)**

**Mr. Manny Sosa**, Moose Lodge #2095 explained the requirements to be served alcohol at the Moose Lodge.

0:19:13                    **Motion to approve Liquor License**

The motion was made by Councilman Grantner and seconded by Councilman Carter to approve issuance of State Liquor License Application A-602634, Moose Lodge No. 2095, 2012 Standpipe Road, Carlsbad, NM (Club Liquor License.)

0:20:02                    **Vote**

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

0:20:25                    **7. CONSIDER APPROVAL OF RESOLUTION NO. 2009-36, AMENDING RESOLUTION 2005-48, A RESOLUTION ADOPTING THE APPLICABLE PORTIONS OF THE STATE DEPARTMENT OF FINANCE AND ADMINISTRATION REGULATIONS GOVERNING THE PER DIEM AND MILEAGE ACT**

0:20:46                    **Motion to approve Resolution No. 2009-36**

The motion was made by Councilman Elkins and seconded by Councilman Carter to approve Resolution No. 2009-36 amending Resolution No. 2005-48 a Resolution adopting the applicable portions of the State Department of Finance and Administration Regulations Governing the Per Diem and Mileage Act.

0:20:52                    **Vote**

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

0:21:07                    **8. CONSIDER PRIORITIZATION OF INFRASTRUCTURE CAPITAL IMPROVEMENT PLANS (ICIP)**

**Mr. Burgess** explained that the City needs to rank the top five projects before submitting the list to the State. He explained that staff had given Council a list of projects about a month ago for their review and input. He explained that the City have to have the list submitted by the end of this month.

**Councilman Diamond** stated that he would like to add \$1 Million for solar power systems for the water well field and wastewater treatment plant and \$1 Million for a Veteran's Memorial.

Discussion was held regarding the installation of a sewer lift station on the south side of town to accommodate the Thurston and Walker developments.

0:27:38

**9. COUNCIL COMMITTEE REPORTS**

**Mr. Burgess** explained that a letter was received addressed to the Mayor and dated August 7, 2009 stating that the final budget was approved by the State.

0:28:40

**Mr. Guy Lutman** explained the results of some research that he conducted on **Mr. Serrano's** background after he appeared before Council questioning the integrity of the services provided by his company, **Lutman Enterprises**. He included that because **Mr. Serrano** is not affiliated with **Icon Entertainment** as he stated, does not have a **City of Carlsbad Business Registration** or a **New Mexico Tax Identification Number** he will not be conducting business with **Mr. Serrano**

0:32:38

**10. ADJOURN INTO CLOSED SESSION PURSUANT TO SECTION 10-15-1 (H)(8), NMSA 1978 TO DISCUSS MATTERS REGARDING THE PURCHASE OF SUNSET GARDENS CEMETERY**

0:32:52

**Motion to Adjourn into Closed Session**

The motion was made by Councilman Elkins and seconded by Councilman Carter to adjourn into Closed Session pursuant to Section 10-15-1(H)(8), NMSA 1978 to discuss matters regarding the purchase of Sunset Gardens Cemetery.

0:32:56

**Vote**

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

0:32:56

**At 6:34 PM the Mayor convened the Council into Closed Session**

0:33:24

**11. RECONVENE INTO OPEN SESSION**

0:33:24

**At 7:11 PM the Mayor reconvened the Council into Open Session**

0:33:25

**Statement regarding Closed Session held September 8, 2009**

**Mayor Forrest** 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 September 8, 2009, were limited only to the matter of the purchase of Sunset Gardens Cemetery as specified in the motion for closure.

0:33:38

**Motion to approve Statement**

The motion was made by Councilman Diamond and seconded by Councilman Aguilar to approve the Statement regarding the Closed Session.

0:33:44

**Vote**

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

0:33:57                    **12. CONSIDER APPROVAL OF EDDY COUNTY'S PROPOSAL REGARDING SUNSET GARDENS CEMETERY**

0:33:58                    **Motion to acquire Sunset Gardens Cemetery**

The motion was made by Councilman Diamond and seconded by Councilman Elkins that the City acquire Sunset Garden only upon the conditions listed in the proposal from the Board of County Commissioners including items 1, 2, and 4. And with respect to item number 3 the County agree to pay 50 percent of any net operating expenses after deducting the expenditures from the revenue and if there is a net operating loss that the County share with the City 50 percent of the operating loss or if there is a profit in the operation of the cemetery that the County share 50 percent of that as well; and that all of these actions be done through a Joint Powers Agreement for an indefinite period of time.

0:35:06                    **Mayor Forrest added that the City has done a good job of stepping up and accepting all of the liability of the cemetery and that it was the right thing to do for the community. He expressed gratitude to the County for their efforts and explained that the only way of making this workout well would be to draft a strong Joint Powers Agreement**

0:36:55                    **Vote**

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

0:37:12                    **Councilman Elkins stated that it would be a good item to have a written statement of the motion put up and concurred with by the signatures of Council**

0:37:37                    **Motion to create a statement regarding Council action on Sunset Gardens Cemetery**

The motion was made by Councilman Elkins and seconded by Councilman Diamond that Council provides a written statement of their decision and include all of the Council members' signatures indicating concurrence.

0:37:49                    **Vote**

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

0:38:11                    **Adjourn**

There being no further business, the meeting was adjourned at 7:16 p.m.

\_\_\_\_/s/ Brad Day\_\_\_\_\_  
Acting Mayor

ATTEST:

\_\_\_\_/s/ Amanda J. Asbury\_\_\_\_\_  
City Clerk