

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON JANUARY 22, 2013 AT 6:00 P.M.**

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|---------------|---------------------------|---------------------------------|
| Present: | Dale Janway | Mayor |
| | Paul C. Aguilar | Councilor |
| | Nick G. Salcido | Councilor |
| | Sandra K. Nunley | Councilor |
| | J. R. Doporto | Councilor |
| | Judith E. Waters | Councilor |
| | Jason Shirley | Councilor |
| | Richard Doss | Councilor |
| | Janell E. Whitlock | Councilor |
| Absent: | None | |
| Also Present: | Jon Tully | City Administrator |
| | Steve McCutcheon | Deputy City Administrator |
| | Eileen P. Riordan | City Attorney |
| | Annette Barrick | City Clerk |
| | Nadine Mireles | Deputy City Clerk |
| | Monica Harris | Finance Director |
| | Stephanie Shumsky | Planning Director |
| | Luis Camero | Public Works Utilities Director |
| | Tom Carlson | Public Works Acting Director |
| | Rick Lopez | Fire Chief |
| | Danny Fierro | Police Chief |
| | Patsy Jackson-Christopher | Director of CRC |

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**

0:00:15 Invocation - Pledge of Allegiance

0:00:45 **Mayor Janway asked Chief Fierro for a brief update on the drive by shooting on January 21, 2013.**

Chief Fierro explained that the Police Department received a phone call from Valerie Marquez explaining that she allowed her son to use her vehicle which is a black Ford Explorer and she found a bullet casing in the vehicle. He explained that the bullet casing matched those found at the scene. He explained that the Police Department started doing interviews and were able to get two warrants for two 14 year old boys,

Moses Cabezuela and Zane Fernandez and both have been arrested. He explained that the police department is continuing with the investigation to wrap up loose ends.

0:02:18 **1. APPROVAL OF AGENDA**

0:02:20 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Salcido to approve the Agenda.

0:02:23 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:02:39 **2. BUDGET REVIEW AS OF DECEMBER 31, 2012**

Ms. Harris reviewed the revenues and expenditures as of December 31, 2012 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:05:58 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Waters to approve the Budget Review as of December 31, 2012.

0:06:04 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:06:18 **3. ROUTINE AND REGULAR BUSINESS**

A. Minutes of the Regular City Council Meeting held on January 8, 2013

B. Personnel Report

C. Check Register and Bills

D. Purchasing:

- 1) Consider approval to Award Bid No. 2012-60, to Rocky Mountain Welding and Fabrication in the amount of \$19,176.00, for Four (4) 40 Cubic Yard Standard Bathtub Type Roll-Off Containers
- 2) Consider approval to Award Bid No. 2012-61, to Enoch Mechanical, Inc. for the HVAC at the Municipal Building, in the amount of \$84,639.26
- 3) Consider approval to Advertise Invitation to Bid for Drainage Culverts and Paving Turnouts on Airport Road
- 4) Consider approval to Advertise Invitation to Bid for General Engineering Services for Airport Improvement Projects
- 5) Consider approval to Advertise Invitation to Bid for a Lift station at the Golf Course Barn
- 6) Consider approval to Advertise Invitation to Bid for Thirty one (31) trees for the Bob Forrest Youths Sports Complex

E. Monthly Department Reports:

- 1) Culture and Recreation Department (Formerly Community Development Dept) Monthly Reports for November and December 2012
- 2) Carlsbad Fire Department Monthly Reports for November and December 2012
- 3) Municipal Court Monthly Report for December 2012
- 4) Carlsbad Police Department Monthly Report for December 2012
- 5) Utilities Department Monthly Report for December 2012
- 6) Cemetery Board Financial Semiannual Report

F. Board Appointments:

- 1) Planning and Zoning Commission: Wanda Durham
- 2) City of Carlsbad City Tree Advisory Board: Damien Armijo and Kelly Calicoat

G. Set Date: March 12, 2013:

- 1) An Ordinance Establishing "R-R" Rural Residential District Zoning in Conjunction with the Annexation of an Approximately 23.15 acre area and Amending the Official Zoning Map of the City pursuant to Section 3-21-1 et. seq. NMSA 1978 and Sections 56-150(B) and 56-140(I), Carlsbad Code Of Ordinances
- 2) An Ordinance Annexing a Portion of Land containing 23.15 acres, more or less, contiguous to the City of Carlsbad, New Mexico located on the west side of Guadalupe Street between Vineyard Lane and Cherry Lane pursuant to the petition method provided for in section 3-7-1 et.seq., NMSA 1978

0:06:40 **Mayor Janway asked Mr. Tully to discuss Item D.3 Consider approval to Advertise Invitation to Bid for Drainage Culverts and Paving Turnouts on Airport Road and Item D.4 Consider approval to Advertise Invitation to Bid for General Engineering Services for Airport Improvement Projects.**

Mr. Tully explained that Item D.3 is a request involving continued improvement on Airport Road. He explained that not long ago Airport Road was completely reconstructed and additional water lines were installed. He said that this part of the project is to finish by putting in culverts that were engineered to handle the storm water run-off in the area and to install paved turnouts.

Mr. Tully explained that Item D.4 is to request professional services for general airport and related services. He explained that the City expects to do a number of rehabilitation projects all of which require a new or updated master plan. He added that this request is to seek general engineering services for those products.

Mr. Tully added that the personnel report has been amended due to an applicant declining the job offer.

0:09:03 **Mayor Janway explained to Councilman Doportto that he was asked by Natalie Gross with the Current Argus why the bid for the youth complex was for 31 trees, why that number.**

Councilman Doportto explained that the Board went with the original engineering plans for the placement of the trees. He explained that the reason for the odd number is

because some of the areas that the trees were to be placed have playground equipment. **Councilman Whitlock** mentioned that the City is trying to be very conservative with water and asked if the trees would have a drip system. **Councilman Doport** explained that there will be a sprinkler system with bubblers at each tree.

0:10:14 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Shirley to approve Routine and Regular Business.

0:10:21 **Vote**

The vote was as follows: Yes - Doport, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:10:35 **4. CONSIDER APPROVAL OF CAPITAL IMPROVEMENTS PROJECTS FUNDING FOR THE STATE OF NEW MEXICO LEGISLATIVE APPROPRIATIONS**

Mr. Tully explained that Council is being presented five projects for submission to the legislature for possible funding. He explained that the City has revised to keep the projects relatively small. He reviewed the five projects that the City is proposing: 1. Tennis Court Restroom Replacement - \$125,000; 2. North Canal Repave (Pierce to Riverside/Orchard to La Huerta) - \$270,800; 3. Noah's Ark Facility - \$100,000; 4. Halagueno Art Park - \$80,000; 5. Veteran's Cemetery Improvements - \$100,000.

0:12:50 **Discussion regarding the top five projects previously approved by the Council in the ICIP that each reflect a project budget over \$1 million and other options available.**

- Smaller scale projects
- Incremental funding
- San Jose Blvd Bridge
- Low water crossing project
- Funding options

0:16:45 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to approve the Capital Improvements Projects Funding for the State of New Mexico Legislative Appropriations.

0:16:51 **Vote**

The vote was as follows: Yes - Doport, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:17:04 **5. PRESENTATION OF THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE ANNUAL REPORT BY DR. GEORGE VENI**

Ms. Suzanne Langowski the Advancement Director and **Ms. Dianne Joop** the Education Director came before Council to present the Annual Report for the National Cave and Karst Research Institute. Ms. Langowski began the presentation regarding highlighting:

- Created in 1998
- Federal and State Funding decreasing substantially
- Reengage and regain interest and passion of the Institute
- Educational Program
- Commitment to propel program
- Developing a series of Exhibits
- Virtual Caves
- Teaching safe caving techniques

Councilman Doport added that when the Councilors go to the Bat Brigade, they would mention National Cave and Karst Research Institute to the legislators and place it on their radar to secure funding for the Institute because this is really important for the New Mexico.

Councilman Doss mentioned asking one of our legislators to show the 3D slide show of Lechuguilla Cave at the Capital.

Mr. Tully commented that the City of Carlsbad spent a lot of time with legislators to have the funding. He explained that there were a lot of people in Washington that did not know about the project and keeping the project financially alive will be the biggest problem. He added that the idea was to fund the project through a major university and New Mexico Tech was the University and the State would continue to fund the operation.

0:24:02 **6. CONSIDER APPROVAL OF REQUEST FROM EDDY COUNTY REGARDING THE CONNECTION OF CARLSBAD WEST BYPASS TO COMMERCE DRIVE AT THE CARLSBAD AIRPORT INDUSTRIAL PARK**

Mr. Alan Sartin, County Manager explained that the County would like to give a presentation on the routing of the Bypass road and talk about finalizing the right of way for access on Commerce Drive. He explained that the County is close to resolving all the right of ways with private property and now would like to work with the City and the State Land Commission to finalize right of ways.

Mr. Bill McFarland gave the presentation discussing:

- Alternatives
- Research
- Cost
- Property impact
- Right of way through Industrial Park
- Economics

- Corrales Road
- Dedicated right of ways

Councilman Aguilar explained that when the Bypass was first presented to Council, they were told that it would cost \$500,000 to divert to Corrales road. **Mr. McFarland** explained that it was a rough estimate without research. **Councilman Aguilar** explained that he feels Corrales Road is the best option so a truck stop could be built where the road enters the highway. **Mr. McFarland** explained that there are other property owners who are looking to build on Commerce Road. **Mr. Tully** commented that the Council has expressed some concerns about Commerce in the past. He explained that where it is paved with curb and gutter it is only 44 feet and the City has also discovered that the Road is not built down the center line. He explained that the Industrial Park is now sold out in the platted portion and the area on the South side of Commerce is being developed mostly for oilfield related traffic with a lot of heavy trucks turning in and out which is a problem on a road that is only 70 foot total right of way.

Mr. Eric Navarrette, City Engineer explained that one of the concerns is that when the road becomes full build out to a four lane there will be issues rehabilitating Commerce Drive. He explained that right now there is encroachment with property owners that have built parking lots inside of the City's 7 foot right of way, the power lines would have to be relocated, and most of the roadway will need to be torn out to fit the 70 foot typical section that is shown. He explained that ultimately when the road is built out and there is more traffic there will be major costs.

Mr. Tully asked if the County would like to propose taking over the maintenance of Commerce Road. **Mr. Sartin** said that the County is going to propose to the State that the State take over maintenance of the entire roadway.

Mr. Tully asked if it is the County's position is that the City will take over the maintenance over the entire portion of the tie-in plus existing Commerce. **Mr. Sartin** explained that the County has not had the discussion and added if it is the desire of the Council he will take the issue before the Commission. **Councilman Whitlock** asked why the City would want to take over the maintenance if it is a truck route. **Mr. Tully** answered that he does not think the City would. He explained that Commerce is a main thorough fair intended to be a main entrance and Corrales was clearly always intended to be part of the route. He added that he feels that the money would be better spent on improving Corrales Road.

Councilman Aguilar asked Mr. McFarland how much it would cost to come out on Corrales Road. **Mr. McFarland** said it would cost an additional \$1.5 million. **Mr. Sartin** explained that the issue is on the 4 lane road and he understands the concerns of the future but he feels it is a long way off before it becomes a 4 lane road.

0:41:04 **Councilman Aguilar** said that he feels the City and the County need to get together before a decision is made.

0:41:31 **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Salcido to table the approval of request from Eddy County regarding the connection of Carlsbad West Bypass to Commerce Drive at the Carlsbad Airport Industrial Park until the City has discussions with the County.

0:41:47 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:42:01 **Mayor Janway asked that Mr. Navarrette and Mr. McFarland meet and come up with a workable solution and bring it back to the Council.**

0:42:43 **Mr. Sartin asked for points of clarification from the Council.**

Mr. Tully explained that the points of clarification are to explore the possibility of Corrales Road rather than Commerce being the extension to National Parks Highway, walk through the issues with Commerce Road, and whether the Council would like to participate financially, and future contingency.

0:44:49 **7. CONSIDER APPROVAL OF RESOLUTION NO. 2013-05, A RESOLUTION FINDING THE BUILDINGS OR STRUCTURES AT THE PROPERTY COMMONLY KNOWN AS 713 N. ALAMEDA 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 BUILDINGS, STRUCTURES, RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS-OWNER: LOUISE DEVER**

Ms. Riordan gave a brief summary explaining that this property is at the southwest corner of Church and Alameda. She explained that the property was brought before Council in late November to clean up the exterior of the property. She added that on January 5, 2013 the house burned and was severely damaged. She explained that the Building Department, Code Enforcement, and the Fire Marshall have found that the building is not repairable. She explained that the home is in foreclosure and she contacted Mr. Lujan the attorney representing the bank and sent him a copy of the Resolution. She explained that Mr. Lujan is very concerned about the condition of the property and stated that the public masters' sale is currently set for February 5, 2013.

Councilman Doporto asked how long the process would take to have the property cleaned up and the structure removed. **Ms. Riordan** explained that work can begin 10 days after publishing and posting and be completed within 30 days.

0:49:15 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Waters to approve Resolution No. 2013-05, a Resolution finding the buildings or structures at the property commonly known as 713 N. Alameda 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 buildings, structures, ruins, rubbish, wreckage, weeds, debris-Owner: Louise Dever

0:49:24 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

0:49:36 **8. CONSIDER APPROVAL OF RESOLUTION NO. 2013-06, A RESOLUTION FINDING THE BUILDINGS OR STRUCTURES AT THE PROPERTY COMMONLY KNOWN AS 1209 N. EIGHTH 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 BUILDINGS, STRUCTURES, RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS-OWNER: ELVIRA M. DEVARGAS**

Ms. Riordan explained that this property is part of one large property and that the City has already condemned three of the other homes on the property. She explained that due to continued deterioration of the property staff has found the property eligible for demolition. She explained that she has spoken with Mr. Morgan the personal representative of the property and was told that a hearing was held to divide this property; due to discussion between the parties a final order has not been entered. She explained that the exterior has been boarded up and cleaned but the condition of the home itself is continuing to deteriorate.

Ms. Christine DeVargas explained that the property shown had termites about 15 or 20 years ago but does not currently. She explained that the house is going to her niece and nephew who live out of state and have not been notified and she feels they should be given 180 days to repair. **Ms. Helen DeVargas** added that the property needs a couple of doors and feels the home can be repaired.

Mr. Jones, the building inspector reported that no building permits have been issued or requested. He explained that although the property is secured it is not structurally safe. **Mr. West**, code enforcement officer explained that the shrubbery has been trimmed and the weeds and grass have been cut. He explained that saying the building is secure is misleading because there is cardboard over some of the windows. He added that the foundation has failed in two of the bedrooms and he has seen no improvement on the property.

Ms. Christine DeVargas added that regardless of the condition of the property she feels that her niece and nephew should have the opportunity to decide what their intentions

are since they have not been notified. **Ms. Helen DeVargas** added that the owners have not been notified and they deserve a chance to have the opportunity to repair.

Councilman Doss explained that this is the same story that Council heard a year ago and he feels that the Council and the City have been burdened with this property for long enough.

1:03:44 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Doporto to approve Resolution No. 2013-06, a Resolution finding the building or structures at the property commonly known as 1209 N. Eighth 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 buildings, structures, ruins, rubbish, wreckage, weeds, debris Owner: Elvira M. DeVargas

1:04:59 **Vote**

The vote was as follows: Yes - Doporto, Doss, Salcido, Shirley, Waters, Whitlock; No - Nunley, Aguilar; Absent - None; The motion carried.

1:05:48 **9. CONSIDER APPROVAL OF RESOLUTION NO. 2013-07, A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A REVISED APPLICATION FOR FINANCIAL ASSISTANCE TO THE NEW MEXICO FINANCE AUTHORITY**

Mr. Tully explained that Council was previously asked to approve a Resolution to NMFA for possible funding in the amount of \$10 million dollars. He said that Mr. Camero was informed that the NMFA may have substantially more money, so the City is proposing another Resolution to increase the application to \$20 million. He added that the final decision will be in the form of a loan agreement at a very competitive interest rate that will come back before the Council.

1:08:19 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Aguilar to approve Resolution No. 2013-07, a Resolution authorizing and approving submission of a revised application for financial assistance to the New Mexico Finance Authority.

1:08:28 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

1:08:41 **10. CONSIDER MATTERS REGARDING THE POSSIBLE REPEAL OF ORDINANCE 785, EXTRATERRITORIAL ZONING; A. REMOVE FROM TABLE; B. CONSIDER WHETHER OR NOT TO REPEAL ORDINANCE 785, EXTRATERRITORIAL ZONING; C. SET DATE OF FEBRUARY 26, 2013, TO CONSIDER AN ORDINANCE WHICH WILL REPEAL THE EXTRATERRITORIAL**

ZONING ORDINANCE, EITHER: 1) AS SOON AS PERMITTED BY LAW; OR 2) ON A DATE IN THE FUTURE TO BE SPECIFIED BY THE COUNCIL

1:09:15 **A. Remove from table**

1:09:18 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Waters to remove from table.

1:09:22 **Vote**

The vote was as follows: Yes - Doportto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

1:09:43 **B. Consider whether or not to repeal Ordinance 785, Extraterritorial Zoning**

Councilman Shirley explained that he distributed an agreement that he and Mr. Tully have been working on to propose to the County regarding the Extraterritorial Zoning. He said that it is his feeling that this agreement can be used as the framework to begin discussions to propose a new ETZ Ordinance. **Mr. Sartin** added that the Commission has reviewed the matter and understands the concerns with the existing Ordinance and feel that the agreement is a baseline to start conversations to iron out any differences and come up with a final agreement. **Councilman Whitlock** said that she has information stating that in 1969, 1977, and in 2003 an ETZ Ordinance was sent to the County and not adopted. She added that she feels the City needs to resend the Ordinance that is in effect now and put a new Ordinance in place.

1:12:58 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Nunley to rescind Ordinance 785 with a sunset of 15 months from today.

1:13:19 **Councilman Doportto** clarified that this will give the City 15 months to come up with a solution as to where the City is going with the ETZ, whether the City will have an agreement with the County or not. **Mr. Tully** explained that if it is the pleasure of the City and the County to move forward with the process it will require an agreement to set the process in motion and a statutory timeline where certain deliverables have to be made. He explained that once the agreement is signed there is a 360 day period in which the Ordinance is developed and presented. **Councilman Doportto** asked if the City and County do not come to an agreement will there be no special zoning for anyone in the ETZ area? **Mr. Tully** said that is correct, the Ordinance would sunset. **Councilman Doportto** added that if no agreement is met he feels the residents in the area would be put in jeopardy of any businesses coming into the area. **Councilman Whitlock** asked how much authority is there dealing with an ETZ when only one party has signed off on the Ordinance. **Ms. Riordan** explained that when the existing Ordinance was adopted the law did not require the County to adopt the

Ordinance; the law only required the County to participate in the development of the Ordinance. She added that if a new Ordinance is adopted there will be more necessary County involvement not just in the development but also in the continuing enforcement.

1:17:42 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

1:17:56 **Mayor Janway thanked Mr. Sartin and told him that the City will put together a committee to start working with the County.**

Mr. Sartin said that he would communicate with the Commissioners and that they would be very pleased to participate and look forward to it.

1:18:10 **11. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS**

None to report.

1:18:29 **12. ADJOURN**

1:18:32 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Salcido to adjourn.

1:18:37 **Vote**

The vote was as follows: Yes - Doporto, Doss, Nunley, Salcido, Shirley, Waters, Whitlock, Aguilar; No - None; Absent - None; The motion carried.

1:19:17 Stop Recording [7:24:12 PM]

1:07:56 **Adjourn**

There being no further business, the meeting was adjourned at 7:24 p.m.

/s/Dale Janway
Mayor

ATTEST:

/s/Annette Barrick
City Clerk