

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON NOVEMBER 26, 2013 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Paul C. Aguilar	Councilor
	Nick G. Salcido	Councilor
	J. R. Doporto	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
	Janell E. Whitlock	Councilor
Absent:	Sandra K. Nunley	Councilor
	Judith E. Waters	Councilor
Also Present:	Steve McCutcheon	City Administrator
	Eileen P. Riordan	City Attorney
	Annette Barrick	City Clerk
	Monica Harris	Finance Director
	Stephanie Shumsky	Planning, Eng., & Reg. Director
	Luis Camero	Public Works Utilities Director
	Thomas Carlson	Public Works Director
	Richard 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**

0:00:01 Invocation - Pledge of Allegiance

0:00:30 **Mayor Janway asked Ms. Jackson-Christopher for the overall results of the Arts and Cultural District.**

Ms. Jackson-Christopher said that the results for the Arts and Cultural District designation application have been received. She explained that authorized districts are able to receive double state historic tax credits for renovating eligible property, take advantage of local economic development act funds, and access the marketing of state wide tourism. She explained that unfortunately Carlsbad was not chosen. She added that Artesia, Gallup, and Mora were chosen for the designation. She said that the committee cited reasons and the main issue for Carlsbad was the lack of a formal arts council. She added that it will be something for the City of Carlsbad to work towards.

She said that a new Creative New Mexico Board is being formed and she has been offered a position on the Board.

0:04:05 **1. APPROVAL OF AGENDA**

0:04:08 **Motion**

The motion was made by Councilor Doporto and seconded by Councilor Doss to approve the Agenda.

0:04:13 **Vote**

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

0:04:27 **2. BUDGET REVIEW**

Ms. Harris reviewed the revenues and expenditures as of September 30, 2013 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:09:00 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Aguilar to approve the budget review as of September 30, 2013.

0:09:06 **Vote**

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

0:09:19 **3. CONSIDER APPROVAL OF RESOLUTION NO 2013-55, A RESOLUTION APPROVING THE 2ND QUARTER BUDGET ADJUSTMENTS**

Ms. Harris reviewed the revenues and expenditures making certain Budgetary Adjustments to the 2013-2014 Fiscal Year Budget highlighting the General Fund, Capital Outlay GRT Fund, Disaster Preparedness Fund, Sports Complex Fund, Water & Sewer Fund, Street Improvement Fund, and the Health Insurance Fund.

0:13:18 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Aguilar to approve Resolution No. 2013-55, a Resolution approving the 2nd Quarter Budget Adjustments.

0:13:24 **Vote**

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

0:13:38

4. ROUTINE AND REGULAR BUSINESS

- A. Minutes of the Regular City Council Meeting held on November 12, 2013
- B. Personnel Report
- C. Check Register, Bills and Petty Cash
- D. Purchasing:
 - 1) Consider approval to Award Bid No. 2013-53, to Southwest CM for exterior improvements to the Municipal Tennis Pro Shop and Racquetball Courts in the amount of \$192,313.10
 - 2) Consider approval to Reject Bid No. 2013-52, and Re-bid the Double Eagle Office and Warehouse Project as separate components
 - 3) Consider approval to Award Bid No. 2013-55, for the replacement of the HVAC System at Noah's Ark Animal Shelter to Enoch Mechanical, Inc., in the amount of \$202,494.40
 - 4) Consider approval to Advertise Request for Proposal for Materials Testing for Construction Projects
 - 5) Consider approval to purchase pursuant to annual bid pricing, Street Improvements for Davis Street from Kircher including cul-de-sac in the amount of \$85,000
- E. Monthly Department Reports:
 - 1) Culture, Recreation & Community Services Monthly Report for October 2013
 - 2) Carlsbad Fire Department Monthly Report for October 2013
 - 3) Planning, Engineering, Regulation Department Monthly Report for October 2013
 - 4) Carlsbad Police Department Monthly Report for October 2013
 - 5) Transportation and Facilities Department Monthly Report for October 2013
 - 6) Utilities Department Monthly Report for October 2013
- F. Set Dates: January 14, 2014
 - 1) An Ordinance amending Section 10-31 of the Code of Ordinances, City of Carlsbad, New Mexico allowing up to two Eddy County Residents to serve as Members of the Cemetery Board of Carlsbad

0:13:59

Mayor Janway asked Mr. McCutcheon to discuss Item D.1 Consider approval to Award Bid No. 2013-53, to Southwest CM for exterior improvements to the Municipal Tennis Pro Shop and Racquetball Courts in the amount of \$192,313.10; Item D.2 Consider approval to Reject Bid No. 2013-52, and Re-bid the Double Eagle Office and Warehouse Project as separate components; Item D.3 Consider approval to Award Bid No. 2013-55, for the replacement of the HVAC System at Noah's Ark Animal Shelter to Enoch Mechanical, Inc., in the amount of \$202,494.40; and Item F.1 Set Date for January 14, 2014 for an Ordinance amending Section 10-31 of the Code of Ordinances, City of Carlsbad, New Mexico allowing up to two Eddy County Residents to serve as members of the Cemetery Board of Carlsbad.

Mr. McCutcheon explained that Item D.1 is to consider approval to award Bid to Southwest CM to perform exterior improvements to the Municipal Tennis Pro Shop and Racquetball Courts.

Councilor Whitlock asked why the bid was \$60,000 more than the amount budgeted for the project. **Mr. McCutcheon** explained that the City typically budgets projects fairly low.

Mr. McCutcheon explained Item D.2 is to reject all bids and re-bid the Double Eagle Office and Warehouse Project as separate components.

Mr. McCutcheon explained that Item D.3 is to award bid for Noah's Ark Animal Shelter to Enoch Mechanical, Inc. for replacement of the HVAC System. He explained that the work is scheduled to begin February 15, 2014 and be complete by the time the weather gets to warm.

Mr. McCutcheon explained that Item F.1 is an amendment to the Ordinance on individuals who can serve as members of the Cemetery Board. He explained that there are many residents from the County who use the cemetery. He explained that there is no representation from the County on the board and the amendment will allow the Mayor to appoint one or two members from the County.

0:21:04 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Whitlock to approve Routine and Regular Business.

0:21:10 **Vote**

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

0:21:31 **5. CONSIDER APPROVAL OF ORDINANCE NO. 2013-30, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 1+/- ACRE SITE, LOCATED AT 1412 N. EIGHTH ST., LEGALLY DESCRIBED AS BELVA SUBDIVISION, BLOCK 35, LOT 35, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150 (B) AND 56-140 (I), CARLSBAD CODE OF ORDINANCES**

0:22:13 **A. Public Hearing**

Ms. Shumsky explained that the Planning and Zoning Commission heard the item on October 7, 2013 and recommend approval. She explained that the zone change meets several of the goals of the comprehensive plan. She explained that the change to commercial zoning does not create a spot zone because there is commercial zoning surrounding the property. She added that City staff recommends approval.

0:23:41 **Mayor Janway asked if anyone would like to speak regarding this issue. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session.**

0:23:52 **B. Consider Ordinance No.2013-30**

0:23:59 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Doporto to approve Ordinance No. 2013-30, an Ordinance rezoning part of "R-1" Residential District to "C-2" Commercial District for an approximately 1+/- acre site, located at 1412 N. Eighth St., legally described as Belva Subdivision, Block 35, Lot 35, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Section 56-150 (B) and 56-140 (I), Carlsbad Code of Ordinances.

0:24:05 **Vote**

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

0:24:40 **6. CONSIDER APPROVAL OF ORDINANCE NO. 2013-28, AN ORDINANCE REGARDING THE ANNEXATION OF AN APPROXIMATELY 0.21 ACRE LOT LOCATED AT 1410 N. CANAL STREET, LEGALLY KNOWN AS LAHUERTA SUBDIVISION BLOCK 11, LOT 10, PURSUANT TO THE PETITION METHOD AS PROVIDED FOR IN SECTION 3-7-1 ET. SEQ. NMSA 1978**

0:25:12 **A. Public Hearing**

Ms. Shumsky explained the annexation was requested by the applicant and was heard by the Planning and Zoning Commission. She explained that the lot is small and has a small building on the property that is currently used for a martial arts studio. She explained the applicant is requesting that the property be annexed into the City limits. She said the property is adjacent to the City limits, so the request meets the requirement. She explained that staff and the Planning and Zoning Commission recommend approval.

0:26:44 **Mayor Janway asked if anyone would like to speak regarding this issue. Councilor Doss asked if the property would include the firework stand. Ms. Shumsky said no.**

Councilor Doporto asked if moving the property into the City limits would create an island. **Ms. Shumsky** said no, it is adjacent to City limits and City water and sewer lines already run in the area.

Councilor Shirley explained that there is some concern about a liquor license being tied to the property. **Ms. Shumsky** said that she does not have any information regarding a liquor license. She is under the understanding that the applicants want to annex for other reasons. **Mr. McCutcheon** added that the consideration of a liquor license would be considered under a different matter because this request is strictly for annexation.

Councilor Whitlock asked if the surrounding subdivision is in the City limits. **Ms. Shumsky** said yes.

0:29:56 **Mayor Janway** asked if anyone else would like to speak regarding this issue. **No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:30:07 **B. Consider Ordinance No.2013-28**

0:30:14 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Shirley to approve Ordinance No. 2013-28, an Ordinance regarding the Annexation of an approximately 0.21 acre lot located at 1410 N. Canal Street, legally known as La Huerta Subdivision Block 11, Lot 10, pursuant to the petition method as provided for in Section 3-7-1 et. Seq. NMSA 1978.

0:30:20 **Vote**

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

0:30:38 **7. CONSIDER APPROVAL OF ORDINANCE NO. 2013-29, AN ORDINANCE ESTABLISHMENT OF NEIGHBORHOOD COMMERCIAL (C-1) ZONING LEGALLY KNOWN AS LAHUERTA SUBDIVISION BLOCK 11, LOT 10 AS PROVIDED FOR IN SECTION 3-7-1 ET. SEQ. NMSA 1978**

0:31:04 **A. Public Hearing**

Ms. Shumsky explained that establishing the zoning for the subject site is the second half of a zoning request. She explained that the applicant requested C-1 commercial zoning. She explained C-1 zoning is appropriate for the existing and historic uses in the area. She said that it may create a small spot zone because there is not a lot of C-1 zoning in the area. She added that C-1 is similar to the surrounding uses and the uses that are allowed in the area. She added that Planning and Zoning and staff recommend approval.

0:32:08 **Mayor Janway** asked if anyone would like to speak regarding this issue. **No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:32:26 **B. Consider Ordinance No.2013-29**

0:32:29 **Motion**

The motion was made by Councilor Aguilar and seconded by Councilor Shirley to approve Ordinance No. 2013-29, an Ordinance establishment of neighborhood

commercial (C-1) zoning legally known as La Huerta Subdivision Block 11, Lot 10 as provided for in Section 3-7-1 et. Seq. NMSA 1978.

0:32:37 **Vote**

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

0:32:51 **8. CONSIDER APPROVAL OF ORDINANCE NO. 2013-31, AN ORDINANCE ADOPTING AN AMENDMENT TO CARLSBAD CODE OF ORDINANCES, CHAPTER 47- SUBDIVISION REGULATIONS PURSUANT TO CARLSBAD CODE OF ORDINANCES SECTION 47-8 AND SECTION 3-19-6 NMSA 1978**

0:33:20 **A. Public Hearing**

Ms. Shumsky explained this is a text amendment to the subdivision regulations that were updated and adopted by the Council in February. She explained when the amendments were approved in February; it was approved not to allow any new septic systems in the City limits in conjunction with new subdivisions of land. She explained that staff has discovered that there are several locations in the City limits where it would be very difficult to provide City sewer to the locations, due to the distance from a sewer line or the topography. She explained that staff feels it is reasonable if the Utilities Director and the City Engineer both concur that it is not feasible due to economic or geographic reasons to allow septic systems.

Councilor Aguilar asked if the person building a subdivision is required to provide the lift station. **Ms. Shumsky** said that this would allow septic systems if the area cannot connect to the City's sewer. She explained that if the Utilities Director and the City Engineer recommend individual lift stations the person building would be responsible for the lift stations.

Councilor Aguilar said that he does not like septic tanks especially this close to the City limits. He explained that the City already has a problem with septic systems on Standpipe and the City needs to check on other options. **Mr. McCutcheon** added that a State approval is required to put in a septic system.

0:42:20 **Mayor Janway asked if anyone would like to speak regarding this issue.**

Mr. George Dunagan explained that he is present to speak in favor of the Ordinance. He explained that since February when the Ordinance was passed he has run into the issue several times. He explained that prior to February the Ordinance allowed septic systems where it was reasonable and a certain distance from a sewer line. He explained that the previous Ordinance seemed to work well. He explained when people want to subdivide or build on existing lots where a sewer line is not nearby, the property owner would submit the proposal to the City and contact the Utilities Director. He added that the problems on Standpipe are due to old septic tanks and as the properties are being

sold they have to comply with new septic systems according to State law and most have to be replaced. He explained that the new plastic systems, which are being put in, are good systems and sewer systems may have to be changed before the new septic systems will. He said with the development of new technologies, there is a real place for this amendment.

Mr. Edmundo Orozco explained that he is involved in two parcels of property that could be affected by the ordinance. He asked how the property on W. Orchard Lane will be affected by the ordinance. **Ms. Shumsky** said that the location of the property will be positively affected by the proposed amendment, allowing the possibility of a septic system to be used on the property in the future. **Mr. Orozco** said the other property is on E. Greene St south of the Fairway subdivision. **Ms. Shumsky** said if the property in question could be served by the sewer from Fairway Subdivision it would be required to. She added if the property could not be served due to the topography or distance the property may be eligible for a septic system if subdivided. She added that NMED requires a minimum of 3/4 acre to put in a septic system and goes up depending on the size of the structure.

0:49:32 **Mayor Janway asked if anyone would like to speak regarding this issue. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:49:45 **B. Consider Ordinance No.2013-31**

0:49:48 **Motion**

The motion was made by Councilor Whitlock and seconded by Councilor Doss to approve Ordinance No. 2013-31, an Ordinance adopting an amendment to Carlsbad Code of Ordinances Section 47-8 and section 3-19-6 NMSA 1978.

0:49:53 **Vote**

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

0:50:12 **9. CONSIDER APPROVAL OF RESOLUTION NO. 2013-56, A RESOLUTION DECLARING CERTAIN CITY PROPERTY TO BE OBSOLETE AND UNUSABLE**

Mr. McCutcheon explained that according to State Statute staff is required to bring obsolete and unusable City property before Council for approval.

0:51:29 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Whitlock to approve Resolution No. 2013-56, a Resolution declaring certain City property to be obsolete and unusable.

0:51:39 **Vote**

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

0:51:58 **10. REVIEW AND CONSIDER THE STATUS OF 4505 REDBUD WHICH UNDER RESOLUTION NO. 2013-43 WAS REQUIRED TO HAVE THE MOBILE HOME, PORCH, AND DEBRIS REMOVED AND THE PROPERTY CLEANED**

Ms. Riordan explained that the property is a mobile home, in a mobile home subdivision. She explained the home is a single wide with a sight built attached porch. She explained there is debris around and inside the structure and the porch is in very poor condition. She added that upon inspection by Code Enforcement and the Fire Marshall it was determined that the interior has severe water damage. She explained that Ms. Galindo objected to the Resolution and that the matter was heard in October. She explained Council granted 30 days for Ms. Galindo to review the condition of the mobile home and to determine if she would rehabilitate or demolish the home. She added that Code Enforcement has seen little to no change on the property.

Ms. Maria Aldaz Lopez, mother of Ms. Galindo, explained that her daughter purchased the property for her daughter. She said that Ms. Galindo is asking for additional time to bring the home up to code. **Councilor Aguilar** asked Ms. Lopez if she has seen the property and if she thinks the home is repairable. **Ms. Lopez** said that she knows the home is repairable. **Councilor Shirley** asked Ms. Lopez if Ms. Galindo feels confident about the timeline presented. **Ms. Lopez** answered yes.

0:59:36 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Whitlock to review and consider the status of the 4505 Redbud which under Resolution No. 2013-43 was required to have the mobile home, porch, and debris removed and the property cleaned on December 10, 2013, based on the timeline received from Ms. Galindo.

1:00:47 **Vote**

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

1:01:19 **11. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS**

Mayor Janway appointed an Oil and Gas Task Force Ad Hock Committee.

Mayor Janway appointed Councilor Shirley and Councilor Salcido as co-chairman of the committee. **Councilor Shirley** reviewed the goals and objectives of the Oil and Gas Task Force Ad Hock Committee.

Mayor Janway asked Chief Lopez for an update on the Emergency Warning System. **Chief Lopez** explained that he is working on coordinating the warning system with the

reverse 911 system. He said that he is working with the Fire Chief from Artesia. He explained that Artesia currently has an Emergency Warning System in place and he is learning when Artesia uses the system and how they educate the public. He explained that he is looking at vendors, price comparison, and the system to service the needs of Carlsbad.

Mayor Janway asked Mr. McCutcheon for an update on Callaway, 8th Street, and the Artesia Hwy stop light.

Mr. McCutcheon explained that the work was to begin on November 15, 2013. **Mr. Carlson** explained that he spoke with NMDOT and was told there are some very long lead items to be purchased and NMDOT expects to be on site January 6, 2014. **Mr. McCutcheon** asked if the finish date would also be pushed back. **Mr. Carlson** said that he did not ask about the finish date. **Mayor Janway** asked about the turning lane on Callaway and the re-paving of the road from flood damage. **Mr. Carlson** explained that he is working on getting the contract in place for the Callaway Drive low water crossing and expect to have it complete any day now. He said that work should start the first part of December and during that time Callaway will be closed.

Mr. McCutcheon explained that he has been meeting with FEMA to discuss the details of the damage from the rains. He explained that the work has started on the low water crossing at San Jose.

Councilor Shirley said that a disc golf tournament will be hosted at the newly expanded disc golf course and encouraged anyone to come out and watch the event.

Councilor Whitlock said that she attended the event at the Museum on Saturday and said a lot of people were present and having a great time. She thanked Mr. Morgan and Ms. Jackson for the work they are doing for the Community at the Museum.

1:09:47 **12. ADJOURN**

1:09:49 **Motion**

The motion was made by Councilor Doporto and seconded by Councilor Shirley to adjourn.

1:09:53 **Vote**

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

1:07:56 **Adjourn**

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

/s/Richard Doss

Mayor Pro Tem

ATTEST:

/s/Annette Barrick

City Clerk