

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

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	Director of Planning, Eng. & Reg.
	Luis Camero	Public Works 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**

0:00:14 Invocation - Pledge of Allegiance

0:00:54 **Mayor Janway asked Mr. Tully to join him in presenting service awards.**

Mr. Tully explained that it is a pleasure to honor employees who have achieved tenure with the City and tonight he and the Mayor are honoring employees that have 20, 25, and 30 years of service. He explained that he is very proud of these employees and thanked them for their dedicated service to the City of Carlsbad.

0:06:36 **1. APPROVAL OF AGENDA**

0:06:39 **Motion**

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

0:06:43 **Vote**

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

0:06:56 **2. CONSIDER APPROVAL OF RESOLUTION NO. 2013-08, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2012-2013 FISCAL YEAR BUDGET**

Ms. Harris reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2012-2013 Fiscal Year Budget highlighting the General Fund, Solid Waste Fund, Sports Complex Fund, Water & Sewer Fund, Park Improvement Fund, and the Street Improvement Fund.

0:10:09 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Waters to approve Resolution No. 2013-08, a Resolution making certain Budgetary Adjustments to the 2012-2013 Fiscal Year Budget.

0:10:15 **Vote**

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

0:10:28 **3. ROUTINE AND REGULAR BUSINESS**

A. Minutes of the Regular City Council Meeting held on January 22, 2013

B. Personnel Report

C. Check Register and Bills

D. Purchasing:

1) Consider approval to Advertise Invitation for Bid for the Blodgett Street Restrooms Lift Station

2) Consider approval to Advertise Invitation for Bid for the Replacement of five (5) Double Eagle Wells

3) Consider approval to Advertise Invitation for Bid for Municipal Building Re-roof

4) Consider approval to Advertise Invitation for Bid for Noah's Ark HVAC

5) Consider approval to Advertise Invitation for Request for Proposals for Professional Oil and Gas Inspection Services

6) Consider approval to purchase two 10' x 60' x 8' high shade structures for the Bob Forrest Youth Sports Complex Soccer Fields in the amount of \$35,000 pursuant to NM State Contract # 10-521-00-05309

- 7) Consider approval to Award RFP No. 2012-55, to Bohannon-Huston Inc. for Engineering Services for Lift Station Upgrades subject to negotiation of a satisfactory agreement
- 8) Consider approval to Award RFP No. 2012-63, to HDR Engineering for Preliminary Engineering Report for Wastewater Effluent Project subject to successful negotiation of contract and NMED approval
- 9) Consider approval to Award Bid No. 2012-65, to Austin Turf and Tractor in the amount of \$36,195 for a Utility Tractor with Front End Loader, Canopy, and Attachments
- 10) Consider approval to Award Bid No. 2012-66, to Hydrogeologic Services Inc. in the amount of \$88,732.63 for Double Eagle Well Assessment and Rehabilitation
- 11) Consider approval to Award Bid No. 2013-01, for a Ride-On Trencher and Trailer to Ditch Witch El Paso in the amount of \$59,414.42
- 12) Consider approval to Award Bid No. 2013-03, to Neumark Irrigation Supply in the amount of \$22,269.70 for Irrigation Materials for the Bob Forrest Youth Sports Complex
- 13) Consider approval to Award Bid No. 2013-04, to Melloy Dodge in the amount of \$215,460 for Nine (9) Police Patrol Units Eight (8) for Police Use and One (1) for Fire Department use
- 14) Consider approval to Award Bid No. 2013-05, to Phil's Landscaping in the amount of \$47,500 for 31 trees at the Bob Forrest Youth Sports Complex
- 15) Consider approval to Award Bid No. 2013-06, to Utility Fleet Services in the amount of \$88,372.66 for a Bucket Truck

E. Monthly Department Reports:

- 1) Culture and Recreation Department Monthly Reports for January 2013
- 2) Carlsbad Fire Department Monthly Reports for January 2013
- 3) Municipal Court Monthly Report for January 2013
- 4) Personnel Department Monthly Report for January 2013
- 5) Planning, Engineering & Regulation Department Monthly Report for January 2013
- 6) Carlsbad Police Department Monthly Report for January 2013
- 7) Transportation and Facilities Department Monthly Reports for December 2012 and January 2013
- 8) Utilities Department Monthly Report for January 2013

F. Contracts and Agreements:

- 1) Consider approval of Maintenance Contracts with Little Leagues:
 - a) National Little League for \$6,000.
 - b) Shorthorn Little League for \$7,000.

G. Board Appointments:

- 1) Carlsbad Veterans' Memorial Board: Gerri Cunningham (remainder of 4 year term)
- 2) Riverwalk Recreation Complex Advisory Board: Delora Elizando (4 year term)
- 3) Carlsbad Public Library Board of Trustees: Bernita Smith-Payne (remainder of 4 year term)

- 4) Planning and Zoning Commission: Rick Brown (remainder of 2 year term)
- 5) Carlsbad Arbor Day Foundation Tree City NM Advisory Board: Dave Rodgers (remainder of 3 year term)
- 6) Air Service Needs Assessment Committee: Doug Chandler and Terry Chandler
- 7) Joint City/County Extra Territorial Zoning Committee: Councilors Jason Shirley and Janell Whitlock

H. Set Date: March 12, 2013:

- 1) Consider approval to set date to hear the Objection to Resolution No. 2013-06, which requires the demolition and removal of the buildings and debris at 1209 N. Eighth Street

I. Miscellaneous:

- 1) Consider designation of San Jose Boulevard Improvement Project Phase 3, for Municipal Arterial Program Funding for 2013/2014 Application to NMDOT

0:10:49 **Mayor Janway asked Mr. Tully to explain Item H.1 Consider approval to set date to hear the Objection to Resolution No. 2013-06, which requires the demolition and removal of the buildings and debris at 1209 N. Eighth Street; and Item I.1 Consider designation of San Jose Boulevard Improvement Project Phase 3, for Municipal Arterial Program Funding for 2013/2014 Application to NMDOT.**

Mr. Tully explained that Item H.1 is to set the date of March 12, 2013 to hear an Objection to Resolution No. 2013-06 which is a demolition condemnation Resolution that was approved in regards to the DeVargas estate at 1209 N. Eighth Street. He explained that the Attorney for the estate filed an appeal in the matter and pursuant to Ordinance the matter will come up for an appeal hearing at the next scheduled City Council meeting.

Mr. Tully explained that Item I.1 is a request that the City Council designate San Jose Boulevard Improvement Project Phase 3, as the Municipal Arterial Project for 2013/2014. He explained that this would allow the City to prepare the application that would come back to Council at the next Council meeting if approved. He explained that Phase 3 of the San Jose Improvement Project will go from the CID canal southward towards National Parks Hwy. He explained that the City is estimating that Phase 3 would encompass the replacement of the CID Bridge and street improvements possibly up to Monterrey Street.

0:12:50 **Councilman Doporto asked Mayor Janway if Item F.1 Consider approval of Maintenance Contracts with Little Leagues could be pulled for more discussion and added as Item # 26 on the Agenda.**

0:13:45 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Doporto to approve Routine and Regular Business.

0:13:52 **Vote**

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

0:14:05 **4. CONSIDER APPROVAL OF REQUEST FROM CAVERN CITY CLASSIC BICYCLE RACE TO BE HELD ON SATURDAY, APRIL 20 AND 21, 2013**

Mr. Kouba explained that he would like to present a proposal to the City to hold a bicycle race. He explained that he is the race director and presented to Council the reasons he feels the race will be successful. He said that the scheduled dates are Saturday, April 20, 2013 and Sunday, April 21, 2013. **Councilman Doporto** asked where the finish line will be. **Mr. Kouba** said it will be on Skyline Rd., south of the entrance to the Living Desert. He explained that the length of the race depends on the level of skill. He explained that there is a Jr's category that will be 13.5 miles; men's and women's 123 is the next category and participant's will ride 75 miles on each day.

0:22:34 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Doporto to approve request from Cavern City Classic Bicycle to be held on Saturday, April 20 and 21, 2013.

0:22:56 **Vote**

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

0:23:27 **5. CONSIDER APPROVAL OF REQUEST FROM MR. LARRY CAMPBELL FOR A DOG SHOW TO BE HELD AT THE BEACH BANDSHELL ON SATURDAY, APRIL 27, 2013**

Mr. Campbell explained that he would like to request an all breed dog show to be held on April 27, 2013. He explained that the dog show could bring people from all around the world. He said that all dogs will be kenneled or leashed at all times with no exceptions. He explained that funds will pay for the show and the remainder will go to the City and to Noah's Ark Animal Shelter. **Councilman Nunley** asked Mr. Campbell if he has ever run a dog show. **Mr. Campbell** explained that he has in Washington State with the World Canine Registry.

0:25:38 **Discussion regarding liability insurance for the dog show.**

0:26:27 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Shirley to approve request from Larry Campbell for a Dog Show to be held at the Beach Bandshell on Saturday, April 27, 2013.

0:26:35 **Discussion regarding the Dog show including:**
- World Canine Registry

- 200 to 300 inquiries
- Benefits to the City
- Entry fees
- Use of the dog park
- Clean up
- Permits or business registration

0:33:57 **Vote**

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

0:34:13 **6. CONSIDER APPROVAL OF ANNUAL RENEWAL OF A BUSINESS LICENSE FOR COURTESY SPORTING AND PAWN IN ACCORDANCE WITH CARLSBAD CODE OF ORDINANCES, CHAPTER 28, ARTICLE II, SEC. 41-48 (AS RECENTLY AMENDED BY ORDINANCE NO. 2012-16) AND ARTICLE V, SEC. 136-141**

Ms. Shumsky gave a summary explaining that this is a request for an annual renewal for a pawn broker. She explained that they are required to renew their business license yearly and comply with procedures regarding submitting reports to the Police Department. She explained that the Police Department reviewed the request for renewal and are recommending approval.

0:35:29 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doporto to approve Annual Renewal of a Business License for Courtesy Sporting and Pawn in accordance with Carlsbad Code of Ordinances, Chapter 28, Article II, Sec. 41-48 (as recently amended by Ordinance No. 2012-16) and Article V. Sec. 136-141.

0:35:34 **Vote**

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

0:35:46 **7. CONSIDER APPROVAL TO GRANT A WAIVER FOR STEVEN MCCUTCHEON, DEPUTY CITY ADMINISTRATOR, REGARDING UNLAWFUL EMPLOYEE PARTICIPATION IN A PROCUREMENT, PURSUANT TO SECTION 13-1-194, NMSA 1978, AS AMENDED**

Mr. Tully explained that in public business there are certain conflicts that periodically arise and the Procurement Code directs and controls how to deal with the conflicts. He explained that Mr. McCutcheon is the Deputy City Administrator and if the City Administrator is not in, he would take on the responsibility as Central Purchasing Officer which is part of the City Administrator's Duties. He explained that in this case Mr. McCutcheon has made public disclosure by filing a notice with the City Clerk that his son has a fencing business and does business in and around Carlsbad. He explained that it is incumbent upon Mr. McCutcheon to disclose the relationship although he does

not participate or have financial interest in the business. He explained that the definitions under the procurement code of employ and contract of immediate family are applicable so it is appropriate to ask Council to consider a waiver of the unlawful employee participation in a procurement. He said that without the waiver Mr. McCutcheon would not be able to lawfully participate in the procurement to perform his duties. He explained that the code requires that the employee will be able to provide his procurement functions without actual or apparent bias or favoritism. He explained that this is possible because fencing is almost invariably procured by either sealed competitive bids or by competitive quotes. He explained that it must be found that the employees' participation is in the best interest of the local body which he is recommending is the case in this matter.

0:38:49 **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Waters to approve to grant a waiver for Steven McCutcheon, Deputy City Administrator, regarding unlawful employee participation in a procurement, pursuant to Section 13-1-194, NMSA 1978, as amended.

0:38:54 **Vote**

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

0:39:06 **8. CONSIDER APPROVAL TO DONATE (20) TWENTY ACRES OF CITY-OWNED PROPERTY IN THE CARLSBAD AIRPORT INDUSTRIAL PARK TO EDDY COUNTY AS THE SITE FOR A NEW EDDY COUNTY SHERIFF'S DEPARTMENT FACILITY (PARCEL 5B, AS SHOWN ON THE PLAT FOR CARLSBAD AIRPORT INDUSTRIAL PARK UNIT 5)**

Mr. Tully explained that last April the Council approved a general request from the County to donate approximately 20 acres of property in the Airport Industrial Park as the site for the new Sherriff's Department facility. He explained that after Council approved the request the County had the property surveyed and have presented the City with a plat. He explained that the 20 acres are known as parcel 5B on the replat on Corrales Road. He added that if the donation is approved there will be some documentation that will need to be completed and he is asking the Council to authorize himself and the Mayor to execute any necessary documents and functions; such as signing of the plat, and drafting of the deed. He added that because the value is in excess of \$25,000 it will come back before Council as an Ordinance.

0:41:49 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doss to approve donation of (20) twenty acres of City-Owned property in the Carlsbad Airport Industrial Park to Eddy County as the site for a new Eddy County Sheriff's Department Facility (5B, as shown on the plat for Carlsbad Airport Industrial Park Unit 5) and allow

the Mayor and Mr. Tully the ability to execute the necessary documents regarding the transfer.

0:41:51 **Discussion regarding inclusion of a reversionary clause in the documents for the land to be donated.**

0:42:42 **Vote**

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

0:42:55 **9. CONSIDER APPROVAL OF INFRASTRUCTURE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF CARLSBAD AND KEN THURSTON DEVELOPMENT CORPORATION REGARDING FARMVIEW SUBDIVISION - PHASE 2**

0:42:56 **10. CONSIDER APPROVAL OF INFRASTRUCTURE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF CARLSBAD AND KEN THURSTON DEVELOPMENT CORPORATION REGARDING SPRING HOLLOW SUBDIVISION - PHASE 3**

0:42:57 **11. CONSIDER APPROVAL OF INFRASTRUCTURE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF CARLSBAD AND KEN THURSTON DEVELOPMENT CORPORATION REGARDING SPRING HOLLOW SUBDIVISION - PHASE 4**

0:43:10 **Mr. Tully gave a summary explaining that the three reimbursement agreements are a product of the revised reimbursement program.**

Mr. Tully explained that the reimbursement was raised to 15% and limited to hard costs of brick and mortar construction. He explained that these three requests are being translated into the agreement and have been reviewed and approved by the Development Committee.

Councilman Doporto asked if all of the infrastructure has been completed in Phase 3 of Spring Hollow Subdivision. **Ms. Shumsky** explained that Phase 3 has been completed and Phase 4 is underway. She added that Phase 4 will be complete in approximately three weeks. **Councilman Doporto** asked if there would be a wall structure or drainage for the run off water in Spring Hollow at the end of the Block. **Ms. Shumsky** explained that Mr. Thurston has two more phases and the streets are designed to convey the storm water runoff to the storm water ditch that is South of the development along Calloway. She added that once the Streets are constructed and the lots are developed the run off will be minimized.

Mr. Tully explained that the drainage plan for the subdivision has been approved and recently the City has done some additional work. **Mr. Camero** added that the area

Councilman Doporto is referring to is Ligon Road. He explained that when the unit under construction is completed and the work begins on unit 2 Ligon Road this issue will be addressed properly. **Mr. Tully** explained that the City is planning on looking towards the City funded improvement of Ligon Road to accommodate the growth in the area.

0:51:32 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to approve Item No. 9 Infrastructure Reimbursement Agreement Between the City of Carlsbad and Ken Thurston Development Corporation regarding Farmview Subdivision - Phase 2; Item No. 10 Infrastructure Reimbursement Agreement Between the City of Carlsbad and Ken Thurston Development Corporation regarding Spring Hollow Subdivision - Phase 3; and Item No. 11 Infrastructure Reimbursement Agreement between the City of Carlsbad and Ken Thurston Development Corporation regarding Spring Hollow Subdivision - Phase 4.

0:51:38 **Vote**

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

0:51:52 **12. CONSIDER APPROVAL OF THE CITY OF CARLSBAD PERSONNEL POLICY MANUAL, 2013 REVISION**

Mr. Tully explained that the Personnel Policy has not been revised or brought before Council since 2007. He explained that staff has gone through the manual in detail and have incorporated some changes. He reviewed some of the changes that were made:

- Jury duty policy
- Included Governmental Conduct Rules
- Redefined classifications
- Elimination of Attendance Bonus
- Sick Leave buy back

Councilman Aguilar asked if the Steel Workers were included on the Sick Leave buy back. **Mr. Tully** explained that they will be if they get approval to enter into the Memorandum of Understanding by their International Affiliate.

0:54:42 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Waters to approve the City of Carlsbad Personnel Policy Manual, 2013 Revision.

0:54:48 **Vote**

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

0:55:00 **13. CONSIDER APPROVAL OF RESOLUTION NO. 2013-09, A RESOLUTION DECLARING CERTAIN CITY PROPERTY TO BE OBSOLETE AND UNUSABLE**

Mr. Tully explained that this is a standard resolution declaring certain City Property obsolete and unusable.

0:55:55 **Motion**

The motion was made by Councilman Waters and seconded by Councilman Doporto to approve Resolution No. 2013-09, a Resolution declaring certain City property to be obsolete and unusable.

0:56:01 **Vote**

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

0:56:14 **14. CONSIDER APPROVAL OF RESOLUTION NO. 2013-10, A RESOLUTION FINDING THE BUILDINGS OR STRUCTURES AT THE PROPERTY COMMONLY KNOWN AS 415 NORTHEAST FIRST 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: JULIA C. MEDINA, C/O GILBERT MELENDREZ, JR.**

Ms. Riordan explained that the property is a single family home with a small storage structure in a residential neighborhood. She explained that the property is not secure and is subject to vandalism. She added that there is very extensive roof damage and the subflooring has deteriorated throughout the home. She explained that the storage structure is down to the wood and is now very dry and damaged. She said that staff examined the property and found that because of its age, lack of maintenance, and the poor condition that it would be impractical to rehabilitate and are recommending demolition of the property.

0:57:55 **Mayor Janway asked the audience if a representative for the property was present, no one appeared before Council.**

0:58:06 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Shirley to approve Resolution No. 2013-10, a Resolution finding the buildings or structures at the property commonly known as 415 Northeast First 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: Julia C. Median, c/o Gilbert Melendrez, Jr.

0:58:11 **Vote**

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

0:58:23 **15. CONSIDER APPROVAL OF RESOLUTION NO. 2013-11, A RESOLUTION FINDING 410 SOUTH MESA STREET TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS, AND REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS-OWNERS: SAMMY VILLEGAS AND RANDY LASLEY**

Ms. Riordan explained that this property is in a residential neighborhood. She explained that the residence appears to be salvageable at this time. She added that this request is for clean up and maintenance of the yard. She added that the yard now has tall weeds and the Fire Marshall is concerned that, if the weeds were to catch fire, the fire would spread quickly.

0:59:56 **Mayor Janway asked the audience if a representative for the property was present, no one appeared before Council.**

1:00:11 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Doporto to approve Resolution No. 2013-11, a Resolution finding the 410 South Mesa Street to be covered with ruins, rubbish, wreckage, weeds, debris, and requiring the removal of the ruins, rubbish, wreckage, weeds, debris-Owners: Sammy Villegas and Randy Lasley.

1:00:17 **Vote**

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

1:00:29 **16. CONSIDER APPROVAL OF RESOLUTION NO. 2013-12, A RESOLUTION FINDING 913 CENTER AVENUE TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, AND REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS- OWNERS: CARLOS S. AND DEBRA C. PEREZ**

Ms. Riordan explained that this is a property in a residential neighborhood. She explained that the residence is not secured, but is still in restorable condition. She explained that the yard and surrounding property has not been maintained and there is substantial weed growth and trash scattered throughout the property. She added that staff is recommending clean up of the property.

1:01:39 **Mayor Janway asked the audience if a representative for the property was present, no one appeared before Council.**

1:01:49 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Doporto to approve Resolution No. 2013-12, a Resolution finding 913 Center Avenue to be covered with ruins, rubbish, wreckage, weeds, and requiring the removal of the ruins, rubbish, wreckage, weeds, debris-Owners: Carlos S. and Debra C. Perez.

1:01:55 **Vote**

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

1:02:07 **17. CONSIDER APPROVAL OF RESOLUTION NO. 2013-13, A RESOLUTION FINDING 214 N. SECOND STREET TO BE COVERED WITH RUBBISH, RUBBISH, WRECKAGE, WEEDS, AND REQUIRING THE REMOVAL OF THE RUBBISH, RUBBISH, WRECKAGE, WEEDS, DEBRIS-OWNER: MARY J. CAMPOS**

Ms. Riordan explained that this property is a vacant lot in a residential area. She explained that the property has tall weed growth and the Fire Marshall is very concerned.

1:03:09 **Mayor Janway asked the audience if a representative for the property was present, no one appeared before Council.**

1:03:42 **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Waters to approve Resolution No. 2013-13, a Resolution finding the 214 N. Second Street to be covered with ruins, rubbish, wreckage, weeds, and requiring the removal of the ruins, rubbish, wreckage, weeds, debris-Owner: Mary J. Campos.

1:03:48 **Vote**

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

1:04:01 **18. REVIEW AND CONSIDER STATUS OF 4404 WILLOW STREET, WHICH WAS REQUIRED TO BE DEMOLISHED BY RES. NO. 2012-04-OWNER: FRANK ROMERO**

Ms. Riordan explained that the property is a trailer in a mobile home subdivision and was in fairly damaged condition. She explained that code enforcement Officer West has been out to the property and has been very impressed with the progress that he has seen. **Mr. Romero** said that the sale has been finalized and explained the progress that has been made at the property. **Ms. Riordan** added that the work is not completed and staff's recommendation is that Council set another deadline for review. **Mr. Romero** said that he believes he will need 1.5 months to complete.

1:06:07 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Salcido to review and consider status of 4404 Willow Street in 60 days, which was required to be demolished by Resolution No. 2012-04-Owner: Frank Romero.

1:07:02 **Vote**

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

1:07:15 **19. CONSIDER APPROVAL OF CIVIC CENTER COMMITTEE RECOMMENDATION**

Mayor Janway explained that Councilman Shirley and Mayor Pro Tem Dick Doss were co-chairman of the Civic Center Committee. **Councilman Shirley** explained that late last year the City of Carlsbad ended the management contract of the Civic Center with Till it Shines, LLC. He explained that there has been a series of meetings as to the direction the City will take concerning the Civic Center. He explained that the Mayor created a Committee made up of community members and Councilors to bring a recommendation back to Council. He added that the Committee is recommending that the City continue with a contractor, with the City being in charge of the maintenance and taking care of the grounds. **Councilman Whitlock** explained that the City has dealt with contractors in the past and she would like to know what is going to be different in the contract to make it work this time. **Councilman Shirley** explained that the Committee has found a couple of issues in the contract; the maintenance and care for the facility and the contractors' failure to produce an audit. He added that if a contractor is hired, the Committee suggests that the City take care of the audit. He added that the contractor will be responsible for providing monthly reports for expenditures. He explained that there will a complete restructuring of the contract to make it easier for a contractor/promoter to succeed doing what they do best.

Councilman Whitlock asked Mr. Tully if it is customary for the City to pay for the audits when the City has contracts with individuals or companies. **Mr. Tully** responded no. He explained that at times the City reserves the right to conduct an audit and it is typically a cost borne by the contractor.

1:12:30 **Discussion regarding the maintenance and contract of the Civic Center.**

1:14:19 **Motion**

The motion was made by Councilman Doportto and seconded by Councilman Aguilar to approve Civic Center Committee Recommendation.

1:14:30 **Vote**

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

1:14:48 **20. CONSIDER APPROVAL OF ORDINANCE 2013-03, AN ORDINANCE REZONING PART OF R-R RURAL RESIDENTIAL DISTRICT TO I INDUSTRIAL DISTRICT 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(1), CARLSBAD CODE OF ORDINANCES, 3201 BOYD DRIVE**

1:15:28 **A. Public Hearing**

Mayor Janway stated that Council would begin with those in favor of the Ordinance and asked that all comments be kept to 3 to 5 minutes.

1:15:52 **Mr. Tom Mathis and Mr. James Pinkett came before Council to speak in favor of the Ordinance.**

Mr. Mathis began by explaining that when he was before Council in November he made an incorrect statement, stating he had spoken with Mr. Lawrence when he meant to say he had spoken with Mr. Pinkett and would like to apologize to Mr. Lawrence.

1:17:41 **Mr. Mathis** spoke in favor of the Ordinance and discussed the following:

- Concerns of the citizens in the area
- Deed Restrictions
- Industrial usage
- Three Rivers Trucking interest in building nice homes
- Large tract of land containing 70 acres
- Buffer zone
- Water Trucks/Parking
- 15 Oil wells on the property
- Traffic concerns
- Utilization/Growth
- Improvements
- Economy

Mr. Pinkett added that he really likes the community of Carlsbad and is asking the Council to consider the approval of the Ordinance.

1:28:11 **Mayor Janway asked if anyone else would like to speak in favor of the Ordinance.**

Mr. Brandon Bussell came before Council and said that he is a proud member and representative of the neighborhood association of Ward 1. He explained that as a neighborhood association they have researched the best interests of property owners in Ward 1. He explained that the association did a signature petition of property owners and residents that will be directly affected by the Councils decision. He discussed the following concerns:

- 12/6/11 Traffic Accident
- Road Conditions
- Increased Industrial Traffic

- Neighborhood safety
- Carlsbad Comprehensive Plan
- Effects on property value
- Short term financial gain/Long term effects

Mr. Bussell added that he is asking Council to deny the Ordinance. **Mayor Janway** clarified that Mr. Bussell is speaking against the Ordinance.

1:34:02 **Ms. Williams Sperlock explained that she is present to speak against the Ordinance discussing the following issues and concerns:**

- Love of the City of Carlsbad
- Increase in Traffic
- Safety of the Residents
- Economic Development
- Future of the area
- Cleanliness of neighborhood
- Noise

1:42:16 **Mayor Janway asked the audience if there was anyone present to speak for the Ordinance, no one appeared. Mayor Janway than asked if there was anyone else present to speak against the Ordinance.**

Ms. Sylvia Corona, a resident of the area for 25 years, explained that she is very concerned with the present traffic in the area. She added that she is also concerned with the health and safety of the children and the elderly in the area and is requesting that the Council deny the request.

1:47:10 **Mr. Lawrence a resident of Boyd Drive also came before Council to speak against approving the Ordinance.**

Mr. Lawrence stated that the wells on the property have all been sealed off for years. He explained that the traffic problems are from large truck traffic verses car traffic. He added that placing deed restrictions must be approved by District Court, they can not just be placed in the sale of the property. He explained his concern regarding explosions from two water tanker trucks in the last year that were empty.

1:49:23 **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.**

1:49:50 **Councilman Whitlock commented that she drove around the area and has a problem with changing the area to Industrial zoning and would have preferred to see a conditional use permit that would allow more protection for the residents of the area.**

Councilman Whitlock added that Boyd Drive is not an arterial road and it will probably be a year or more before it can be placed on the MAP system so that Boyd can be improved.

1:50:59 **Mayor Janway declared the public hearing closed and reconvened the Council in regular session.**

1:51:01 **B. Consider Ordinance No. 2013-03**

1:51:06 **Councilman Aguilar** stated that the residents in the area have had to put up with Constructors for years. He added that they have to deal with the heavy trucks, dust, and the noise and he does not feel the City should add more to the area.

1:51:23 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Salcido to deny Ordinance 2013-03, an Ordinance rezoning part of R-R Rural Residential District to I Industrial District 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(1), Carlsbad Code of Ordinances, 3201 Boyd Drive.

1:51:30 **Vote**

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

1:54:40 **21. CONSIDER APPROVAL OF ORDINANCE NO. 2013-04, AN ORDINANCE REZONING PART OF R-2 RESIDENTIAL DISTRICT TO C-2 COMMERCIAL DISTRICT AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY PURSUANT TO SECTION 3-21-1 ET.SEQ. NMSA 1978 AND SECTION 56-150(B) AND 56-140(1), CARLSBAD CODE OF ORDINANCES, CARLSBAD PROPERTIES, LLC, LOCATED WEST OF WEST CHERRY LANE AND SOUTH OF CALLAWAY DRIVE**

1:55:19 **A. Public Hearing**

Mayor Janway stated that Council would begin with those in favor of the Ordinance and asked that all comments be kept to 3 to 5 minutes.

1:55:50 **Mr. Zachary Theus, representative of Carlsbad Properties, explained that he is present to speak for approval of the Ordinance.**

Mr. Theus stated that Carlsbad Properties is asking for the rezone in order to have the storage units open for rental by the public, not just the apartment tenants. He added that in R-2 zoning Carlsbad Properties is allowed to build storage units for their residents.

Mr. Wendell Bannigan explained that in the original proposal it was stated that the area was going to be used for housing. He asked Mr. Theus how much of that property is being displaced by the construction of the storage units. **Mr. Theus** explained that the particular portion of the land is about 15 acres and has very shallow bedrock that is not conducive to standard slab on grade construction. He added that mobile homes could go into the area, although Carlsbad Properties is not interested in doing that. He added that it would not displace any rental housing.

Mr. Bannigan then asked what precautions are going to be taken to assure that dangerous explosive materials will not be held at the storage facility. **Mr. Theus** said that the wells in the area are fenced off and there will be another safe buffer between the properties. He added that Carlsbad Properties is proposing enclosed self storage and those precautions would be in a tenant agreement. He explained that the rental agreement that each tenant signs will prohibit those uses.

Mr. Bannigan asked how many storage units is Carlsbad Properties intending to place in the area? **Mr. Theus** said approximately 200 storage units and that Carlsbad Properties is also proposing to provide boat and RV storage.

Mr. Danny Smith explained that according to the map Carlsbad Properties is taking 1/2 acre of his property to build the storage units.

Mayor Janway explained that currently we are taking those speaking for the Ordinance and would give those in opposition a chance to speak in a few minutes.

2:02:50 **Mayor Janway asked the audience if anyone would like to speak against the Ordinance.**

Mr. Bannigan came before Council to state that he is against the Ordinance; he added that he is for progress, development, zoning, and orderly development property. He discussed the following reasons he is against the Ordinance:

- Traffic
- Original Plan of Housing
- Curve on Cherry Lane
- Report from Police Department
- Traffic Survey
- Purpose of Zoning
- Character of La Huerta

2:15:29 **Mr. Smith explained he is also against adopting the Ordinance.**

Mr. Smith explained that on the map where Carlsbad Properties is showing the storage unit, it is showing on 1/2 acre of his property. **Ms. Shumsky** said that she prepared the map to show the general area and it is not an exact map of the property line. She added that the property plan does not encroach onto Mr. Smith's property at all. **Mr. Smith**

explained that he has lived in the area for 20 years and can not believe the traffic. He asked what kind of protection he and his property will have to everyone who has access to the storage units.

2:19:19 Ms. Cassandra Arnold, a resident of Sandy Lane, explained that she is concerned about the use of the property and the changing of the zoning.

Ms. Arnold explained that changing the zoning to C-2 commercial is not a good idea. She explained that if the zoning is changed there are a variety of things that can come into the area and she is asking Council to keep the area Residential.

2:23:30 Ms. Laura Keegan, a resident of the area, explained that she is also concerned about the zone change.

Ms. Keegan explained that she is concerned about what may potentially be brought into the area and discussed the following issues:

- Traffic
- Curve on Cherry Lane
- Potential to attract theft

2:26:12 Mr. Theus stood to reiterate that Carlsbad Properties is proposing a gated controlled access self storage facility.

Mr. Theus explained that there will not be random people driving through the area. He added that it is a low use project; people will not be going in and out of the units daily. He added that the facility will be tasteful and nice with high fencing.

2:28:10 Mayor Janway declared the public hearing closed and reconvened the Council in regular session.

2:28:19 B. Consider Ordinance No. 2013-04

2:28:25 Discussion clarifying the building and renting of the storage units as an accessory use.

2:29:45 Motion

The motion was made by Councilman Waters and seconded by Councilman Doportto to deny Ordinance No. 2013-04, an Ordinance rezoning part of R-2 Residential District to C-2 commercial District 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(1), Carlsbad Code of Ordinances, Carlsbad Properties, LLC, Located west of West Cherry Lane and south of Callaway Drive.

2:29:57 Councilman Shirley explained that hearing the arguments against this zone change and the zone change on Boyd Drive; he understands the concerns of the residents but is disappointed at all parties for the lack of willingness to compromise.

Councilman Doss added that this is the type of situation where a limited use agreement could be used.

2:31:35 **Vote**

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

2:31:54 **Councilman Doporto thanked Mr. Theus for the Cooperstone Complex, he added that it was much needed and is very beautiful.**

2:32:15 **22. CONSIDER APPROVAL OF ORDINANCE NO. 2013-05, AN ORDINANCE ADOPTING AMENDMENTS TO CARLSBAD CODE OF ORDINANCES, CHAPTER 47- SUBDIVISION REGULATIONS PURSUANT TO CODE OF ORDINANCES SECTION 47-8 AND SECTION 3-19-6 NMSA, 1978**

Ms. Shumsky explained that this request is a proposed text amendment to the subdivision regulations; updating the existing subdivision regulations chapter 47 of the Code of Ordinances. She said the proposed update includes:

- Modernized definitions
- Streamlined subdivision review process
- Updated and easy to read illustrations
- Minimal fee increase
- Clear criteria for appeals
- Limitation on new septic systems
- Updated Drainage & Grading Plan requirements

Ms. Shumsky added that the Planning and Zoning Commission and staff are recommending approval.

2:37:23 **A. Public Hearing**

2:37:26 **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.**

2:37:42 **B. Consider Ordinance No. 2013-05**

2:37:47 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Doss to approve Ordinance No. 2013-05, an Ordinance adopting amendments to Carlsbad Code of Ordinances, Chapter 47 - Subdivision regulations pursuant to Code of Ordinances Section 47-8 and Section 3-19-6 NMSA, 1978.

2:37:53 **Vote**

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

2:38:04 **23. CONSIDER APPROVAL OF ORDINANCE 2013-06, AN ORDINANCE REPEALING CHAPTER 56, ARTICLES XX AND XXI, OF THE CODE OF ORDINANCES, CITY OF CARLSBAD, NEW MEXICO ENTITLED "EXTRATERRITORIAL COMMISSION" AND "EXTRATERRITORIAL ZONING"**

Mr. Tully explained that it was a previous decision of the Council to move towards the repeal of the Extraterritorial Zoning Ordinance with a 15 month sunset. He explained that the sunset means that the Ordinance would automatically be repealed 15 months from the date that the motion was made which calculates to be April 22, 2014.

2:39:14 **A. Public Hearing**

2:39:29 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.

2:39:30 **B. Consider Ordinance No. 2013-06**

2:39:40 **Motion**

The motion was made by Councilman Nunley and seconded by Councilman Whitlock to approve Ordinance 2013-06, an Ordinance repealing Chapter 56, Articles XX and XXI, of the Code of Ordinances, City of Carlsbad, New Mexico Entitled "Extraterritorial Commission" and "Extraterritorial Zoning".

2:39:52 **Vote**

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

2:40:04 **24. CONSIDER APPROVAL TO ACCEPT OWNERSHIP OF CASCADES LOTS 18A (TENNIS COURT COMPLEX), 17A LESS A 10 FOOT EASEMENT AND A PORTION OF LOT 19A**

Mr. Tully explained that several issues have prompted this issue to come before Council. He explained that when the City held the long term lease on the Railroad property in the 1970's the City created a Tennis Complex that has been in use for 35 years or more. He added that also on the property were soccer and softball fields. He explained that when CDOD purchased the property in which the Cascades is located the lease with the City went away. He explained that with the purchase the City acquired Park Drive and the entire River frontage from the dam to the bridge. He explained that recently with Phase 2 of the Cascades it has been necessary to contemplate moving the old restroom and concession that are currently on part of lot 19a. He explained that after discussions with Mr. Waters and Mr. George and other members of CDOD they have arrived at a compromise. He said that CDOD has agreed

to deed the City lot 17a, 18a, and a portion of lot 19a. He said the request before Council tonight is a request to make official the acceptance of the property and to authorize himself and the Mayor to take required action to execute the documents.

Mr. Waters explained that the Board has voted on this and feel it is important to provide this for the kids who utilize the tennis courts. He added that lot 19a will allow for bus parking to provide access to the tennis court facility. He explained that the property has standards to maintain a certain quality of look and it is the intention to improve the tennis courts and facilities to match that look and improve the area.

Mr. Tully added that the City has budgeted and the architecture is nearly complete for the exterior renovations of the tennis pro shop. Further the City will paint the exterior of the racquetball courts to match.

2:48:40 **Mayor Janway asked Mr. Waters to give the Council an update on the Cascades.**

Mr. Waters explained that CDOD is proceeding towards a July completion date. He explained that the utilities have been installed and they are beginning to pour the walls for the canal structure. He added that final items to be completed are the dirt work, construction of a parking lot, and the drainage and curbing. He said once the parking lot is complete there should be a signing for a restaurant.

2:51:45 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Shirley to approve acceptance of ownership of Cascades Lots 18A (tennis court complex), 17A less a 10 foot easement and a portion of Lot 19A.

2:51:51 **Vote**

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

2:52:05 **25. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS: A. AIR SERVICE COMMITTEE REPORT**

Mayor Janway explained that Councilman Whitlock and Mr. Don George are co-chairs of the Air Service Committee.

Councilman Whitlock explained that the responsibility of the Air Service Committee was to review the RFP's and recommend what was in the best interest of the citizens of Carlsbad. She explained that the Committee recommended Option 1 Boutique Air and the EAS responded, No and gave other options. She explained that the Committee than choose Option 2 and are waiting on a response from the EAS. She added that the Committee does not want to lose the air travel to Albuquerque but feel that Carlsbad is growing enough to use two markets. She added that the Committee is also going to do an assessment of the Airport needs and develop a plan to meet the future needs of Carlsbad.

2:53:55 **26. CONSIDER APPROVAL OF MAINTENANCE CONTRACTS WITH LITTLE LEAGUES: A) NATIONAL LITTLE LEAGUE FOR \$6,000; B) SHORTHORN LITTLE LEAGUE FOR \$7,000.**

Councilman Doporto explained that he was approached by the National Little League President about the amount of funds they receive. He explained that the leagues have been receiving the same funds for the last 10 years and it is effecting their ability to maintain the fields. He explained that the teen girls softball association is no longer operating and there are funds left in that budget and he is asking to increase each little league contract by \$1,000.

Councilman Doss asked about funding for American Little League. **Councilman Doporto** explained that American is now at the Bob Forrest Youth Sports Complex and hopefully next year they will all be at the Complex.

2:56:43 **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Shirley to approve Maintenance Contracts with Little Leagues with a \$1,000 increase for each league.

2:56:59 **Vote**

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

2:57:26 **26. ADJOURN**

2:57:30 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to adjourn.

2:57:33 **Vote**

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

There being no further business, the meeting was adjourned at 9:02 p.m.

/s/Dale Janway
Mayor

ATTEST:

/s/Annette Barrick
City Clerk