

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON APRIL 23, 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
	Monica Harris	Finance Director
	Stephanie Shumsky	Planning, Eng., & Reg. Director
	Tom Carlson	Public Works Director
	Rick Lopez	Fire Chief
	Kevin Florez	Assistant Police Chief
	Patsy Jackson-Christopher	Community Dev. Director

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**

0:00:03 Invocation - Pledge of Allegiance

0:00:33 **1. APPROVAL OF AGENDA**

Mayor Janway moved Item #10 to Item #15 because Mr. Heaton is late returning to town from attending another meeting.

0:00:47 **Motion**

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

0:00:52 **Vote**

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

0:01:07 **2. BUDGET REVIEW AS OF FEBRUARY 28, 2013**

Ms. Harris reviewed the revenues and expenditures as of February 28, 2013 for the General Fund and selected Enterprise and Special Funds contained within the City Budget. **Councilman Whitlock** asked why the City is not able to receive RSVP funding. **Ms. Harris** explained that when Ms. Methola was hired there was not anyone doing the reporting. She explained that in order to collect funds, the City would have to turn in monthly reports and the reporting was behind.

0:07:31 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doss to approve Budget Review as of February 28, 2013.

0:07:35 **Vote**

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

0:07:51 **3. ROUTINE AND REGULAR BUSINESS**

A. Minutes of the Regular City Council Meeting held on April 9, 2013

B. Personnel Report

C. Check Register, Bills and Petty Cash

D. Purchasing:

- 1) Consider approval to Advertise Invitation to Bid for the Reconstruction of Elgin Road
- 2) Consider approval to purchase "up-fit" service from New Mexico Emergency Products for Police Department Vehicles
- 3) Consider approval to Award RFP No. 2013-17, to AMEC Environment & Infrastructure, Inc. for Oil and Gas Well Inspection Services, subject to successful negotiation of a contract
- 4) Consider approval to Award Bid No. 2013-15, for the HVAC and Circulation System for Noah's Ark Facility
- 5) Consider approval to Award Bid No. 2013-16, to Carlsbad Sheet Metal and Cooling for the replacement of Four (4) HVAC Units at the Pecos River Village Conference Center in the amount of \$59,999.00

E. Contracts and Agreements:

- 1) Consider approval of Second Renewal of Agreement between the City of Carlsbad and the Garden Mart, Inc. for Grounds Keeping and Maintenance of City-wide Landscapes, Medians, Gateways and Properties
- 2) Consider approval of Second Renewal of Agreement between the City of Carlsbad and Max Wilson, dba Max Safety for the provision of Fire Extinguisher Maintenance Services

- 3) Consider approval of Fourth Renewal of Agreement between the City of Carlsbad and Chaparral Claims & Investigations, LLC for Claims Administration and Adjustment Services
- 4) Consider approval of Memorandum of Agreement between the City of Carlsbad and Eddy County for a Joint application for CDWI Grant Funds
- 5) Consider approval of Memorandum of Agreement between the City of Carlsbad and Eddy County DWI Program for a Program Tracking Employee
- 6) Consider approval of recommendation to extend the Ambulance Billing Contract with ADPI until May 31, 2013
- 7) Consider approval of NM Environment Department Construction Programs Bureau, Clean Water State Revolving Fund, Amendment No. 2 to Loan Agreement CWSRF 010

F. Monthly Department Reports:

- 1) Culture, Recreation & Community Services Department Monthly Report for March 2013
- 2) Fire Department Monthly Report for March 2013
- 3) Municipal Court Monthly Report for March 2013
- 4) Planning, Engineering, & Regulation Department Monthly Report for March 2013
- 5) Transportation and Facilities Department Monthly Report for March 2013
- 6) Utilities Department Monthly Report for March 2013

G. Boards and Committee Appointments:

- 1) Southeastern New Mexico Economic Development District/Council of Governments (SERPO): Stephanie Shumsky-Policy Committee, Tom Carlson-Technical Committee
- 2) Walter Gerrells Performing Arts & Exhibition Center RFP Review Committee: Councilor Janell Whitlock, Co-Chairman, Councilor JR Doporto, Co-Chairman, Bernita Smith-Payne, Wren Stroud, Dr. John Gratton, Matt Byers, and Mike Cleary
- 3) Carlsbad Riverwalk Recreation Complex Advisory Board: Anthony Alanzo, remainder of 4 year term
- 4) City of Carlsbad Disability Advisory Board: Michelle Tackett, remainder of 4 year term
- 5) Bob Forrest Youth Sports Complex Advisory Board, remainder of 4 year term: Tom Hollis, remainder of 4 year

0:08:10 **Mayor Janway asked Mr. McCutcheon to discuss Item D.1 Consider approval to Advertise Invitation to Bid for the Reconstruction of Elgin Road; Item D.2 Consider approval to purchase "up-fit" service from New Mexico Emergency Products for Police Department Vehicles; Item D.3 Consider approval to Award RFP No. 2013-17, to AMEC Environment & Infrastructure, Inc. for Oil and Gas Well Inspection Services, subject to a successful negotiation of a contract; and Item E.7 Consider approval of NM Environment Department Construction Programs Bureau,**

Clean Water State Revolving Fund, Amendment No. 2 to Loan Agreement CWSRF 010.

Mr. McCutcheon explained that Item D.1 is approval to advertise the invitation to Bid for reconstruction of Elgin Road. He explained that it is for water and sewer service which is necessary prior to the road being paved.

Mr. McCutcheon explained that Item D.2 is to consider approval to purchase "up-fit" service from New Mexico Emergency Products. He explained that this is a general services agreement that will fit about 10 new police cars with necessary equipment.

Mr. McCutcheon explained that Item D.3 is to Award RFP to AMEC Environment & Infrastructure, Inc. for Oil and Gas Well Inspection Services, based on a successful negotiation of a contract.

Mr. McCutcheon explained that Item E.7 is an extension of a Loan that the City has with the NM Environment Department. He explained that the Loan commitment expires in April and this would be a 1 year extension. He added that the Loan is for the Waste Water Treatment plant and said that there is approximately \$1 million still available on the loan.

0:11:41 **Councilman Waters** commented that the Pecos River Village Conference Center is in desperate need of the HVAC units. She asked that once this is approved, that the City ensure that the Center receives the units as soon as possible. **Mr. McCutcheon** asked Ms. Jackson what the timeline will be to receive the units. **Ms. Jackson** said that the units will have to be ordered and will be put in as soon as they arrive.

0:12:23 **Councilman Aguilar** asked how much the cost of the "up-fit" is for each vehicle. **Mr. McCutcheon** said that the bid for each vehicle was \$25,000. **Councilman Aguilar** said that is expensive per vehicle, and asked what happens with the equipment in the older vehicles. **Assistant Chief Florez** explained that the department is getting rid of the Fords and moving exclusively to Dodge Chargers. He explained that a lot of the older equipment can not be used on the newer vehicles. **Councilman Waters** asked if all of the vehicles with the chipping paint would be phased out. **Assistant Chief Florez** explained that most of them have been re-painted and some of them will be phased out.

0:13:54 **Councilman Shirley** asked to remove Item G.2 Boards and Committee Appointments for the Walter Gerrells Performing Arts & Exhibition Center RFP Review Committee from Routine and Regular Business.

0:14:17 **Councilor Doporto** asked if Item E.1 Consider approval of Second Renewal of Agreement between the City of Carlsbad and the Garden Mart, Inc. for

Grounds Keeping and Maintenance of City - wide Landscapes, Medians, Gateways and Properties could also be removed from Routine and Regular Business.

0:14:44 **Motion**

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

0:14:52 **Vote**

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

0:15:11 **4. KEY ENERGY UPDATE PRESENTATION BY WAYNE PRICE**

Mr. Wayne Price of Key Energy explained that Key Energy has been working on installing state of the art brine well for about three years. He explained that the reason it is not complete is the water issue and being in the biggest drought the area has ever seen. He explained that Key Energy has submitted the final easement to the City, adding a large turnaround for fire trucks. He explained the main reason he is present is to discuss water issues. He explained that currently Key owns a gas well and has received a state permit to convert the gas well to a salt water disposal well. He explained that Key would like to set up an elaborate water treatment system and make water. He explained that Key would need the source of produced water to make it all work. He explained that the Texas Railroad Commission has adopted rules to encourage oil and gas operators to continue conserving water. He explained that water is expensive to make and Key Energy feels it is the time and the right thing to do.

0:22:24 **5. CONSIDER APPROVAL OF REQUEST FROM ASSISTANCE LEAGUE OF CARLSBAD FOR THEIR 24TH ANNUAL RUBBER DUCKY AFFAIR ON SATURDAY, JUNE 8, 2013**

Mayor Janway asked Ms. Donna Hill, Chairman of the Ducky Affair, where the Ducky Fair would be. **Ms. Hill** explained that the finish line will be at Blodgett and Lamont Street. She explained that if there is no water in the canal, the Assistance League will move the affair to the Elks Lodge Pool.

0:24:11 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Aguilar to approve the request from Assistance League of Carlsbad for their 24th Annual Rubber Ducky Affair on Saturday, June 8, 2013.

0:24:16 **Vote**

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

0:24:36 **6. CONSIDER APPROVAL OF REQUEST FROM KEN ARAGON, ARAGON FIGHT PROMOTIONS:**

0:24:57 **A. Mixed Martial Arts Event at the Chili Cook-off at the Beach Area Park on Saturday, June 1, 2013**

Mr. Ken Aragon explained that he is asking permission to host a mixed martial arts cage fighting event at the beach area as part of the Chili Cook off. He explained that last year's event was much larger than anticipated. He said that everything went well until the end when an individual in the crowd started problems with another family. He explained that he has made a lot of changes and has met with local law enforcement and received recommendations. He said that this year there will be 3 professional events. He explained that he started incorporating a wristband only policy and if you don't have a wristband you do not belong inside the containment area. He explained that law enforcement asked that alcohol not be sold to the general public; so beer will only be sold and served in the VIP area. He said he is anticipating approximately 1500 people.

0:32:56 **Councilman Shirley** asked Assistant Chief Florez what his perspective is on the event. **Assistant Chief Florez** explained that Mr. Aragon made the effort to come in and talk to the police department and with the changes and limiting alcohol sales, the problems should be greatly reduced. **Councilman Shirley** asked Mr. Aragon if the security would remain the same or increase from last year. **Mr. Aragon** said that he will have 24 security guards this year and he had 19 last year. He explained that he is coordinating a meeting with the security company and the police department.

0:36:51 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Aguilar to approve request from Ken Aragon, Aragon Fight Promotions for a mixed martial arts event at the Chili Cook-off at the Beach Area Park on Saturday, June 1, 2013.

0:37:40 **Councilman Whitlock** asked who pays for the EMT's to be on stand by. **Mr. Aragon** said that he pays for the EMT's through Care Plus.

0:38:38 **Vote**

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

0:39:04 **B. A variance allowing Alcohol to be sold in the VIP area at the Beach Area Park on Saturday, June 1, 2013**

0:39:12 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doporto to approve request from Ken Aragon, Aragon Fight Promotions for a variance allowing Alcohol to be sold in the VIP area at the Beach Area Park on Saturday, June 1, 2013.

0:39:19 **Vote**

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

0:39:45 **7. CONSIDER ENFORCING OR RESCINDING RESOLUTION NO. 2013-10, WHICH REQUIRES THE DEMOLITION AND REMOVAL OF THE BUILDINGS AND DEBRIS AT 415 NE FIRST STREET; OWNER: JULIA C. MEDINA C/O GILBERT MELENDREZ, JR.**

0:40:08 **A. Remove from Table**

0:40:10 **Motion**

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

0:40:15 **Vote**

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

0:40:34 **B. Public Hearing**

Ms. Riordan explained that this property came before Council on February 26, 2013. She explained that the property is a single family home in poor condition and unsecured. She explained that the matter before Council is to rescind the resolution or to keep the resolution in place. She explained that Mr. Melendrez came before Council on April 9, 2013 and wishes to keep the property. She added that the property has been re-inspected and no permits have been applied for, the structure remains unsecure, and the only change to the property is the weeds have been removed. **Mr. Jones**, Building Inspector, explained that he has been keeping an eye on the structure and there has been no progress except for the weeds being removed. He explained that the structure is unsecure and there is debris scattered around the property.

0:44:03 **Councilman Shirley** asked Mr. Melendrez what his plans are and what timeframe he is requesting. **Mr. Melendrez** explained that he has no idea on the time needed. He explained that he has a trash trailer being delivered so that he can clean up the debris and secure the property. He added that if the house is a money pit, why does Councilor Doporto want to purchase the property. He added that he has to publish the property in the newspaper for two weeks before he can place the property in his name. **Councilor Whitlock** said her concern is that the property is so close to the park and she is worried about kids going in and getting hurt. **Mr. Melendrez** explained that tomorrow he will clean up the debris and secure the home. **Councilman Waters** stated that her concern is the neighborhood and the neighbors. **Mr. Meledrez** explained that there are a lot of homes in the neighborhood that are trashy. He said that he can put in new windows but with no one living in the home they will probably be

broken out, so he feels the plywood would be best. He said that there are a lot of houses that look worse than his and falling apart and he feels that this is before Council because he is being pushed to sell the house by a Councilman. **Councilman Doport** said that he did not even make an offer on the property; he said he asked how much it was being sold for after seeing the sign in the yard. He added that because he called inquiring of the cost he will again abstain from the vote.

0:52:36 **C. Consider Objection**

0:52:41 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Whitlock to approve 30 additional days to clean up and secure the property known as 415 NE First Street.

0:52:56 **Vote**

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

0:53:29 **8. REVIEW THE STATUS OF 4404 WILLOW STREET WHICH WAS REQUIRED TO BE DEMOLISHED BY RESOLUTION NO. 2012-04, OWNER: FRANK ROMERO**

Ms. Riordan explained that this property is a mobile home on a mobile home lot. She explained that this property first came before Council in January of 2012. She explained that Council has repeatedly reviewed the property and at the February 26, 2013 meeting **Mr. Romero** said he would have the work complete within two months. She explained that code enforcement has been to the property and said that the storage structure is gone and work has been done on the property but is not yet complete. **Mr. West**, Code Enforcement Officer, explained that progress has been made and a qualified electrician was hired to do the electrical work. He explained that the outside of the mobile home still needs a lot of work. He said that Mr. Romero has done everything that he said he would do, it's just been a little slower than requested. **Councilor Doss** asked what kind of timeline Mr. Romero was given. **Ms. Riordan** explained that Mr. Romero said he could have the work completed in 60 days; although it is not complete, work is being done. She explained that with no representative present to explain what needs to be done and the time needed, she is at a loss.

1:01:00 **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Salcido to give an additional 30 days to complete the work at 4404 Willow Street or it will be demolished by Resolution No. 2012-04, Owner: Frank Romero.

1:01:18 **Vote**

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

1:02:03 **9. CONSIDER APPROVAL OF RESOLUTION NO. 2013-20 A RESOLUTION REGARDING THE REQUIREMENTS FOR TELEPHONIC APPEARANCES AT PUBLIC MEETINGS OF GOVERNING BODY, BOARDS, COMMISSIONS, COMMITTEES, AGENCIES, AUTHORITIES, OR OTHER POLICY MAKING BODIES OF THE CITY OF CARLSBAD**

Mr. McCutcheon explained that this Resolution is regarding Telephonic appearances at public meetings. He explained that the issue with telephonic appearances at meetings is the identification of who is speaking and the ability of the audience to hear the caller.

1:03:29 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Waters to approve Resolution No. 2013-20 a Resolution regarding the requirements for Telephonic appearances at Public Meetings of Governing Body, Boards, Commissions, Committees, Agencies, Authorities, or other Policy Making Bodies of the City of Carlsbad.

1:03:35 **Vote**

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

1:03:49 **10. CONSIDER APPROVAL OF ORDINANCE NO. 2013-10, AN ORDINANCE REZONING PART OF "R-R" 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 (I), CARLSBAD CODE OF ORDINANCES; APPLICANT: ROBERT SCHOOLCRAFT**

1:04:26 **A. Public Hearing**

Ms. Shumsky explained that this is a request for a zoning change for a parcel that is adjacent to commercial properties. She explained that the area surrounding the property is zoned commercial to the north and west of the property. She said that the property owner owns several lots on the street and the zoning line incorporates two of the lots and the other two are in the existing designation but the building that the applicant owns straddles the lots. She explained that half of the building is in one zone and half is in another. She explained that the planning department, Planning and Zoning Commission, and City staff reviewed the request and are recommending approval. **Councilman Aguilar** asked what kind of business is going to be placed in the area. **Ms. Shumsky** explained that the applicant has an existing business and part of it is being operated in a residential portion.

1:06:37 **Mr. Schoolcraft** explained that he is requesting the zone change because part of his shop is sitting in Residential zoning and the other half is in Commercial zoning. **Councilman Aguilar** asked what business Mr. Schoolcraft is conducting from the shop. **Mr. Schoolcraft** explained that he rebuilds engines, does mechanic work, and

also uses the shop for storage. **Councilman Whitlock** asked if there are residents near the property. **Mr. Schoolcraft** answered no. **Councilman Whitlock** asked if notifications were sent out to the property owners in the area. **Ms. Shumsky** said that the applicant sent notification prior to the Planning and Zoning Commission meeting and posted a sign five days prior to the meeting and the City sent notification to property owners. She added that no responses were received.

1:09:14 **Mayor declared the public hearing closed and reconvened the Council in regular session.**

1:09:17 **B. Consider Ordinance No. 2013-10**

1:09:20 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Waters to approve Ordinance No. 2013-10, an Ordinance Rezoning Part of "R-R" 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 (I), Carlsbad Code of Ordinances; Applicant: Robert Schoolcraft

1:09:25 **Vote**

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

1:10:06 **11. CONSIDER APPROVAL OF ORDINANCE NO. 2013-11, AN ORDINANCE REZONING PART OF "R-1" 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 (I), CARLSBAD CODE OF ORDINANCES; APPLICANT: GARY DESOTO, AND GARY DESOTO, JR.**

Ms. Shumsky explained that this is a zoning change request at 3116 Texas Street. She explained that the property is currently vacant and was platted as part of the Dominic subdivision in the 1940s. She explained that there was a conflict in what was originally approved in the covenant and when zoning was adopted by the City. She explained that the applicant originally went to the Planning and Zoning Commission requesting Industrial zoning. She explained that the applicant revised his request to commercial zoning which appeased the residents of the area.

1:12:56 **A. Public Hearing**

Mr. DeSoto explained that he owns a pest and weed control business and would like to put an office and two other buildings for maintenance shops on the property. He explained that when he purchased the property he was under the impression that it was zoned commercial. **Councilman Whitlock** asked how close this property is to the church. **Mr. Desoto** said there are two lots and an alley that separate his property from the church. **Councilman Aguilar** asked Mr. DeSoto if he was going to use the property

to store junk. **Mr. DeSoto** said no and explained that his business is regulated by the State and for the safety of the public the products have to be kept locked in a safe place. **Councilman Doporto** said that he heard at one point that 14th Street would possibly be extended from Lea Street to Texas Street and asked if that is a possibility. **Mr. Tully** said he does not remember hearing that.

1:17:55 **Mayor Janway asked if anyone in the audience would like to speak regarding this issue.**

Mr. Joe Ramirez asked if there would be explosive chemicals located on the property. **Mr. DeSoto** responded no.

1:18:19 **Mayor declared the public hearing closed and reconvened the Council in regular session.**

1:18:24 **B. Consider Ordinance No. 2013-11**

1:18:28 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Doporto to approve Ordinance No. 2013-11, an Ordinance Rezoning Part of "R-1" 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 (I), Carlsbad Code of Ordinances; Applicant: Gary DeSoto, and Gary DeSoto, Jr.

1:18:35 **Vote**

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

1:19:15 **12. CONSIDER APPROVAL OF ORDINANCE NO. 2013-12, AN ORDINANCE AUTHORIZING THE SALE TO TESSENDERLO KERLEY SERVICES, INC. OF PARCEL 7, CARLSBAD AIRPORT INDUSTRIAL PARK UNIT 5, REPLAT #3, CONTAINING APPROXIMATELY 5.78 ACRES OF REAL PROPERTY**

1:19:40 **A. Public Hearing**

Mr. McCutcheon explained that this is a parcel of land that consist of 5.7 acres that adjoins TKS in the Industrial Park. He explained that TKS has expressed interest in purchasing the 5.7 acres for the standard price and believe that they can use the area to expand their existing business.

1:21:00 **B. Consider Ordinance No. 2013-12**

1:21:09 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Doporto to approve Ordinance No. 2013-12, an Ordinance authorizing the Sale to Tessengerlo

Kerley Services, Inc. of Parcel 7, Carlsbad Airport Industrial Park Unit 5, Replat #3, containing approximately 5.78 acres of Real Property

1:21:13 **Vote**

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

1:21:33 **13. CONSIDER APPROVAL OF ORDINANCE NO. 2013-13, AN ORDINANCE AUTHORIZING THE SALE TO WILBANKS COMMERCIAL HOLDINGS, LLC OF ABOUT 10.8 ACRES OF PARCEL 5-A, A DIVISION OF PARCEL 5, CARLSBAD AIRPORT INDUSTRIAL PARK, UNIT 5**

1:21:57 **A. Public Hearing**

Mr. McCutcheon explained that Wilbanks Trucking is expanding and is interested in purchasing 10.8 acres in the Industrial Park to build a yard in Carlsbad. He explained that the company typically moves rigs and some of the heavier oil field equipment. He added that Wilbanks Trucking is a very well run company and keep a very neat yard. He explained that this is the last parcel that the City has for sale at this time.

1:24:00 **B. Consider Ordinance N0. 2013-13**

1:24:02 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Nunley to approve Ordinance No. 2013-13, an Ordinance authorizing the Sale to Wilbanks Commercial Holdings, LLC of about 10.8 acres of Parcel 5-A, a Division of Parcel 5, Carlsbad Airport Industrial Park, Unit 5.

1:24:05 **Vote**

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

1:24:34 **14. CONSIDER APPROVAL OF RESOLUTION NO. 2013-21, A RESOLUTION REGARDING EXCLUDED WASTE PROHIBITION REMOVAL, DECLARATION OF SUPPORT**

Mr. John Heaton explained that his presentation is addressing a permit modification that will remove the prohibition of tank waste from the New Mexico WIPP Permit. He explained that by removing the prohibition WIPP could move transuranic waste and deposit the waste at WIPP.

His presentation included:

- WIPP is the only deep geologic repository
- Hanford Tank Waste
- State Authority
- Reasons to send TRU waste to WIPP
- Challenges

- Limitations
- Safe, Smart Option

1:39:51 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Waters to approve Resolution No. 2013-21, a Resolution regarding excluded waste prohibition removal, Declaration of Support.

1:40:06 **Vote**

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

1:40:31 **15. G.2 BOARD AND COMMITTEE APPOINTMENTS: WALTER GERRELLS PERFORMING ARTS & EXHIBITION CENTER RFP REVIEW COMMITTEE: COUNCILOR JANELL WHITLOCK, CO-CHAIRMAN, COUNCILOR JR DOPORTO, Co-Chairman, Bernita Smith-Payne, Wren Stroud, Dr. John Gratton, Matt Byers, and Mike Cleary**

Councilman Shirley explained that his concern is given the extensive equipment that NMSU-Carlsbad has at the Civic Center, he is questioning whether any officials with NMSU should be on the Committee. He explained that with Dr. Gratton and Mr. Cleary both on the Committee NMSU will have heavy representation and also heavy interest. **Mayor Janway** said that is the reason they were placed on the Committee. **Councilman Shirley** said that one would be ok, but he feels two is a bit much. He said he would like to see a member of the Civic Center Board on the Committee. He asked what the options for moving forward would be. **Ms. Riordan** explained that Council could choose to approve the list as it exists, the matter could be tabled, or Council could remove and or add an appointee.

1:43:24 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Aguilar to remove one of the members from NMSU-C at the Mayors discretion.

1:45:06 **Councilor Doss** said that he does not see a problem with two member of NMSU-C on the Committee. He explained that they do have a vested interest with the equipment and that they use the center in conjunction with the College but he does not see a problem with having two members on the Committee. **Councilman Aguilar** said that he agrees with Councilman Shirley that one of the Walter Gerrells Performing Arts & Exhibition Center Board members should also be on the Committee. **Ms. Jackson** said that the RFP is due on May 6, 2013 at 4:30 p.m.

1:47:34 **Vote**

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

1:48:34 **Motion**

The motion was made by Councilman Doss and seconded by Councilman Nunley to approve the Walter Gerrells Performing Arts & Exhibition Center RFP Review Committee appointments.

1:48:44 **Vote**

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

1:49:36 **16. ITEM E.1 CONSIDER APPROVAL OF SECOND RENEWAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD AND THE GARDEN MART, INC. FOR GROUNDS KEEPING AND MAINTENANCE OF CITY-WIDE LANDSCAPES, MEDIANS, GATEWAYS AND PROPERTIES**

Councilman Doporto asked for an explanation as to why the City pays \$25,000 a year to maintain medians that contain 80% rock. **Mr. Carlson** explained that they spray for weeds and maintain the medians. **Councilman Doporto** asked why City crews could not maintain the medians and save the City a substantial amount of money. He also asked about the palm trees that were on Greene Street, if they were wrapped when they froze and if they have all been removed. He explained that the City was hit by the press for having dead palm trees on the median after the City had paid to keep medians maintained. **Mr. Tully** explained that this agreement for the medians was amended last year. He explained that when the medians were landscaped it was intended to have a professional with expertise tend to them. He explained that it is always a challenge to deal with the irrigation system and the replanting. He added that it takes a professional and it is a full time job and the City is paying the contract less than it would cost to pay a full time caretaker with benefits. **Ms. Riordan** added that the original agreement was in July of 2011 and the hard freeze happened earlier than that, so Garden Mart was not in control of the landscapes or medians at that time.

1:55:16 **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Shirley to approve Second Renewal of Agreement between the City of Carlsbad and the Garden Mart, Inc. for Grounds Keeping and Maintenance of City-wide Landscapes, Medians, Gateways and Properties.

1:55:28 **Vote**

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

1:55:47 **17. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS**

Councilman Shirley recognized Carlsbad High School's Skills USA for receiving 11 metals at State Competition and added that the CHS Choir won the State Championship.

1:56:38 **18. ADJOURN**

1:56:41 **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Doporto to Adjourn.

1:56:45 **Vote**

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

There being no further business, the meeting was adjourned at 8:01 p.m.

/s/Dale Janway
Mayor

ATTEST:

/s/Annette Barrick
City Clerk