

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON APRIL 9, 2013 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Paul C. Aguilar	Councilor
	Nick G. Salcido	Councilor
	J. R. Doporto	Councilor
	Judith E. Waters	Councilor
	Janell E. Whitlock	Councilor
Absent:	Sandra K. Nunley	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
Also Present:	Jon Tully	City Administrator
	Steve McCutcheon	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	Deputy City Clerk
	Monica Harris	Finance Director
	Stephanie Shumsky	Planning, Eng., & Reg. Director
	Luis Camero	Public Works Director
	Rick Lopez	Fire Chief
	Danny Fierro	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**

0:00:02        Invocation – Pledge of Allegiance

0:00:52        **Mayor Janway introduced Randy Galindo, as the new Safety Manager for the City of Carlsbad.**

**Mr. McCutcheon** added that the City feels fortunate to have Mr. Galindo working as the City Safety Manager. He explained that Mr. Galindo worked for the County and spent the last 5 years as a trainer at WIPP. He said that Mr. Galindo has MSHA, OSHA, and DOT certifications and the City is excited for the safety program and what Mr. Galindo will add.

0:01:50        **1. APPROVAL OF AGENDA**

0:01:52        **Motion**

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

0:01:56       **Vote**

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

0:02:11       **2. BUDGET REVIEW AS OF JANUARY 31, 2013**

**Ms. Harris** reviewed the revenues and expenditures as of January 31, 2013 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:06:12       **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doporto to approve the Budget Review as of January 31, 2013.

0:06:18       **Vote**

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

0:06:31       **3. CONSIDER APPROVAL OF RES. NO. 2013-17, A RESOLUTION MAKING CERTAIN BUDGET ADJUSTMENTS TO 2012-2013 FISCAL YEAR BUDGET (4TH QUARTER BUDGET ADJUSTMENTS)**

**Ms. Harris** reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2012-2013 Fiscal Year Budget highlighting the General Fund, Park Improvement Fund, Street Improvement Fund, CIEP Fund, and Health Insurance Fund.

0:10:38       **Councilman Whitlock** asked which lot across the street would be repaved. **Mr. Tully** explained that the City owns 2 lots across the street. He said the lot being repaved is the lot directly across that street. **Ms. Harris** added that the main problem is that the City has added more staff making it difficult to find parking in the area.

0:12:11       **Motion**

The motion was made by Councilman Waters and seconded by Councilman Doporto to approve the Resolution No. 2013-17, a Resolution making certain Budget Adjustments to 2012-2013 Fiscal Year Budget (4th Quarter Budget Adjustments).

0:12:21       **Vote**

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

0:12:35       **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on March 26, 2013
- B. Personnel Report

C. Purchasing:

- 1) Consider approval to Award Bid No. 2013-11, to Constructor's Inc. for San Jose Boulevard Reconstruction Phase 2 in the amount of \$1,848,685.76
- 2) Consider approval to Award Bid No. 2013-13, to Burn Construction Company for the Golf Barn Lift Station, in the amount of \$59,556.90
- 3) Consider approval to publish Invitation for Request for Proposal for Contract Management of the Walter Gerrells Performing Arts Center
- 4) Consider approval to enter into a contract with Souder Miller and Associates for Professional Engineering Services for the Master Drainage Plan for the City of Carlsbad

D. Contracts and Agreements:

- 1) Consider approval of Agreement between the City of Carlsbad and Paul Brad Molgaard regarding a residence at the Carlsbad Shooting Range
- 2) Consider approval of Agreement between the City of Carlsbad and Chandler Aviation, LLC for a Ground Space Lease at the Cavern City Air Terminal

E. Monthly Department Reports:

- 1) Personnel Department Monthly Report for March 2013
- 2) Transportation Department Monthly Report for February 2013

F. Boards and Committee Appointments:

- 1) Long Range Planning Committee-(Implementation of the Long Term Plan)  
Councilor Nick Salcido, Councilor Sandy Nunley, Councilor Judi Waters, Cliff Stroud, Wanda Durham, Roxanne Lara, Deanna Taylor, Brandon Bussell

G. Set Date: May 28, 2013

- 1) Consider approval to set date to consider an ordinance rezoning part of "R-1" 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(I), Carlsbad Code of Ordinances (514 Center Ave)
- 2) Consider approval to set date to consider an Ordinance Rezoning part of "R-R" Rural 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 (3817 National Parks Hwy)
- 3) Consider approval to set date to consider an Ordinance Rezoning part of "R-R" Rural 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 (4012 National Parks Hwy)

0:12:55      **Mayor Janway asked Mr. McCutcheon to discuss item C.1 Consider approval to Award Bid No. 2013-11, to Constructor's Inc. for San Jose Boulevard Reconstruction Phase 2 in the amount of \$1,848,685.76; Item C.4 Consider approval to enter into a contract with Souder Miller and Associates for Professional Engineering Services for the Master Drainage Plan for the City of Carlsbad; and Item D.1**

**Consider approval of Agreement between the City of Carlsbad and Paul Brad Molgaard regarding a residence at the Carlsbad Shooting Range.**

**Mr. McCutcheon** explained that Item C.1 is the approval to Award Bid to Constructor's for the San Jose Boulevard Reconstruction Phase 2 that starts at Fiesta Drive and goes North to Diaz Street. He explained that it includes 2 lanes of traffic, sidewalks, curb and gutter, and low water crossing at Dark Canyon Bridge designed for a 25 year flood event.

**Councilman Aguilar** asked if the road would have a turning lane. **Mr. McCutcheon** said it technically is a 3 lane which will allow for 2 lane traffic and a turning lane.

**Councilman Aguilar** explained that he has asked if the City could get a \$5 million loan to build a bridge over Dark Canyon which would be designed for a 100 year flood event. **Mr. McCutcheon** explained that the Double Eagle loan repayment comes from water and sewer funds and the bridge project would not meet the eligibility requirements for the EPA supported program. He added that he does acknowledge that Councilman Aguilar has worked hard for that bridge and it seems to be that the City has hit several stumps trying to move forward on the bridge.

0:15:58 **Mayor Janway** asked if **Mr. McCutcheon** could explain **Item C.2 Consider approval to Award Bid No. 2013-13, to Burn Construction Company for the Golf Barn Lift Station in the amount of \$59,556.90.**

**Councilman Doportto** explained that the tax was not included in the Base Bid Price. **Mr. McCutcheon** added that the tax and other costs associated were not added to the Base Bid Price.

0:16:13 **Discussion on the size of the Pump, the type of Pump, and the distance to the nearest sanitary sewer line.**

0:18:40 **Mr. McCutcheon** explained that on January 8, 2013, Council approved Item C.4 to enter into a contract with Souder Miller and Associates for engineering services for completion of a master drainage plan. He explained that negotiation of a successful contract is complete and that the plans will be for a 25 year flood event.

0:19:28 **Mr. McCutcheon** explained that Item D.1 is a contract between the City and Mr. Molgarrd regarding a residence at the Carlsbad Shooting Range. He explained that the contract requests that Mr. Molgaard perform security services for the City, open and close the gates, and compensate the City for the use of the land where his mobile home is located in the amount of \$300.00 per month.

0:20:52 **Mr. McCutcheon** explained that Item F.1 is to appoint the implementation group that will focus on the Long Term Plan. He said that the committee would comprise of Councilor Nick Salcido, Councilor Sandra Nunley, Councilor Judi Waters, Cliff Stroud, Wanda Durham, Roxanne Lara, Deanna Taylor, and Brandon Bussell. He

added that Deanna Taylor has a conflict and can not serve on the committee. **Councilman Waters** asked if she could be replaced on the committee due to her position as President of Chamber of Commerce she is on every committee in town.

0:22:44        **Motion**

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

0:22:51        **Vote**

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

0:23:01        **5. CONSIDER APPROVAL OF THE NEW MEXICO FINANCE AUTHORITY PUBLIC WATER SYSTEM LETTER OF BINDING COMMITMENT DW 2867**

**Mr. McCutcheon** explained that this is a \$20 million dollar loan specifically designed for the completion of the Double Eagle Projects Phase I and II. He explained that the loan was approved through the New Mexico Finance Authority (NMFA). He added that Mr. Camero put the application together and did an excellent job with support from Ms. Harris and Ms. Beason. He said that the application was approved for a 22 year payback with 2% interest and added there may be some debt forgiveness.

**Councilman Doporto** asked if these funds would be all the funds needed to complete the project. **Mr. McCutcheon** said at this time, yes.

0:25:07        **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Waters to approve the New Mexico Finance Authority Public Water System Letter of Binding Commitment DW 2867.

0:25:14        **Vote**

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

0:25:28        **6. CONSIDER APPROVAL OF LAND EXCHANGE BETWEEN THE CITY OF CARLSBAD AND JASON CIEMPA FOR PROPERTY LOCATED IN THE COLLIER SUBDIVISION, LOCO HILLS, NM AND AUTHORIZATION FOR THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE THE REQUIRED DOCUMENTS TO FINALIZE THE TRANSACTION**

**Mr. McCutcheon** explained that the City has been working to acquire a small piece of property that is located on the NW corner of the lot next to the City owned property where the Double Eagle warehouse and shop is located. He explained that Mr. Ciempa owns the property and would like to trade for property that is on the back part of the City owned property. He added that each of the properties was appraised for the same

amount. He explained that with the exchange of property it will allow the City to better place the new shop and have more truck access to the property.

0:27:02        **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Waters to approve the land exchange between the City of Carlsbad and Jason Ciempa for property located in the Collier Subdivision, Loco Hills, NM and authorization for the Mayor and City Administrator to execute the required documents to finalize the transaction.

0:27:08        **Vote**

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

0:27:31        **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.**

**Ms. Riordan** explained that this matter came before Council on February 26, 2013. She explained that it is a small home on Northeast First Street that is not secure. She explained that the yard has tall weeds, there is a lot of debris in the backyard, and there is a small storage structure that is down to exposed wood. She added that the roof is in very poor shape and causing interior water damage. She said that based on the age of the structure and the poor condition the recommendation by the Fire Marshall, the Building Inspector, and Code Enforcement is demolition.

0:29:48        **A. Public Hearing**

**Mr. David Melendrez** explained that he just received power of attorney over the property. He explained that he did have the property boarded up and currently has an interested buyer for the property. He said that a contractor went in and looked at the property and said that the trusses are fine. He added that he will need to add new decking and shingles to the roof. He said that he is asking that the house not be demolished. He said he could have the yard cleaned up by Monday, April 15, 2013.

**Ms. Riordan** explained that photos taken today show that the back door is not secured, the yard remains unmowed, there is debris in the yard, and no permits have been applied for or obtained.

**Councilman Whitlock** asked if there was a ball field close to the property. **Mr. Melendrez** said the ball field is right across the street. **Councilman Whitlock** explained that her concern is young people going into the property.

**Councilman Waters** asked Mr. Jones, Building Inspector, if he feels the house can be reasonably rehabilitated. **Mr. Jones** said that professionally speaking he thinks the

house is a money pit. He added that the owner will not be able to recover the costs put into the structure because part of the structure needs to be completely torn down. He explained that there is evidence that someone has been into the structure. He added that there is no plumbing or electrical. **Mr. Melendrez** explained that there is a new gas line and explained that he lived in the home a year ago. He said that there is electrical but that the plumbing needs to be redone.

**Councilman Doporto** asked Mr. Melendrez what he could do to improve the property and structure in 60 days time. **Mr. Melendrez** explained that he could board up the property and clean it. He asked if his property is a money pit, why Councilman Doporto contacted him with the interest in purchasing the Property. **Councilman Doporto** said that he is interested in the property because he lives in the neighborhood and would like to see the structure demolished for neighborhood improvement. He added that because he is interested in the property he will abstain from the vote.

0:38:13        **Discussion regarding what can be done to improve the property within 60 days.**

0:38:54        **Discussion regarding tabling the Item until the next Council meeting to allow Mr. Melendrez time to bring a plan back to Council.**

0:40:35        **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.

0:40:43        **B. Consider Objection**

0:40:47        **Motion**

The motion was made by Councilman Salcido and seconded by Councilman Aguilar to table enforcing or rescinding Resolution No. 2013-10, which requires the demolition and removal of the building and debris at 415 NE First Street; Owner Julia C. Medina c/o Gilbert Melendrez, Jr. to the next Council meeting on April 23, 2013.

0:42:25        **Vote**

The vote was as follows: Yes - Salcido, Whitlock, Aguilar; No - Waters; Absent - Doss, Nunley, Shirley; Abstained - Doporto; The motion carried.

0:42:54        **8. CONSIDER APPROVAL OF RESOLUTION NO. 2013-18, A RESOLUTION DECLARING CERTAIN CITY PROPERTY TO BE OBSOLETE AND UNUSABLE**

**Mr. McCutcheon** explained that this is a standard resolution for obsolete and unusable property that no longer has value to the City.

0:43:27        **Motion**

The motion was made by Councilman Whitlock and seconded by Councilman Aguilar to approve Resolution No. 2013-18, a Resolution declaring certain City property to be obsolete and unusable.

0:43:33           **Vote**

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

0:43:44           **9. CONSIDER APPROVAL OF RESOLUTION NO. 2013-19, A RESOLUTION REGARDING REQUIREMENTS FOR NOTICE OF PUBLIC MEETINGS OF THE GOVERNING BODY, BOARDS, COMMISSIONS, COMMITTEES, AGENCIES, AUTHORITY, OR OTHER POLICYMAKING BODIES OF THE CITY OF CARLSBAD**

**Ms. Riordan** explained that under the open meeting act and the attorney generals compliance guide, a public body is required to annually adopt a resolution regarding its notice requirements. She explained that legislature has passed and the governor has signed a bill changing some standard regulations. She explained that the new standard is that notice of a meeting must be given 72 hours in advance. She added that should the City declare that there is an emergency and add an item to a Agenda and give less than 72 hours notice, the City must report to the Attorney General's office within 10 days with an explanation and what action was taken. She explained that if there is a declaration of a State or National emergency the requirement is waived.

0:47:24           **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doporto to Resolution No. 2013-19, a Resolution regarding requirements for Notice of Public Meetings of the Governing Body, Boards, Commissions, Committees, Agencies, Authority, or other Policymaking Bodies of the City of Carlsbad.

0:47:31           **Vote**

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

0:47:42           **10. CONSIDER APPROVAL OF ORDINANCE NO. 2013-09, AN ORDINANCE DONATING (20) TWENTY ACRES OF CITY- OWNER 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)**

0:48:04           **A. Public Hearing**

**Mr. McCutcheon** explained that this property consists of 20 acres on Corrales Road for the new Sheriffs facility. He explained that the property will be donated to the County with the reversion clause included in the Ordinance.

**Mr. Sartin**, County Manager, said that the County has set aside the current estimate of \$8.7 million to build the facility. He added that the design will go out for bid in May and the County is anxious to have this finalized.

**Councilman Doporto** commented that the City is donating this property and added that the bypass project is coming up and asked if the County is asking the City for funds. **Mr. McCutcheon** explained that the issue has been discussed with the County and preliminary numbers have been done based on using Corrales or Commerce for the route. He said that it was found that the costs are very similar and it is very possible that the City will be asked to participate in the bypass as it reaches City property.

**Councilman Doporto** asked why the County can not donate the City's portion as a trade off for the land donation. He added that he does not understand why the City is always donating property to the County, possibly the County could pay for the engineering portion that goes through City property. **Mr. McCutcheon** explained that the County has proposed to assist the City with the engineering portion.

**Councilman Whitlock** added that she is glad to see the City and the County working together and added that in the future she would like the County to do the same for the City.

**Mr. Sartin** added that the bypass is intended to benefit the City of Carlsbad and the County will spend \$22 million to build the bypass. **Mr. McCutcheon** said that the preliminary cost for the City's portion is in the range of \$600,000 to come down Corrales Rd.

0:54:43 **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.

0:54:50 **B. Consider Ordinance**

0:54:52 **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Whitlock to approve Ordinance No. 2013-09, an Ordinance donating (20) twenty acres of City-Owned property in the Carlsbad Airport Industrial Park to Eddy County as the site for a new Eddy County Sherriff's Department Facility (Parcel 5B, as shown on the plat for Carlsbad Airport Industrial Park, Unit 5).

0:54:59 **Vote**

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

0:55:13      **11. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS**

None to report.

0:55:30      **12. ADJOURN**

0:55:32      **Motion**

The motion was made by Councilman Waters and seconded by Councilman Whitlock to Adjourn.

0:55:42      **Vote**

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

There being no further business, the meeting was adjourned at 6:58 p.m.

\_\_\_\_\_  
/s/Dale Janway

Mayor

ATTEST:

\_\_\_\_\_  
/s/Annette Barrick

City Clerk