

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON JULY 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
	Jason Shirley	Councilor
	Janell E. Whitlock	Councilor
Absent:	Sandra K. Nunley	Councilor
	Richard Doss	Councilor
Also Present:	Steve McCutcheon	City Administrator
	Eileen P. Riordan	City Attorney
	Annette Barrick	City Clerk
	Monica Harris	Finance Director
	Stephanie Shumsky	Planning, Eng., & Reg. Director
	Luis Camero	Public Works Utilities Director
	Thomas Carlson	Public Works Director
	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**

0:00:02      Invocation - Pledge of Allegiance

0:00:36      **1. APPROVAL OF AGENDA**

0:00:39      **Motion**

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

0:00:43      **Vote**

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

0:00:54

**2. ROUTINE AND REGULAR BUSINESS**

A. Minutes of the Regular City Council Meeting held on June 25, 2013

B. Personnel Report

C. Purchasing:

- 1) Consider approval to Advertise Invitation to Bid one, (1) Utility Tractor with Canopy, Front End Loader, and Rotary Cutting Attachment in the amount of \$40,000.
- 2) Consider approval to Advertise Invitation for Request for Proposals for Callaway Drive Reconstruction Engineering in the amount of \$250,000

D. Contracts and Agreements:

- 1) Consider approval of Agreement between the City of Carlsbad and Carlsbad Municipal Schools for Fiscal Year 2013-2014
- 2) Consider approval of Memorandum of Understanding between the City of Carlsbad-Police Department and the Administrative Office of the Courts for the DWI/Drug Court Program

E. Monthly Department Reports:

- 1) Personnel Monthly Report for June 2013
- 2) Planning, Engineering, and Regulation Department Monthly Report for June 2013

F. Boards and Committee Appointments:

- 1) Carlsbad Lodgers' Tax Advisory Board: Dale Balzano, 4-year term
- 2) Carlsbad Parks and Recreation Advisory Board: Brandon Bussell, 4-year term
- 3) Carlsbad Planning and Zoning Commission: Eddie Rodriquez, 2-year term

G. Set Dates: July 23, 2013

- 1) To consider appeal of previously approved PUD Concept Plan and Development Standards for the Spring Hollow Subdivision to allow a rear-yard setback variance of 10' from the required 15' setback, which would result in a 5' rear-yard setback at 1826 Hays Drive, Zoned PUD

H. Set Dates: August 13, 2013

- 1) An Ordinance rezoning part of "R-R" Rural Residential District to "PUD" Planned Unit Development District and Amending the Official Zoning Map of the City Pursuant to Section 3-21- 1 Et. Seq. NMSA 1978 and sections 56-150(J) and 56-140 (I), Carlsbad Code of Ordinances, regarding 14+/- acre parcel located at the Northwest corner of Cherry Lane and Callaway Drive intersection

0:01:15

**Mayor Janway asked Mr. McCutcheon to discuss Item D.1 Consider approval of agreement between the City of Carlsbad and Carlsbad Municipal Schools for Fiscal Year 2013-2014; Item G.1 Set Date of July 23, 2013 to consider appeal of previously approved PUD Concept Plan and Development Standards for the Spring Hollow Subdivision to allow a rear-yard setback variance of 10' from the required 15' setback, which would result in a 5' rear-yard setback at 1826 Hays Drive, Zoned PUD; and Item H.1 Set date of August 13, 2013 for an Ordinance rezoning part of "R-R" Rural Residential District to "PUD" Planned Unit Development District and Amending the Official Zoning Map of the City Pursuant to Section 3-21-1 Et. Seq.**

**NMSA 1978 and sections 56-150(J) and 56-140(I), Carlsbad Code of Ordinances, regarding 14+/- acre parcel located at the Northwest corner of Cherry Lane and Callaway Drive intersection.**

**Mr. McCutcheon** explained that Item D.1 is a contract between the City of Carlsbad and the Carlsbad Municipal Schools. He explained that the contract is virtually the same contract that the City has had with Carlsbad Municipal Schools since 2007. He explained that the contract does contain a few additional items that were previously approved by Council.

**Mr. McCutcheon** explained that Item G.1 is to set the date of July 23, 2013 to consider an appeal of a previously approved Planned Unit Development (PUD). He explained that this is a small item in the PUD plan to allow a set-back variance. He explained there is a 15' set-back requirement and an individual is requesting a 5' rear-yard setback at 1826 Hays Drive.

**Mr. McCutcheon** explained that Item H.1 is to set the date of August 13, 2013 to consider an Ordinance which rezones part of a Rural Residential District to a Planned Unit Development (PUD). He explained that the area is located across from the Good Life Retirement Home. He explained that the area is a 14 acre tract and the owners wish to develop residential lots.

0:04:09        **Mayor Janway mentioned that F.3 is the Board Appointment of Eddie Rodriquez for the Carlsbad Planning and Zoning Commission.**

**Mayor Janway** mentioned that Mr. Rodriquez was present and thanked him for serving.

0:04:25        **Councilman Shirley thanked the Council for approving the funds for Eddy Alternative School.**

0:04:48        **Motion**

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

0:04:53        **Vote**

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

0:05:09        **3. CONSIDER APPROVAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD AND THE COUNTY OF EDDY, NEW MEXICO REGARDING EXTRATERRITORIAL ZONING**

**Ms. Riordan** explained that in February of 2013, Council voted and agreed to terminate the existing ETZ zoning from 1977. She explained that Council set a delayed recension date of April 2014 to give the City and the County time to create the new ETZ zoning. She explained that under the current State Law the City and County need to enter into

an agreement. She explained that this agreement sets fourth the composition of the two ETZ bodies, the ETZ authority and the ETZ commission. She said that the ETZ commission is made up 5 citizens that will design an ETZ Ordinance with a maximum of 1 year to complete. She explained the Ordinance would then go to the ETZ authority that will consist of 1 City Councilor and 2 Eddy County Commissioners. She said the ETZ authority could approve the proposed zoning or ask that it be revised and send the proposed zoning back to the commission for review. She explained if the proposed zoning is approved, the zoning would be enforced by the 2 bodies and no longer be heard by the County Commission or the City Council. She explained that the County has agreed to provide an ETZ enforcement officer, secretarial staff, office space, and the County has agreed to bare 2/3 of the cost. She added that the City will bare 1/3 of the total cost. She explained that if this agreement is approved the next step will be to recommend members and create the governing bodies.

**Councilman Whitlock** explained that in the past the City has sent agreements to the County and the County would never approve the agreement. She explained that this time the County has approved the agreement and now it is up to the City. She added that she is concerned with the effective date of April 22, 2014. **Ms. Riordan** explained that the maximum timeline by state statute is 1 year. **Councilman Shirley** explained that the Committee has worked really hard on the agreement and feels the citizens of Carlsbad will find the agreement to be fair. He added that the committee has really created something that will benefit everyone.

**Councilman Waters** explained that she received 2 phone calls from concerned residents in the area who have livestock. She explained that the residents asked if they would be grandfathered in or if they would no longer be allowed to have livestock. **Ms. Riordan** explained that it would be up to the authority to design an appropriate and feasible set of ordinances for all of the areas. **Councilman Whitlock** added that the committee discussed the need for a public meeting to give all citizens a chance to voice their concerns. **Councilman Shirley** added that the idea is not to change the area it is to give added protection, address the concerns of citizens in the area, and to streamline potential businesses that are interested in the area.

0:14:03           **Motion**

The motion was made by Councilman Aguilar and seconded by Councilman Doporto to approve Agreement between the City of Carlsbad and the County of Eddy, New Mexico regarding Extraterritorial Zoning.

0:14:09           **Vote**

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

0:14:26           **4. CONSIDER APPROVAL OF REQUEST FROM JOE BROWNLEE, FROSTY TREATS OF TEXAS, INC. FOR PERMISSION TO ALLOW**

**FOR MOBILE SALES OF ICE CREAM OUT OF AN ICE CREAM TRUCK ON CITY RIGHTS-OF-WAY, PARKS, ETC.**

**Ms. Shumsky** explained that this request to allow mobile sales of ice cream out of an ice cream truck on City rights-of-way and parks. She explained that the City has issued what was in the past called a Special License and what is now called Temporary Use Permit. She explained that the applicant has received a permit for several years and staff has not received any complaints. She explained the Temporary Use Permit conditions and said that the applicant is aware of the conditions. She added that staff recommends approval for the Temporary Use Permit.

**Councilor Whitlock** asked what the hours of operation would be. **Ms. Shumsky** said the hours of operation are from 9:00 a.m. to 7:00 p.m. **Councilor Whitlock** asked if the applicant would ring a bell to alert the kids. **Ms. Shumsky** said that the applicant plays very mild music.

0:17:32      **Motion**

The motion was made by Councilman Doporto and seconded by Councilman Waters to approve request from Joe Brownlee, Frosty Treats of Texas, Inc. for permission to allow for mobile sales of ice cream out of an ice cream truck on City rights-of-way, parks, etc.

0:17:37      **Vote**

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

0:17:51      **5. CONSIDER APPROVAL OF RESOLUTION NO. 2013-33, A RESOLUTION DECLARING THE ELIGIBILITY AND INTENT OF THE CITY OF CARLSBAD TO SUBMIT AN APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR FEDERAL FISCAL YEAR 2014-2015 TRANSPORTATION ALTERNATIVES PROGRAM FUNDS (TAP) THROUGH THE SOUTHEAST REGIONAL PLANNING ORGANIZATION**

**Ms. Shumsky** explained that this is a request for approval to submit an application for the Transportation Alternatives Program set forth by the Federal legislation, Moving Ahead for Progress in the 21st Century (MAP-21). She explained that in the past the City has applied for grants through this program under the enhancement program. She explained that under the new MAP-21 many of the programs have been lumped together. She explained that this application will be for the Safe Routes to School Coordinator.

**Councilman Whitlock** asked if the City will pay the expenses and then be reimbursed. **Ms. Shumsky** explained that the Federal Highway Administration is requesting that the Municipality spend the money and receive reimbursement and a 14% match.

0:20:46      **Motion**

The motion was made by Councilman Shirley and seconded by Councilman Aguilar to approve Resolution No. 2013-33, a Resolution declaring the eligibility and intent of the City of Carlsbad to submit an application to the New Mexico Department of Transportation for Federal Fiscal Year 2014-2015 Transportation Alternatives Program Funds (TAP) through the Southeast Regional Planning Organization.

0:20:52        **Vote**

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

0:21:03        **6. COUNCIL COMMITTEE REPORTS AND RECOMMENDATIONS**

**Mr. Larry Campbell** came before Council and explained that he missed the last 2 Council meetings that included his request for a Dog Show on the agenda. He requested that Council reinstate his request at the next Council meeting. **Mayor Janway** explained that Mr. Campbell will need to resubmit a request to Mr. McCutcheon and he will be added to the Council agenda.

0:22:13        **7. ADJOURN**

0:22:14        **Motion**

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

0:22:23        **Vote**

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

0:22:40        **Adjourn**

There being no further business, the meeting was adjourned at 6:28 p.m.

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

ATTEST:

\_\_\_\_\_  
/s/Annette Barrick  
City Clerk