

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON APRIL 11, 2017 AT 6:00 P.M.**

Present:	Dale Janway Lisa A. Anaya Flores Edward T. Rodriguez J. R. Doporto Wesley A. Carter Jason Shirley Richard Doss	Mayor Councilor Councilor Councilor Councilor Councilor Councilor
Absent:	Ward 4 Leo B. Estrada	Vacancy Councilor
Also Present:	Steve McCutcheon Stephanie Shumsky Eileen P. Riordan Annette Barrick Patsy Jackson-Christopher Luis Camero Steve Hendley Michael Hernandez Wendy Hammett Richard Lopez Jeff Patterson Kent D. Waller Patrick Cass	City Administrator Deputy City Administrator City Attorney City Clerk Director of Arts & Culture Director of Engineering Services Director of Parks & Recreation Director of Utilities Finance Director Fire Chief Planning Director Police Chief Public Works 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

0:01:47 **1. APPROVAL OF AGENDA**

0:01:49 **Motion**
The motion was made by Councilor Doporto and seconded by Councilor Rodriguez to approve the Agenda

0:01:52 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:02:02 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting Held on March 28, 2017
- B. Minutes of the Special City Council Meeting Held on March 30, 2017
- C. City Personnel Report
- D. Purchasing:
 - 1) Consider approval to Advertise for Request for Proposals for Annual Audit Services for FY 2016-2017
 - 2) Consider approval for Renovations at the Little Village at the Pecos River Village Conference Center by Wade Construction through CES pricing agreement #0213-029, 2014-26
- E. Contracts and Agreements:
 - 1) Consider approval of Agreement between the City of Carlsbad and the NM Department of Finance and Administration Fund 89200 Capital Appropriation Project-Legislative Grant Agreement for a Mental Health Facility in Carlsbad in the amount of \$485,000
- F. Monthly Reports:
 - 1) Carlsbad Municipal Court Monthly Report, March 2017
 - 2) Personnel Department Monthly Report, March 2017
 - 3) Planning, Engineering, & Regulation Department Monthly Report, March 2017
- G. Board Appointments:
 - 1) Arbor Day Foundation Tree City New Mexico Advisory Board: Mary Garwood, remainder of 4-year term
- H. Set Date: May 23, 2017
 - 1) An Ordinance Rezoning Part of "R-1" Residential District to "C-1" Commercial District for an approximately 0.55 acre property, located at 2806 and 2808 San Jose Boulevard
 - 2) An Ordinance Rezoning Part of "R-1" Residential District to "C-1" Commercial District for an approximately 0.63 acre property, located at 201, 203, and 205 East Pierce Street
 - 3) An Ordinance Rezoning Part of "C-2" Commercial District to "R-2" Residential District for an approximately 0.45 acre property located at 2126 and 2128 San Jose Boulevard, 325 Peachtree Street and 324 Plum Street
 - 4) An Ordinance Amending Chapter 6 of the Code of Ordinances, City of Carlsbad New Mexico regarding Animals

0:02:25 **Mayor Janway asked Mr. McCutcheon to discuss Item D.2 Consider approval for Renovations at the Little Village at the Pecos River Village Conference Center by Wade Construction through CES pricing agreement #0213-029, 2014-26; and Item E.1 Consider approval of Agreement between the City of Carlsbad and the NM Department of Finance and Administration Fund 89200 Capital Appropriation**

Project-Legislative Grant Agreement for a Mental Health Facility in Carlsbad in the amount of \$485,000

Mr. McCutcheon said that Item D2 is a \$71,000 Legislative Grant that is left over from other renovations and work done on the Little Village at the Pecos River Village. It is mainly used for re-flooring.

Mr. McCutcheon explained Item E1 is to accept a \$485,000 Legislative Grant from the Department of Finance and Administration that Catherine Brown requested. The purpose of this grant is to re-build the Capital for the Crossroads Program. He said there are no City funds involved in this. **Mr. McCutcheon** recognized Catherine Brown for obtaining the grant and Eileen Riordan for her work in helping obtain the grant.

0:04:18 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve the Routine and Regular Business

0:04:23 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:05:02 **3. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE/BUSINESS LICENSE BY BENNETT'S AMUSEMENT FOR A CARNIVAL AT 2522 S. CANAL STREET ON APRIL 27, 2017 TO APRIL 30, 2017**

Mr. Patterson explained this request is for a business license to hold a carnival at 2622 S. Canal Street on the dates of April 27th through April 30th of this year. He said the applicant is Bennett's Amusement out of Moriarty, New Mexico and has filled out their temporary use application and business license application and has provided the Planning Department with all of the documentation required. **Mr. Patterson** said they have also provided a general site plan and thinks they will be providing a more detailed site plan before the carnival would commence.

Mr. McCutcheon asked who sponsored the event. **Mr. Patterson** explained that the event is not sponsored by anyone, it is a private entity. He introduced Brenda Moore who is there representing the applicant.

0:06:50 **Ms. Moore** explained she is with the Disabled American Veteran Auxiliary. She said for the last 15 years Bennett's Amusement has allowed them to hand out coupons to children for \$2 off each armband. The two dollars collected from the coupons are given to the Disabled American Veteran Auxiliary in the State of New Mexico.

Mr. McCutcheon mentioned that Bennett's Amusement has been coming to Carlsbad for several years and has been a satisfactory carnival operation.

Councilor Rodriguez asked if they have parking worked out in that area yet. **Mr. Patterson** said he has asked for them to provide a parking plan and believes they are still working with the property owner to figure that detail out. He said they provided details on how they will handle sanitation, cleaning up the property and making sure that the trash does not go onto other properties surrounding it.

0:09:22 **Councilor Doss** asked Chief Kent Waller if they have had problems with this in the past or if it's been a fairly smooth-running operation. **Chief Waller** said any parking along the 62/180 and 285 highway is not going to be acceptable and there is no parking pavement wise. He said the rest of the area is either going to be railroad easement or private property. He said he has not seen the plans of the location and does not know how big the area is to have parking around the carnival.

Ms. Moore explained that the carnival was previously located on Standpipe but there has been a RV Park built in that location. She said this is a new location and will have parking in the back area on the private property owned by Mr. Theodore Pope. She said they will have a non-profit organization to make sure the parking is worked out.

Councilor Rodriguez asked if Burlington Northern Santa Fe (BNSF) was made aware of the carnival crossing their tracks. **Ms. Moore** said they did not make them aware of that however they will not be parking on the right-of-way; they will be directed over the right-of-way onto the private property.

0:13:05 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Carter to approve the request for a temporary Use/Business license by Bennett's Amusement for a Carnival at 2522 S. Canal Street on April 27, 2017 to April 30, 2017, conditional upon review and approval of an acceptable site plan

0:13:44 **Chief Waller** added if they see any violations on the railroad right-of-way they will address it and make sure they move.

0:14:32 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores; No- Doporto; Absent - Estrada; The motion carried.

0:14:44 **4. STANDPIPE ROAD PROJECT UPDATE BY PETTIGREW AND ASSOCIATES**

Mr. McCutcheon explained they budgeted \$1.2 million two years ago and are increasing that to \$1.3 million this budget year. He said Pettigrew and Associates were invited to provide an update on the project timeline.

0:15:59 **Mr. Trace Hicks**, Vice President introduced himself and Claudio Sanchez as the Project Manager for Pettigrew and Associates. **Mr. Hicks** presented a power-

point on the project and their expectations for the schedule. He said the package presented is a submittal copy to the NMDOT.

Mr. Hicks explained Phase II starts at Radio Blvd. going north for nearly a mile and Phase I is the Intersection Project with State Road 524. He said the preliminary studies which include the traffic study and pavement investigation have been completed for Phase I and II. He said Phase I conceptals have been completed and the preliminary design has started. He said they predict they will be done with the final design process and ready for bidding around September for Phase I. **Mr. Hicks** explained Phase II conceptals are complete and the design documents are expected to be finished in June. He explained they will be ready to go to bid for the selection of a contractor in June for Phase II. He said the project should be awarded in June and construction should conceivably start late June or July. **Mr. Hicks** explained that the idea is to widen Standpipe Road going south to make it easier for truck traffic. He said in Phase II, the south part of the roadway, there is currently 25-26 feet of pavement on the road and they are widening it to 40 feet. He said there is a bid alternate for the possibility of adding curb, gutter, and sidewalk to the roadway.

0:25:56 **Councilor Doss** said the trucks coming through the intersection of Standpipe and Lea tear up the road. He suggested they do 100-150 feet of concrete as opposed to asphalt so it doesn't have to be re-done every three years.

Mr. Hicks said they will be considering some of those issues at the project design meeting on the 24th.

Mr. Doport asked if they are going to have a turning lane on Standpipe Road. **Mr. Hicks** said essentially there is a through and left turning lane and a right turning lane on north bound Standpipe Road.

0:27:44 **Mayor Janway** asked what their final estimate of the finish date is. **Mr. Hicks** said they do not have a definite date yet but estimate in the spring of 2018. He said it depends on the timing of the utility re-locate and whether that complicates the construction process.

Mr. McCutcheon asked why the project has gone so long and what have been the delays. **Mr. Hicks** explained his understanding is due to their relationship with the County and the funding Pettigrew was able to acquire from the State. He said they were able to acquire quite a bit of matching funds to make this project cost minimal to the City and County. He said the original concept of the project has changed drastically over the last year and a half. He said they have funding from the grant for design but not construction yet, and the NMDOT funding becomes available for Phase I in July.

Mr. McCutcheon said he wanted to clarify that the City has been ready for 2 years and their funding will be carried over again this year if the Budget Committee approves it.

0:29:56 **Councilor Doport** said he doesn't remember them coming to the City with any conceptual drawings asking for input on the number of lanes or possible turn lanes on the south part. He asked when those decisions were made and who made them. **Mr. Hicks** explained that Pettigrew is contracted directly to Eddy County.

0:31:02 **Mr. Kenny Rayroux** explained that the City has been involved with the design and they have been working with Jason Burns who is the liaison with the County on this project. He explained only two lanes will fit in order to have a shoulder for safety beside those lanes

Mr. Rayruox said they recognize the City has been ready but the STIP Grant has put a delay of about 18 months. He explained the money for construction doesn't become available until July 1, 2017 and they applied for the grant January - February of last year. He said the grant is about a \$1.5 million offset to the cost on this project.

0:32:25 **Mr. Rayroux** said both entities have been working together and working diligently to get this project done. He said the City and County both have huge dollar amount investments sitting and waiting. He added the STIP Grant is what has held them up to start construction, and neither the City nor County could have afforded this project without the grant money.

0:33:22 **Councilor Shirley** asked Mr. McCutcheon if they have mapped out and thought about signage to divert the traffic entering and exiting the Sports Complex when they close the intersection for construction. **Mr. McCutcheon** explained the signage and the plan will be a part of the construction. **Mr. Rayroux** addressed Councilor Shirley stating that any schedules for tournaments can be provided to Pettigrew and the contractor will work that into their traffic control plan.

Mr. Hicks said once the traffic control plan is in place they will coordinate with the contractors on issuing a press release stating the traffic changes and how to access certain areas.

0:36:18 **5. CONSIDER APPROVAL OF RESOLUTION NO. 2017-17, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

Mr. McCutcheon explained that this is their standard process for declaring property that is listed on their capital asset list as obsolete. He said Chief Waller is working overtime to clean up some of his business along with some of the other Directors.

0:37:01 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Resolution No. 2017-17, a Resolution Declaring Certain City Property Unusable or Obsolete

0:37:05 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:37:18 **6. CONSIDER APPROVAL OF RESOLUTION NO. 2017-18, A RESOLUTION AUTHORIZING THE SUBMISSION OF A 2018 CAPITAL OUTLAY REQUEST APPLICATION TO THE NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT AND AUTHORIZING PARTICIPATION IN THE CAPITAL OUTLAY PROGRAM FOR THE PLANNING, DESIGN AND RENOVATION OF A FORMER CARLSBAD MUNICIPAL SCHOOL BUILDING TO SERVE AS A SENIOR CITIZEN CENTER TO REPLACE THE SAN JOSE SENIOR CENTER FACILITY**

Mr. McCutcheon said the Mayor, members of the Council and members of the community have been working with the School Board to ask that one of the abandoned buildings be made available for the Senior Center. He said there have been walk-throughs of the potential buildings but there has not been a final decision. He said the deadline for the Capital Outlay Grant is close and they are asking for Council to consider approval of this resolution so they can obtain these Capital Outlay Grants.

0:39:34 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Resolution No. 2017-18, a Resolution authorizing the Submission of a 2018 Capital Outlay Request Application to the New Mexico Aging and Long-Term Services Department and Authorizing participation in the Capital Outlay Program for the planning, design and renovation of a former Carlsbad Municipal School building to serve as a senior Citizen Center to replace the San Jose Senior Center Facility

0:39:49 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:40:01 **7. CONSIDER APPROVAL OF ORDINANCE NO. 2017-07, AN ORDINANCE PLACING A MORATORIUM ON THE ACCEPTANCE, REVIEW AND ISSUANCE OF ALL BUILDING AND SUBDIVISION PERMITS IN THE AREA KNOWN AS THE I & W BRINE WELL MAIN CAVERN AND PARTIAL SALT REMOVAL AREAS**

0:40:24 **A. Public Hearing**

0:40:28 **Mr. McCutcheon** said AMEC did a very thorough study for the State and they obtained a copy of the study and have had a discussion with AMEC. He said Ms. Shumsky had past experience with this kind of moratorium and can provide technical detail on how this will function.

Ms. Shumsky explained that moratoriums are a common planning tool to halt development until further study can be done within that development area. She said this is a tool Council might consider to halt development of issuing building permits and new subdivision permits for the main cavern area and the partial salt removal area. She said it will give the Legislature time to finalize what they were going to do in terms of funding and it would give OCD time to conduct engineering studies. She said AMEC provided a letter indicating the main cavern area (green polygon in the center of the figures) outlines the assumed boundaries of the main cavern created by the salt mining and in the event of a collapse properties within this area would likely experience engulfment. She said the partial salt removal area (the larger red polygon in the center of the figures) outlines the area of influence which could be damaged by ground subsidence resulting from a cavern collapse. She explained they used that as a guide for the moratorium area to minimize any injury or building problems for new structures. She said if they approve this moratorium it will prohibit the issuance of building permits and new subdivisions within those areas for a year but will not prohibit existing property owners to obtain building permits for existing plumbing or mechanical issues.

Mr. McCutcheon said there have been many discussions with Ms. Riordan, Ms. Shumsky and the staff regarding this idea. He said there is a line they have to walk between people's property rights and public safety. He said this moratorium became an apparent line that could be drawn and there was good science behind it. He explained one of the underlying concerns was private property rights and something definitive to say that property within this area does not need to be developed.

0:48:37 **Mayor Janway** asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session.

0:48:56 **B. Consider Ordinance No. 2017-07**

0:49:03 **Councilor Rodriguez** asked how they will make the determination on whether to approve a permit if an area is on the borderline. **Ms. Riordan** explained they mapped the area through their GIS program using the data they were provided. She believes they have a map more scalable where they can zoom in and determine whether or not something is in or out.

0:49:47 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Ordinance No. 2017-07, an Ordinance placing a Moratorium on the Acceptance, Review and Issuance of All Building and Subdivision Permits in the Area Known as the I&W Brine Well Main Cavern and Partial Salt Removal Areas

0:49:50 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:50:00 **8. CONSIDER APPROVAL OF ORDINANCE NO. 2017-03, AN ORDINANCE ANNEXING A PORTION OF LAND CONTAINING 15.59 ACRES MORE OR LESS, CONTIGUOUS TO THE CITY OF CARLSBAD, NEW MEXICO, LOCATED ALONG CENTER AVENUE, LEGALLY DESCRIBED AS THE WEST 135' OF LOT 19, BLOCK A, HALL SUBDIVISION, LESS THE SOUTH 100' AND LESS THE NORTH 445', LOT 17, BLOCK A, HALL SUBDIVISION, LESS THE SOUTH 150' OF THE EAST 50' DESCRIBED AS LOT 18, BLOCK B, HALL SUBDIVISION, LOTS 32 AND 33, FUSON LAND DIVISION, PART OF JASMINE STREET, PART OF CENTER AVENUE, PURSUANT TO THE PETITION METHOD PROVIDED FOR IN SEC. 3-7-1 ET. SEQ., NMSA 1978; APPLICANT: PHILLIP MCCULLOUGH**

Mr. McCutcheon said they have received a request from Mr. McCullough to postpone this annexation until a later date. He said it has been postponed once or twice until a date certain which is tonight. He said the Council can remove this from the table, go through the public hearing and consider the Ordinance.

0:51:58 **A. Remove from Table**

0:52:01 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Doporto to Remove from Table

0:52:05 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:52:15 **B. Public Hearing**

Councilor Doss suggested moving to deny this request acknowledging that Mr. McCullough has the opportunity to resubmit it at a later date.

0:52:19 **Councilor Doss** suggested moving to deny this request acknowledging that Mr. McCullough has the opportunity to resubmit it at a later date

0:52:54 **Mayor Janway stated they are in a Public Hearing at this time.**

0:53:30 **Councilor Rodriguez** said if this involves legal matters and we are not sure how long this is going to prolong he would hate to keep moving it to a certain date. He agrees with Councilor Doss to motion to get it off the table and let it come back when it is ready.

0:54:00 Mayor asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:54:20 C. Consider Ordinance No. 2017-03

0:54:26 Motion

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to deny Ordinance No. 2017-03, an Ordinance Annexing a portion of land containing 15.59 acres more or less, contiguous to the City of Carlsbad, New Mexico, located along Center Avenue, Legally Described as the West 135' of Lot 19, Block A, Hall Subdivision, less the South 100' and less the North 445', Lot 17, Block A, Hall Subdivision, Lots 32 and 33, Fuson Land Division, part of Jasmine Street, part of Center Avenue, pursuant to the Petition Method provided in Sec. 3-7-1 et. seq., NMSA 1978; Applicant: Phillip McCullough, acknowledging that Mr. McCullough has the option to refile at a later when he has everything in order

0:54:44 Vote

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:54:54 **9. CONSIDER APPROVAL OF ORDINANCE NO. 2017-04, AN ORDINANCE ESTABLISHING "R-R" RURAL RESIDENTIAL DISTRICT IN CONJUNCTION WITH THE ANNEXATION OF APPROXIMATELY 15.59 ACRES OF PROPERTY, LOCATED ALONG CENTER AVENUE; APPLICANT: PHILLIP MCCULLOUGH**

0:55:19 A. Remove from Table

0:55:21 Motion

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to Remove from Table

0:55:26 Vote

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:55:35 B. Public Hearing

0:55:39 Mayor asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.

0:55:55 **C. Consider Ordinance No. 2017-04**

0:55:58 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to deny Ordinance No. 2017-04, an Ordinance establishing 'R-R' Rural Residential District in Conjunction with the Annexation of approximately 15.59 Acres of property, located along Center Avenue; Applicant: Phillip McCullough

0:56:03 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:56:13 **10. COUNCIL COMMITTEE REPORTS**

None to report.

0:56:30 **11. ADJOURN INTO CLOSED SESSION PURSUANT TO SECTION 10-15-1H (2), NMSA 1978, LIMITED PERSONNEL MATTERS**

0:56:42 **Motion**

The motion was made by Councilor Rodriguez and seconded by Shirley to Adjourn into Closed Session pursuant to Section 10-15-1H (2), NMSA 1978, Limited Personnel Matters

0:56:47 **Vote**

The vote was as follows: Yes - Doss, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No- None; Absent - Estrada; The motion carried.

0:57:01 **Adjourn**

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

_____/s/Dale Janway_____
Mayor

ATTEST:

_____/s/Annette Barrick_____
City Clerk