

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON MAY 23, 2017 AT 6:00 P.M.**

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

0:00:01 Invocation - Pledge of Allegiance

0:00:31 **1. APPROVAL OF AGENDA**

0:00:34 **Motion**
The motion was made by Councilor Doporto and seconded by Councilor Carter to approve the Agenda

0:00:38 **Vote**
The vote was as follows: Yes - Doss, Estrada, Rodriguez, Shirley, Carter, Anaya Flores, Doporto; No - None; Absent- None; The motion carried.

0:00:51 **2. CONSIDER APPROVAL OF RESOLUTION NO. 2017-22, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2016-2017 FISCAL YEAR BUDGET**

Mrs. Gonzales reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2016-2017 Fiscal Year Budget highlighting the General Fund, the Lodgers' Tax Promotional Fund, the Cemetery Fund, and the CIEP Fund.

0:02:21 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve Resolution No. 2017-22, a Resolution making certain Budgetary Adjustments to the 2016-2017 Fiscal Year Budget

0:02:26 **Vote**

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

0:02:37 **3. CONSIDER APPROVAL OF RESOLUTION NO. 2017-23, A RESOLUTION ADOPTING THE INTERIM BUDGET FOR FISCAL YEAR 2017-2018**

Mr. McCutcheon explained the interim budget summary memo has been included in each packet. He said the memo highlights the major funds and the changes to each of those funds. He said the City budgeted exactly as last year from an income standpoint in the general fund. He explained there have been some up and down trends in lodgers' tax, which is our major source of revenue. He added just recently staff has seen a slight increase, but to remain conservative the city budgeted as in the past. He explained that the Directors have been careful with expenditures and have come in under budget with personnel and operating expenses. He said all line items have been reviewed in detail by the Budget Committee. He said it is a good budget, with a lot of projects still moving forward in the city and the city is in great shape. Councilor Doss explained the Budget Committee had numerous meetings to review the budget. He thanked all of the Directors and the finance staff for all of the hours spent to balance the budget.

0:05:29 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Carter to approve Resolution No. 2017-23, a Resolution adopting the Interim Budget for Fiscal Year 2017-2018

0:05:38 **Vote**

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

0:05:50 **4. CITY OF CARLSBAD FINANCIAL REPORT FOR APRIL 2017**

Ms. Hammett reviewed the revenues and expenditures as of April 2017 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:07:58 **5. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on May 9, 2017
- B. City Personnel Report
- C. Purchasing:
 - 1) Consider approval to Conduct Annual Bids for the 2017-2018 Fiscal Year for Concrete Materials, Pest Control and Tree Trimming Services
 - 2) Consider approval to Award RFP No. 2017-07, to AMEC Foster Wheeler Environmental and Infrastructure for Gas and Oil Well Inspection Services
 - 3) Consider approval to Award Annual Audit Services for FY 2016-2017, to Hinkle and Landers
- D. Contracts and Agreements:
 - 1) Consider approval of Renewal of Agreement between the City of Carlsbad and the Carlsbad Literacy Center Program for 511 N. 12th Street, formerly known as the Naval Reserve Building
 - 2) Consider approval of the Fifth Renewal of Agreement between the City of Carlsbad and the Southeast NM Community Action Corporation for the Lease of Property and Improvements known as the Carlsbad Adult Respite Facility, 201 East Cascades Avenue
- E. Monthly Reports:
 - 1) Arts and Culture Department Monthly Report, April 2017
 - 2) Planning, Engineering, & Regulation Department Monthly Report, April 2017
 - 3) Sports and Recreation Department Monthly Report, April 2017
 - 4) Utilities Department Monthly Report, April 2017

0:08:20 **Mayor Janway asked Mr. McCutcheo to discuss Item C.3 Consider approval to Award Annual Audit Services for FY 2016-2017, to Hinkle and Landers. Mr. McCutcheon explained this Item is to award a contract for the city's Annual Audit Services to Hinkle and Landers. He said Hinkle and Landers is the same firm who conducted the city's audit last year. He explained the city went out for RFP and received responses from several qualified firms. He said members of Council and staff rated the RFP's and Hinkle and Landers was rated number one and staff is recommending approval.**

0:09:47 **Motion**

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

0:09:53 **Vote**

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

0:10:08 **6. CONSIDER APPROVAL OF THE PRELIMINARY ENGINEERING REPORT BY MOLZEN-CORBIN FOR THE DOUBLE EAGLE WATERLINE EXTENSION PHASE 3**

Mr. McCutcheon explained that Double Eagle has been a long time project with Phase 1 and 2 completed. He said this preliminary engineering report is for the completion of Phase 3, which is the final point of delivery into the city's loop line. He added that Molzen-Corbin has been the engineer throughout all of the phases. He recognized Mr. Camero for the outstanding job he has done with the Phase 1 and 2. He added staff is pleased that he is continuing to take an active daily interest in helping the city complete this project on time and within budget.

0:12:02 **Mr. Clayton Ten Eyck** with Molzen-Corbin introduced himself and Ms. Scout Mendenhall. **Ms. Mendenhall** explained that Phase 3 is intended to connect the Double Eagle Transmission lines to the high pressure loop line located at the intersection of North Canal Street and Grassbur Lane. She said Molzen-Corbin held a public meeting and presented the preliminary engineering report to the Water Board, where it was approved. She explained the report was also provided to city staff and the NMED who also approved the report. **Ms. Mendenhall** discussed the preliminary report:

- scope of the project
- transmission line
- Project Cost
- Project Schedule

Ms. Mendenhall explained Molzen-Corbin is requesting Council approval of the preliminary engineering report in order to wrap up the planning phase and proceed with the design phase.

Councilor Rodriguez asked what the anticipated use of the high pressure loop stub out is. **Ms. Mendenhall** explained the reason for the stub out is to have a convenient place to tie into. **Mr. Ten Eyck** added there was a line that was terminated at the intersection with the intent to be able to connect back into.

Councilor Rodriguez asked if there is an anticipated use for the repurposing of the 1 million gallon tank. He asked how the pump size and volume of water will be determined. **Mr. Ten Eyck** said because there is an existing 1 million gallons, it will be used but may be dictated by the customers.

Mr. Doyle Smith asked what size of water line will come under the railroad track at Grassbur. **Ms. Mendenhall** answered a 24 inch line. **Mr. Smith** asked if the line would tie into the existing line. **Mr. Ten Eyck** explained at Grassbur and Canal they would connect into a 24 inch line and then into the existing 18 and 12 inch lines.

Mr. Smith asked if the line is coming across private property would the property owners have access to the water. **Mr. Ten Eyck** answered no, because this is a transmission line there will be no water service taps on the line. He said Molzen-Corbin has been working with the city identifying locations where T's and valves may be installed for future developments in the area.

0:24:53 **Mr. McCutcheon** added that the engineers estimate is over 15 million dollars. He explained the cost is scattered out throughout funds within the city. He said the city estimates 12 million, with the engineers estimate and the 20% contingency. He said the city may have enough money with what has been saved through the years for the project. He said staff hopes the estimates are high and the money is in place to move the project forward.

0:26:09 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve the Preliminary Engineering Report by Molzen-Corbin for the Double Eagle Waterline Extension Phase 3

0:26:15 **Vote**

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

0:26:27 **7. CONSIDER APPROVAL OF ORDINANCE NO. 2017-10, AN ORDINANCE AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES; CITY OF CARLSBAD, NEW MEXICO REGARDING ANIMALS**

Councilor Doss explained the Ordinance as written needs more work.

0:26:55 **Motion to Table**

The motion was made by Councilor Doss and seconded by Councilor Doporto to table approval of Ordinance No. 2017-10, an Ordinance Amending Chapter 6 of the Code of Ordinances; City of Carlsbad, New Mexico Regarding Animals for a period of 60 days

0:27:10 **Vote**

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

0:27:23 **Mayor Janway** asked Jennifer Donner to chair an ad hoc committee and meet with Chief Waller and Ms. Riordan and return to Council in 60 days with a resolution.

0:27:42 **8. CONSIDER APPROVAL OF ORDINANCE NO. 2017-11, 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, LEGALLY DESCRIBED AS LOT 25, LOT 26, LOT 27, AND LOT 28, BLOCK 2, NEW SAN JOSE 3RD ADDITION, PURSUANT TO SECTION 3-21-1 ET SEQ, NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES; APPLICANT: THEODORE POPE

0:28:41 **A. Public Hearing**

Mr. Patterson explained this request is to rezone part of San Jose 3rd Addition, lots 25, 26, 27, and 28. He said the applicant stated he plans to move some residential structures onto the property. He explained due to the small nature of the lots the applicant is seeking R-2 Residential, which would create a spot zone. He added the Planning and Zoning Commission and the Planning Department are recommending approval.

0:30:00 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. Theodore Pope, property owner, explained this request is to correct a commercial overlay that was placed on the property years ago. He said the lots have always been residential in nature. He added R-2 zoning is much less controversial and impactful than the commercial zoning that the property is currently zoned.

0:31:07 **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.**

0:31:20 **B. Consider Ordinance No. 2017-11**

0:31:27 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Ordinance No. 2017-11, 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, legally described as Lot 25, Lot 26, Lot 27, and Lot 28, Block 2, New San Jose 3rd Addition, pursuant to Section 3-21-1 et Seq, NMSA 1978 and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinances; Applicant: Theodore Pope

0:31:33 **Vote**

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

0:31:45 **9. CONSIDER APPROVAL OF ORDINANCE NO. 2017-12, 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 ST. LEGALLY DESCRIBED AS LOT 1, LOT 3, AND LOT 5, BLOCK 237, PARKVIEW SUBDIVISION, PURSUANT**

TO SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES;
APPLICANT: RODNEY L. HOLCOMB

0:32:28 **Mr. Patterson** explained this request is to change the current zoning to C-1 Commercial zoning. He said currently the use of the property is a commercial use. He explained the property is listed by the Planning Department as a non-conforming legal use because the use existed before the current zoning ordinance was adopted. **Mr. Patterson** said the current owner wishes to sale the property and would like to keep the commercial nature of the property. He explained the Planning and Zoning Commission and the Planning Department recommend approval.

0:34:14 **A. Public Hearing**

0:34:16 **Mayor Janway** asked if anyone would like to speak in favor of the ordinance.

Mr. Rodney Holcomb explained the property dates back to a commercial property to the early 60's. He said his father ran the property as an auto body shop. He said he understands it creates a spot zone but the property has always been used as commercial property.

0:36:12 **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.

0:36:22 **B. Consider Ordinance No. 2017-12**

0:36:25 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Ordinance No. 2017-12, 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 St. legally described as Lot 1, Lot 3, and Lot 5, Block 237, Parkview Subdivision, pursuant to Sections 56-150(B) and 56-140(I), Carlsbad Code of Ordinances; Applicant: Rodney L. Holcomb

0:36:32 **Vote**

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

0:36:44 **10. CONSIDER APPROVAL OF ORDINANCE NO. 2017-13, 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, LEGALLY DESCRIBED AS LOT 12 AND LOT 14, BLOCK 6, SOUTHRIDGE SUBDIVISION, PURSUANT**

TO SECTION 3-21-1 ET SEQ, NMSA , 1978, AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES; APPLICANT: WES CARTER

0:37:32 **A. Public Hearing**

Mr. Patterson explained this request is to rezone part of "R-1" to "C-1" zoning, which will create a spot zone. He noted the applicant's original request was to change the zoning to "C-2" which would not have created a spot zone. **Mr. Patterson** explained when the zone change was presented to the Planning and Zoning Commission there were objections by the neighboring residential properties. He explained in response to the objections the applicant changed his request to "C-1" which is a more restrictive commercial zoning. He said the Planning and Zoning Commission and the Planning Department recommend approval.

0:38:39 **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.**

0:38:57 **B. Consider Ordinance No. 2017-13**

0:39:01 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Doss to approve Ordinance No. 2017-13, 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, legally described as Lot 12 and Lot 14, Block 6, Southridge Subdivision, pursuant to Section 3-21-1 et Seq. NMSA, 1978, and sections 56-150(B), and 56-140(I), Carlsbad Code of Ordinances; Applicant: Wes Carter

0:39:07 **Vote**

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

0:39:30 **11. COUNCIL COMMITTEE REPORTS**

Mr. Kevin Kerst said he was assaulted by a city employee and has repeatedly asked to speak with the Mayor. He said he spoke with Councilor Doporto who said the incident was handled inappropriately. He said the city has treated him like a criminal and have refused to speak to him. He said he has called the Attorney General's Office and was told to file a lawsuit against the city for malicious prosecution. He said he has tried to peacefully resolve the issue. He said the city continuously discriminates against citizens by vehicle type at the transfer station.

Ms. Riordan explained that Mr. Kerst was represented by Terry Haake for a period of time. She said she spoke repeatedly to Mr. Haake but could not speak to Mr. Kerst, because he is facing criminal charges in City Court. She said she was informed by Mr. Haake that he did not want Mr. Kerst to speak to city administration because of Mr.

Kersts' 5th amendment right against self-incrimination. **Ms. Riordan** explained she wrote to Mr. Kerst stating that in order to speak to anyone after threatening a civil suit, he would need to speak with our counsel. She said this matter is currently set in city court.

Mr. Kerst said he went to the transfer station to dump some cardboard and Styrofoam and now has criminal charges against him for criminal trespass, littering, and prohibited use of a cell phone. He said he is disappointed on how the incident has been handled by the city.

0:43:53 **12. ADJOURN**

0:43:57 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Shirley to Adjourn

0:44:09 **Mayor Janway announced there is a Special Council Meeting on Thursday, May 25th at 4:30 p.m.**

0:44:23 **Vote**

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

0:44:59 **Adjourn**

There being no further business, the meeting was adjourned at 6:44 p.m.

/s/Dale Janway
Mayor

ATTEST:

/s/Annette Barrick
City Clerk