

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON SEPTEMBER 26, 2017 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	Wesley A. Carter	Councilor
	Jason Shirley	Councilor
	Richard Doss	Councilor
	Wanda Durham	Councilor
Absent:	J. R. Doporto	Councilor
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
	Ron Myers	Director of Utilities
	Wendy Hammett	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Georgia Goad	Planning Deputy 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

0:00:28 **Mayor Janway asked Chief Lopez to give an update on the Combat Challenge.**

Chief Lopez said the Combat Challenge was in town on Saturday and Sunday. He said the Carlsbad Team broke their own world record with a time of 103.31 and then and on their second run with a time of 102.79. He said not only are they holding the world

record they have beat it and have made it harder to reach. He introduced the Combat Challenge Team, Mark Johnson, Todd Vanatter, KC Collins, and Geronimo Ontiveros.

Mr. Ontiveros thanked the city for their continued support. He said the World finals are in Louisville, Kentucky in October and the Team's goal is to win the finals again.

Chief Lopez said the team also holds the State Record and KC Collins holds the fastest individual time for New Mexico. **Mayor Janway** said he is very proud of the team and thanked them for all of their hard work.

0:03:53 **Mayor Janway asked Mr. Pat Cass to give the Council an update on street striping.**

Mr. Cass explained the Street Department has been restriping many streets in Carlsbad. He added that the Street Department has had problems with the paint striping not lasting very long; staff has researched and ordered paint that should last much longer.

Mr. McCutcheon asked if dry conditions are needed to complete the striping. **Mr. Cass** said dry and almost windless conditions are needed.

0:05:31 **Mayor Janway welcomed County Commissioner Susan Crockett.**

0:05:43 **1. APPROVAL OF AGENDA**

0:05:52 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Carter to approve the Agenda

0:05:57 **Vote**

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

0:06:08 **2. CITY OF CARLSBAD, FINANCIAL REPORT FOR AUGUST, 2017**

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

Mayor Janway asked Ms. Hammett for an update on the upcoming audit.

Ms. Hammett said the auditors will be here on Monday. She said the Finance staff has been working diligently to prepare schedules and pull field work requests. She said at this point staff is 90% complete with the 2017 trial balance.

Councilor Doss asked if the city is still anticipating for gross receipts to continue to exceed. **Ms. Hammett** answered yes, she added gross receipts and lodger's tax revenues have been up significantly over the last three months. She said year to date

gross receipts tax revenue to budget is favorable \$1.4 million, with an 11% increase from the same time last fiscal year. She added lodger's tax revenue is favorable to budget \$212,000, with 45% of an increase from this time last fiscal year.

0:08:38 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on September 12, 2017
- B. City Personnel Report
- C. Purchasing:
 - 1) Consider approval to Reject and Rebid the Maintenance Agreement for the Ira Stockwell Park
 - 2) Consider approval to Advertise Invitation to Bid, the Carlsbad Water Park Expansion Project
- D. Contracts and Agreements:
 - 1) Consider approval of Agreement between the City of Carlsbad and Austin Turf and Tractor for a Lease from John Deere for one (1) Front Rotary Mower and two (2) Wide Area Mowers for the Parks Department
 - 2) Consider approval of Memorandum of Agreement between the City of Carlsbad and NM Department of Transportation for participation in the Section 5311 Grant, for FY-18
 - 3) Consider approval of Agreement between the City of Carlsbad and the Carlsbad Chamber of Commerce for Promotion Services and for the Operation of the Pecos River Village Conference Center
 - 4) Consider approval of Agreement between the City of Carlsbad and NM Department of Transportation for the Local Government Road Fund Cooperative Agreement, No. HW2 L2000364
 - 5) Consider approval of Agreement between the City of Carlsbad and NM Department of Transportation for an Amendment to extend Memorandum of Agreement # M01465 until September 30, 2017
 - 6) Consider approval of Agreement between the City of Carlsbad and Carlsbad Industrial Action, Inc., dba: Carlsbad Department of Development for Economic Development Services
- E. Set Date: October 10, 2017
 - 1) An Ordinance Authorizing the Granting of an Oil and Gas Lease on Certain Mineral Interests Owned by the City of Carlsbad in Certain Portions of T21N, R27E, T22N, R26 E, and T22N, R27E, to SPC Resources, LLC for a per Acre Lease Bonus and a 3/16ths Royalty
- F. Monthly Reports:
 - 1) Monthly Report, Planning, Engineering, Regulation Department Report, August 2017
 - 2) Monthly Report, Sports and Recreation Department, August 2017
 - 3) Monthly Report, Transportation & Facilities Department, July 2017
 - 4) Monthly Report, Utilities Department, August 2017

0:09:06 **Mayor Janway asked Mr. McCutcheon to discuss Item C.2 Consider approval to Advertise Invitation to Bid, the Carlsbad Water Park Expansion Project; and Item D.3 Consider approval of Agreement between the City of Carlsbad and the Carlsbad Chamber of Commerce for Promotion Services and for the Operation of the Pecos River Village Conference Center**

Mr. McCutcheon explained that Item C.2 is for approval to advertise the expansion of the Carlsbad Water Park. He said the expansion is for a new slide and a larger pool. He said there is an anonymous \$100,000 donation which supports this \$450,000 budgeted item. He said the total amount approved in the budget was \$550,000. He said there are additional items that also need to be completed. He explained the slide would be bigger than the current slides and would need to be ordered by the middle of October or the slide will not be ready by next spring. He said all the funds have been budgeted and approved and staff is ready to move forward upon approval.

Mr. McCutcheon explained Item D.3 is to consider approval of agreement between the City and the Chamber of Commerce. He said this is a 4 year contract that is subject to available funding. He explained this year the city is asking for 10% of the revenue back that is received from rentals at the Pecos River Village to create a maintenance fund. He said the revenue will amount to approximately \$7,000 a year.

0:12:49 **Councilor Doss asked for explanation on Item C.1 Consider approval to Reject and Rebid the Maintenance Agreement for the Ira Stockwell Park.**

Mr. McCutcheon explained staff has been approached by the leagues and were told Shorthorn and National fields are needed for practice. He said staff requests to reject the bid for taking care of the maintenance at Ira Stockwell and would like to rebid for a contractor to take care of all three fields.

0:14:27 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Rodriguez to approve Routine and Regular Business

0:14:33 **Vote**

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

0:14:58 **4. CONSIDER APPROVAL OF A RESTAURANT BEER AND WINE LICENSE, # 1053276, FOR EL AGAVE, DBA: EL JIMADOR LOCATED AT 509 S. CANAL STREET, APPLICANT: ARTURO REYES**

Mr. McCutcheon explained the City has held the proper hearings for this Liquor License and all the proper procedure notices have been completed. He explained there was no opposition at the hearing, the applicant has met all the requirements, and staff recommends approval.

0:16:01 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Durham to approve a Restaurant Beer and Wine License, #1053276, for El Agave, DBA: El Jimador located at 509 S. Canal Street, Applicant: Arturo Reyes

0:16:06 **Vote**

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

0:16:19 **5. CONSIDER APPROVAL OF APPEAL OF FLOODPLAIN MANAGER'S DENIAL OF A FLOODPLAIN DEVELOPMENT PERMIT AND REQUEST FOR A VARIANCE FROM THE CITY'S FLOOD DAMAGE PREVENTION ORDINANCE; SECTION 8-132 (1), FOR PROPERTY LOCATED AT 1202 W. RIVERSIDE DRIVE, APPLICANT: ZACH DOWNEN/TOBYN MCNEW**

Ms. Georgia Goad explained this is an appeal of her denial of a Floodplain Development Permit. She said the base flood elevation required by FEMA is 3121.25 feet in elevation and the applicant and owner are requesting to build at 0.45 feet above instead of the 3.48 feet required.

Mr. Downen explained the owner would like to remove the home and rebuild at the same elevation that the home is currently at.

Councilor Rodriguez asked if the owners are aware this rebuild is at their own risk. Mr. Downen said yes and the insurance is higher. Councilor Doss said he believes FEMA will begin to look closer at these variances.

0:19:37 **Motion**

The motion was made by Councilor Doss and seconded by Councilor Shirley to approve Appeal of Floodplain Manager's denial of a Floodplain Development Permit and request for a Variance from the City's Flood Damage Prevention Ordinance; Section 8-132 (1), for property located at 1202 W. Riverside Drive, Applicant: Zach Downen/Tobyn McNew

0:19:44 **Vote**

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

0:20:00 **6. CONSIDER APPROVAL OF RESOLUTION NO. 2017-41, A RESOLUTION IN SUPPORT OF THE SUBMITTAL OF AN APPLICATION FOR TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY (TIGER) GRANT FUNDING ADMINISTERED BY THE US DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF THE DARK CANYON BRIDGE AT RADIO BOULEVARD AND BOYD DRIVE**

Mr. McCutcheon explained the TIGER grant occasionally comes along and is for larger projects. He said the city has completed about \$200,000 worth of engineering on the project and have some rough ideas on the cost of the bridge. He said the TIGER grant is very competitive. He said some of the land is county land and staff has reached out to the county to become co-applicant on the project. He explained the funding would be 80/20 funding with \$8 million from the DOT and if the county joins it would be \$1 million from the county and \$1 million from the city. He added the funding would be due in 2019 and it would be a great benefit if another bridge could be built.

Councilor Rodriguez said with the additional growth and traffic any arterial support will benefit the community.

0:22:44 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Resolution No. 2017-41, a Resolution in Support of the Submittal of an Application for Transportation Investment Generating Economic Recovery (TIGER) Grant Funding Administered by the US Department of Transportation (DOT) for the Construction of the Dark Canyon Bridge at Radio Boulevard and Boyd Drive

0:22:49 **Vote**

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

0:23:01 **7. CONSIDER APPROVAL OF RESOLUTION NO. 2017-43, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

Mr. McCutcheon explained this is the standard Resolution for following statute to dispose of obsolete and unusable City property.

0:24:00 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Durham to approve Resolution No. 2017-43, a Resolution Declaring Certain City Property Unusable or Obsolete

0:24:08 **Vote**

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

0:24:20 **8. CONSIDER APPROVAL OF RESOLUTION NO. 2017-42, A RESOLUTION FINDING 405 N. ALAMEDA STREET TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS AND REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS; OWNER: JIMMIE L. COLEMAN**

Ms. Riordan explained this property is a vacant lot in a residential neighborhood. She said due to the recent rains there is an incredible amount of weeds on the property. She explained the owner has died and the family is not interested in the property.

0:25:54 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution finding 405 N. Alameda Street to be covered with Ruins, Rubbish, Wreckage, Debris, and/or Weeds and Requiring the Removal of the Ruins, Rubbish, Wreckage, Debris, and/or weeds; Owner: Jimmie L. Coleman

0:26:00 **Vote**

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

0:26:13 **9. CONSIDER APPROVAL OF ORDINANCE NO. 2017-22, AN ORDINANCE ANNEXING A PORTION OF LAND CONTAINING APPROXIMATELY 0.72 ACRES OF PROPERTY LOCATED AT 5000 W. CHURCH STREET, OWNER: CITY OF CARLSBAD**

Mr. Patterson explained this property and the property to the west are owned by the City of Carlsbad. He said the plan is to locate the Mental Health Facility at this location and the annexation is so the city can utilize all of the property. He added the Planning and Zoning Commission have recommended approval.

0:27:40 **A. Public Hearing**

0:27:43 **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 in regular session.**

0:27:58 **B. Consider Ordinance No. 2017-22**

0:28:01 **Motion**

The motion was made by Councilor Durham and seconded by Councilor Anaya Flores to approve Ordinance No. 2017-22, an Ordinance Annexing a portion of land containing approximately 0.72 acres of property located at 5000 W. Church Street, Owner: City of Carlsbad

0:28:07 **Vote**

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

0:28:22 **10. CONSIDER APPROVAL OF ORDINANCE NO. 2017-23, AN ORDINANCE ESTABLISHING "C-1" COMMERCIAL DISTRICT ZONING IN CONJUNCTION WITH THE ANNEXATION OF APPROXIMATELY 0.72 ACRES OF**

PROPERTY LOCATED AT 5000 W. CHURCH STREET, OWNER: CITY OF CARLSBAD

Mr. Patterson explained this item is in conjunction with the previous annexation. He said the applicant is requesting C-1 zoning because it would allow the use without any special permits. He added C-1 zoning also allows some residential nature and will be a better fit with the adjacent properties.

0:29:29 **A. Public Hearing**

0:29:33 **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 in regular session.**

0:29:46 **B. Consider Ordinance No. 2017-23**

0:29:55 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Ordinance No. 2017-23, an Ordinance establishing "C-1" Commercial District Zoning in conjunction with the Annexation of approximately 0.72 acres of property located at 5000 W. Church Street, Owner: City of Carlsbad

0:30:00 **Vote**

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

0:30:11 **11. CONSIDER APPROVAL OF ORDINANCE NO. 2017-24, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "R-1" RESIDENTIAL DISTRICT FOR AN APPROXIMATELY 1.46 ACRE PROPERTY LOCATED AT 5000 W. CHURCH STREET, OWNER: CITY OF CARLSBAD**

Mr. Patterson explained the city owns this property and is requesting to rezone to match the property previously annexed.

0:31:14 **A. Public Hearing**

0:31:16 **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 in regular session.**

0:31:30 **B. Consider Ordinance No. 2017-24**

0:31:34 **Councilor Rodriguez** said he would like the record to reflect that the agenda says R-1 and should read C-1.

0:31:42 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Doss to approve Ordinance No. 2017-24, an Ordinance Rezoning part of "R-R" Rural Residential District to "C-1" Commercial District Zoning for an approximately 1.46 acre property located at 5000 W. Church Street, Owner: City of Carlsbad

0:31:49 **Vote**

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

0:32:00 **12. CONSIDER APPROVAL OF ORDINANCE NO. 2017-25, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "R-1" RESIDENTIAL DISTRICT FOR AN APPROXIMATELY 13.88 ACRE PROPERTY LOCATED TO THE EAST OF OLD CAVERN HIGHWAY AND SOUTH OF FARRIS STREET, OWNER: BAR W. FARMS**

Mr. Patterson explained the owner of the property would like to develop single family housing on the property. He said the preliminary plat has been approved by the Planning and Zoning Commission and is contingent upon the zone change.

0:33:10 **A. Public Hearing**

0:33:12 **Mayor asked if anyone would like to speak in favor of the Ordinance.**

Mr. George Dunagan explained he is representing Bar W. Farms, Mr. Gary and Steve Walterschied, in the development of this subdivision. He added the subdivision will use all city utilities and conforms with the city's subdivision Ordinances.

Mr. John Waters, said one of things the Department of Development has been promoting heavily is housing, due to public demand. He said the Department supports the Ordinance 100% and feels this development will be great for the community.

0:34:59 **Mayor asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:35:06 **B. Consider Ordinance No. 2017-25**

0:35:10 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Ordinance No. 2017-25, an Ordinance Rezoning part of "R-R" Rural Residential District to "R-1" Residential District for an approximately 13.88 acre property located to the East of Old Cavern Highway and South of Farris Street, Owner: Bar W. Farms

0:35:15 **Vote**

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

0:35:29 **13. CONSIDER APPROVAL OF ORDINANCE NO. 2017-26, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.04 ACRE PROPERTY TO THE NORTH OF 807 N. MAIN STREET, APPLICANT: STEPHEN MCGUIRK**

Mr. Patterson explained this request is for a piece of property next to Albertson's. He said the entirety of the block is zoned C-2 except for this piece of property and two pieces of property to the south. He said the zone change will not cause a spot zone and will allow the applicant to move forward with their plans for the location. He said the Planning and Zoning Commission recommend approval.

0:36:51 **A. Public Hearing**

0:36:54 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. Stephen McGuirk, Vice President of Leon Capital Group, said the rezone would be in conformance with the surrounding properties.

Mr. John Waters said the CDOD supports this rezone and feels this will be a fine addition to the community.

0:38:23 **Mayor Janway asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:38:30 **B. Consider Ordinance No. 2017-26**

0:38:36 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Anaya Flores to approve Ordinance No. 2017-26, an Ordinance Rezoning part of "R-2" Residential District to "C-2" Commercial District for an approximately 0.04 acre property to the North of 807 N. Main Street, Applicant: Stephen McGuirk

0:38:45 **Vote**

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

0:39:00 **14. CONSIDER APPROVAL OF ORDINANCE NO. 2017-27, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT FOR AN APPROXIMATELY 0.23 ACRE PROPERTY LOCATED AT 805 AND 807 N. MAIN STREET, APPLICANT: STEPHEN MCGUIRK**

Mr. Patterson explained these two properties are to the south of the previous rezoning. He said the applicant is requesting to rezone the property to "C-2" zoning which would complete the southern portion of the block to all "C-2" zoning. He said this item was presented to the Planning and Zoning Commission and they voted to recommend approval.

0:40:07 **A. Public Hearing**

0:40:12 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. McGuirk said he is present to answer any questions and requests Council's approval of the zone change.

Mr. Waters added the CDOD is also in support of this Ordinance.

0:40:52 **Mayor Janway asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council in regular session.**

0:40:59 **B. Consider Ordinance No. 2017-27**

0:41:03 **Motion**

The motion was made by Councilor Durham and seconded by Councilor Anaya Flores to approve Ordinance No. 2017-27, an Ordinance Rezoning part of "R-2" Residential District to "C-2" Commercial District for an approximately 0.23 acre property located at 805 and 807 N. Main Street, Applicant: Stephen McGuirk

0:41:08 **Vote**

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

0:41:23 **15. COUNCIL COMMITTEE REPORTS**

None to report.

0:41:42 **16. ADJOURN**

0:41:47 **Motion**

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

0:41:53 **Vote**

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

0:42:11 **Adjourn**

There being no further business, the meeting was adjourned at 6:42 p.m.

_____/s/Dale Janway_____
Mayor

ATTEST:

_____/s/Annette Barrick_____
City Clerk