

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON APRIL 9, 2019 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor <i>via telephone</i>
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	Jason O. Chavez	Councilor
	Jason Shirley	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
Absent:	Judith E. Waters	Councilor
Also Present:	Michael Hernandez	City Administrator
	John Lowe	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	Ken Britt	Community Dev. Director
	Angie Barrios-Testa	Director of Municipal Services
	KC Cass	Director of Projects
	Ron Myers	Director of Utilities
	Sam Plumlee	IT Director
	Sandy Gonzales	Budget Manager
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Terry Mathis	Deputy 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**

0:00:02 Invocation - Pledge of Allegiance

0:00:32 **Mayor Janway** announced the retirement of Dr. Russell Hardy with the Carlsbad Environmental Monitoring and Research Center (CEMRC). He said the Retirement Party is scheduled at CEMRC on Thursday, April 11th from 2:00 to 4:00 p.m. **Mayor Janway** added Mr. Hardy is an essential part of our community at CEMRC, at

the Carlsbad Department of Development and also as a member of the Board of Water and Sewer Commissioners.

0:01:01 **Mr. Hernandez** read a letter from Ms. Carolyn Olsen thanking Lieutenant David Testa for all of the work he has done for the Special Olympics. The letter stated that Lieutenant Testa has placed Special Olympics Carlsbad, New Mexico on the law enforcement Torch Run map. The letter stated that Lieutenant Testas enthusiasm, organizational skills, and his love for the athletes is evident. Ms. Olsen added that Lieutenant Testa will be organizing a golf fundraiser, a tip a cop at a local restaurant, an officer competition at Cavern Fest and the Torch Run. She said the athletes and coaches appreciate his work for the Special Olympics.

0:02:31 **Mayor Janway announced that the Carlsbad Municipal Transit System has received the State of New Mexico 5311 Agency of the Year Award from the New Mexico Department of Transportation in recognition of their outstanding performance.** He said the award was presented on April 1 at the 2019 New Mexico Transit Road-eo Conference and Expo. **Mayor Janway** congratulated Joshua Moore, Transit Manager and his employees. **Mr. Moore** thanked the Mayor and his staff at transit.

0:05:09 **1. APPROVAL OF AGENDA**

0:05:11 **Motion**

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

0:05:17 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:05:37 **2. CONSIDER APPROVAL OF RESOLUTION NO 2019-11, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2018-2019 FISCAL YEAR BUDGET**

Mrs. Gonzalez reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2018-2019 Fiscal Year Budget highlighting the General Fund, the Street Improvement Fund, the Sports Complex Fund, and the Lodgers' Tax Promotional Fund.

0:07:05 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Resolution No. 2019-11, a Resolution making certain budgetary adjustments to the 2018-2019 Fiscal Year Budget

0:07:13 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried

0:07:34 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Special City Council Meeting held on March 21, 2019
- B. Minutes of the Regular City Council Meeting held on March 26, 2019
- C. City Personnel Report
- D. Contracts and Agreements
 - 1) Consider Approval of First Renewal Lease Agreement between the City of Carlsbad and Toni Balzano DBA: Bad Girl Enterprises and Carlsbad Cruises, LLC for Concession Services at Port Jefferson
 - 2) Consider Approval of Lease Agreement between the City of Carlsbad and Fed Ex for office space at the Carlsbad Municipal Airport
 - 3) Consider Approval of Agreement between the City of Carlsbad and New Mexico Department of Transportation to conduct special patrols in high crash locations for the Carlsbad Police Department
- E. Monthly Reports
 - 1) Human Resources Department March 2019
 - 2) Transportation & Facilities Department January & February 2019
- F. Board Appointments
 - 1) City of Carlsbad Veterans Memorial Advisory Board Appoint: Bob Carter remainder 4 year term
- G. Set Date: May 14, 2019
 - 1) An Ordinance rezoning part of "R-1" Residential 1 District to "R-R" Rural Residential District for an approximately 2.87 acre property, located at 502 E. Hamilton Street
 - 2) An Ordinance authorizing the sale of the real property commonly known as 5000 West Church Street to Branson Properties LLC for \$90,000

0:07:54 **Mayor Janway asked Chief Skinner to discuss Item D.3 Consider Approval of Agreement between the City of Carlsbad and New Mexico Department**
Chief Skinner explained that the New Mexico Department of Transportation has offered the Carlsbad Police Department three project agreements totaling the amount of \$37,717.00. Chief Skinner explained the objective of the project agreement is to provide funding to Law Enforcement to conduct special patrols and checkpoints to enforce driving laws in high crash locations with the goal to reduce the number of fatalities.

0:09:55 **Motion**

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

0:10:00 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:10:21 **4. CONSIDER APPROVAL OF REQUEST FROM ORYX DELAWARE OIL GATHERING NM, LLC TO INSTALL A SINGLE PIPELINE TO TRANSPORT OIL WITHIN THE SHEEP'S DRAW WELL HEAD PROTECTION AREA**

Mr. Myers explained Oryx Delaware Gathering is requesting to install a single pipeline to transport oil from Chisholm Energy Ocotillo within the Sheep's Draw Well Head Protection area. He said Oryx has submitted all the required information and are in compliance with the requirements in the Well Head Protection area. He added the Board of Water Sewer Commissioners recommend approval.

Councilor Walterscheid said with this being such a porous area and where the city's water comes, is this activity concerning. **Mr. Myers** said this is a concern and there is a lot of activity in the area. He said Oryx is complying with all the requirements in place and added that the request has been reviewed by Wood Environmental. **Mr. Myers** added that the Ordinance has requirements for specific types of materials that have to withstand certain pressures, resist corrosion and any type of damage, and safety monitoring is required.

Mr. Hernandez explained that the Water & Sewer Board asked for additional signage in the well field. He said that Oryx said there are devices in place, so if pressure is lost the well would stop producing immediately. He added the cities Well Head Protection Ordinance is being reviewed to see if it is up to date and to see if the city can do anything more to protect the city's resource.

Councilor Chavez asked if there is an emergency shut off in the front and the rear. **Mr. Casey Lujan**, Oryx Project Manager, said there are redundant kill switches on the line. He said there are mechanical shut off switches and there is a 24 hour monitoring control center that monitors the line remotely and can shut off or send a permissive cut at any time. **Councilor Chavez** asked if pressure or oil was lost in the line after the shutoff, how much would be lost and would the oil saturate the ground or get close to the Aquifer. **Mr. Tim Greene**, Chisholm Energy, said the spill would be immediately sucked up. He said Chisholm Energy also has monitors on the wells that will also shut the wells off.

Mr. Matthew McGill, Wood Environmental explained his only concern is the operating pressures. He said the ordinance states operating pressures cannot be above 250 psi and he would like Oryx to clarify that their pressures will not be operating above 250 psi. He added Oryx has all the safety provisions and shut off switches and he does not see any issues and added Oryx is quite equipped for a spill. **Mr. Lujan** said Oryx's operating pressure is usually in range but allows for up to 740 psi. He said the line is

hydrostatically tested well above 740 psi to ensure the line can handle the pressure. He also discussed the thickness of the piping and said the piping thickness is five times over the DOT requirements.

0:22:26 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve request from Oryx Delaware Oil Gathering NM, LLC to install a single pipeline to transport oil within Sheep's Draw Well Head Protection area

0:22:32 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Chavez; No - Anaya Flores; Absent - Waters; the motion carried.

0:22:53 **5. CONSIDER APPROVAL OF REQUEST FROM CHISHOLM ENERGY OPERATING, LLC TO INSTALL A SINGLE PIPELINE TO TRANSPORT GAS WITHIN THE SHEEP'S DRAW WELL HEAD PROTECTION AREA**

Mr. Myers explained as the previous item this is a request for a permit to install a pipeline to transport gas within the city's Sheep's Draw Well Head Protection area. He said the application and pipeline design meet all city requirements and the Water and Sewer Commissioners recommend approval.

0:24:14 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve request from Chisholm Energy Operating, LLC to install a single pipeline to transport gas within the Sheep's Draw Well Head Protection area

0:24:20 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Chavez; No - Anaya Flores; Absent - Waters; the motion carried.

0:24:37 **6. CONSIDER APPROVAL OF REQUEST FROM 3 BEAR DELAWARE OPERATING, NM LLC TO INSTALL A SINGLE PIPELINE TO TRANSPORT WATER WITHIN THE SHEEP'S DRAW WELL HEAD PROTECTION AREA**

Mr. Myers explained this request is to install a pipeline to transport water from Chisholm Energy Ocotillo within the Sheep's Draw Well Head Protection area. He said staff reviewed the application and determined the application and pipeline design meet all requirements. **Mr. Myers** added the Board of Water and Sewer Commissioners recommend approval.

0:27:19 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve request from 3 Bear Delaware Operating, NM LLC to install a single pipeline to transport water within the Sheep's Draw Well Head Protection area

0:27:25 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Chavez; No - Anaya Flores; Absent - Waters; the motion carried.

0:27:42 **7. CONSIDER APPROVAL OF PROPOSED PUBLIC IMPROVEMENT DISTRICT POLICY (PID) DEVELOPED FOR THE CITY OF CARLSBAD BY STANTEC CONSULTING SERVICES**

Mr. Hernandez explained several developers have brought up the possibility of bringing a PID to Carlsbad as part of a larger scale development. He explained in response the city has reached out to Stantec Engineering to provide a PID Policy. He said this PID Policy brings the best components from other PID policies in New Mexico while following New Mexico statues to provide the city a mechanism in dealing with potential developers that would like to use a PID policy.

Mr. Scott Verhines and Mr. Kevin Powers gave a brief presentation regarding PID. The presentation reviewed the following:

- Context
 - growth pays for growth
 - what's driving development
- Policy Overview/Objectives
 - address growth and infrastructure challenges
 - create simple, defensible, and straight forward policies
 - reduce financial and development risk
- Conclusion
 - PID policy provides general framework
 - ensures city will not incur out-of-pocket costs
 - provides a consistent approach for developers to follow

0:48:43 **Mr. Hernandez** added that Mr. Peter Franklin with Modrall Law Firm reviewed the Policy.

0:49:08 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve proposed Public Improvement District Policy (PID) developed for the City of Carlsbad by Stantec Consulting Services

0:49:13 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:49:33 **8. CONSIDER APPROVAL TO AUTHORIZE THE SUBMISSION OF AGING & LONG TERM SERVICES DEPARTMENT APPLICATION FOR 2020 CAPITAL OUTLAY FOR PHASE II RENOVATIONS FOR THE FUTURE SITE OF THE SAN JOSE SENIOR CENTER FOR \$760,000**

Mrs. Testa explained this request is to submit a grant application for the Aging and Long Term Services Division for the 2020 Capital Outlay. She said the Program provides funding to meet the needs of older adults and adults with disabilities.

0:51:50 **Motion**

The motion was made by Councilor Estrada and seconded by Councilor Rodriguez to approve the submission of Aging & Long Term Services Department Application for 2020 Capital Outlay for Phase II Renovations for the future site of the San Jose Senior Center for \$760,000

0:51:53 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:52:11 **9. CONSIDER APPROVAL OF RESOLUTION NO 2019-12, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

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

0:52:54 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution No. 2019-12, a Resolution declaring certain city property unusable or obsolete

0:53:22 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:53:23 **10. CONSIDER APPROVAL OF RESOLUTION NO 2019-13, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH AND DEBRIS AT 2208 HILLCREST STREET OWNERS: CHAVEL AND ANGELINA NAVARRO**

Ms. Riordan explained this property is a weed and debris removal. She explained that Code Enforcement has tried to work with the property owners for the last two years with no success. She added staff feels this property is a fire hazard and recommends approval.

Mayor Janway asked if a representative for the property was present, no one appeared.

0:58:26 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution No 2019-13, a Resolution requiring the removal of the trash and debris at 2208 Hillcrest Street Owners: Chavel and Angelina Navarro

0:58:32 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

0:58:54 **11. CONSIDER APPROVAL OF ORDINANCE 2019-18, AN ORDINANCE ANNEXING A PORTION OF LAND CONTAINING +/-64.23 ACRES MORE OR LESS, CONTIGUOUS TO THE CITY OF CARLSBAD, NEW MEXICO, LOCATED AT THE SOUTHEAST CORNER AND SOUTHWEST CORNER OF THE INTERSECTION OF WEST LEA STREET AND STANDPIPE ROAD APPLICANT: JOHNNY VOLPATO**

0:59:30 **A. Public Hearing**

Mr. Patterson explained this is a request for an annexation of 64.23 acres located at the southeast corner and southwest corner of the intersection of West Lea. He said the property owner would like to build housing on the property. **Mr. Patterson** added staff is currently working with property owners who are being forced to annex. He explained these property owners have firework stands and will continue to be able to sale fireworks.

Mr. Volpato said he will be placing 157 houses on the property.

1:02:02 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. Scott Hicks, Smith Engineering, said he is assisting Mr. Volpato with planning the development.

Councilor Walterscheid asked if this property is in the floodplain. **Mr. Hicks** said yes and added the pads will have to be built above floodplain elevation.

Councilor Estrada asked about the traffic in the area. **Mr. Hicks** said if the development is approved a traffic analysis will be completed.

Ms. Shannon Carr, Carlsbad Department of Development, said she is in favor of the annexation because Carlsbad is in need of housing.

1:04:22 **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.**

1:04:29 **B. Consider Approval**

1:04:31 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Ordinance No. 2019-18, an Ordinance annexing a portion of land containing

+/-64.23 acres more or less, contiguous to the City of Carlsbad, New Mexico, located at the Southeast corner and Southwest corner of the intersection of West Lea Street and Standpipe Road; Applicant: Johnny Volpato

1:04:36 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

1:05:01 **12. CONSIDER APPROVAL OF ORDINANCE 2019-19, AN ORDINANCE APPLYING "C-2" COMMERCIAL 2 DISTRICT TO AN APPROXIMATELY 10.91 ACRE PROPERTY, LOCATED AT SOUTHEAST CORNER AND SOUTHWEST CORNER OF THE INTERSECTION OF WEST LEA STREET AND STANDPIPE ROAD APPLICANT: CITY OF CARLSBAD**

1:05:16 **A. Public Hearing**

Mr. Patterson explained this item goes along with the previous annexation. He explained the city is requesting "C-2" Commercial 2 District so that the properties forced into annexation can continue to sale fireworks. He added that the Planning and Zoning Commission recommends approval.

1:07:37 **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 in regular session**

1:07:49 **B. Consider Approval**

1:07:54 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Ordinance No. 2019-19, an Ordinance applying "C-2" Commercial 2 District to an approximately 10.91 acre property located at Southeast corner and Southwest corner of the intersection of West Lea Street and Standpipe Road; Applicant: City of Carlsbad

1:07:59 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

1:08:14 **13. CONSIDER APPROVAL OF ORDINANCE 2019-20, AN ORDINANCE APPLYING "R-1" RESIDENTIAL 1 DISTRICT TO AN APPROXIMATELY 54.2 ACRE PROPERTY, LOCATED AT SOUTHEAST CORNER AND SOUTHWEST CORNER OF THE INTERSECTION OF WEST LEA STREET AND STANDPIPE ROAD APPLICANT: JOHNNY VOLPATO**

1:08:38 **A. Public Hearing**

Mr. Patterson explained this item is a request to apply "R-1" Residential 1 District zoning to the 54.2 acres previously annexed.

1:09:20 **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**

1:09:32 **B. Consider Approval**

1:09:36 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Ordinance No. 2019-20, an Ordinance applying "R-1" Residential 1 District to an approximately 54.2 acre property located at Southeast corner and Southwest corner of the intersection of West Lea Street and Standpipe Road; Applicant: Johnny Volpato

1:09:47 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

1:10:12 **14. COUNCIL COMMITTEE REPORTS**

Councilor Rodriguez gave an update on the Census Committee.

Mayor Janway announced a come and go reception for the retirement of Senator Carroll Leavell on April the 16th from 5:00 to 7:00 pm at the Stevens Inn.

1:13:01 **15. ADJOURN**

1:13:10 **Motion**

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

1:13:20 **Vote**

The vote was as follows: Yes - Carter, Estrada, Rodriguez, Shirley, Walterscheid, Anaya Flores, Chavez; No - None; Absent - Waters; the motion carried.

1:13:39 **Adjourn**

There being no further business, the meeting was adjourned at 7:15 p.m.

/s/Dale Janway
Dale Janway, Mayor

ATTEST:

/s/Nadine Mireles
Nadine Mireles, City Clerk