

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON AUGUST 13, 2019 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Leo B. Estrada	Councilor
	Jason O. Chavez	Councilor
	Jason Shirley	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
Absent:	Edward T. Rodriguez	Councilor
	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
	Wendy Austin	Finance Director
	Mellissa Salcido	Grants & Projects Control Mgr
	Wayne Hatfield	IT Director
	Brent Griffith	IT Tech II
	Brian Mendoza	Assistant Fire Chief
	Jeff Patterson	Planning Director
	Trysha Carrasco	Deputy Planning Director
	Shane Skinner	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

0:00:30 **Ms. Mary Garwood**, Beautification Coordinator, gave a short presentation regarding illegal dumping. She explained illegal dumping is an issue in Eddy County and statewide. She said she has previously attended the Boots on the Ground Illegal

Dumping Workshop hosted by the Illegal Dumping Partnership out of Dona Ana County. She said this year the Workshop will be hosted here in Carlsbad on August 22, 2019 from 9:00 a.m. to 2:00 p.m. with no cost to attend. She invited everyone to attend and said breakfast and lunch will be served.

0:04:53 **1. APPROVAL OF AGENDA**

0:04:55 **Motion**

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

0:04:58 **Vote**

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

0:05:15 **2. CONSIDER APPROVAL OF RESOLUTION 2019-31, A RESOLUTION APPROVING THE 4TH QUARTER FINANCIAL REPORT**

Ms. Austin said the city is required to prepare these financial reports quarterly. She explained the 4th quarter reports are required to be approved by Resolution and submitted with the final budget.

0:07:05 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Resolution No. 2019-31, a Resolution approving the 4th Quarter Financial Report

0:07:11 **Vote**

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

0:07:25 **3. CONSIDER APPROVAL OF RESOLUTION 2019-32, A RESOLUTION APPROVING THE CITY OF CARLSBAD 2019-20FY FINAL BUDGET**

Ms. Austin explained before you today is Resolution 2019-32, approving the 2019-20 FY Final Budget. She said the City of Carlsbad has a solid budget and recognized the Budget Committee members, Councilor Rodriguez, Councilor Anaya Flores, Councilor Carter, and Councilor Shirley. She explained the Budget has been reviewed, approved, and recommended by City Staff, and the Budget Committee and she is pleased to submit the Final Budget for approval.

Councilor Carter explained that Councilor Rodriguez asked him to reiterate the fact that the Budget is a huge task and he thanked everyone for all of the hard work and effort put into the Budget process.

0:09:55 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Resolution No. 2019-32, a Resolution Approving the City of Carlsbad 2019-20 FY Final Budget

0:10:08 **Vote**

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

0:10:22 **4. CONSIDER APPROVAL OF RESOLUTION 2019-33, A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY**

Ms. Austin introduced Mr. Eric Harrigan with RBC Capital Markets. She explained the City has an opportunity to refund the Series 2009 Gross Receipts Tax Revenue Bonds. She added, in addition the City is able to pay off the Series 2009 Joint Water & Sewer Bonds.

Mr. Eric Harrigan, RBC Capital Markets, explained the application presented tonight is to submit for a refinancing of the city's 2009 Gross Receipts Tax Revenue Bonds. He added refinancing will save the City \$471K in interest and the pay-off will save the city \$1.8M in interest.

0:15:23 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Shirley to approve Resolution No. 2019-33, a Resolution authorizing and approving submission of a completed application for Financial Assistance and Project Approval to the New Mexico Finance Authority

0:15:31 **Vote**

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

0:15:46 **5. CITY OF CARLSBAD FINANCIALS - JUNE 2019**

Ms. Salcido reviewed the revenues and expenditures as of June 2019 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:17:40 **6. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on July 23, 2019
- B. City Personnel Report
- C. Contracts and Agreements
 - 1) Consider Approval of Agreement between the City of Carlsbad and the Carlsbad Soccer League for Sports Services at the Bob Forrest Sports Complex

- 2) Consider Approval of Renewal Agreement between the City of Carlsbad and EMSRx, LLC for the provision of Medical Director Services for the Carlsbad Fire and Police Departments
- D. Monthly Reports
 - 1) Human Resources Department July 2019
 - 2) Municipal Court July 2019
 - 3) Planning, Engineering & Regulations Department July 2019
- E. Board Appointments
 - 1) Carlsbad Cemetery Board Appoint Amy Calderon, remainder 2 year term
- F. Set Date: September 10, 2019
 - 1) Consider Approval of Ordinance, an Ordinance authorizing the execution and delivery of a Loan Agreement between the City of Carlsbad and NM Finance Authority for the refunding of the Gross Receipts Tax Revenue Bonds

0:18:03 **Mayor Janway asked Mr. Hernandez to discuss Item C.1 Consider Approval of Agreement between the City of Carlsbad and the Carlsbad Soccer League for Sports Services at the Bob Forrest Sports Complex; and Item C.2 Consider Approval of Renewal Agreement between the City of Carlsbad and EMSRx, LLC for the provision of Medical Director Services for the Carlsbad Fire and Police Departments**

Mr. Hernandez explained this is an annual agreement that is brought before Council each year. He explained this agreement is for the Carlsbad Soccer League to provide services at the Bob Forrest Youth Sports Complex. He added this agreement is not to exceed \$19K.

Mr. Hernandez explained Item C.2 is a renewal of Agreement between the City of Carlsbad and EMSRx, LLC for the provision of Medical Director Services for the Carlsbad Fire and Police Departments.

0:19:05 **Motion**

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

0:19:13 **Vote**

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

0:19:31 **7. CONSIDER APPROVAL OF REQUEST FROM PHIL LAWSON FOR WATER SERVICE OUTSIDE CITY LIMITS FOR PROPERTY LOCATED AT 2006-2 CONNIE ROAD**

Mr. Myers explained this is a request for water service outside of the city limits at 2006-2 Connie Road. He said Mr. Phil Lawson, property owner, presented his request to the Water & Sewer Commissioners where it was approved contingent upon all of the applicable policies that govern this type of request.

Councilor Walterscheid asked if the water line can support the request. **Mr. Myers** said there is enough water capacity to support this particular project.

Councilor Walterscheid asked why the water bills are now going to Los Angeles, California. **Ms. Austin** explained that years ago the city began working on a plan with Wells Fargo to have more present day commercial banking services. She mentioned the services: Online/mobile bill pay, Positive pay, Lockbox, and Vendor ACH. She explained that this week the city implemented Lockbox. She explained Lockbox is a mail processing service used by organizations that receive high volumes of payment remittance. She explained moving forward anyone who mails their payment into the city, their payment will go to a city specific P. O. Box managed by Wells Fargo. She said Wells Fargo will scan the payments with the coupon that includes a barcode which significantly reduces user input errors and potential fraud by reducing the number of employee "touches" on each transaction. **Ms. Austin** added in addition, Lockbox will allow city employees more time to focus on value-added tasks such as customer service and utility and billing analysis. **Councilor Walterscheid** said his constituents are worried about being shut off because the lag time between the payment arriving in California and the city shut off dates. **Ms. Austin** said that the utility bills are due by the last day of the month and that water service is never shut off on the 1st day of the month so there should not be any issues.

0:25:12 **Ms. Riordan** said the water request is for residential service only. She said this will not be used for the business. She explained the water will be used for their employees and employee housing.

Councilor Shirley asked if the city is close to capacity in the area. **Mr. Myers** said if the growth continues the city would need to consider upgrading capacity in the area for water.

0:26:22 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Request from Phil Lawson for Water Service Outside City Limits for property located at 2006-2 Connie Rd

0:26:36 **Vote**

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

0:26:52 **8. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE/BUSINESS LICENSE BY BENNETT'S AMUSEMENT FOR A CARNIVAL AT 405 CASCADES AVENUE**

Mr. Patterson explained Bennett's Amusement, Inc. has requested a Business License to host a carnival at 405 Cascades Avenue on September 3, 2019 through September 10, 2019. He said the Planning Department recommends approval based on the following

conditions, the applicant shall comply with all applicable requirements of Code of Ordinances, Chapter 28, Article II; The applicant shall furnish the City with copies of all forms and inspections required under the Carnival Ride Insurance Act, prior to operation; and the applicant shall ensure that all trash is cleared from the site daily and at the end of the event.

0:29:00 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Request for a Temporary Use/Business License by Bennett's Amusement for a Carnival at 405 Cascades Avenue

0:29:05 **Vote**

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

0:29:20 **9. CONSIDER APPROVAL OF RESOLUTION 2019-34, A RESOLUTION ADOPTING THE FY 2021-2025 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)**

Ms. Testa explained this item is a request for approval of Resolution No. 2019-34, a Resolution adopting the FY 21-25 Infrastructure Capital Improvement Plan (ICIP). She explained a recommended list was provided at the July 23, 2019 Council Meeting for review and to allow Council to submit recommendations for changes. She added no recommendation for changes were received so tonight the list is brought before Council with no changes for consideration. She added the Resolution also incorporates the Council's approval to designate the Mayor Signature authority to apply for any grant or alternative funding for the projects listed.

Councilor Walterscheid asked if the list is in order of importance. **Ms. Testa** said yes, and explained that at the last Council meeting she reviewed the vetting process and priority level for the projects. **Councilor Walterscheid** said the project he is most interested in is the recycling project and it is listed number 54. **Ms. Testa** said recycling is a project that requires a lot of funding and planning and is not shovel ready at this time. **Councilor Walterscheid** said it is ready and he is wondering how the priority is determined. **Mr. Hernandez** explained a site would have to be located with all required permits, and the engineering complete. He added there is a lot that needs to be done before being ready for recycling. **Mr. Hernandez** said all the projects were evaluated and based on the same point system. **Ms. Testa** explained it also depends on funding sources and if there is funding specific to recycling or environmental programs, it does not matter what number it is on the list to be considered for that specific funding.

Councilor Shirley asked if staff was given direction on bringing specific shovel ready projects. **Ms. Testa** said when going through the Capital Outlay there are perimeters that are considered. She added it is based on the city's set criteria on how the city prioritizes its projects.

0:36:00 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Resolution No. 2019-34, a Resolution adopting the FY 2021-2025 Infrastructure Capital Improvement Plan (ICIP)

0:36:20 **Vote**

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

0:36:33 **10. CONSIDER APPROVAL OF RESOLUTION NO 2019-35, 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.

0:37:19 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Resolution No. 2019-35, a Resolution declaring certain City Property Unusable or Obsolete

0:37:24 **Vote**

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

0:37:38 **11. CONSIDER APPROVAL OF RESOLUTION NO 2019-36, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF 2019 CAPITAL OUTLAY GRANT AGREEMENT FROM NMDFA TO PLAN, DESIGN AND CONSTRUCT STREET IMPROVEMENTS TO KIRCHER STREET**

Mr. K.C. Cass explained this Resolution was previously approved by City Council in June 2019. He explained the city received the wrong format; this Resolution corrects the previous Resolution and will allow NMDOT to administrate the funds back to the city.

0:39:56 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Chavez to approve Resolution No. 2019-36, a Resolution authorizing the acceptance of 2019 Capital Outlay Grant Agreement from NMDFA to plan, design and construct street improvements to Kircher street

0:40:11 **Vote**

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

0:40:25 **12. CONSIDER APPROVAL OF RESOLUTION 2019-37, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF 2019 CAPITAL OUTLAY**

GRANT AGREEMENT FROM NMDFA TO PLAN, DESIGN, CONSTRUCT AND EXTEND A STORM DRAIN ON W. GREENE STREET

Mr. K.C. Cass explained this is the identical situation as the previous item. He explained this item was approved in June 2019 but was not in the correct format. He said this Resolution corrects Resolution No. 2019-24.

0:42:53 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Walterscheid to approve Resolution No. 2019-37, a Resolution authorizing the acceptance of 2019 Capital Outlay Grant Agreement from NMDFA to plan, design, construct and extend a storm drain on W. Greene Street

0:43:03 **Vote**

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

0:43:16 **13. CONSIDER APPROVAL OF RESOLUTION 2019-38, A RESOLUTION REQUIRING THE REMOVAL OF THE BUILDINGS AND DEBRIS AT 2108 STANDPIPE ROAD OWNER: CAMERON L. AND DEANA P. WELLS**

Ms. Riordan explained this home and accessory buildings are in a severe state of disrepair due to abandonment, neglect and a lack of maintenance. She stated the City Building Official, Code Enforcement, and the Fire Marshal find that the property is a hazard and recommend approval of the Resolution.

Mr. K.C. Cass said he has spoken to Mr. Wells and he agrees the structures need to be removed. He said Mr. Wells would like to take care of the removal himself and is currently working on quotes to remove the structures.

0:51:20 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Estrada to approve Resolution No. 2019-38, a Resolution requiring the removal of the buildings and debris at 2108 Standpipe Road; Owner: Cameron L. and Deana P. Wells

0:51:30 **Vote**

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

0:51:43 **14. CONSIDER APPROVAL OF ORDINANCE 2019-34, AN ORDINANCE REZONING PART OF "I" INDUSTRIAL DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 3.88 ACRE PROPERTY, LOCATED AT 2411 E. GREENE STREET APPLICANT: DELTA CONSTRUCTORS/DAMON PREJEAN**

0:52:11 **A. Public Hearing**

Mr. Patterson explained this request is for a zone change from "I" Industrial District to "C-2" Commercial 2 District for 2411 E. Greene Street. He explained this change would result in a spot zone, however, the Planning Department sees that "C-2" zoning falls into the growth of the area. He said the Planning and Zoning Commission recommend approval.

0:53:18 **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**

0:53:32 **B. Consider Approval of Ordinance 2019-34**

0:53:40 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Chavez to approve Ordinance No. 2019-34, an Ordinance rezoning part of "I" Industrial District to "C-2" Commercial 2 District for an approximately 3.88 acre property, located at 2411 E. Greene Street Applicant: Delta Constructors/Damon Prejean

0:53:44 **Vote**

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

0:53:58 **15. CONSIDER APPROVAL OF ORDINANCE 2019-35, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "R-1" RESIDENTIAL 1 DISTRICT FOR AN APPROXIMATELY 0.90 ACRE PROPERTY, LOCATED AT 4501 OLD CAVERN HWY. APPLICANT: DARRELL CRIMMINS**

0:54:26 **A. Public Hearing**

Mr. Patterson explained this item is a request for a zone change from "R-R" Rural Residential District to "R-1" Residential 1 District for the property located at 4501 Old Cavern Hwy. He explained the applicant plans to change the structure of the property into a duplex and would like to sale the property. He said the Planning and Zoning Commission recommend approval.

0:56:20 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance**

Mr. Crimmins, property owner, said he would like to change the zoning of the property, so he will not have trouble selling the property in the future, if he chooses to do so.

0:57:38 **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 into regular session**

0:57:50 **B. Consider Approval of Ordinance 2019-35**

0:58:16 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Anaya Flores to approve Ordinance No. 2019-35, an Ordinance rezoning part of "R-R" Rural Residential District to "R-1" Residential 1 District for an approximately 0.90 acre property, located at 4501 Old Cavern Hwy; Applicant: Darrell Crimmins

0:58:25 **Vote**

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

0:58:39 **16. CONSIDER APPROVAL OF AN APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO DENY A VARIANCE REQUEST FOR THE PLACEMENT OF A STRUCTURE WITHIN THE REQUIRED 5' SIDE SETBACK AT 215 & 217 N 4TH STREET ZONED "R-1" RESIDENTIAL 1 DISTRICT APPELLANT: MITCHELL FRANSEN**

Mr. Patterson explained Mr. Fransen sought a variance for a proposed property split at his property located at 215 and 217 N. 4th Street. He explained one of the new property line locations would be in the middle of an existing parking shelter. He explained as such the structure would result in a violation of the city's side setback rule in the zoning ordinance. **Mr. Patterson** said the Planning and Zoning Commission denied his request for a variance. He explained Mr. Fransen has since been in to speak to the City Building Official and a local welding company about the possibility of separating the structure, and they both agree it can be separated. He added with the structure being separated the Planning Department would not have a problem with the property split or the variance on the property.

Councilor Shirley asked if the approval can be contingent upon the structure being separated. **Mr. Patterson** said if Council decides to overturn the decision of the Planning and Zoning Commission, Council can place a stipulation contingent upon the separation of the structure.

Councilor Chavez asked if this would be a zero setback. **Mr. Patterson** said yes it would be a violation of the 5' setback on both of the properties. **Councilor Chavez** asked if this would create a fire hazard. **Mr. Patterson** said he did not believe so because the structure is constructed out of non-flammable material.

Councilor Chavez asked if this variance has been granted in the past. **Mr. Patterson** answered yes, the city has granted variances to place parking structures in setbacks in the past.

Mr. Fransen explained he purchased the property and the current property line is not conducive to parking for the structures located on the property. He explained the

structure is non-flammable and both of the roofs drain to their own property. He explained the structures would be independent from one another.

1:08:35 **Motion to table**

The motion to table was made by Councilor Shirley and seconded by Councilor Anaya Flores to table to be heard at the next Council meeting due to lack of a full quorum the approval of an Appeal of the decision by the Planning and Zoning Commission to deny a variance request from the placement of a structure within the required 5' side setback at 215 & 217 N. 4th Street zoned "R-1" Residential 1 District; Appellant: Mitchell Fransen

1:08:52 **Vote**

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

1:09:11 **17. COUNCIL COMMITTEE REPORTS**

None to report.

1:09:28 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

1:09:34 **18. ADJOURN**

1:09:42 **Motion**

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

1:09:51 **Vote**

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

1:10:08 **Adjourn**

There being no further business, the meeting was adjourned at 7:10 p.m.

/s/Dale Janway
Dale Janway, Mayor

ATTEST:

/s/Nadine Mireles
Nadine Mireles, City Clerk