

**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 10, 2019 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	Jason O. Chavez	Councilor <i>via telephone</i>
	Jason Shirley	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor

Absent:

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
	Wayne Hatfield	IT Director
	Wendy Austin	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	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**

0:00:00 Invocation - Pledge of Allegiance

0:00:27 **1. APPROVAL OF AGENDA**

0:00:31 **Motion**

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

0:00:36 **Vote**

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

0:00:55 **2. CITY OF CARLSBAD FINANCIALS - JULY 2019**

Mrs. Austin reviewed the revenues and expenditures as of July 2019 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:03:39 **3. CONSIDER APPROVAL OF RESOLUTION 2019-43, A RESOLUTION CERTIFYING THE ANNUAL FIXED ASSET INVENTORY OF THE CITY OF CARLSBAD, NEW MEXICO AS OF JUNE 30, 2019**

Mrs. Austin explained that staff, under the direction of the Fixed Asset Coordinator, has completed a physical inventory of fixed assets costing \$5,000.00 or more. She explained this inventory is required by the New Mexico State Auditor, per the State Audit Rule, and NMSA 12-6-10 Annual Inventory.

Councilor Rodriguez asked if there is a timeline for the additional notes to be completed. **Ms. Austin** said that they need to be complete before the auditors arrive.

0:05:11 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution No. 2019-43, a Resolution certifying the Annual Fixed Asset Inventory of the City of Carlsbad, New Mexico as of June 30, 2019

0:05:17 **Vote**

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

0:05:36 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on August 27, 2019
- B. City Personnel Report
- C. Monthly Reports
 - 1) Human Resources Department August 2019
 - 2) Municipal Court Department August 2019
- D. Board and Committee Appointments
 - 1) Board of Solid Waste Commissioners Appoint Buzz Sexton 6 year term

0:06:03 **Motion**

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

0:06:11 **Vote**

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

0:06:32 **5. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE/BUSINESS LICENSE BY WRIGHTS AMUSEMENTS FOR A CARNIVAL LOCATED AT THE CARLSBAD MALL 2302 W. PIERCE**

Mr. Patterson explained this request is for a Temporary Use/Business License by Wrights Amusements to hold a Carnival at 2302 W. Pierce St. He said Wrights Amusement would like to host the event from September 12th through September 15, 2019. He explained the applicant has provided all required paperwork to be issued a Business License.

0:10:41 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Request for a Temporary Use/Business License by Wrights Amusements for a Carnival located at the Carlsbad Mall, 2302 W. Pierce

0:10:46 **Vote**

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

0:11:06 **6. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE APPLICATION TO ALLOW TEMPORARY HOUSING AS A TEMPORARY USE FOR 2.45 ACRES LOCATED AT 3221 NATIONAL PARKS HWY, CARLSBAD, NM APPLICANT: MEGA POWER ELECTRIC/SHANE CARPENTER**

Mr. Patterson explained this request is to allow Temporary Housing in the form of RV's at 3221 National Parks Hwy. He explained the property is zoned "C-2" Commercial District which allows temporary housing and the property also meets the size requirement. He explained the Planning & Zoning Commission recommended denial because the applicant failed to provide an adequate site plan.

Councilor Chavez explained the ABM states the subject property is approximately 2.45 acres combined. He asked what combined means and added that he thought the Ordinance stated the lots could no longer be combined with other property. **Mr. Patterson** explained the property is on multiple lots but it is really all one property. He said if all the property is combined it is over the 2.00 acre minimum.

Mr. Patterson added the site plan was submitted after the Planning and Zoning meeting and he feels it is appropriate for the Commission to make a recommendation and to see the site plan. He added at the very least he recommends remanding the item back to Planning and Zoning for consideration.

Councilor Rodriguez asked if the plan was brought to Planning and Zoning after being warned about having the trailers on site or was it brought in prior to being warned. **Mr. Patterson** said the applicant was warned about having the RV's onsite months ago and that is what caused the applicant to start the process to obtain a temporary use permit.

Mr. Shane Carpenter, applicant, explained the 4 RV spots he has are for his employees. He explained that he submitted a site plan but was not aware that it had to be a scaled site plan. He added these spots are not for rent and they are located in the back of his yard for his employee to use.

Councilor Carter asked how many times this item was tabled at the Planning and Zoning Commission. **Mr. Patterson** said he believes the item has been tabled three times.

0:16:28 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Shirley to remand back to the Planning and Zoning Commission for consideration of this Request for a Temporary Use Application to allow Temporary Housing as a Temporary Use for 2.45 acres located at 3221 National Parks Hwy., Carlsbad, NM, Applicant: Mega Power Electric/Shane Carpenter

0:17:09 **Vote**

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

0:17:30 **7. CONSIDER APPROVAL OF RESOLUTION 2019-44, A RESOLUTION FOR THE DEFEASANCE (PAY-OFF) OF THE JOINT WATER & SEWER REFUNDING & IMPROVEMENT BONDS**

Mrs. Austin explained this Resolution is to redeem the Joint Water & Sewer Refunding & Improvement Bonds. She added this request has been before the Budget Committee and Council.

Mr. Eric Harrigan, RBC Capital Markets, explained that RBC is the city's municipal advisor. He explained this Resolution will redeem the outstanding 2009 Joint Utility Bonds. He explained the redemption will save the city over \$3.8M in total interest over the life of the bonds. He added the redemption will also bring the city's debt covenants more in line with what is considered best practices.

0:19:55 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Resolution No. 2019-44, a Resolution for the Defeasance (pay-off) of the Joint Water & Sewer Refunding & Improvement Bonds

0:20:12 **Vote**

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

0:20:34 **8. CONSIDER APPROVAL OF RESOLUTION 2019-45, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH AND DEBRIS AT 510, 512, AND 514 N. ALAMEDA OWNER: JONATHAN SAMANIEGO**

Ms. Riordan explained this property consists of three lots at the corner of North Alameda and Bonbright. She explained there are a number of structures on the property that appear to be vacant. She said all three lots have tall weeds along with debris and trash. **Ms. Riordan** explained that Code Enforcement sent a notice to the property owner requesting that the property be cleaned up, but the property has not been brought into compliance. She said the concern is that the weeds will become a fire hazard and the recommendation from Code Enforcement and the Fire Marshal is to adopt the Resolution.

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

0:22:28 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Resolution No. 2019-45, a Resolution requiring the removal of the trash and debris at 510, 512, and 514 N. Alameda, Owner: Jonathan Samaniego

0:22:36 **Vote**

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

0:22:54 **9. CONSIDER APPROVAL OF 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 204 W. RIVERSIDE DR., ZONED "R-2" RESIDENTIAL 2 DISTRICT APPELLANT: RAY PETERS**

Mr. Patterson explained this is an appeal of the decision of the Planning and Zoning Commission to deny a variance request to place a parking structure/storage within the required 5' side setback. **Mr. Patterson** explained the appellant submitted an appeal letter to the Planning Director stating that in his opinion the Planning and Zoning Commission made an error and cites Sec. 56-150(c)(4)(b).

Mr. Ray Peters, property owner, said he believes the main concern is fire, he added the building next to his property is 8.5 foot from the property line and is 95% class 1 fire rated and is made of brick. He explained the structure he would like to build will be a carport, garage, and patio. He said he will build the structure fire resistance with class 1 and class 2 materials. He said the new structure will drain onto his property. He said the apartment building next to him should be zoned commercial and if it was zoned correctly he would not have to request the variance.

Councilor Carter asked how large the structure would be. **Mr. Peters** said the structure would be 30' wide and 60' deep. **Councilor Estrada** asked where the 5' access would be. **Mr. Peters** said he is proposing to not have a 5' setback but would have an access on the other side of the structure between the structure and his house.

Councilor Walterscheid asked what the Ordinance says, what kind of rules are to be followed. **Mr. Patterson** explained for R-2 zoning the requirement is to have a 5' setback between your property lines to the nearest structure. **Councilor Walterscheid** asked if it's common to build in the required setback. **Mr. Patterson** said some variances have been approved in the past but the department tries not to deviate from the Ordinance.

0:30:47 **Mayor Janway** asked **Chief Lopez** if he had input on the setback. **Chief Lopez** explained there have been some variances approved in the past and these setback variances could create a problem in the future. He believes the variances should be few are far between. He added that the fire resistant material is better but believes setbacks requirements are needed.

0:33:11 **Mr. Peters** said he is proposing to build a contemporary style structure that will enhance the neighborhood.

0:33:39 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to uphold 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 204 W. Riverside Dr., zoned "R-2" Residential 2 District, Appellant: Ray Peters

0:33:51

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

0:34:21 **10. CONSIDER APPROVAL OF ORDINANCE 2019-36, 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**

Mrs. Austin explained this Ordinance is to refund the Series 2009 Gross Receipts Tax Revenue Bonds. She explained the refunding will save the City approximately \$500k in interest.

Mr. Harrigan explained the 2009 Tax Bonds had an interest rate of 4.6% and the new interest on the refunding loan is 1.8%.

0:37:32 **A. PUBLIC HEARING**

0:37:35 **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**

0:37:51 **B. Consider Approval of Ordinance 2019-36**

0:37:57 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Ordinance No. 2019-36, 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

0:38:03 **Vote**

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

0:38:25 **11. CONSIDER APPROVAL OF ORDINANCE 2019-37, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 6.00 ACRE PROPERTY LOCATED AT 301 W CHAPMAN ROAD**

0:38:50 **A. Public Hearing**

Mr. Patterson explained this is a request to change the zoning at 301 W. Chapman Road from "R-R" Rural Residential District to "R-2" Residential 2 District for approximately 6.00 acres. He said he believes the applicant plans to locate a new apartment complex on the property. He added that the Planning and Zoning Commission recommend approval.

0:40:29 **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**

0:40:43 **B. Consider Approval of Ordinance 2019-37**

0:40:50 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to approve Ordinance No. 2019-37, an Ordinance rezoning part of "R-R" Rural Residential District to "R-2" Residential 2 District for an approximately 6.0 acre property located at 301 W. Chapman Road

0:40:57 **Vote**

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

0:41:16 **12. CONSIDER APPROVAL OF ORDINANCE 2019-38, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 0.275 ACRE PROPERTY LOCATED AT 308 W. ROSE STREET**

0:41:40 **A. Public Hearing**

Mr. Patterson explained this request is for a zone change from "C-2" Commercial 2 District to "R-2" Residential 2 District for approximately 0.275 acres located at 308 W. Rose St. He said the applicant wishes to place housing on the property. **Mr. Patterson** added that the Planning and Zoning Commission recommend approval.

0:42:46 **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**

0:43:00 **B. Consider Approval of Ordinance 2019-38**

0:43:05 **Motion**

The motion was made by Councilor Waters and seconded by Councilor Rodriguez to approve Ordinance No. 2019-38, an Ordinance rezoning part of "C-2" Commercial 2 District to "R-2" Residential 2 District for an approximately 0.275 acre property located at 308 W. Rose Street

0:43:14 **Vote**

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

0:43:31 **13. CONSIDER APPROVAL OF ORDINANCE 2019-39, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "C-1" COMMERCIAL 1 DISTRICT FOR AN APPROXIMATELY 0.43 ACRE PROPERTY LOCATED AT 513 TO 527 FOX STREET AND 206 S. GUADALUPE**

0:44:00 **A. Public Hearing**

Mr. Patterson explained this request for a zone change from "C-2" Commercial 2 District to "C-1" Commercial 1 District for property located at 513 to 527 Fox Street and 206 S. Guadalupe. He said the Planning and Zoning Commission recommend approval.

0:44:56 **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**

0:45:07 **B. Consider Approval of Ordinance 2019-39**

0:45:17 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Ordinance No. 2019-39, an Ordinance rezoning part of "C-2" Commercial 2 District to "C-1" Commercial 1 District for an approximately 0.43 acre property located at 513 to 527 Fox Street and 206 S. Guadalupe

0:45:23 **Vote**

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

0:45:41 **14. CONSIDER APPROVAL OF ORDINANCE 2019-40, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "C-1" COMMERCIAL 1 DISTRICT FOR AN APPROXIMATELY 0.115 ACRE PROPERTY LOCATED AT 701 W. GREENE STREET**

0:46:05 **A. Public Hearing**

Mr. Patterson explained this request is to change zoning from "C-2" Commercial 2 District to "C-1" Commercial 1 District for approximately 0.11 acres, located at 701 W. Greene St. He said the applicant wants to place housing on the property. He explained the change would create a spot zone but the applicant plans to place a duplex on the property which will conform to the surrounding area. He added the Planning and Zoning Commission recommend approval.

0:47:13 **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**

0:47:27 **B. Consider Approval of Ordinance 2019-40**

0:47:33 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Estrada to approve Ordinance No. 2019-40, an Ordinance rezoning part of "C-2" Commercial 2 District to "C-1" Commercial 1 District for an approximately 0.115 acre property located at 701 W. Greene Street

0:47:39 **Vote**

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

0:48:04 **15. COUNCIL COMMITTEE REPORTS**

0:48:07 **Mayor Janway asked Chief Skinner for an update on the Police Department.**

Chief Skinner highlighted some of the most substantial changes in the Police Department. He began with staffing and stated that 35 of 37 patrol officer positions are filled. He said the hiring and recruiting process have been restructured which allows the department to reach out to the surrounding region. He said there has also been a high retention rate. He discussed new scheduling and shifts of officers on patrol helping officers to become proactive. He explained the re-vamp of the traffic division, the revision of the Penalty Assessment Schedule, the K-9 Division, going live with Tyler's computer aided dispatch system, and working on developing a Bomb Squad Division. He thanked the Mayor and Council for their continued support.

Councilor Anaya Flores thanked Chief Skinner and all officers for their hard work and for Chief Skinner's great leadership. Councilor Shirley said he hears a lot of compliments about the Police Department and thanked them.

1:04:51 **Councilor Chavez** gave an update on his Santa Fe visit and said they are making good progress.

1:05:44 **Mayor Janway** announced the Energy Summit on Thursday from 7:30 a.m. to 1:00 p.m.

1:05:55 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

1:06:02 **16. ADJOURN**

1:06:08 **Motion**

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

1:06:19 **Vote**

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

1:06:42 **Adjourn**

There being no further business, the meeting was adjourned at 6:49 p.m.

_____/s/Dale Janway_____
Dale Janway, Mayor

ATTEST:

_____/s/Nadine Mireles_____
Nadine Mireles, City Clerk