

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON OCTOBER 8, 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
	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**

0:00:04      Invocation - Pledge of Allegiance

0:00:33      **Mr. Jim Griswold** gave a short overview on the Brine Well. He explained the process is to install a series of 15 wells to inject grout into 2 phases while simultaneously taking brine out of the cavern. He explained the first phase of grouting will be to establish a new roof on the cavern. He said the second phase will consolidate the rubble pile underneath and structurally support it. He explained there are currently two rigs on site drilling 24/7. He said the hope is to start the grouting process at the

end of November early December and should be complete by August of 2020 and monitoring will continue for an additional two years.

0:09:20      **1. APPROVAL OF AGENDA**

0:09:22      **Motion**

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

0:09:26      **Vote**

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

0:09:45      **2. CONSIDER APPROVAL OF RESOLUTION NO 2019-50, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2019-20 FISCAL YEAR BUDGET**

**Mrs. Gonzalez** reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget.

0:13:37      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Resolution No. 2019-50, a Resolution making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget

0:13:44      **Vote**

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

0:14:03      **3. CITY OF CARLSBAD FINANCIALS - AUGUST 2019**

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

0:16:22      **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on September 24, 2019
- B. City Personnel Report
- C. Contracts and Agreements
  - 1) Consider Approval of Memorandum of Agreement between the City of Carlsbad and New Mexico Energy, Minerals and Natural Resources for the Carlsbad Fire Department to offset funds associated with Hazardous Materials Response
- D. Monthly Reports
  - 1) Human Resources Department September 2019
  - 2) Municipal Court September 2019
  - 3) Transportation & Facilities Department August 2019

- E. Set Date: November 12, 2019
- 1) Consider Approval of Ordinance 2019- , an Ordinance rezoning part of “C-2” Commercial 2 District to “R-2” Residential 2 District for an approximately 4.55 acre property, located at 410 S Sixth Street
  - 2) Consider Approval of Ordinance 2019- , an Ordinance repealing and replacing Article IV Section 48-77 through 48-92 of the Code of Ordinances regarding Lodgers’ Tax Monies

0:16:46 **Mayor Janway asked Chief Lopez to discuss Item C.1 Consider Approval of Memorandum of Agreement between the City of Carlsbad and New Mexico Energy, Minerals and Natural Resources for the Carlsbad Fire Department to offset funds associated with Hazardous Materials Response**

**Chief Lopez** explained this agreement will allow the Fire Department to continue to receive funds to offset the cost associated with a hazardous materials response. He explained the only thing that has changed is the department managing the funds, but the dollar amount of \$7K has not. He added the Department has been compliant with quarterly reporting and will continue reporting as required in the agreement.

0:18:02 **Councilor Walterscheid** asked what will change in 4 E.2 Set Date: November 12, 2019, Consider Approval of Ordinance 2019-, an Ordinance repealing and replacing Article IV Section 48-77 through 48-92 of the Code of Ordinances regarding Lodgers' Tax Monies

**Ms. Riordan** explained there have been changes in State Law and these changes would bring the city’s Ordinance into alignment with the State's provisions.

0:20:39 **Motion**

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

0:20:48 **Vote**

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

0:21:04 **5. CONSIDER APPROVAL TO AWARD RFP 2019-18 TO GARDEN MART FOR GROUNDSKEEPING MAINTENANCE FOR CITY WIDE MEDIANS, LANDSCAPES, GATEWAYS AND PROPERTIES**

*Councilor Walterscheid excused himself from Council and sat in the audience.*

**Mr. Hernandez** explained the city solicited proposals for RFP for groundskeeping maintenance for city wide medians, landscapes, gateways and properties. He explained the city received two proposals that were evaluated by a four person committee, with Garden Mart, Inc. being awarded the contract.

**Councilor Carter** voiced his concerns regarding the fairness of the grading system. **Mr. Fletcher** explained that the grading system is subjective but this is the process for service type contracts.

0:32:15        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve to Award RFP 2019-18 to Garden Mart for Groundskeeping Maintenance for City Wide Medians, Landscapes, Gateways and Properties

0:32:23        **Vote**

The vote was as follows: Yes - Rodriguez, Shirley, Waters, Anaya Flores, Chavez, Carter, Estrada; No - None; Absent - None; Walterscheid did not vote, as he removed himself from Council for the item; the motion carried.

*Councilor Walterscheid returned to his seat on Council.*

0:32:48        **6. CONSIDER APPROVAL OF RESOLUTION 2019-51, A RESOLUTION AND AGREEMENT BETWEEN THE CITY OF CARLSBAD AND THE NEW MEXICO TOURISM CLEAN & BEAUTIFUL PROGRAM FOR LITTER CONTROL & BEAUTIFICATION PROGRAM**

**Ms. Garwood** explained this Resolution is an agreement with the NM Department of Tourism for the purpose of providing funds in support of the litter control and beautification program in the amount of \$19,103.75.

0:38:00        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Resolution No. 2019-51, a Resolution and Agreement between the City of Carlsbad and the New Mexico Tourism Clean & Beautiful Program for Litter Control & Beautification Program

0:38:05        **Vote**

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

0:38:29        **7. CONSIDER APPROVAL OF RESOLUTION 2019-52, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH AND DEBRIS AT 409 N MAPLE STREET OWNERS: GUADALUPE & MARGARITA MARQUEZ**

**Ms. Riordan** explained this is a single family residence located at 409 N. Maple across from National Little League. She explained Code Enforcement has been working with the property for three years. She said this Resolution is for weed and debris removal only.

**Mr. and Ms. Marquez** introduced themselves as owners of the property. Ms. Marquez brought pictures and shared them with Council. She said she is aware of the condition

of the property and added that both she and her husband are ill but they will continue to clean up the property. She said some of the dumping is illegal dumping and asked for additional time to clean up due to their medical conditions. **Councilor Carter** asked how much more time are you requesting. **Ms. Marquez** said 30 days would be good.

0:50:05        **Motion**

The motion was made by Councilor Carter and seconded by Councilor Chavez to approve Resolution No. 2019-52, a Resolution requiring the removal of trash and debris at 409 N. Maple Street; Owners: Guadalupe & Margarita Marquez

0:50:17        **Vote**

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

0:50:51        **8. 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 2503 SPRUILL DRIVE ZONED "R-1" RESIDENTIAL 1 DISTRICT APPELLANT: MELVIN GILBERT**

**Mr. Patterson** explained this request is an appeal of the decision of the Planning and Zoning Commission to deny a variance request. He explained the appellant requested a variance to place a carport structure on the east side of his residence, which will place the structure within the required 5' side setback. He said the Planning Department is requesting that the Council uphold the decision of the Planning and Zoning Commission to deny the variance.

**Chief Lopez** said these setbacks are required for a reason and are set for safety especially in case of a fire.

0:54:22        **Mr. Melvin Gilbert** explained that he did not realize he had to apply for a variance because he has seen these carports throughout the city. He said he does not feel the carport will obstruct fire or emergency services and added none of his neighbors are opposed to the variance.

0:57:33        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to uphold the denial 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 2503 Spruill Drive zoned "R-1" Residential 1 District; Appellant: Melvin Gilbert

0:57:52        **Vote**

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

0:58:35        **9.        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 107 N JAMES STREET ZONED "R-1" RESIDENTIAL DISTRICT APPELLANT: LOIS GEORGE**

Mr. Patterson explained this is an Appeal of the decision by the Planning and Zoning Commission to deny a variance request to place a metal carport within the required setback. He added that the Planning Department is requesting that the Council uphold the decision of the Planning and Zoning Commission.

1:00:08        **Ms. Lois George**, property owner, said she would like to place a carport over her driveway to protect her vehicles from the elements. She said the carport would not obstruct anyone's property and has no siding only a roof. She said there are a lot of people who have put up carports without permission and she's trying to do it correctly and cannot.

1:07:45        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to uphold the denial 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 107 N. James Street zoned "R-1" Residential District; Appellant: Lois George

1:07:54        **Vote**

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

1:08:18        **10.        COUNCIL COMMITTEE REPORTS**

None to report.

1:08:30        **11.        ADJOURN**

1:08:38        **Motion**

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

1:08:43        **Vote**

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

1:09:02      **Adjourn**

There being no further business, the meeting was adjourned at 7:09 p.m.

          Dale Janway            
Dale Janway, Mayor

ATTEST:

          Nadine Mireles            
Nadine Mireles, City Clerk