

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON NOVEMBER 12, 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 <i>telephonically</i>
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor

Absent:

Also Present:	Michael Hernandez	City Administrator
	John Lowe	Deputy City Administrator
	Denise Madrid Boyea	Deputy 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
	Brent Griffith	IT Technician
	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**

0:00:02 Invocation - Pledge of Allegiance

0:00:38 **Mayor Janway welcomed Francis McCoy, Henry Casteneda and Teen Court Members to the meeting.**

Ms. McCoy, Teen Court Coordinator, said tonight the students were officially sworn in as Attorneys. She recognized the students in the audience and said she enjoys working with all of them.

Mayor Janway congratulated and thanked them for all of their hard work.

0:03:52 **1. APPROVAL OF AGENDA**

0:03:57 **Motion**

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

0:04:03 **Vote**

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

0:04:22 **2. CONSIDER APPROVAL OF RESOLUTION NO 2019-55, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2019-20 FISCAL YEAR BUDGET**

Mrs. Gonzalez reviewed the revenues and expenditures making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget highlighting the General Fund, the Capital Projects Fund, the Municipal Transit Fund, the Lodgers Tax - Promotional Fund, and the Lodgers Tax Non Promotional Fund.

0:06:20 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Resolution No. 2019-55, a Resolution making certain budgetary adjustments to the 2019-20 Fiscal Year Budget

0:06:24 **Vote**

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

0:06:44 **3. CITY OF CARLSBAD FINANCIALS - SEPTEMBER 2019**

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

0:10:13 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on October 22, 2019
- B. Minutes of the Special City Council Meeting held on October 25, 2019
- C. City Personnel Report
- D. Purchasing

- 1) Consider Approval to Advertise Invitation for Bid for Replacement of Dam Gates at Upper Tansil Dam on the Pecos River
 - 2) Consider Approval to Advertise Request for Proposals for Lessee/Operator for Alcohol Sales at Lake Carlsbad Golf Course
 - 3) Consider Approval to Reject RFP 2019-14 for Professional Lobbying and Consulting Services
- E. Contracts and Agreements
- 1) Consider Approval of Renewal Agreement between the City of Carlsbad and Veterans of Foreign Wars Post #8703 for Care and Maintenance of the MIA/POW Memorial
 - 2) Consider Approval of Renewal of the Letter of Agreement between the City of Carlsbad and Elite Security Services for Security Guard Services at the Riverwalk Recreation Center
 - 3) Consider Approval of Agreement between the City of Carlsbad and New Mexico State Library for FY20 State Grant-in-Aid Public Library Agreement
- F. Monthly Reports
- 1) Community Development Department October 2019
 - 2) Human Resources Department October 2019
 - 3) Municipal Court October 2019
 - 4) Transportation and Facilities Department September 2019
- G. Board Appointments
- 1) Carlsbad Library Board of Trustees Appoint Dr. Mark Howard remainder of 4 year term
 - 2) Carlsbad Museum Board Appoint Desiree Kicker remainder 5 year term
- H. Set the Date: December 10, 2019
- 1) Consider Approval of Ordinance authorizing the lease of an approximately 125,000 square foot area at the Cavern City Air Terminal to BMB Equipment, LLC for placement and use of Aviation Hangars

0:10:37 **Mayor Janway asked Mr. Ken Britt to discuss Item D.2 Consider Approval to Advertise Request for Proposals for Lessee/Operator for Alcohol Sales at Lake Carlsbad Golf Course; and Mr. Hernandez to discuss Item D.3 Consider Approval to Reject RFP 2019-14 for Professional Lobbying and Consulting Services. Mr. Britt explained this RFP is to select a Lessee/Operator to manage and operate the sales of a City Government Liquor License at the Municipal Golf Course.**

Mr. Hernandez explained that several months ago the city put out an RFP for Lobbyist Services. He explained the city has since decided to enter into a joint partnership for a Government Affairs Lobbyist position with Eddy County and the City of Artesia. He explained with this change, staff is requesting approval to reject the bids received.

0:13:17 **Motion**
 The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to approve Routine and Regular Business

0:13:30 **Vote**

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

0:13:58 **5. CONSIDER APPROVAL OF REQUEST FROM JULIO LEIJA AND CAL'S SHADE WESTERN TO SERVE ALCOHOL (BEER AND LIQUOR) DURING THE 1ST ANNUAL TACO TRUCK BATTLE FOR CANCER AT THE BEACH BANDSHELL**

Mr. Patterson explained this is a request to serve beer and liquor at the 1st Annual Taco Truck Battle for Cancer to benefit Brittany's Hope Organization. He said the event will be held at the Beach Bandshell on November 16, 2019 from 8:00 a.m. to 10:00 p.m. He explained the Beer Garden will be cordoned off and only available to those 21 and over. **Mr. Patterson** added that city staff recommends approval with conditions including compliance with all rules, regulations, requirements and restrictions.

Councilor Rodriguez said traditionally beer and wine is approved but this is the first time he remembers having beer and liquor. **Mr. Patterson** added that the Council has allowed the sale of liquor for Cavern Fest in the past. **Mr. Julio Leija** said the request is to serve beer and liquor at the event.

0:19:11 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya Flores to approve Request from Julio Leija and Cal's Shade Western to serve alcohol (beer and liquor) during the 1st Annual Taco Truck Battle for Cancer at the Beach Bandshell

0:19:19 **Vote**

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

0:19:43 **6. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW TEMPORARY HOUSING AS A TEMPORARY USE AT 5302 NATIONAL PARKS HWY ZONED " C-2" COMMERCIAL DISTRICT & "I" INDUSTRIAL DISTRICT APPLICANT/OWNER: DREAMLAND PARK, LLC**

Mr. Patterson explained this request is to allow Temporary Housing as a Temporary Use at 5302 National Parks Hwy. He explained the subject property meets the acreage and the zoning requirements for temporary housing. He said that the applicant is requesting approval for 94 spaces and has provided a site plan. He added that the Planning and Zoning Commission recommend approval.

Councilor Chavez asked if the property connects to city utilities would the treatment plant be capable of handling 94 more RV spaces. **Mr. Patterson** said yes and explained they are not near capacity.

Councilor Walterscheid referred to an article in the Current Argus regarding the NMED, and asked if we would have any of those issues discussed. **Mr. Patterson** explained the city's regulations protects the city from those issues. He explained when they reviewed the locations pointed out in the article, he found the locations were outside of the city limits and are not subject to the city's process. He added he is confident that the city's process handles liquid waste properly.

Mr. Hernandez added that the city received correspondence and a map from NMED. He said to his knowledge all of the properties in the city limits are all in compliance and have approved discharge permits.

0:24:04 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Chavez to approve a Temporary Use at 5302 National Parks Hwy zoned "C-2" Commercial District & "I" Industrial District; Applicant/Owner: Dreamland Park, LLC

0:24:12 **Vote**

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

0:24:29 **7. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW TEMPORARY HOUSING AS A TEMPORARY USE AT 3221 NATIONAL PARKS HWY ZONED "C-2" COMMERCIAL 2 DISTRICT APPLICANT: MEGA POWER ELECTRIC/SHANE CARPENTER**

Mr. Patterson explained this is a request to allow temporary housing as a temporary use at 3221 National Parks Hwy. He explained the property is zoned in accordance to allow temporary housing. **Mr. Patterson** added that the Planning Department has recommended that the applicant combine all the parcels into one site and if they do so the property will be 2.45 acres, combined. He explained the Planning and Zoning Commission recommends approval.

Councilor Rodriguez asked if the property has been replatted. **Mr. Carpenter**, the applicant, stated he was waiting on the approval to replat the property. **Councilor Rodriguez** stated that the parcel is under the requirement without the replat. **Mr. Patterson** answered yes, separately the requirement is not met. **Councilor Carter** asked if the approval could be made on the condition of receiving the replat. **Mr. Patterson** said that would be his recommendation.

0:27:32 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Temporary Use Application to allow Temporary Housing as a Temporary Use at 3221 National Parks Hwy zoned "C-2" Commercial 2 District contingent on replat of the property; Applicant: Mega Power Electric/Shane Carpenter

0:28:20 **Vote**

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

0:28:37 **8. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW TEMPORARY HOUSING AS A TEMPORARY USE AT 1902 COYOTE COURT ZONED "R-R" RURAL RESIDENTIAL DISTRICT APPLICANT: MELINDA HANSEN**

Mr. Patterson explained this request is to allow temporary housing as a temporary use at 1902 Coyote Court. He explained the property is 4.45 acres and meets the size requirement, as well as the zoning requirements. He explained an electrical plan has not been provided, so the Planning Department recommends that the electrical plan be a condition of approval. He added the Planning and Zoning Commission recommends approval.

Councilor Chavez asked if the city's water utilities reach that property. **Mr. Patterson** said there is water service out to the subject property.

Councilor Rodriguez asked about the fire hydrant shown on the property. **Mr. Myers** said it is a private fire hydrant on the property.

0:31:29 **Motion**

The motion was made by Councilor Walterscheid and seconded by Councilor Chavez to approve Temporary Use Application to allow Temporary Housing as a Temporary Use at 1902 Coyote Court zoned "R-R" Rural Residential District; Applicant: Melinda Hansen

0:31:36 **Vote**

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

0:31:54 **9. CONSIDER APPROVAL OF THE APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO DENY A VARIANCE TO REDUCE THE REQUIRED SIDE SETBACK FROM 5' TO 0' FOR PLACEMENT OF AN OPEN SIDED METAL CARPORT LOCATED AT 506 N. OLIVE ZONED "R-1" RESIDENTIAL 1 DISTRICT APPELLANT: STACEY SLADE**

Mr. Patterson explained this is an appeal of the decision of the Planning and Zoning Commission to deny a variance request to place a carport in a required side setback. He explained the appellant made the request to the Planning and Zoning Commission on October 7, 2019 and the request was denied.

Mr. Slade submitted a letter of appeal and submitted pictures of other properties throughout the city with carports placed in the side setbacks and added his property has access through the alley in emergency situations.

Mr. Patterson said after reviewing the appellant's letter, pictures, and information provided to the Planning and Zoning Commission, the Planning Staff recommends that the decision by the Planning and Zoning Commission to deny the variance request be upheld and the appeal denied.

Councilor Walterscheid asked what is going to be done about all the pictures submitted showing other property owners in violation. **Mr. Patterson** said the information will be given to code enforcement to investigate.

Mr. Slade said he would like to know what the difference is with his property and these property owners he has pictures of with carports in their setbacks.

Councilor Anaya Flores said she recalls a property owner putting up a structure knowing he was in violation but she does not believe he was made to take the structure down. **Mr. Patterson** said he believes that property was the catalyst that caused the amendments to the Ordinance to allow people to place them in their front set back without a variance but we held to keeping the side and rear setbacks.

Councilor Anaya Flores asked if there is access for emergency services is that something the Council could consider. **Mr. Patterson** said yes, he thinks that is appropriate. He explained that the setbacks are designed to allow access all around the property.

Chief Lopez explained it is case by case and if emergency services has access to the property it is easier. He added what happens is that the property owner can sale or close off the access. He said these setbacks make it safer for everyone.

Councilor Carter said if we allow this request we will have some angry property owners who also had alternate access that were denied the variance. He said the city is sending the wrong message by not enforcing the side setbacks and allowing those who do not follow the rules to get away with it.

0:44:22 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Walterscheid to deny the appeal of the decision by the Planning and Zoning Commission for a Variance to reduce the required side setback from 5' to 0' for placement of an open sided metal carport located at 506 N. Olive zoned "R-1" Residential 1 District; Appellant: Stacey Slade

0:44:34 **Vote**

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

0:44:57 **10. CONSIDER APPROVAL OF RESOLUTION 2019-56, A
RESOLUTION REQUIRING THE REMOVAL OF THE BUILDING AND DEBRIS
AT 910 SANDIA OWNER: JIM YEAGER**

Mrs. Madrid-Boyea explained this Resolution is requiring the removal of the building and debris at 910 Sandia. She explained city staff has been dealing with the property since 2017. She said the property has fallen into a severe state of disrepair due to neglect and the lack of maintenance and staff is requesting Council to proceed with the Resolution as presented.

Mr. Jose Mario Salinas, resides at 908 Sandia, said he has been putting up with this property for years. He said this property needs to be removed and has not had utilities for many years and the house has been vacant for some time.

0:50:58 **Motion**

The motion was made by Councilor Walterscheid and seconded by Councilor Waters to approve Resolution No. 2019-56, a Resolution requiring the removal of the building and debris at 910 Sandia; Owner: Jim Yeager

0:51:06 **Vote**

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

0:51:28 **11. CONSIDER APPROVAL OF ORDINANCE 2019-45, AN
ORDINANCE REPEALING AND REPLACEMENT OF LODGER'S TAX
ORDINANCE**

0:51:44 **A. Public Hearing**

Mrs. Madrid-Boyea explained recently the State amended the Lodgers' Tax Act deleting the exemption for vendors who did not offer at least three rooms or three other premises for lodging. She explained this amendment goes into effect on January 1, 2020 and staff is proposing these changes to come into compliance with the State Statute.

0:53:32 **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**

0:53:48 **B. Consider Approval of Ordinance 2019-45**

0:53:54 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Estrada to approve Ordinance No. 2019-45, an Ordinance repealing and replacement of Lodgers' Tax Ordinance

0:54:00 **Vote**

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

0:54:19 **12. CONSIDER APPROVAL OF ORDINANCE 2019-46, 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 APPLICANT: CARLSBAD MUNICIPAL SCHOOLS**

0:54:47 **A. Public Hearing**

Mr. Patterson explained this request is to change the zoning at 410 S. Sixth Street from "C-2" Commercial 2 District to "R-2" Residential 2 District. He explained the property is owned by Carlsbad Municipal Schools and they would like to build housing for teachers on the property. He said the Planning and Zoning Commission and the Planning Department recommend approval.

0:56:18 **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**

0:56:35 **B. Consider Approval of Ordinance 2019-46**

0:56:44 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Ordinance No. 2019-46, 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; Applicant: Carlsbad Municipal Schools

0:56:48 **Vote**

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

0:57:09 **13. COUNCIL COMMITTEE REPORTS**

Councilor Chavez said that as seen in the paper the NMDOT is providing \$12.5 million for US285.

0:58:26 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:58:31 **14. ADJOURN**

0:58:38 **Motion**

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

0:58:44 **Vote**

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

0:59:06 **Adjourn**

There being no further business, the meeting was adjourned at 6:59 p.m.

_____/s/Dale Janway_____
Dale Janway, Mayor

ATTEST:

_____/s/Nadine Mireles_____
Nadine Mireles, City Clerk