

**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 14, 2020 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>via telephone</i>
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor

Absent:

Also Present:	John Lowe	City Administrator
	Wendy Austin	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	Ken Britt	Community Dev. Director
	Brent Griffith	IT Technician
	Jeff Patterson	Planning 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 **1. APPROVAL OF AGENDA**

0:00:37 **Motion**

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

0:00:41 **Vote**

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

0:01:00 **2. CONSIDER APPROVAL OF RESOLUTION 2020-14, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2019-2020 FISCAL YEAR BUDGET**

Mrs. Austin reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget highlighting the General Fund, the Disaster Preparedness Fund, the Airport Improvements Fund, the Lodgers' Tax Promotional Fund, and the Lodgers' Tax Non-Promotional Fund.

0:05:01 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Resolution No. 2020-14, a Resolution making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget

0:05:35 **Vote**

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

0:05:54 **3. CONSIDER APPROVAL OF RESOLUTION 2020-15, A RESOLUTION FOR THE ACCEPTANCE AND APPROVAL OF THE INDEPENDENT AUDITOR'S REPORT FOR THE YEAR ENDED JUNE 30, 2019**

Mrs. Austin reported that the city received an unmodified report for the 2019 annual audit. She explained that an unmodified report is an opinion of the Auditor that provides a high level of assurance that the financial statements are presented, in all material respects, in accordance with applicable financial reporting standards. She said in addition the audit was submitted timely to the State Auditor. She mentioned that two deficiencies were found regarding Delinquent Utility Accounts and the Fixed Asset System. She explained the Finance Department has already begun to correct these deficiencies and are converting these two modules into Munis.

Mr. Farley Vener, Hinkle + Landers, reiterated that the Audit Report was submitted to the State Auditor's office on time and has been released and is now available for review. He added there were two opinions that were given and they were both unmodified. He said two comments were identified, one was related to capital assets and the other on a policy regarding the way liens are administered on utilities. He said it was a great audit and Hinkle + Landers appreciates working with the management staff at the City of Carlsbad.

0:10:37 **Councilor Rodriguez** said he is proud of the audit results and thanked Mrs. Austin and the entire Finance Department for their outstanding job.

0:10:50 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Resolution No. 2020-15, a Resolution for the Acceptance and Approval of the Independent Auditor's Report for the year ended June 30. 2019

0:11:07 **Mayor Janway thanked Mrs. Austin, the Finance Department, and Hinkle + Landers for doing an outstanding job.**

0:11:22 **Vote**

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

0:11:44 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on March 24, 2020
- B. Minutes of the Special City Council Meeting held on March 31, 2020
- C. City Personnel Report
- D. Purchasing
 - 1) Consider Approval to Advertise Invitation for Request for Proposals for dewatering equipment for bio solids at the Wastewater Treatment Plant
 - 2) Consider Approval to Award Bid 2019-22 to Sun Dial Construction for a 40' x 60' equipment storage building at Carlsbad Cemetery
 - 3) Consider Approval to Award Bid 2020-02 to Watch Dog Painting for restoration of Potash Mining equipment at the Potash Park
 - 4) Consider Approval to Award RFP 2020-04 to Faulkner Marine LLC for Concession Services at Port Jefferson at Lake Carlsbad Recreation Area
- E. Monthly Reports
 - 1) Human Resources Department March 2020
 - 2) Municipal Court March 2020
- F. Set Date: May 12, 2020
 - 1) Consider Approval of Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 2.75 acre property, located at 208 W San Jose Blvd
 - 2) Consider Approval of Ordinance rezoning part of "C-2" Commercial 2 District to "C-1" Commercial 1 District for an approximately 0.50 acre property, located at 212 S Alameda Street
 - 3) Consider Approval of Ordinance rezoning part of "C-2" Commercial 2 District to "R-1" Residential 1 District for an approximately 0.50 acre property, located at 108 N Fifth Street
 - 4) Consider Approval of Ordinance rezoning part of "R-R" Rural Residential District to "I" Industrial District for an approximately 82.45 acre property, located at 1400 San Jose Blvd and extending southwest into Dark Canyon Drainage

0:12:07 **Mayor Janway asked Mr. Britt to briefly explain Item D. 4 Consider Approval to Award RFP 2020-04 to Faulkner Marine LLC for Concession Services at Port Jefferson at Lake Carlsbad Recreation Area**

Mr. Britt explained the city conducted an RFP to select a contractor to provide concession and aquatic recreation services at Port Jefferson. He said the city only

received one proposal from Faulkner Marine, LLC. He explained the proposal was reviewed by city staff and staff is recommending approval.

0:13:02 **Motion**

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

0:13:08 **Vote**

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

0:13:29 **5. CONSIDER APPROVAL OF FUNDING REQUESTS FROM THE NM ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT (EMNRD) FOR THE CARLSBAD BRINE WELL PROJECT**

Mr. Lowe explained that the State of New Mexico has made two requests. He explained the first request essentially is a request to make the third and final payment of \$1,330,000 two months early. **Mr. Lowe** went on to explain the second request is for an additional \$800,000 in funding. He explained the additional funding is to match State funds that were appropriated during the 2020 legislative session. He said these funds are to cover actual costs, private property access, and GRT's not accounted for in the original 2018 funding plan.

Mr. Jim Griswold, EMNRD, who joined by telephone added that the commitment from the city and the county in this regard is very important and he appreciates the understanding. **Mr. Griswold** also gave a brief update on the Brine Well Project. He explained it has been a challenge since December with the discovery of the void in the north. He said the work has continued and they are trying to find ways to complete the project in spite of the significant change of scope and with the impacts of the COVID-19 virus. **Mr. Griswold** said they have had to slow down and readjust work schedules to 24 hours a day 5 days a week on the injection portion. He explained the monitoring is still 24/7.

Mayor Janway asked if there is an anticipated completion date. **Mr. Griswold** said it depends on how fast they are able to get sand into the ground. He said they are on track to complete the sand backfill in late June or July.

0:19:46 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve funding request from the NM Energy, Minerals, and Natural Resources Department (EMNRD) for the Carlsbad Brine Well project

0:20:23 **Vote**

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

0:20:48 **6. CONSIDER APPROVAL OF RENEWAL OF BUSINESS LICENSE FOR COURTESY SPORTING AND PAWN LOCATED AT 1095 N CANAL**

Mr. Patterson explained this is an annual renewal for a business license for Courtesy Sporting and Pawn in accordance with Carlsbad Code of Ordinances Chapter 28, Article II, Sec. 41-48 and Article V, Sec. 136-141. He explained the Police Department submitted a background report and agree that renewing the business license is proper, therefore, the Planning staff recommends approval.

0:22:01 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve renewal of Business License for Courtesy Sporting and Pawn located at 1095 N. Canal

0:22:07 **Vote**

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

0:22:22 **7. CONSIDER APPROVAL OF ORDINANCE NO 2020-06, AN ORDINANCE GRANTING THE NEW MEXICO GAS COMPANY, INC. A FRANCHISE FOR ITS NATURAL GAS UTILITY WITHIN THE CITY OF CARLSBAD**

0:22:43 **A. Public Hearing**

Ms. Riordan explained this is a 25 year franchise agreement with the New Mexico Gas Company, Inc. She explained under the terms of this franchise the Gas Company would have the right to use city rights-of-way for the placement of its system for the service of natural gas to its customers. She added in exchange, the Gas Company would pay the city a two percent (2%) franchise fee.

0:24:20 **Mayor Janway asked if anyone would like to speak in favor or against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session**

0:24:35 **B. Consider Approval of Ordinance 2020-06**

0:25:01 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya Flores to approve Ordinance No. 2020-06, an Ordinance granting the New Mexico Gas Company, Inc. a franchise for its natural gas utility within the City of Carlsbad

0:25:12 **Vote**

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

0:25:27 **8. CONSIDER APPROVAL OF ORDINANCE NO 2020-07, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "C-1" COMMERCIAL 1 DISTRICT FOR APPROXIMATELY 0.18 ACRE PROPERTY, LOCATED AT 403 LAREDO STREET APPLICANT: MARIO PEREZ, SR.**

0:25:58 **A. Public Hearing**

Mr. Patterson explained this is a request to change the zoning on the subject property from "C-2" Commercial 2 District to "C-1" Commercial 1 District for approximately 0.18 acres. He explained "C-1" zoning is a more restrictive Commercial zoning. **Mr. Patterson** said that the applicants wish to have a residence on the property which is not allowed in "C-2" zoning. He added that the Planning and Zoning Commission recommends approval of the zone change.

Councilor Rodriguez asked if the "C-1" zoning would have any effect on the applicants insurance for a residence. **Mr. Patterson** said no, he added "C-1" zoning does allow for single family residences.

Councilor Chavez asked why the Legal Department requested denial of the zone change. **Ms. Riordan** said her concern was the fact that it would create a spot zone. **Mr. Patterson** explained the property does act as a commercial corridor but if you go into the area and review the uses you will see that the area is primarily residential. **Ms. Riordan** said that was explained to her after the opinion was noted and she agrees with the zone change.

0:29:12 **Mayor Janway asked if anyone would like to speak in favor or against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session**

0:29:24 **B. Consider Approval of Ordinance 2020-07**

0:29:31 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Ordinance No. 2020-07, an Ordinance rezoning part of "C-2" Commercial 2 District to "C-1" Commercial 1 District for approximately 0.18 acre property, located at 403 Laredo Street; Applicant: Mario Perez, Sr.

0:29:50 **Vote**

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

0:30:05 **9. CONSIDER APPROVAL OF ORDINANCE NO 2020-08, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 1.85 ACRE PROPERTY LOCATED AT 214 N FIFTH STREET APPLICANT: JIN FENG YE**

0:30:34 **A. Public Hearing**

Mr. Patterson explained this request is to change the zoning of the subject property from "R-1" Residential 1 District to "R-2" Residential 2 District. He said the applicant would like to locate multiple residences on the property and in order to do so the property needs to have multifamily residential zoning. He stated the Planning and Zoning Commission recommend approval of this request.

Councilor Walterscheid asked Mr. Patterson if he approves of the zone change. **Mr. Patterson** said as long as the applicant works with the city the Planning Department recommends approval.

0:32:28 **Mayor Janway asked if anyone would like to speak in favor of or against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session**

0:32:43 **B. Consider Approval of Ordinance 2020-08**

0:32:52 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve Ordinance No. 2020-08, an Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 1.85 acre property located at 214 N. Fifth Street; Applicant: Jin Feng Ye

0:32:58 **Vote**

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

0:33:19 **10. CONSIDER APPROVAL OF ORDINANCE NO 2020-09, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "R-1" RESIDENTIAL 1 DISTRICT FOR AN APPROXIMATELY 54.85 ACRE PROPERTY LOCATED EAST OF OLD CAVERN HIGHWAY AND SOUTH OF HAMILTON APPLICANT: MARTIN FARMS SUBDIVISION/BAR W FARMS**

0:33:47 **A. Public Hearing**

Mr. Patterson explained this is a request to change zoning on the subject property from "R-R" Rural Residential District to "R-1" Residential 1 District for approximately 54.85 acres. He explained the applicants are owners of the property where Martin Farms Units 1 and 2 were built. He mentioned that the zoning was changed for both of those properties to Residential 1 District and this zone change would match this previous development. **Mr. Patterson** added that the Planning and Zoning Commission recommend approval.

0:35:08 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. George Dunagun, presenting the owners, spoke in favor of the zone change. He said this property will be the third unit to Martin Farms Subdivision and he is recommending approval.

0:36:30 **Mayor Janway asked if anyone else would like to speak in favor or against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session**

0:36:50 **B. Consider Approval of Ordinance 2020-09**

0:36:55 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Waters to approve Ordinance No. 2020-09, an Ordinance rezoning part of "R-R" Rural Residential District to "R-1" Residential 1 District for an approximately 54.85 acre property located East of Old Cavern Highway and South of Hamilton; Applicant: Martin Farms Subdivision/Bar W Farms

0:36:59 **Vote**

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

0:37:19 **11. CONSIDER APPROVAL OF ORDINANCE NO 2020-10, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.375 ACRE PROPERTY, LOCATED AT 818 CENTER AVENUE APPLICANT: ISAAC GALINDO**

0:37:45 **A. Public Hearing**

Mr. Patterson explained this request is to change the zoning of the subject property from "R-1" Residential 1 District to "C-2" Commercial 2 District for approximately 0.375 acres. He said although there is commercial operation in the area, this zone change will create a spot zone. He added that city staff and the Planning Department were unanimous in their wish to deny this request for a zone change.

0:39:10 **Mayor Janway asked if anyone would like to speak in favor of the Ordinance.**

Mr. Isaac Galindo, property owner, explained he would like to build his shop on the property. He explained he has purchased the land and the metal building and has everything ready to set up his business on the property.

Councilor Walterscheid asked what kind of business he is in. **Mr. Galindo** said HVAC, heating and cooling. **Mr. Galindo** added that his parents live in the next lot and he would like to be near them.

0:40:58 **Mayor Janway** asked if anyone else would like to speak in favor or against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session

0:41:09 **B. Consider Approval of Ordinance 2020-10**

0:41:20 **Councilor Chavez** asked how many residents were at the Planning and Zoning Commission that were against the zone change. **Mr. Patterson** said he believes there were multiple residents who were against the zone change because their children walk to school and play at the nearby park.

0:42:51 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to Deny Ordinance No. 2020-10, an Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.375 acre property, located at 818 Center Avenue; Applicant: Isaac Galindo

0:43:29 **Vote**

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

0:44:00 **12. COUNCIL COMMITTEE REPORTS**

Councilor Rodriguez explained a Nuclear Task Force meeting was held via telephone today. He explained although social distancing and working from home is a bit problematic at this time, WIPP is moving forward and continuing to work diligently trying to keep serving the United States in the capacity that they can at this time.

0:44:50 **13. ADJOURN**

0:44:53 **Motion**

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

0:45:05 **Vote**

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

0:45:24 **Adjourn**

There being no further business, the meeting was adjourned at 6:45 p.m.

 /s/Dale Janway
Dale Janway, Mayor

ATTEST:

 /s/Nadine Mireles
Nadine Mireles, City Clerk