

**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 28, 2020 AT 6:00 P.M.**

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| 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: | John Lowe | City Administrator |
| | Wendy Austin | Deputy City Administrator |
| | KC Cass | Deputy City Administrator |
| | Eileen P. Riordan | City Attorney |
| | Nadine Mireles | City Clerk |
| | Ken Britt | Community Dev. Director |
| | Angie Barrios-Testa | Director of Municipal Services |
| | Brent Griffith | IT Technician |
| | Jeff Patterson | Planning Director |
| | Kyle Marksteiner | Public Information Officer |

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**

0:00:03 Invocation - Pledge of Allegiance

0:00:31 **1. APPROVAL OF AGENDA**

0:00:35 **Motion**

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

0:00:38 **Vote**

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

0:00:55 **2. CONSIDER APPROVAL OF RESOLUTION 2020-16, 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 Lodgers' Tax Non-Promo Fund, and the CDBG Fund.

0:03:20 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to approve Resolution No. 2020-16, a Resolution making certain Budgetary Adjustments to the 2019-2020 Fiscal Year Budget

0:03:40 **Vote**

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

0:04:01 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 14, 2020
- B. City Personnel Report
- C. Contracts and Agreements
 - 1) Consider Approval of Lease Agreement between the City of Carlsbad and the Bureau of Land Management for Airport Ground Space at the Carlsbad Cavern City Air Terminal
 - 2) Consider Approval of proposed rate increase for Tennis Lessons charged by the City's Tennis pro
- D. Monthly Reports
 - 1) Community Development Department March 2020
 - 2) Municipal Services Department March 2020
 - 3) Transportation & Facilities Department February 2020
 - 4) Utilities Department March 2020
- E. Set Date: June 9, 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
 - 3) 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

0:04:25 **Mayor Janway asked Mr. Britt to discuss Item C.1 Consider Approval of Lease Agreement between the City of Carlsbad and the Bureau of Land Management for Airport Gound Space at the Carlsbad Cavern City Air Terminal**

Mr. Britt explained that historically the Bureau of Land Management (BLM) has leased ground space at the airport to support air efforts in fighting wild fires in the area. He explained this lease is renewed annually for \$1 per year.

0:05:13 **Motion**

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

0:05:21 **Vote**

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

0:05:42 **4. CONSIDER APPROVAL AUTHORIZING THE CITY TO APPLY AND ACCEPT A CARES ACT FUNDING GRANT FOR THE CAVERN CITY AIR TERMINAL FOR \$69,000**

Mr. Britt explained this is a CARES Act Grant through the FAA in the amount of \$69,000. He said this is for operations at the airport and requires no match from the city.

0:06:39 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve authorizing the city to apply and accept a CARES Act Funding Grant for the Cavern City Air Terminal for \$69,000.

0:06:44 **Vote**

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

0:07:00 **5. CONSIDER APPROVAL AUTHORIZING THE SUBMISSION OF A NEW MEXICO HUMANITIES GRANT APPLICATION TO IMPLEMENT PROGRAMS USING DIGITAL TOOLS FOR THE CARLSBAD MUSEUM AND ART CENTER**

Ms. Barrios-Testa explained this is a request to authorize submission of a New Mexico Humanities Grant application. She explained this is a major grant that encourages applicants to implement online programs that creatively connect audiences by using digital tools and platforms to explore and reflect on topics in the humanities and deliver them in virtual spaces. She stated the NMHC believes that the Coronavirus has emphasized the need for online and virtual programs. She added if the grant is approved, the Carlsbad Museum & Arts Center is excited to partner with the Juntos Art Association and curator Diana Molina to provide a program titled "Picture your

Garden". **Mrs. Barrios-Testa** said if funded this grant will provide approximately \$12k in funds with a commitment from the city for the same amount.

0:08:47 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve authorizing the submission of a New Mexico Humanities Grant application to implement programs using digital tools for the Carlsbad Museum and Art Center

0:08:54 **Vote**

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

0:09:08 **6. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW TEMPORARY HOUSING AS A TEMPORARY USE AT 401 RIO HONDO AVE. ZONED "R-R" RURAL RESIDENTIAL DISTRICT APPLICANT: GREGORY PEREZ**

Mr. Patterson explained this request is to allow Temporary Housing as a Temporary Use at 401 Rio Hondo Ave. He said the zoning for the property is "R-R" Rural Residential which meets the requirement for Temporary Housing and the acreage of 2.75 acres also meets the minimum acreage requirement. **Mr. Patterson** said the applicant has submitted a site plan that meets most of the cities requirements and has met with city staff concerning utilities to the 5 spaces he would like to create on the property. **Mr. Patterson** explained that city staff and the Planning Department are aware of the down turn in oil and gas activity and the Planning Department has surveyed the already approved temporary RV Parks and noticed that there are significant vacancies in the Parks. He added that the Planning Department and the Planning and Zoning Commission recommend denial of the request.

0:11:14 **Mayor Janway asked if anyone would like to speak in favor of the request for Temporary Housing.**

Mr. Gregory Perez, applicant, said this is not a traditional RV Park. He said it is a safe place for newly hired law enforcement, medical personnel, or any public servants in the community. He said his primary focus is to help these individuals become established in the community. He said he has had RV's on his property for a year now and all of a sudden it is an issue. He said being in the Riverbend Community is the best place to have law enforcement and medical personnel.

Ms. Jennifer Chavez, Dispatch Supervisor for the Carlsbad Police Department, said she is a recipient of assistance from the city in housing. She said without the assistance she would have to leave Carlsbad. She said she knows Mr. Perez and all he wants to do is provide the city with the best patrol officers, medical personnel, teachers, nurses and doctors. She said these spots are temporary until these individuals can get into a permanent home.

Mr. Jake Marquez, Patrol Officer, explained he went into the Academy in February and was searching for a place for him and his family to live. He said finding the spot with Mr. Perez was a blessing. He said at times he had a lot going on with medical bills and Mr. Perez was very understanding. He said he now owns a house here in Carlsbad and Mr. Perez was a blessing to him and his family.

Ms. Patricia Lopez, Detective at the Police Department, said when she first arrived in Carlsbad she lived in a man camp and it was loud and expensive. She said when Mr. Perez offered his place it was a blessing to her and it is secure, quiet and private.

0:17:17 **Mayor Janway asked if anyone would like to speak against the Temporary Use Application**

Ms. Jeanne Watson, Sales and Marketing Director of Lakeview Christian Home and Manager of Riverbend Retirement Community, said the property is a multimillion dollar property. She explained they spend thousands of dollars on advertising to bring retirees into the community. She added they were very surprised when Mr. Perez began putting RV's in his backyard and when she walks outside of her property all she sees are the RV's.

Mr. Robert Boatman said he does appreciate Mr. Perez and his heart for this effort. He said this is his retirement home and he did not envision having an RV Park in his backyard. He said there are 16 Riverbend residents that share the property line that contains the RV sites.

Councilor Walterscheid asked if this property is zoned for the Temporary Use. **Mr. Patterson** said the property is zoned appropriately for the Temporary Use.

Councilor Chavez asked if any permits have been pulled for this property. **Mr. Patterson** said his Temporary Use permit has not been approved but added that Mr. Perez has met with the utilities department.

Mr. Perez said he recently hooked up to city sewer and spent about \$12,000 in order to do that. He said his house was built in 1974 and has been on septic for over 30 years. He said he completed work without the proper permits because he was unaware of the proper steps and his main goal was to give these police officers and medical personnel a place to live.

Councilor Carter clarified that Council is considering a Temporary Use Permit not a zone change. **Mr. Patterson** said that is correct.

Councilor Chavez asked why the Legal Department recommended denial. **Ms. Riordan** said essentially for the same reasons that Mr. Patterson has already discussed. She said a combination that it has been the cart before the horse and whether or not this is still a need.

Councilor Carter asked about a previous comment, what criteria the property does not meet in order to have a Temporary Use Permit. **Mr. Patterson** said the applicant has not had the electrical inspected, the installation of a fire hydrant and hooking into city utilities.

Mayor Janway asked how long the RV Park has been in existence. **Mr. Patterson** said Code Enforcement became aware of it at the end of 2019.

Mr. Jerry Fanning Jr., said the intent of the owners is well meant but the fact is they have violated the rules and have continued forward without an approval. He said the applicant moving forward without the permits should raise concerns to the Council and he is requesting denial of the permit.

0:30:03 **Mayor Janway asked if anyone else would like to speak regarding the Temporary Use**

Mr. Gregory Perez said he and his wife have invested their own land and money for this community. He said he is willing to do work with the community and Council because if not he will be at great financial loss. He said he did the Park for the right reasons and apologizes for not following procedures.

Councilor Shirley asked how often the Temporary Use Permits are renewed. **Mr. Patterson** said they are renewed after 5 years. **Councilor Shirley** asked if the city has any leeway on that. **Mr. Patterson** explained there is a provision in the Ordinance allowing the City Administrator to call for a cease of operation if administration determines there is no longer a need.

Councilor Anaya Flores asked if there have been any issues with the RV Park being loud or any calls to law enforcement. **Mr. Patterson** said he has not received that type of complaint from the neighborhood.

Ms. Jeanne Watson explained Lakeview Christian Home is a nonprofit entity and have built the community with seniors in mind and have spent millions of dollars in the process. She added they have had a direct economic impact since the mobile homes have been in the community. She said you cannot drive into the entrance without passing and seeing the RV's at the entrance. She said our community and the residents that reside at Riverbend are important and the new homes being built will be impacted.

Ms. Jennifer Chavez said there have been no officer responses to the property. She added that Mr. Perez is an outstanding man and although he did not follow the proper steps, he is trying to rectify that.

Mrs. Megan Perez, property owner, she said they are willing to work with the Riverbend Community to make the area aesthetically pleasing. She said they are willing to have fewer spaces, extending the fence, or adding more trees.

0:46:22 **Motion**

The motion was made by Councilor Walterschied and seconded by Councilor Rodriguez to deny approval of Temporary Use Application to allow temporary housing as a temporary use at 401 Rio Hondo Ave., zoned "R-R" Rural Residential District; Applicant: Gregory Perez

0:47:03 **Vote**

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

0:48:12 **7. CONSIDER APPROVAL OF RESOLUTION NO 2020-17, A RESOLUTION REQUESTING THAT THE GOVERNOR REOPEN BUSINESSES AND NON-PROFITS CLOSED BY EXECUTIVE AND PUBLIC HEALTH ORDERS**

Mayor Janway explained this Resolution is similar to what has been passed by Eddy and Lea Counties. He explained if this Resolution passes it will recommend that the Governor and the New Mexico Department of Health allow businesses who do not fall within the Secretary's definition of essential business to reopen immediately while implementing the same safe guards that other businesses have implemented. He added this is not dismissive of the public health crisis we are all facing but is recommending a path forward that more fairly takes into account health and economic concerns in our community.

Mr. Craig Stephens, CDOD President, said the CDOD is in support of the Resolution and feel it is vitally important that Carlsbad safely and deliberately open small businesses. He said we want to be sure that all employees and customers are safe. He added small businesses are the life blood of our community.

Mr. John Waters, CDOD Executive Director, said small businesses are hurting in our community. He said small businesses in our community support our gross receipts and without gross receipts we lose the ability to pay the essential workers who provide for our safety. **Mr. Waters** added our community cannot run without its small businesses.

Councilor Rodriguez said logically and scientifically there should be tiered response actions which allow operations as long as incidents are not increasing.

Councilor Walterschied said it incenses him when anyone tries to say who is essential. He said everyone is essential and it is crazy for anyone to say who is not essential. He said he is in favor of the Resolution and small businesses should be able to open up immediately.

Councilor Shirley said that about 80% of Eddy County workers are considered essential. He said the fact that our numbers are so low, yet we have such a high percentage that are going to work is remarkable.

0:57:27 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Waters to approve Resolution No. 2020-17, a Resolution requesting that the Governor reopen Businesses and non-profits closed by Executive and Public Health Orders

0:57:34 **Vote**

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

0:58:03 **8. CONSIDER APPROVAL OF RESOLUTION 2020-18, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH AND DEBRIS AT 310 NORTH MAIN OWNERS: FRANKLIN AND DANNY KINDER**

Ms. Riordan explained this property is located in a mixed residential and commercial area between McKay and Shaw Streets. She said there is a single-family residence as well as a large storage building on the property. She explained that Code Enforcement has been dealing with this property since September of 2018 regarding piles of junk and debris on the property. She stated that Code Enforcement and the Fire Marshall find that the property remains out of compliance and that the property presents a fire hazard for responding firefighters and emergency personnel.

1:00:56 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution No. 2020-18, a Resolution requiring the removal of the trash and debris at 310 North Main; Owners: Franklin and Danny Kinder

1:01:01 **Vote**

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

1:01:19 **9. CONSIDER APPROVAL OF RESOLUTION 2020-19, A RESOLUTION REQUIRING THE REMOVAL OF WEEDS, TRASH & DEBRIS AT 901 MONTERREY STREET OWNER: ASHLEY HERNANDEZ**

Ms. Riordan explained this is a residential property that Code Enforcement has been dealing with since the summer of 2019. She said the primary concern is tall weeds, tall grass, trash, and debris on the property.

1:04:28 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Estrada to approve Resolution No. 2020-19, a Resolution requiring the removal of weeds, trash and debris at 901 Monterrey Street; Owner: Ashley Hernandez

