

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON MAY 12, 2020 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	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:	Lisa A. Anaya Flores	Councilor
Also Present:	John Lowe	City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	Ken Britt	Community Dev. Director
	Brent Griffith	IT Technician
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief

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**

0:00:05      Invocation - Pledge of Allegiance

0:00:28      **1. APPROVAL OF AGENDA**

0:00:32      **Motion**

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

0:00:35      **Vote**

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

0:00:52      **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 28, 2020
- B. City Personnel Report
- C. Purchasing

- 1) Consider Approval to Advertise Request for Proposal for Management of Carlsbad Adult Respite Facility
- D. Contracts and Agreements
  - 1) Consider Approval of Memorandum of Agreement between the City of Carlsbad, City of Artesia and Eddy County to joint file an Application to New Mexico Department of Transportation, Traffic Safety Division for funding the Community DWI Program
- E. Monthly Reports
  - 1) Human Resources Department April 2020
  - 2) Municipal Court Department April 2020
- F. Set Date: June 9, 2020
  - 1) An Ordinance repealing and replacing the Lodger's Tax Ordinance

0:01:14        **Mayor Janway asked Mr. Britt to discuss Item C.1 Consider Approval to Advertise Request for Proposal for Management of Carlsbad Adult Respite Facility**  
**Mr. Britt** explained the original contract for management of the Adult Respite Facility is set to expire at the end of May. He explained the city will go out for RFP for the operation and management of the facility.

0:02:10        **Motion**  
 The motion was made by Councilor Carter and seconded by Councilor Chavez to approve Routine and Regular Business

0:02:16        **Vote**  
 The vote was as follows: Yes -Waters, Walterscheid, Chavez, Carter, Estrada, Rodriguez, Shirley; No - None; Absent - Anaya Flores; the motion carried.

0:02:38        **3. CONSIDER APPROVAL AUTHORIZING THE SUBMISSION OF A BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION UNDER THE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM FOR THE CARLSBAD POLICE DEPARTMENT**

**Mr. Lowe** explained this is a request by the Police Department to submit a grant application to the Bureau of Justice for funding in the amount of \$36,914. He explained if approved the funds will be used to contract for decontamination of its police units and the police station, for the purchase of additional Personnel Protective Equipment for its officers out in the field, and overtime costs associated with staff coverage directly related to Coronavirus.

0:03:20        **Motion**  
 The motion was made by Councilor Shirley and seconded by Councilor Estrada to approve authorizing the submission of a Bureau of Justice Assistance Grant Application under the Coronavirus Emergency Supplemental Funding Program for the Carlsbad Police Department

0:03:27           **Vote**

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

0:03:43           **4.           CONSIDER APPROVAL TO ALLOW FOR MOBILE SALES (VENDING) OF SNOW CONES ON CITY PROPERTY BESIDE THE CARLSBAD WATERPARK, BY HAWAIIAN ISLAND HUT**

**Mr. Patterson** explained this request is to allow mobile vending on city owned property beside the Waterpark, by Hawaiian Island Hut. He explained the Planning Department recommends approval with the following conditions: the applicant shall not disturb the peace, the applicant shall limit vending from 10:00 a.m. to 8:00 p.m., and the applicant will need to provide a surety bond.

**Councilor Rodriguez** asked if the vendor is required to have their own trash can in the area. **Mr. Patterson** said yes.

0:06:15           **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Waters to approve to allow for mobile sales (vending) of snow cones on City Property beside the Carlsbad Waterpark, by Hawaiian Island Hut

0:06:22           **Vote**

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

0:06:41           **5.           CONSIDER APPROVAL OF AN APPEAL OF THE CERTIFIED FLOODPLAIN MANAGER'S DENIAL OF A FLOODPLAIN DEVELOPMENT PERMIT AND REQUEST FOR A VARIANCE FROM THE CITY'S FLOOD DAMAGE PREVENTION ORDINANCE, FOR PROPERTY LOCATED AT 1700 W RIVERSIDE DRIVE AND LOCATED IN FEMA FLOOD ZONE AE APPELLANT: CODY MAY/R12 CONSTRUCTION**

**Mr. Patterson** explained this is an appeal of the Certified Floodplain Manager's denial of a Floodplain Development Permit at 1700 W. Riverside Drive. He explained at this location the Base Flood Elevation (BFE) is approximately 3123.80 feet above sea level. He said the applicant is proposing to build the structure at 3121 feet, resulting in a variance request of 2.80 feet below BFE. **Mr. Patterson** added as Floodplain Manager he is recommending denial of the request.

**Mr. Cody May**, said he is representing Grant and McKenzie Mabry, who he will be building a custom home for. He explained the way the property is shaped at the current level the dirt sits 3 feet higher than the property fence to the east. He explained the variance would allow the property owners to build their desired home on the property.

**Councilor Walterscheid** asked if the homes to the west are higher or lower. **Mr. May** said they are all at BFE. **Councilor Walterscheid** asked if a variance would need to be granted to all the properties to the west. **Mr. May** said 1700 W. Riverside is the first house in the new subdivision at the new flood plain level and they will not have the issues heading west. **Councilor Walterscheid** asked if this variance would set a precedence going forward. **Mr. Patterson** said that could happen but normally these cases are a case by case basis. He added the motivation of the applicant can be different for each case.

**Councilor Chavez** asked if 1702 and 1704 W. Riverside are at the same elevation. **Mr. Patterson** said yes, but he doesn't believe the houses being built will stick out as much.

**Councilor Carter** said in the 12 years that he has been a Councilor this is probably the sixth or eighth time he has seen this variance request and does not believe the approval will set a precedence.

0:15:07      **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve an Appeal of the Certified Floodplain Manager's denial of a Floodplain Development Permit and request for a variance from the City's Flood Damage Prevention Ordinance, for property located at 1700 W. Riverside Drive and located in FEMA Flood Zone AE; Appellant: Cody May/R12 Construction

0:15:13      **Vote**

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

0:15:32      **6. CONSIDER APPROVAL OF ORDINANCE 2020-11, AN 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**

0:15:56      **A. Public Hearing**

**Mr. Patterson** explained this is a request to change the zoning at 108 N. 5th St., from "C-2" Commercial 2 District to "R-1" Residential 1 District for approximately 0.50 acres. He said this zone change would return the property to its intended use. He added the Planning and Zoning Commission recommends approval of the zone change.

0:17:05      **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**

0:17:18      **B. Consider Approval of Ordinance 2020-11**

0:17:27       **Motion**

The motion was made by Councilor Estrada and seconded by Councilor Rodriguez to approve Ordinance 2020-11, an 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

0:17:32       **Vote**

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

0:17:49       **7. COUNCIL COMMITTEE REPORTS**

**Mayor Janway** said he would like to appoint an ATV Committee with Councilor Carter as chairman and with members Chief Skinner, Virgil Smith and Brian McGonagill.

**Mayor Janway** asked if the Committee could bring a report back to Council within the next 45 days.

**Councilor Chavez** said the Energy Community Alliance drafted a letter to the Speaker of the House and the Minority Speaker of the House for \$7.25 billion stimulus for all U.S. Department of Energy Facilities.

0:18:52       **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:19:00       **8. ADJOURN**

0:19:05       **Motion**

The motion was made by Councilor Waters and seconded by Councilor Estrada to Adjourn

0:19:10       **Vote**

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

0:19:31       **Adjourn**

There being no further business, the meeting was adjourned at 6:19 p.m.

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/s/Dale Janway  
Dale Janway, Mayor

ATTEST:

\_\_\_\_\_  
/s/Nadine Mireles  
Nadine Mireles, City Clerk