

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON MARCH 9, 2021 AT 6:00 P.M.**

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|---------------|----------------------|--|
| Present: | Dale Janway | Mayor |
| | Edward T. Rodriguez | Councilor |
| | Leo B. Estrada | Councilor |
| | Jason O. Chavez | Councilor |
| | Jason Shirley | Councilor |
| | Judith E. Waters | Councilor |
| | Mark C. Walterscheid | Councilor |
| Absent: | Lisa A. Anaya Flores | Councilor |
| | Wesley A. Carter | Councilor |
| Also Present: | Wendy Austin | Deputy City Administrator |
| | KC Cass | Deputy City Administrator |
| | Denise Madrid-Boyea | City Attorney |
| | Nadine Mireles | City Clerk |
| | Ron Myers | Director of Utilities |
| | Brent Griffith | IT Technician |
| | Melissa Salcido | Finance Director |
| | Jeff Patterson | Planning Director |
| | Shane Skinner | Police Chief |
| | Maria O'Brien | Modrall Sperling <i>via google meet</i> |
| | David Romero | Balleau Groundwater <i>via google meet</i> |

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

0:00:30 **1. APPROVAL OF AGENDA**

0:00:30 **Motion**

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

0:00:34 **Vote**

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

0:01:05 **2. CONSIDER APPROVAL OF RESOLUTION 2021-09, A
RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2020-
21 FISCAL YEAR BUDGET**

Mrs. Salcido reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2020-2021 Fiscal Year Budget highlighting the General Fund, the Airport Improvement Fund, the Street Improvement Fund, the Capital Outlay Fund, the Solid Waste Fund, and the Local Government Corrections Fund

0:04:22 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Resolution 2021-09, a Resolution making certain budgetary adjustments to the 2020-21 Fiscal Year Budget

0:04:27 **Vote**

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

0:04:49 **3. CITY OF CARLSBAD FINANCIALS - JANUARY 2021**

Mrs. Salcido reviewed the revenues and expenditures as of January 2021 for the General Fund and selected Capital costs within the City Budget.

0:06:05 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on February 23, 2021
- B. City Personnel Report
- C. Monthly Reports
 - 1) Human Resources Department February 2021
 - 2) Municipal Court Department February 2021
 - 3) Transportation and Facilities Department November and December 2020
- D. Set the Date: April 13, 2021
 - 1) Ordinance applying "C-1" Commercial 1 District zoning to an approximately 0.99 acre property located on Harper Street

0:06:33 **Motion**

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

0:06:40 **Vote**

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

0:06:59 **5. CONSIDER APPROVAL OF REQUEST FROM CARLSBAD
POLICE DEPARTMENT TO AUTHORIZE THE SUBMISSION OF A NEW MEXICO
DEPARTMENT OF GAME AND FISH OFF-HIGHWAY VEHICLE (OHV)
PROGRAM GRANT APPLICATION FOR FY 21-22**

Chief Skinner explained this grant is to help enforce OHV violations, as it is a low priority issue with everything else going on. He said this is a non-match grant for \$15,000.00 and would be used strictly for overtime to enforce this type of activity.

Councilor Walterscheid asked if this was to purchase an OHV or to enforce the laws on OHV's, **Chief Skinner** answered the police department would be enforcing OHV laws, which does not allow OHV's to operate on city streets. He said the police department needs to be out enforcing the laws or we will see more tragedies.

Councilor Chavez asked if there are specific areas that will be targeted. **Chief Skinner** answered there some problems areas that the police department is aware of. He said this will allow the police department to enforce in other areas as well.

0:11:01 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Waters to approve a request from Carlsbad Police Department to authorize the submission of a New Mexico Department of Game and Fish Off-Highway Vehicle Program Grant Application for FY 21-22

0:11:07 **Vote**

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

0:11:23 **6. CONSIDER APPROVAL OF RESOLUTION 2021-10, A RESOLUTION AUTHORIZING FILING OF AN APPLICATION TO THE NEW MEXICO ENVIRONMENT DEPARTMENT RECYCLING AND ILLEGAL DUMPING (RAID) GRANT FOR FY 22**

Mr. Myers explained the Solid Waste Department would like apply for a grant with New Mexico Environment Department RAID program. He said the money would be used to purchase a tire shredder that would be placed at the convenience station. He said scrap tires are a problem within the City and having this piece of equipment would solve a long term problem. He said part of the grant process is to require the Governing body to adopt a resolution of support. He said he would like to ask the Council for their consideration in adopting Resolution 2021-10.

Councilor Walterscheid asked who would be running the equipment and what would be done with the shred that is created. **Mr. Myers** answered the City would run the equipment and the shred would be considered regular municipal waste and will be taken to the landfill. He said he is looking for opportunities to turn it into a viable product. **Councilor Walterscheid** asked how long this equipment will last. **Mr. Myers** answered the salesman said it would last forever, but in speaking with people who own one, with proper maintenance it would last for years.

0:13:13 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to approve Resolution 2021-10, a Resolution authorizing filing of an application to the New Mexico Environment Department Recycling and Illegal Dumping (RAID) Grant for FY 22

0:13:19 **Vote**

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

0:13:35 **7. CONSIDER APPROVAL OF RESOLUTION 2021-11, A RESOLUTION REGARDING THE RENAMING OF 120 KIRCHER STREET FORMERLY KNOWN AS PATE ELEMENTARY SCHOOL TO THE ALEJANDRO RUIZ SENIOR CENTER**

Councilor Rodriguez explained he believes Mr. Ruiz is very deserving of this honor, he was a Private First Class on April 28, 1945 when his unit was pinned down by a Japanese pillbox. He said Mr. Ruiz on his own initiative charged that hill with his rifle, his rifle jammed and he had to have hand to hand combat with a Japanese soldier, and ran down got another weapon and single handily took out the pillbox and saved his unit. He said Mr. Ruiz was awarded the Medal of Honor on June 26, 1946 at the White House from President Harry S. Truman. He said Mr. Ruiz was also the recipient of a Bronze Star Medal and the Purple Heart, as he was wounded during that encounter. He said Mr. Ruiz was small in stature but had a big heart.

Mayor Janway added Mr. Ruiz is in our Hall of Fame, with a picture of him getting his medal from President Truman. He said we also have the Medal of Honor.

0:15:27 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Resolution 2021-11, a Resolution regarding the renaming of 120 Kircher Street formerly known as Pate Elementary School to the Alejandro Ruiz Senior Center

0:15:34 **Vote**

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

0:15:54 **8. CONSIDER APPROVAL OF RESOLUTION 2021-12, A RESOLUTION AUTHORIZING TO APPLY FOR A LOCAL GOVERNMENT ROAD FUND GRANT FOR THE REHABILITATION OF WEST MERMOD STREET**

Mr. K.C. Cass asked Council for their approval for Resolution 2021-12, which would be to rehabilitate Mermod Street from the CID Canal to downtown. He said approval of the resolution and a match of 25% is needed for the grant. He said the match amount is \$265,521.00, with the total cost being approximately \$1.1 million.

Councilor Walterscheid asked if this is just a milling or if the road will be torn up with pipes and everything being replaced. **Mr. Cass** answered the existing road surface will be removed and its base will be reclaimed, rolled and a new surface laid.

0:18:05 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Rodriguez to approve Resolution 2021-12, a Resolution authorizing to apply for a Local Government Road Fund Grant for the rehabilitation of West Mermod Street

0:18:11 **Vote**

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

0:18:28 **9. CONSIDER APPROVAL OF ORDINANCE 2021-03, AN ORDINANCE AMENDING ARTICLE IV - WELLHEAD AND WATER FACILITIES PROTECTION SECTION 52-153 THROUGH 52-155 AND SECTION 52-158 OF THE CODE OF ORDINANCES, CITY OF CARLSBAD, NEW MEXICO**

0:19:01 **A. Public Hearing**

Mr. Ron Myers explained the wellhead protection the City has now has been in place since November 2000 and has served its purpose. He said Maria O'Brien of Modrall Sperling and David Romero of Balleau Groundwater have presented an overview and recommend updates to the ordinance. He added Maria O'Brien and David Romero are present via telephone and will give a report on the updates needed.

Maria O'Brien said she and David worked on the original ordinance in 2000 and said there should be some amendments in the Councilor's packets. She said the amendments are closely aligned to conform with the City's 40 year water plan that was approved last year. She explained the updates are to bring the wellhead protection ordinance in line with how the City is looking at water resources going into the future. She said technical changes based on looking at the best way to analyze technical requirements and areas surrounding the City's wellfield with regard to insuring the wellfields are available for use when needed. She also said they have included Tatum Wellfield as it was not developed at the time the original ordinance was passed. She said the updates are primarily technical in nature and what is driving most of the changes. She said the end goal is to protect vital water resources so they are available for use when needed.

David Romero explained the City would need confirmation from an applicant who would want to drill an oil or gas well in the wellhead protection area as to what the depth of the fresh water is. He said in the current version of the ordinance that depth is projected down to 2,500 feet, which is a general number for the whole area. He said the depth could change depending on the area. He said the drilling company would have to cement off the fresh water area to protect the resource in the updated version. He

said updates to the wellhead protection area results in the expansion of the wellhead protection area. He said the current and the updated version are shown. He said the reason for expansion is we know a lot more about the City's water system and about how the aquifer provides water to the City's wells and now have a more advanced analysis that allowed for delineate the areas. He said a model was used and enables a more realistic representation of the aquifer system and allows a better estimate of the wellhead protection areas.

Councilor Rodriguez asked Mr. Romero if we as a City will be able to mandate a distance above and below our aquifer where they would have to switch from one to another, where they would have use fresh water at a certain distance above our caprock? Is there a certain distance below in order to best protect our water. **Mr. Romero** answered the current ordinance is already structured in that way and will continue to do so. **Councilor Rodriguez** asked Mr. Romero to give him a distance above and below that it would encompass. **Mr. Romero** said it depends where the drilling is taking place. He said drilling needs to be done with a quality of water comparable to what the sediments are where the drilling is being done. He said the ordinance is structured to protect the fresh water zone by cementing it off.

Councilor Walterscheid asked why we are allowing anyone to drill within our water aquifers, do we have to let it happen, and he would almost propose a moratorium and not let anyone drill. **Ms. O'Brien** answered the City cannot completely prohibit drilling, but what can be done is having regulations in place protecting the City's use of that resource. She said the update is making sure we are sufficiently protective of the City's water resources and water needs.

Councilor Chavez asked about cementing off the area, what width does the cement have to be, is it going be sustained and will it be enough. **Mr. Romero** answered there will also be a well casing with the cement. He said he will have to look into what the specifications are for oil and gas drilling. He said it is on the order of a couple of inches of cement on each side of the steel casing.

Councilor Rodriguez said this was presented to the Water & Sewer Board and appreciates the effort Ms. O'Brien and Mr. Romero have put forth.

0:33:26 **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

0:33:41 **B. Approval of Ordinance 2021-03**

0:33:58 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Ordinance 2021-03, an Ordinance amending Article IV - Wellhead and Water

Facilities Protection Section 52-153 through 52-155 and Section 52-158 of the Code of Ordinances, City of Carlsbad, New Mexico

0:34:05 **Vote**

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

0:34:38 **10. CONSIDER APPROVAL OF ORDINANCE 2021-04, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL 2 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.922 ACRE PROPERTY LOCATED NORTH OF 4019 NATIONAL PARKS HWY APPLICANT: CARLSBAD HH, LLC/ZACH THEUS**

0:35:04 **A. Public Hearing**

Mr. Patterson explained the owners have placed a small commercial building on this lot and wish to operate it as a small convention center, something to rent out to anyone in the community. He said the rezone would not create a spot zone and The Planning and Zoning Commission voted to recommend approval.

0:36:32 **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**

0:36:42 **B. Approval of Ordinance 2021-04**

0:36:47 **Motion**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve Ordinance 2021-04, an Ordinance rezoning part of "R-2" Residential 2 District to "C-2" Commercial 2 District for an approximately 0.922 acre property located North of 4019 National Parks Hwy Applicant: Carlsbad HH, LLC/Zach Theus

0:36:52 **Vote**

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

0:37:09 **11. CONSIDER APPROVAL OF ORDINANCE 2021-05, AN ORDINANCE AUTHORIZING THE CORRECTION OF LEASE DESCRIPTION, AMENDMENT AND RATIFICATION OF AN OIL AND GAS LEASE WITH SPC RESOURCES LLC**

0:37:29 **A. Public Hearing**

Mr. Patterson explained this a correction to the ordinance that the City approved for SPC Resources LLC, to conduct drilling activities within the City Limits. He said there was a correction to the land description as to which they were going to access, they have provided the correction and is now before Council for approval.

0:38:05 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

0:38:20 B. Approval of Ordinance 2021-05

0:38:36 Motion

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Ordinance 2021-05, an Ordinance authorizing the correction of lease description, Amendment and Ratification of an Oil and Gas Lease with SPC Resources LLC

0:38:40 Vote

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

0:38:56 12. COUNCIL COMMITTEE REPORTS

0:39:01 No reports

0:39:04 Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.

0:39:14 13. ADJOURN

0:39:15 Motion

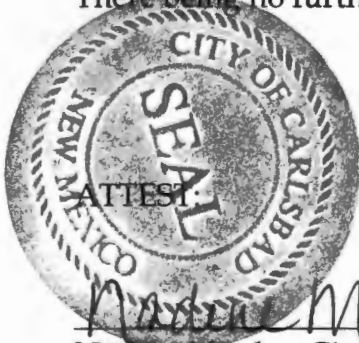
The motion was made by Councilor Waters and seconded by Councilor Walterscheid to Adjourn

0:39:21 Vote

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

0:39:39 Adjourn

There being no further business, the meeting was adjourned at 6:39 p.m.




Nadine Mireles, City Clerk


Dale Janway, Mayor