

**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 27, 2021 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor <i>via telephone</i>
	Jason O. Chavez	Councilor
	Jason Shirley	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
Absent:	Mark C. Walterscheid	Councilor
Also Present:	John Lowe	City Administrator
	Wendy Austin	Deputy City Administrator
	KC Cass	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Ted Cordova	Community Dev. Director
	Angie Barrios-Testa	Director of Municipal Services
	Ron Myers	Director of Utilities
	Wayne Hatfield	IT Director
	Brent Griffith	IT Technician
	Melissa Salcido	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Mary Garwood	Keep Carlsbad Beautiful

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
0:00:12	Invocation - Pledge of Allegiance

0:00:35 **Ms. Garwood** gave a pre-RiverBlitz presentation. She said this is the 22nd year for RiverBlitz. She said as of today she has 176 participants registered for May 1, 2021. She explained it is a river wide clean up, that will include diving rock (north of Carlsbad), Higby Hole (south of Carlsbad), Black River and spaces in between. She said RiverBlitz is great for community service or just for volunteering. She said Nuclear Waste Partnership has provided all the water and Albertson's and La Tienda are providing snacks. She said she has been working with Dave Sepich and Carlsbad Clean-Up Task Force and has partnered with Carlsbad Municipal Schools and other entities in the city. She said Irene Holguin with Keep Dona Ana County Beautiful introduced Carlos the Coyote Campaign and works with the schools. She said Carlsbad now has rights to Carlos the Coyote, which will include books, videos, and educational campaigns. She introduced Carlos the Coyote to the group. She said she wants to get awareness out, she wants to get into the schools, different platforms and different audiences. She said the current program has mostly focused on adults, however once it is allowed, Carlos will be visiting the schools. She invited anyone who would like to help with an event to contact her. She said Carlos has been very successful in Dona Ana and while filming their first video at the Riverwalk there were a lot of high-fives and questions as to what Carlos was about. She said Carlsbad hasn't seen anything like this, Carlos has a purpose, his message is don't litter and help us take care of our land. She said she is looking forward to doing events with all the mascots, Carl S. Bat, and Ringtail. She thanked everyone for their support of Carlos the Coyote.

0:07:28 **1. APPROVAL OF AGENDA**

0:07:28 **MOTION**

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

0:07:32 **VOTE**

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

0:07:50 **2. CITY OF CARLSBAD FINANCIALS - FEBRUARY 2021**

Mrs. Salcido reviewed the revenues and expenditures as of February 2021 for the General Fund contained within the City Budget.

0:09:34 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 13, 2021
- B. City Personnel Report
- C. Contracts and Agreements
 - 1) Consider Approval of Renewal of Lease Agreement between the City of Carlsbad and the Carlsbad Community Kitchen, Inc. for the Lease of City Owned Building

- 2) Consider Approval of Renewal of Lease Agreement between the City of Carlsbad and the Carlsbad Literacy Program for the Lease of City Owned Building
- 3) Consider Approval of Renewal Agreement between the City of Carlsbad and EMSRx, LLC for the Provision of Medical Director Services
- 4) Consider Approval of Memorandum of Understanding Agreement between the City of Carlsbad and Children, Youth and Families Department (CYFD) for access to the Juvenile Justice Services databases
- D. Monthly Reports
 - 1) Community Development Department March 2021
 - 2) Municipal Services Department March 2021
 - 3) Utilities Department March 2021
- E. Board Appointments
 - 1) City of Carlsbad Chamber of Commerce Appoint: Mark Walterscheid
- F. Set the Date: June 8, 2021
 - 1) Ordinance rezoning part of "C-2" Commercial 2 District to "R-2" Residential 2 District for an approximately 0.176 acre property located at 211 S Lake Street
 - 2) Ordinance rezoning part of "C-2" Commercial 2 District to "C-1" Commercial 1 District for an approximately 0.187 acre property located at 2207 W Texas Street
 - 3) Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.292 acre property, located 2424 Bonita Street

0:09:56 **Mayor Janway asked Mr. Lowe to discuss C.1 Approval of Renewal of Lease Agreement between the City of Carlsbad and the Carlsbad Community Kitchen, Inc. for the Lease of City Owned Building**

Mr. Lowe explained this agreement has been in effect since 2004, this will be for a five year agreement which would expire in May 2026. He said the Community Kitchen provides meals for those in need and provides in-kind services.

0:10:35 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Renewal of Lease Agreement between the City of Carlsbad and the Carlsbad Community Kitchen, Inc. for the Lease of City Owned Building

0:10:41 **VOTE**

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

0:11:01 **4. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) ON CITY PROPERTY AT THE RAY ANAYA SAN JOSE PARK BY TACOS EL CHAPO APPLICANT: ANTONIO ROBLES**

Mr. Patterson explained this vendor was set up at Ray Anaya San Jose Plaza last year and are looking to renew their temporary use application this year. **Mr. Patterson** said the Planning Department recommends approval of the request with the conditions that the applicant shall not disturb the peace with a loud speaker, megaphone, bell, music or other disruptive noise, the applicant shall limit vending from 12:00 p.m. to 10:00 p.m. as per their application request, approval of this application will be in effect from April 28, 2021 to December 31, 2021.

0:13:05 **MOTION**

The motion was made by Councilor Shirley and seconded by Councilor Anaya-Flores to approve Temporary Use Application to allow for mobile sales (vending) on City Property at the Ray Anaya San Jose Park by Tacos El Chapo Applicant: Antonio Robles

0:13:10 **VOTE**

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

0:13:25 **5. CONSIDER APPROVAL OF RESOLUTION 2021-21, A RESOLUTION OPPOSING AMENDMENTS TO THE GROSS RECEIPTS AND COMPENSATION TAX ACT**

Mrs. Austin explained during the 2019 Legislative Session HB 6, which is titled Tax Changes was introduced and passed. She said HB 6 is a very extensive bill, it updates multiple tax programs including gross receipts tax, compensating tax, personal income tax and corporate income tax. She said this bill will go into effect in July 2021, which is the start of the new fiscal year. She said one particular update would allocate gross receipt taxes from internet purchases to local governments, currently gross receipt taxes from internet purchases are kept at the state level. She gave an example, if a Carlsbad resident made an internet purchase, the tax is allocated to the state. She said starting July 1, 2021 this tax would be allocated to the municipality, county and the state. She added that part of the bill is a good thing, however, there are unintended consequences. She explained the allocation is based on the destination of business method, which would mean Carlsbad would see a reduction in GRT due to businesses being outside the city limits. She said for Eddy and Lea Counties it would include any service related activity provided to the oil and gas, the potash and the nuclear disposal industries. She said the state will not provide information of where the internet sales are occurring and we are not able to see what the offset will be for the City of Carlsbad. She said a reasonable solution is for municipalities and counties to start receiving their fair share of internet sales, and to continue to receive GRT on service related activities. She explained a chart of GRT that was handed out. She said the chart shows in Fiscal Year 2020 the City collected almost \$9 million in GRT revenues that will go away under the

new system. She explained this was 13% of our revenue for the year 2020, this is a huge impact for the City of Carlsbad. She explained the chart for Fiscal Year 2021 is updated as of current. She said we have only collected \$2 million due to being in a down cycle. She said the general fund is operating in a \$7 million deficit, and the \$2 million is a significant amount. She said the impact is very important. She said the Taxation and Revenue Department is holding a virtual hearing on Thursday April 29, 2021, which she will attend along with other people from within the city. **Mrs. Austin** added that anyone interested can join the hearing. She said she would like the Taxation and Revenue Department to know we strongly oppose this and would like to be exempt or that an amendment be added in the next session to correct this. She is requesting approval of this resolution.

Mayor Janway thanked Mrs. Austin for all the work she has put into this. **Mayor Janway** mentioned he wasn't aware of this until about a week ago.

Mrs. Austin said the way this bill was sold to the Legislature was that it would correct the problem with how taxes are collected on internet purchases. She said they didn't consider how it would affect rural communities. She said there are businesses located in the city, however they do business outside city limits which would affect how the GRT is allocated.

Mayor Janway said it was a surprise to the Legislators he spoke to. **Mayor Janway** said we would pass this resolution on to other affected municipalities in the state.

0:21:00 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Resolution 2021-21, a Resolution Opposing Amendments to the Gross Receipts and Compensation Tax Act

0:21:04 **VOTE**

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

0:21:22 **6. COUNCIL COMMITTEE REPORTS**

Councilor Shirley said there will be an update from the Committee for street parking in the next few weeks.

Mayor Janway thanked Councilor Shirley for the report.

0:21:56 **Mayor Janway** asked if anyone in the audience would like to address the Council. No one appeared

0:22:02 7. ADJOURN

0:22:05 **MOTION**

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

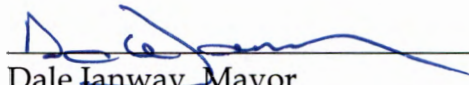
0:22:12 **VOTE**

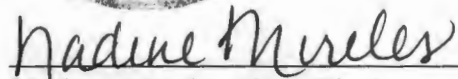
The vote was as follows: Yes - Waters, Carter, Rodriguez, Estrada, Shirley, Anaya-Flores, Chavez; No - None; Absent - Walterscheid; the motion carried

0:22:32 **Adjourn**

There being no further business, the meeting was adjourned at 6:22 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk