

**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 11, 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
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
Absent:	Jason Shirley	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
	Sandy Gonzales	Grants Administrator
	Carol Worley	Packs for Hunger
	David Beaty	Heights Lions Club
	Kevin Danos	Citizen
	John Baxter	Smart Home Pros., Inc.

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:02      **Call Meeting to Order**

0:00:03      Invocation - Pledge of Allegiance

0:00:40 **Mrs. Carol Worley** with Packs for Hunger, explained in the last 15 months Packs for Hunger have fed 19,000 children. She said it couldn't be done without the community, businesses, churches, individuals, and service organizations that stand behind the program.

**Councilor Anaya-Flores** thanked Mrs. Worley for all that she does for the program, **Mrs. Worley** said she has support from Albertson's and WIPP. **Mrs. Worley** said she has a team of people who help, she explained there are 3 crews and 1 group is 90 year old ladies. She thanked David with Albertson's for the help.

**Councilor Walterscheid** thanked Mrs. Worley, the Lions Club and all the organizations that are involved for their service.

**Mayor Janway** thanked Mrs. Worley. **Mrs. Worley** added if anyone is bored the program can always use some help.

0:04:23 **1. APPROVAL OF AGENDA**

0:04:27 **Motion**

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

0:04:30 **Vote**

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

0:04:46 **2. CONSIDER APPROVAL OF RESOLUTION 2021-22, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2021-22 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 GRT Capital Outlay Fund, and the Lodgers' Tax Fund.

0:06:07 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Resolution 2021-22, a Resolution making certain budgetary adjustments to the 2021-22 Fiscal Year Budget

0:06:26 **Vote**

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

0:06:25 **3. CONSIDER APPROVAL OF RESOLUTION 2021-23, A RESOLUTION ADOPTING THE 2021-22 FISCAL YEAR INTERIM BUDGET**

**Mr. Lowe** explained in the current fiscal year, the City had significant reductions in revenues, and in Gross Receipts Tax Revenues. He said the City took steps including delaying and idling projects and holding vacant positions to control costs. He said the interim budget has a \$10 million reduction in overall cash balance, there will be savings in this budget as well. He said the City plans to remain cautious as we move through the new fiscal year. He thanked the Finance Department and Directors for their hard work and willingness to assist with cost saving initiatives.

**Mrs. Gonzales** said the City interim budget for FY 2022, has an overall decrease of \$10.5 million and the City budgets revenues very conservatively. She said the actual reduction in cash is projected to be expected to be less, similar to the current fiscal years actual vs. budget. She said in summary, the City has budgeted for \$97 million in revenues. She said the City is budgeting \$51 million in labor costs, \$38 million in operating costs, capital carry over is \$32 million, she said this is primarily related to multi-year street improvement projects and water and sewer projects. She also said new capital projects are budgeted at \$18.4 million with this amount being offset by \$5.3 million in grants.

**Councilor Rodriguez** said he appreciates all the effort of the Finance Department and the Budget Committee. He said the departments have made some really deep cuts and he appreciates everyone's willingness to work with the Committee. He said it is a really lean budget due to lean revenue and the City is doing their best with what they have.

0:09:28      **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Resolution 2021-23, a Resolution adopting the 2021-22 Fiscal Year Interim Budget

0:09:32      **Vote**

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

0:09:48      **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 27, 2021
- B. City Personnel Report
- C. Purchasing
  - 1) Consider Approval to Advertise Invitation to Bid for Pest Control Services for City Facilities for 2021-22 Fiscal Year
  - 2) Consider Approval to Reject and Rebid Bid 2021-02 for the construction of the Old Cavern Waterline Project
- D. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and On Target Challenge (OTC) for Firefighter Combat Challenge on October 1-3, 2021



2) Consider Approval of Lease Agreement between the City of Carlsbad and Bureau of Land Management for Airport Ground Space at the Carlsbad Cavern City Air Terminal

E. Monthly Reports

- 1) Human Resources Department April 2021
- 2) Municipal Court Department April 2021
- 3) Transportation & Facilities Department January 2021
- 4) Transportation & Facilities Department February 2021

F. Set the Date: June 8, 2021

- 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-R" Rural Residential District for an approximately 0.253 acre property located at 2315 Iris Street
- 2) Ordinance annexing a portion of land containing +/-4.47 acres more or less, including +/-3.88 acres of real property and +/-0.7 acres of street right of way for property located to the East of the intersection of West Cherry Lane and Callaway Drive
- 3) Ordinance applying "R-R" Rural Residential zoning to an approximately 3.88 acre property located at 730 West Cherry Lane and 1812 Indian Road

0:10:14 **Mayor Janway asked Mr. Lowe to discuss D.2 Consider Approval of Lease Agreement between the City of Carlsbad and Bureau of Land Management for Airport Ground Space at the Carlsbad Cavern City Air Terminal**

**Mr. Lowe** explained this is an annual lease by the Bureau of Land Management (BLM) for Airport Ground Space for a Field Office to support their air efforts in fighting wildfires in the area. He said this lease is for \$1 per year and added this is a great service for BLM.

0:10:40 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Anaya-Flores to approve Routine and Regular Business

0:10:46 **Vote**

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

0:11:03 **5. CONSIDER APPROVAL OF REQUEST FOR A TRANSFER OF OWNERSHIP OF INTER-LOCAL DISPENSER LIQUOR LICENSE NO. 28074, FOR BLAZING WINGS, INC. DBA BUFFALO WILD WINGS AT 1801 WEST PIERCE STREET APPLICANT: BLAZING WINGS, INC**

**Mr. Lowe** said the applicant is asking for approval of a transfer of ownership for the liquor license for Buffalo Wild Wings due to a change in ownership. He explained when there is a 10% or more change in the ownership there is a requirement of a transfer of the ownership. He said the owner has not changed however a private equity was sold to another, the owner is still Blazing Wings DBA Buffalo Wild Wings.

0:12:07        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve a Request for a Transfer of Ownership of Inter-Local Dispenser Liquor License No. 28074, for Blazing Wings, Inc. DBA Buffalo Wild Wings at 1801 West Pierce Street Applicant: Blazing Wings, Inc.

0:12:12        **Vote**

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

0:12:25        **6. CONSIDER APPROVAL OF AUTHORIZATION TO APPLY FOR FUNDING THROUGH SERPTO FOR THE RE-CONSTRUCTION OF OLD CAVERN HIGHWAY WITH A 5% MATCH**

Mr. Cass explained this is to seek approval and authorization to go out for funding through the SERPTO organization to reclaim and repave Old Cavern Highway from National Parks Highway to Farris Street. He said the amount of the project is \$528,000 with the City matching 5% which would be in the amount of \$26,400.

0:13:45        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve Authorization to apply for funding through SERPTO for the reconstruction of Old Cavern Highway with a 5% match

0:13:50        **Vote**

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

0:14:09        **7. CONSIDER APPROVAL OF AUTHORIZATION FOR SUBMISSION OF AN AGING & LONG-TERM SERVICES DEPARTMENT (ALTSD) APPLICATION FOR THE PURCHASE OF EQUIPMENT FOR THE ALEJANDRO RUIZ SENIOR CENTER**

Mrs. Barrios-Testa explained this is a request for approval for an application for Aging & Long Term Services funding. She said this funding would be for equipment at the center. She said this funding would also be for emergency repairs, replacement of equipment or to make improvements to the facility. She said there will be an application submitted for the next phase of renovations and there is no match requirement for the application.

0:15:42        **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve Authorization for Submission of an Aging & Long-Term Services Department (ALTSD) Application for the Purchase of Equipment for the Alejandro Ruiz Senior Center



0:15:46       **Vote**

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

0:16:00       **8. CONSIDER APPROVAL OF AUTHORIZATION FOR SUBMISSION OF AN AMERICAN LIBRARY ASSOCIATION COVID RELIEF FUND APPLICATION FOR THE CARLSBAD PUBLIC LIBRARY TO EXPAND THE LIBRARY'S COLLECTION AND JOB RESOURCE CENTER**

**Mrs. Barrios-Testa** explained this is a grant application for the Library. She said there are a lot of wonderful programs at the Library that have been utilized during the pandemic. She said this is for operations and will allow for expansion of the services that have been provided. She said this is for \$50,000 and there is no match required.

0:17:01       **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve Authorization for Submission of an American Library Association COVID Relief Fund Application for the Carlsbad Public Library to expand the Library's collection and job resource center

0:17:06       **Vote**

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

0:17:20       **9. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE/BUSINESS LICENSE BY THE HEIGHTS LIONS CLUB FOR A CARNIVAL AT 300 AND 301 DIAZ STREET (RAY ANAYA/SAN JOSE PLAZA AND PARK)**

**Mr. Patterson** explained this a request for a business license for the Heights Lions Club to hold a carnival at the Ray Anaya/San Jose Plaza Park. He said the carnival would run from Wednesday May 26, 2021 to Sunday May 30, 2021 and the presenter is Moore's Greater Shows from Texas. He said the applicant has provided a certificate of liability insurance which is a requirement per the ordinance. He said the Planning Staff recommends approval of this request with the following conditions: comply with all applicable requirements of code of ordinances Chapter 28 Article 2, furnish the City with all forms and inspections required under the carnival ride insurance act prior to operation, insure all trash is cleaned from the site daily and at the end of the event. He said there are two temporary vendors on site, and they will need to accommodate those vendors as well, as they have been approved by City Council.

**Councilor Walterscheid** asked if their equipment is inspected on a regular basis. **Mr. Patterson** answered they are to provide certificates showing they have passed inspection and added the building inspectors are allowed to inspect the installation.

**Councilor Walterscheid** asked if this is a yearly inspection, **Mr. Patterson** answered they would probably need to be inspected in the states where they operate.

**David Beaty**, with Heights Lions Club said he is requesting approval for Moore's Greater Show Carnival. He said the carnival will arrive on Monday and start setting up. He said the carnival will operate from Wednesday May 26, 2021 to Sunday May 30, 2021 and will pack up and leave on Monday May 31, 2021. He said there will be club members (Heights Lions Club) there every night. He added in the past law enforcement has provided extra patrol and hopes this is still possible. He said the Lions Club will provide dumpsters and porta potties. He said there will be a cleanup on Tuesday to remove any trash. He said there is a COVID-19 information proposal, there will be crowd control, wider walk ways, there will be hand sanitizers at every ride, game and food concession, there will be employee wellness checks, employees will wear masks, rides will be sanitized, and there will be signage reminding everyone to social distance. He is asking for help from the fair board, security and the police department with reminding guests to sanitize and social distance. He said he feels if he can get the word out to sanitize and social distance we can bring some fun back to our lives. He said Moore's Greater Show usually gives \$20,000 to the Heights Lions Club and last year that didn't happen. He said the Club is really looking forward to this year's carnival to be able to continue the work they do.

**Councilor Walterscheid** had a question for Mr. Lowe, he asked if our city is green for COVID-19 purposes. **Mayor Janway** answered we are in the turquoise and should remain there for at least the next 3 weeks. **Mayor Janway** added there were 4 positive cases reported Saturday, Sunday and Monday and none today (Tuesday May 11, 2021). **Mayor Janway** said the news is getting better all the time.

0:25:45      **Motion**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Walterscheid to approve a Request for a Temporary Use/Business License by the Heights Lions Club for a Carnival at 300 and 301 Diaz Street (Ray Anaya/San Jose Plaza and Park)

0:25:52      **Vote**

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

0:26:09      **Mayor Janway** thanked the Heights Lions Club for all they do.

0:26:16      **10. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY USE/BUSINESS LICENSE TO CONDUCT DOOR TO DOOR SALES AND INSTALLATION OF SMART HOME AUTOMATION AND SECURITY SERVICES BY SMART HOME PROS INC. (VIVINT) CONTACT TAG STEELE**

**Mr. Patterson** explained this a request to approve a business license to conduct door to door sales and installation of Smart Home Automation and Security Services by Smart Home Pros Inc., owned by Vivint. He said this business has requested a business license in past years and the license has been approved. He said that a background



check was complete, and read excerpts from the report which reads the Better Business Bureau states that Smart Home Pros. Inc., is not an accredited member of the bureau, the business was started in March 2008, there have been two consumer complaints filed with the BBB in the last 36 months, the business holds a 1 out of 5 star rating from customer reviews that go back to 2018, there are two complaints this year (2021). He added there have been no calls or complaints to the Carlsbad Police Department about the door to door activities.

**Councilor Rodriguez** questioned the nature of the reported complaints. **Mr. Patterson** answered it is not noted in the report.

**Councilor Chavez** asked if the individuals that go door to door have had a background check. **Mr. Patterson** answered they are required to leave an ID on file with the Planning Department, however the Planning Department does not perform a background check. **Councilor Chavez** asked if the company performs background checks on the employees. **Mr. Patterson** answered in the past the Planning Department has been told the background checks were performed.

**Mr. John Baxter**, Compliance Manager with Smart Home Pros. Inc., said there are background checks performed on their employees, it is a requirement of Smart Home Pros. Inc.

**Officer Charlie Garcia** explained he was notified by a collection agency that he owed money to Vivint, for a security system at a restaurant. He said he has never had service with Vivint and he called to explain they had the wrong person. He said Vivint eventually found the right person, however Vivint placed the collection on Officer Garcia's credit report. He said he has sent letters to Vivint and the collection agency stating they have the wrong person. He is asking Council, if they plan to approve this request, to require the company to wait 30-90 days for an answer, this is the reply they have given him about removing the inaccurate information on his credit report.

**Councilor Carter** said this is to approve the door to door sales, not stating they agree with their business practices or their collection practices.

0:34:19      **Motion**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve a Request for a Temporary Use/Business License to conduct door to door sales and installation of Smart Home Automation and Security Services by Smart Home Pros Inc. (Vivint) Contact Tag Steele

0:34:28      **Vote**

The vote was as follows: Yes - Carter, Rodriguez, Estrada, Anaya-Flores, Chavez; No - Waters, Walterscheid; Absent -Shirley; the motion carried.



**0:34:58 11. CONSIDER APPROVAL OF ORDINANCE 2021-11, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "R-R" RURAL RESIDENTIAL DISTRICT FOR AN APPROXIMATELY 0.955 ACRE PROPERTY LOCATED AT 3204 WEST LEA STREET APPLICANT: KEVIN DANOS & JENNIFER BLANK**

**0:35:28 A. Public Hearing**

**Mr. Patterson** explained the applicant owns a horse and would like to keep it on the property, therefore they are requesting a zone change. He said the zone change would allow them to keep a horse on the property. He said the Planning and Zoning recommend approval of this request.

**0:36:26 Mayor Janway asked if anyone would like to speak for the Ordinance**

**0:36:29 Kevin Danos**, the owner of the property, said he owns a horse and when he purchased the home, he was told it was a livestock availability property. He said he has recently found out it is not a livestock available property and would like to request the change of the zoning to keep his horse. He said when he purchased the property there was a horse corral already on the property and there had previously been chickens on the property.

**0:37:15 Mayor Janway asked if anyone would like to speak against the Ordinance. No one appeared**

**0:37:19 B. Approval of Ordinance 2021-11**

**0:37:24 Motion**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve Ordinance 2021-11, an Ordinance rezoning part of "R-1" Residential 1 District to "R-R" Rural Residential District for an approximately 0.955 acre property located at 3204 West Lea Street Applicant: Kevin Danos & Jennifer Blank

**0:37:29 Vote**

The vote was as follows: Yes - Waters, Carter, Estrada, Walterscheid, Anaya-Flores, Chavez; No - Rodriguez; Absent -Shirley; the motion carried.

**0:37:51 12. CONSIDER APPROVAL OF ORDINANCE 2021-12, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "R-1" RESIDENTIAL 1 DISTRICT FOR AN APPROXIMATELY 0.285 ACRE PROPERTY LOCATED AT 2209 SAN JOSE BLVD APPLICANT: MANUEL & WILMA DURAN**

**0:38:17 A. Public Hearing**

**Mr. Patterson** explained this is primarily residential in nature surrounding the property the subject property is residential as well. He said changing the zoning would better fit

the current use of the property. He said this change would not create a spot zone as there is R-1 Residential 1 District adjacent to the property. He said the Planning and Zoning Commission recommend approval.

**Councilor Chavez** asked how this property was zoned C-2 Commercial District 2. **Mr. Patterson** answered he isn't sure what happened when zoning was changed in 2011, however he would try to find the answer if Councilor Chavez would like. **Mr. Patterson** said there have been other properties in the city that have had the same issue and the Planning Department corrects the zoning when possible.

**Councilor Rodriguez** asked if the change only covers the 2 lots identified on the map. **Mr. Patterson** answered yes that was correct the two lots are owned by the same person.

0:40:19        **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

0:40:30        **B.        Approval of Ordinance 2021-12**

0:40:34        **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Anaya-Flores to approve Ordinance 2021-12, an Ordinance rezoning part of "C-2" Commercial 2 District to "R-1" Residential 1 District for an approximately 0.285 acre property located at 2209 San Jose Blvd Applicant: Manuel & Wilma Duran

0:40:38        **Vote**

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

0:40:54        **13.        COUNCIL COMMITTEE REPORTS**

**Councilor Rodriguez** had an update on a meeting with Conoco Philips today (Tuesday May 11, 2021). He said discussions were: building bridges under the new administration, working towards climate action plans, emissions and working towards the 30 x 30 plan that Martin Heinrich has put forth. He said there was also discussion about creating a better environment in our area including orphaned wells and water conservation. He said they are very active in the community. supporting the CARC Farm, our schools, the South Eastern New Mexicc College, Carlsbad Foundation and the United Way. He said we are thankful for all their support. He said they have an active workforce in our area.

**Councilor Chavez** said last week Deputy Secretary David Duke for the Department of Energy, said he would like to meet with the local community. He said Mr. Duke feels



the community knows the area best and know what is needed for the sites. He said Mr. Duke is willing to work with us and not just listen in Washington D.C.

0:42:52      **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:42:55      **14. ADJOURN**

0:43:00      **Motion**

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

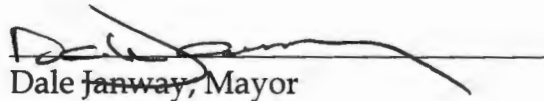
0:43:08      **Vote**

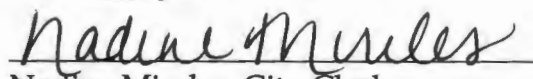
The vote was as follows: Yes - Waters, Carter, Rodriguez, Estrada, Walterscheid, Anaya-Flores, Chavez; No - None; Absent -Shirley; the motion carried.

0:43:25      **Adjourn**

There being no further business, the meeting was adjourned at 6:43 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk