

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON AUGUST 24, 2021 AT 6:00 P.M.**

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
	KC Cass	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	JoAnne Jaure	Deputy City Clerk
	Ted Cordova	Community Dev. Director
	Angie Barrios-Testa	Director of Municipal Services
	Brent Griffith	IT Technician
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Andrew Carver	Police Officer
	Charlie Garcia	Police Officer
	Kyle Marksteiner	Public Information Officer
	Richard Olson	Attorney at Hinkle Shanor
	Karla Hamel	Citizen
	Ashly Key	Carlsbad MainStreet Director
	Mrs. Mark Walterscheid	Citizen
	Mike Smith	Current Argus Reporter
	Damian Capello	Red Rocket
	Lucas Middleton	Milton's Brewing
	Jim Waters	Citizen
	Ms. Tripp	Hinkle Shanor
	Randy Counts	Citizen
	Lucas Dowdy	Citizen
	Dee Ingram	Citizen

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 **Mayor Janway** introduced Mr. Richard Olson, Attorney with Hinkle & Shanor LLC, to discuss rumors of an immigration processing facility opening here in Carlsbad. **Mr. Olson** explained two or three months ago, an owner of a local facility informed the City regarding the facility being identified as a potential location for processing of migrant children. He said the location would process children ages 12-17 years old, before they would then be transferred to their host family or sponsor. He said there has been no more information about this possible processing center. He explained about two weeks ago the City was contacted by the owner, who indicated this would possibly now be for families and not only children, and would have up to a 72 hour stay, before they would be moved to a host family or sponsor in other parts of the country. **Mr. Olson** stated there has been no contract entered into, there has been no contact by any government entity to the City regarding this issue. He said the City has reached out to Senator Heinrich's office, and as of today no decision has been made as to what facilities the Department of Homeland Security (DHS) might contract with, or whether the facilities would be in Carlsbad or any other location. He said Senator Heinrich's office also informed the City, as the DHS moves through the process they will brief the congressional delegation, local and state governments and non-governmental organizations about the process. He said his office was asked to review and consult with City Administration and assess what input the City might have to influence the impact on the community of such a facility, if in fact it might be located in Carlsbad. He stated again there is no contract, no decisions made, and there has been no contact by the Federal Government to the City. He said the City has only been informed of this by the owner of the facility. He said there are a lot things that are not known yet, and his office is trying to assist the City in obtaining more information.

Mayor Janway asked if any Council Member had any questions for Mr. Olson. There were none.

Mayor Janway asked if there were any questions or statements from the audience.

Ernie Carlson, Eddy County Commissioner for District 1, said he has a great concern about this facility and asked for clarification on whether this would be for 12-17 year olds or family units. **Mr. Olson** answered initially the City was told 12-17 year olds and the latest information is it would be family units. **Mr. Carlson** stated he understood the migrants would be brought in and processed, then transported elsewhere. **Mr. Carlson** asked if the transportation would be furnished by the Federal Government or would

they be allowed to use public transportation? **Mr. Olson** stated he couldn't answer the question.

Mayor Janway added that the contractor informed the City that once the migrants are processed they would go to El Paso, Roswell or Hobbs, and the Federal Government would be responsible for transporting the migrants. **Mr. Carlson** asked if they would be free to run around our community. **Mayor Janway** answered no. **Mr. Carlson** asked about the environmental impact this processing center would have on Carlsbad, do we have the capabilities to inspect this center for health and environmental violations?

Mayor Janway asked Mr. Lowe to answer this question. **Mr. Lowe** explained if this needed to be inspected by the City, we would be capable. **Mr. Lowe** added if he is asking about health and safety inspections that would be completed by the State Environment Department. **Mr. Carlson** said centers such as this in Texas have had some problems and he would hate to see our community have the same problems.

Ms. Dee Ingram said she lives near the proposed facility and is concerned with the migrants coming and going, and if the community would be aware. She said this is her neighborhood, her backyard and this area already has issues. She asked how this will be addressed. **Mr. Olson** said he can't answer that and this is something that would need to be clarified. He said the contractual guidelines of the DHS would have to be looked into. **Ms. Ingram** would like to know if this facility is used, what will protect us.

Mr. Randy Counts asked about the change that seems to already have occurred from 12-17 year olds to family units. He asked what could prevent more changes once the government has their foot in the door? He asked how will we know if these migrants don't have COVID-19? He asked can the City and the hospital and medical staff handle that. He said he feels they aren't being tested for COVID-19 and the government voted to not test the migrants. He said we have to be tested all the time, and the migrants should be held to the same standards.

Mayor Janway agreed we should hold the migrants to the same standards. **Mr. Counts** asked if we are able to enforce testing? **Mayor Janway** answered that at this time the City has only dealt with the contractor, and have not met with the Federal Government. **Mayor Janway** said Senator Heinrich has stated if this goes through, he will guarantee the migrants would be tested before they left the El Paso facility. **Mayor Janway** added this is all the City knows at this time. **Mr. Counts** said that is good to know, as COVID-19 is running rampant. He added he feels once the migrants arrive we will be opening a can of worms we can't close.

Councilor Walterscheid said he also worries about the people working at the facility, they will be citizens and coming into the community and he hopes they are being tested.

Mr. Lucas Dowdy said his concern is Carlsbad doesn't have the infrastructure to handle the population we have now. He asked where the groceries and medical supplies would come from. He said with a time of 72 hours, it would probably turn into two weeks to a month. He said we don't have the resources for this facility. He mentioned with the Federal Government, it doesn't matter what we as a community want, they will do what they need to. He asked what steps as a community we can take to prevent this from happening.

Mayor Janway answered, that is why we have legal counsel at the meeting.

Councilor Anaya-Flores said she was not familiar with the set up at the facility, however she is sure at one point it was at full capacity. She asked if there were sewer problems when the facility was full? **Mr. Lowe** answered there have been no concerns of sewer problems in the past with this facility, as this is hooked up to the city sewer system. **Councilor Anaya-Flores** asked if there were any complaints of low water pressure in the past? **Mr. Lowe** answered, during his time in administration he has not received any complaints about water pressure issues in this area. **Councilor Anaya-Flores** asked if this facility is filled with migrants, will this be an issue. **Mr. Lowe** said at this time we don't know many people will be brought in and what the capacity is. **Councilor Anaya-Flores** said it has been proven to be adequate, as it was previously a man camp full of workers and there were no sewer or water issues at full capacity. She said if the Federal Government is mandating government citizens be tested, she feels the government will mandate the immigrants to be tested to protect us, the community. She said this innuendo is causing panic. She said as far as the food supply, she feels the Federal Government will be providing the food for the facility. She doesn't feel the immigrants will be running to Wal-Mart to do shopping any more than when we had the oil boom here. She said she feels the Federal Government will be supplying the needs of the immigrants. She said we need to calm down and not add gas to the fire.

Mr. Randy Counts said he is concerned about sanitation and the sewer, most of the people that would be coming don't have the same sanitary conditions, the immigrants have different upbringing than U.S. Citizens. **Councilor Anaya-Flores** said these comments are insulting. She said there will be staff to clean the facility and added the immigrants are human beings. **Mr. Counts** said the immigrants should be coming to the U.S. the correct way. **Councilor Anaya-Flores** agrees, however that is not what this discussion is about.

Mr. Dowdy said with the oilfield workers, they were here working and paying taxes, with the immigrants they will be adding to the strain of the community.

Councilor Rodriguez said this was to inform the public of what is known about this situation, and it has ventured off into opinions, and there is no other information at this time and we need to move forward from this topic.

Mayor Janway asked Mr. Olson if there was anything more to add. **Mr. Olson** said his associate Ms. Tripp has been taking notes of the comments that have been made. **Mr. Olson** said some items brought up need clarification and he will advise the City appropriately.

0:21:22 **1. APPROVAL OF AGENDA**

0:21:27 **MOTION**

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

0:21:30 **VOTE**

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

0:21:47 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on August 10, 2021
- B. City Personnel Report
- C. Purchasing
 - 1) Consider Approval to Advertise Invitation to Bid for Golf Cart Lease for Lake Carlsbad Municipal Golf Course
 - 2) Consider Approval to Award Bid 2021-04 to Advanced Weed and Pest Management for Pest Control Services for Various City Facilities
- D. Monthly Reports
 - 1) Community Development Department July 2021
 - 2) Municipal Services Department July 2021
 - 3) Planning, Engineering & Regulations Department July 2021
 - 4) Utilities Department July 2021
- E. Board Appointments
 - 1) Carlsbad Public Library Board of Trustees Appoint: Misty Price four-year term
- F. Set Date: October 12, 2021
 - 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.25 acres located at 2301 Avenue A

0:21:47 **Mayor Janway asked Mr. Lowe to discuss Item C.1 Consider Approval to Advertise Invitation to Bid for Golf Cart Lease for Lake Carlsbad Municipal Golf Course**

Mr. Lowe explained the City is looking to lease 45 electric golf carts for public use at the Lake Carlsbad Golf Course. He said the current lease expires in May 2022, however they are in short supply all over the country and staff would like to get this bid out to make sure we have a fleet when the current lease expires.

0:22:45 **MOTION**

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

0:22:49 **VOTE**

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

0:23:09 **3. CONSIDER APPROVAL OF REQUEST FROM CARLSBAD MAINSTREET TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS DURING THE ON-TARGET FIREFIGHTER COMBAT CHALLENGE**

Mr. Patterson explained Carlsbad MainStreet has requested beer and wine service provided by Milton's Brewing from 4 p.m. to 10 p.m. on Friday October 1, 2021 and 11 a.m. to 11 p.m. on Saturday October 2, 2021. He said a beer garden would be set up outside Milton's Brewing, it will be an extension of Milton's Patio area, where alcohol is currently being served. He said there will be one entrance into the beer garden and security will be provided. He said entrants must be 21 years old or older and provide a valid ID and a bracelet will be given to each entrant as a requirement to purchase beer or wine. He said no beer or alcohol will be allowed out of the beer garden. He said it is the recommendation by the Planning Department to approve this request with the following requirements: The alcohol server obtain all required licenses and permits; MainStreet and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security); both MainStreet and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance.

0:25:41 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve Request from Carlsbad MainStreet to serve alcohol (beer & wine) on City streets during the On-Target Firefighter Combat Challenge

0:26:05 **VOTE**

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

0:26:21 **4. CONSIDER APPROVAL OF REQUEST FROM CARLSBAD MAINSTREET TO SERVE ALCOHOL (BEER & LIQUOR) ON CITY STREETS DURING THE STRANDED CONCERT AT THE CAVERN THEATER**

Mr. Patterson explained this is a request by Carlsbad MainStreet to host the band Stranded at the Cavern Theater on Friday September 10, 2021. He said Carlsbad MainStreet is requesting to have alcohol service at the event from 7 p.m. to 9 p.m. He said there will be a beer garden located on Canyon St. and the licensed alcohol server will be Cal's Shade Western. He said there will be a controlled entrance and security

will be provided. He said entrance to the beer garden will be available to entrants 21 years old and older with a valid ID. He explained beer or alcohol will not be allowed outside the beer garden area. He said the Planning Department recommends approval of this request with the following requirements: The alcohol server obtain all required licenses and permits; MainStreet and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security); both MainStreet and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance.

0:28:35 **MOTION**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve a Request from Carlsbad Mainstreet to serve alcohol (beer & liquor) on City streets during the Stranded Concert at the Cavern Theater

0:28:39 **VOTE**

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

0:28:55 5. CONSIDER APPROVAL OF REQUEST FROM MILTON'S BREWERY TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS DURING MILTON'S BREWING FIFTH ANNIVERSARY

Mr. Patterson explained this is a request by Milton's Brewing to host their 5th Anniversary Celebration Saturday, September 25, 2021 along Mermod and Canyon St. He said Milton's Brewing is requesting to have alcohol service at the event from 11 a.m. to 10 p.m. He said Milton's Brewing is planning for food trucks, local vendors and a cornhole tournament. He explained there will be a controlled entrance and security will be provided. He said entrance to the beer garden will be available to entrants 21 years old and older with a valid ID. He said beer or alcohol will not be allowed outside the beer garden area. He said the Planning Department recommends approval of this request with the following requirements: The alcohol server obtain all required licenses and permits; Milton's Brewing and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security); Milton's Brewing and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance.

Councilor Shirley commented that the last three items only proves how excited we are about having events again.

Councilor Walterscheid asked what day this falls on. **Mr. Patterson** stated it is a Saturday. **Councilor Walterscheid** commented that 10 a.m. is early in the morning to be serving alcohol. **Mr. Patterson** said the event is from 11 a.m. to 10 p.m.

Councilor Rodriguez asked if the whole area will be the beer garden area, as it was stated there would be a cornhole tournament. **Councilor Rodriguez** asked if only 21 and older will be allowed in the beer garden or will minors be allowed in the area.

Mr. Patterson asked Lucas Middleton, the applicant, to address this question.

Mr. Middleton explained this will be a family event with food trucks and local vendors, and there will be security to do the carding of patrons. He said only people that have been carded and given a bracelet can purchase alcohol. He said if someone without a bracelet has alcohol, it would be taken from them. He said the law states a minor is allowed in a brewery if they are accompanied by an adult. He said no minors will be allowed in the area if they are not accompanied by an adult.

0:33:21 **MOTION**

The motion was made by Councilor Shirley and seconded by Councilor Rodriguez to approve a Request from Milton's Brewery to serve alcohol (beer & wine) on City streets during Milton's Brewing Fifth Anniversary

0:33:26 **VOTE**

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

0:33:39 **6. CONSIDER APPROVAL OF RESOLUTION 2021-42, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF CAPITAL APPROPRIATION FUNDS FOR BATAAN SANITARY SEWER LIFT STATION RENOVATION**

Mr. Cass explained this is a request to authorize the acceptance of \$1.4M Grant through the Capital Outlay Program. He said this will allow for the renovation of the Bataan Lift Station with a force main sewer line. He said this is a great project and a need in our City. **Mayor Janway** asked if this includes a new building. **Mr. Cass** answered yes a new building is part of the project.

0:34:58 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Resolution authorizing the acceptance of Capital Appropriation Funds for Bataan Sanitary Sewer Lift Station Renovation.

0:35:03 **VOTE**

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

0:35:18 **7. CONSIDER APPROVAL OF RESOLUTION 2021-43, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF CAPITAL APPROPRIATION FUNDS FOR THE OLD CAVERN HIGHWAY SEWER EXTENSION PROJECT**

Mr. Cass explained this is a request to authorize acceptance of Capital Outlay money for the extension of a sewer line down Farris St. to Old Cavern Highway to Chapman Rd. He said the amount is for \$2.7M and no match is required.

Councilor Walterscheid asked if Old Cavern Highway would be torn up again and who will repave it. **Mr. Cass** answered the City will repave that section of Old Cavern Highway, as it belongs to the City. **Mr. Cass** added it is the intent to do water, sewer and the highway at the same time.

Mayor Janway asked if he understood correctly, there is no matching funds on this project. **Mr. Cass** answered that was correct, and that makes this great, it is free money.

0:36:48 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve a Resolution authorizing the acceptance of Capital Appropriation Funds for Project Old Cavern Hwy Sewer Extension.

0:36:53 **VOTE**

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

0:37:06 **8. CONSIDER APPROVAL OF RESOLUTION 2021-44, A RESOLUTION ADOPTING THE FY 2023-2027 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)**

Mrs. Barrios-Testa explained approval of Resolution 2021-44 will supersede Resolution 2020-33. She said during the August 10, 2021 City Council meeting staff presented the recommended FY2023-2027 Infrastructure Capital Improvement Plan (ICIP) project list for review. She said one project was added making 58 projects, 53 municipality projects and 5 senior center projects. She said the new project that has been added is the 6-Mile Dam Recreation Area Project. She said there are some funding programs coming available that would be perfect for this project. She said the deadline to submit the ICIP into the Department of Finance and Administration's database is September 17, 2021 for all municipalities. She said the ICIP for Senior Citizen Facilities is due on October 2, 2021

Councilor Walterscheid asked what happens when a project isn't fulfilled, for example the transfer station. He said this project was never completed and now it has disappeared from the list. He asked if this should be listed to prevent all the littering going on. He said it seems the City really needed that project. **Mr. Lowe** added a transfer station was studied about 5 years ago and it was determined at the time, the

funding and the need didn't support each other, therefore, the transfer station was removed from the list. He said it is something that can be revisited in the future.

Councilor Rodriguez said he is very appreciative of the work that is going on at the Alejandro Ruiz Senior Citizen Center and looking forward to giving people a place with adequate parking and a place to meet and bring happiness back after this COVID-19 pandemic.

0:40:08 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve a Resolution 2021-44, a Resolution Adopting the FY 2023-2027 Infrastructure Capital Improvement Plan (ICIP)

0:40:12 **VOTE**

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

0:40:27 **9. COUNCIL COMMITTEE REPORTS**

Councilor Rodriguez said the census is complete and there is a possibility of challenge of the number we had which showed a 10% vacancy rate. He said he does not believe that is accurate. He said he has asked for help from the City to get this done. **Mayor Janway** added both U.S. Senators have been asked for help and the Senators have promised to help with this issue. **Councilor Rodriguez** said each person counted means another \$2,700.00 towards infrastructure money. He said infrastructure will continue to be worked on, just with insufficient funding.

0:41:40 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:41:45 **10. ADJOURN**

0:41:48 **MOTION**

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

0:41:57 **VOTE**

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

0:42:17 **Adjourn**

There being no further business, the meeting was adjourned at 6:42 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk