

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON OCTOBER 26, 2021 AT 6:00 P.M.**

|          |                      |                                |
|----------|----------------------|--------------------------------|
| Present: | Dale Janway          | Mayor                          |
|          | Lisa A. Anaya Flores | Councilor <i>via telephone</i> |
|          | 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             |
|               | 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               |
|               | Kenneth Ahrens      | Asst. Fire Chief               |
|               | Jeff Patterson      | Planning Director              |
|               | Shane Skinner       | Police Chief                   |
|               | Patrick Cass        | Public Works Director          |

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 | <b>Call Meeting to Order</b>        |
| 0:00:04 | Invocation – Pledge of Allegiance   |
| 0:00:30 | <b><u>1. APPROVAL OF AGENDA</u></b> |
| 0:00:31 | <b>MOTION</b>                       |

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

0:00:35       **VOTE**

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

0:00:49       **2. CONSIDER APPROVAL OF CANCELLATION OF CITY COUNCIL MEETINGS FOR NOVEMBER 23, 2021 AND DECEMBER 28, 2021**

Mr. Lowe explained this request is for approval of the cancellation of the second City Council Meetings in November and December due to the holidays.

0:01:17       **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Cancellation of City Council Meetings for November 23, 2021 and December 28, 2021

0:01:20       **VOTE**

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

0:01:35       **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on October 12, 2021
- B. City Personnel Report
- C. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and Becky Thompson for Concession Services at the Bob Forrest Sports Complex
  - 2) Consider Approval of Addendum to Agreement between the City of Carlsbad and DEA High Intensity Drug Task Force (HIDTA) pertaining to Body Worn Cameras
- D. Monthly Reports
  - 1) Community Development Department September 2021
  - 2) Municipal Services Department September 2021
  - 3) Utilities Department September 2021
- E. Board Appointments
  - 1) Carlsbad Museum & Art Center Board of Trustees Appoint: Dailey Jones five year term
- F. Set the Date: December 14, 2021
  - 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.20 acres, located at 414 S Ash Street
  - 2) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.22 acres, located at 910 Ortega Street
  - 3) Ordinance rezoning part of "R-2" Residential 2 District to "C-1" Commercial 1 District for an approximately 0.17 acres, located at 312 N Halagueno Street

4) Ordinance rezoning part of "R-2" Residential 2 District to "C-2" Commercial 2 District for an approximately 0.17 acres, located at 112 N Mesa Street

0:01:58 Mayor Janway asked Mr. Lowe to discuss Item C.1 Consider Approval of Agreement between the City of Carlsbad and Becky Thompson for Concession Services at the Bob Forrest Sports Complex and Chief Skinner to discuss Item C.2 Consider Approval of Addendum to Agreement between the City of Carlsbad and DEA High Intensity Drug Task Force (HIDTA) pertaining to Body Worn Cameras Mr. Lowe explained this agreement expires on October 31, 2021. He said staff is recommending extending Ms. Thompson's agreement until October 2022, due to the public health order events were halted and concessions did not start until April 2021.

Chief Skinner explained this request is for an addendum to the HIDTA agreement previously brought before City Council. He said this is for body worn cameras. He said federal guidelines differ from state and local guidelines. He said it will basically stay the same for Carlsbad Police Department. He said when he spoke with DEA there was assurance there would be no violation of our policy with approval of the addendum presented.

0:04:08 MOTION  
The motion was made by Councilor Shirley and seconded by Councilor Estrada to approve Routine and Regular Business

0:04:12 VOTE  
The vote was as follows: Yes - Rodriguez, Estrada, Shirley, Walterscheid, Anaya-Flores, Chavez, Waters, Carter; No - None; Absent - None; the motion carried.

0:04:31 **4. CONSIDER APPROVAL OF ORDINANCE 2021-20, AN ORDINANCE AMENDING THE CARLSBAD CODE OF ORDINANCES TO PROVIDE FOR A NEW CHAPTER 9: CANNABIS**

0:04:49 A. Public Hearing  
Mr. Patterson explained House Bill #2 has been adopted by the Legislature which is The Cannabis Regulation Act. He said this legalizes recreational use, possession, sale, manufacturing, cultivating and transport of cannabis and cannabis derived products. He said on August 24, 2021, the New Mexico Regulation and Licensing Department Cannabis Control Division published rules to regulate and ensure the safe production, testing, sale, and consumption of commercial and medical cannabis. He said the Cannabis Regulation Act provides that local governments may adopt time, place, and manner rules that comply with the Act. He said the City of Carlsbad has chosen to exercise the authority granted by the Cannabis Regulation Act to create and put in place a local ordinance that regulates the time, place, and manner in which cannabis and cannabis derived products may be possessed, sold, manufactured, produced, cultivated, transported, and consumed recreationally within the City of Carlsbad.

**Councilor Walterscheid** asked about churches being included under Prohibited Locations. **Mr. Patterson** said at this time the wording for places of worship is not in the ordinance, as our ordinance reflects the State Act, the State Act only lists schools and child day care centers. **Councilor Walterscheid** would like to add church to the Prohibited Location in the ordinance.

**Councilor Rodriguez** said in Prohibited Locations and Activities, it only states schools and child day care centers, not churches. **Mrs. Madrid-Boyea** said the state statute that was passed by the New Mexico Legislature did not specify regulation of locations between places of worship and cannabis establishments, therefore the places of worship was not added to the City of Carlsbad's ordinance. She said the City followed what the State of New Mexico did.

**Councilor Chavez** asked where the "approved public consumption areas" stated in the ordinance are located. **Mr. Patterson** said the State of New Mexico has specific guidelines for cannabis consumption areas. He said the vendor would need to apply with the State and provide the information to the City for the area to be allowed.

0:10:27 **Yvette Leos** spoke to the City Council explaining she has been in the medical cannabis industry since 2009. She said she will be an owner of a dispensary, in a location that was previously a bank. She asked if she will be able to sell her cannabis to medical patients through the drive thru, as the cameras are good quality and an ID or medical card would be seen clearly. **Councilor Rodriguez** said his concern is the State of New Mexico does not allow drive up liquor sales and he said drive up cannabis sales would probably not be allowed either. **Mrs. Madrid-Boyea** stated our ordinance does not allow for drive thru sales to protect the health and safety of the public. She said due to recreational cannabis only allowed to be used by persons 21 years old or older. She said a drive thru would make it more difficult to determine the age of the consumer. She said this is similar to the no alcohol sales in drive thru. **Ms. Leos** asked about curbside sales. **Mrs. Madrid-Boyea** said this ordinance does not allow for curbside/outside sales, the cannabis would need to be consumed or purchased in the retail establishment.

**Tiffany Shirley** said she is representing herself as a community member as well as the Carlsbad Community Anti-Drug and Gang Coalition. She said the Coalition primarily works with young adults regarding drug and alcohol abuse prevention. She said she understands cannabis is already legal and would like the sale of cannabis done in a way that protects the youth. She has concerns about drive thru or delivery. **Mrs. Madrid-Boyea** said there are provisions in the ordinance for the delivery of cannabis. She said the establishment must comply with all state rules and regulations. **Mrs. Shirley** said she would like to urge City Councilors to add churches and city parks to the ordinance, and that the establishment be 300 feet from churches and parks as Eddy County is addressing this issue.

0:16:53        **Mayor Janway** asked if anyone would like to speak against the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session

0:17:03        **B.      Approval of Ordinance**

0:17:06        **Councilor Walterscheid** said he would like to consider approval with some wording changes. **Mayor Janway** said as long as the wording is legal and asked Mrs. Madrid-Boyea to discuss this. **Mrs. Madrid-Boyea** said Councilor Walterscheid can make a motion for approval stipulating the changes. **Councilor Walterscheid** said he would like to stipulate the word church and park, be added along with schools and child day care.

**Councilor Rodriguez** said the 10 inch water line is too exclusive and he would like to remove that requirement under 9-37 Utilities. He also asked that ultrasonic meters be installed at the cultivation location to have a tighter reading ability and control of water use as the water usage will be critical to the City of Carlsbad.

**Councilor Shirley** asked that the 300 feet be included in the wording. **Councilor Rodriguez** answered that wording is already in the ordinance. **Mrs. Madrid-Boyea** recommended we add places of worship or a broader explanation, not just church to the ordinance.

**Mayor Janway** asked if Council understands the amendment to the motion, all Councilors understood what the amendment entails.

0:21:37        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Ordinance 2021-20, an Ordinance Amending the Carlsbad Code of Ordinances to provide for a new Chapter 9: Cannabis with the amendments to add places of worship under prohibited locations and activities and to remove the requirements of a 10 inch water line and to add the installation requirement of an ultrasonic water meter.

0:21:46        **VOTE**

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

0:22:04        **Councilor Carter** said now that the Ordinance is approved, there should be some studies on the drive-thru issue Ms. Leos was discussing.

0:22:52 **5. COUNCIL COMMITTEE REPORTS**

**Councilor Rodriguez** said this is not a report but some information about this month's issue of New Mexico Magazine our Lodgers' Tax Monies have full page ads in the first five pages, which include night of lights, make Carlsbad Christmas, Christmas on the Pecos, and Carlsbad MainStreet District.

0:23:39 **Mayor Janway** asked if anyone in the audience would like to address the Council. No one appeared.

0:23:45 **6. ADJOURN**

0:23:52 **MOTION**

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

0:24:23 **VOTE**

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

0:24:42 **Adjourn**

There being no further business, the meeting was adjourned at 6:24 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk