

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX  
BUILDING ON NOVEMBER 9, 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
	Wendy Austin	Deputy City Administrator
	KC Cass	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Ted Cordova	Community Dev. Director
	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
	Sarah Jones	Library Director
	Charlie Garcia	Police Officer
	Karla Hamel Niemier	Citizen
	Therese Rodriguez	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

0:00:27      **1. APPROVAL OF AGENDA**

0:00:30        **MOTION**

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 RESOLUTION 2021-58, 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 2021-2022 Fiscal Year Budget highlighting the General Fund, the Capital Projects Fund, and Lodgers' Tax Fund.

0:03:49        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Shirley to approve Resolution 2021-58, a Resolution making certain Budgetary Adjustments to the 2021-22 Fiscal Year Budget

0:03:55        **VOTE**

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

0:04:11        **3.        CONSIDER APPROVAL OF RESOLUTION 2021-59, A RESOLUTION CERTIFYING THE ANNUAL FIXED ASSET INVENTORY OF THE CITY OF CARLSBAD AS OF JUNE 30, 2021**

**Mrs. Salcido** explained that staff under the direction of the Fixed Asset Coordinator, has completed a physical inventory of fixed assets costing \$5,000.00 or more. She explained this inventory is required by the New Mexico State Auditor, per the State Audit Rule, and NMSA 12-6-10 Annual Inventory.

0:05:06        **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution 2021-59, a Resolution certifying the Annual Fixed Asset Inventory of the City of Carlsbad as of June 30, 2021

0:05:11        **VOTE**

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

0:05:28 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on October 26, 2021
- B. City Personnel Report
- C. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and New Mexico State Library for FY22 State Grant-in-Aid Public Library Agreement
  - 2) Consider Approval of Maintenance Agreement between the City of Carlsbad and New Mexico Department of Transportation for Signals, Intersection Lights, Flashing Beacons and Roadway Lights at US62 and Hidalgo Road
- D. Monthly Reports
  - 1) Human Resources Department October 2021
  - 2) Municipal Court Department October 2021
- E. Board Appointments
  - 1) Carlsbad Museum and Art Center Board of Trustees Appoint: Lisa Simmons four-year term
- F. Set the Date: December 14, 2021
  - 1) Ordinance authorizing the sale of 0.18 acres located to the South of 510 N Main Street
  - 2) Resolution authorizing the renaming of the Municipal Annex to the Janell Whitlock Municipal Complex

0:05:54 **Mayor Janway asked Mr. Lowe to discuss Item C.2 Consider Approval of Maintenance Agreement between the City of Carlsbad and New Mexico Department of Transportation for Signals, Intersection Lights, Flashing Beacons and Roadway Lights at US62 and Hidalgo Road**

**Mr. Lowe** explained this is an agreement with NMDOT to install a signal light at the intersection of US 62 and Hidalgo Road. He said the City will pay for the electrical, maintenance and will provide the lighting fixtures, poles, cables, and wires. He said this is standard practice for other signal lights in the community.

0:06:30 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Approval of Maintenance Agreement between the City of Carlsbad and New Mexico Department of Transportation for Signals, Intersection Lights, Flashing Beacons and Roadway Lights at US62 and Hidalgo Road

0:06:34 **VOTE**

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

0:06:51 **5. CONSIDER APPROVAL OF SUBMISSION OF AN AMERICAN LIBRARY ASSOCIATION AMERICAN RESCUE PLAN HUMANITIES GRANT**

**Ms. Jones** said this is a request for approval for a grant application to the American Library Rescue Plan Humanities Grant, each recipient will receive \$10,000.00 to support humanity efforts. She said if successful the Carlsbad Public Library would like to use

the funds for an oral history collection. She said the Carlsbad Public Library is dedicated to preserving our rich diverse history and this grant would help accomplish this goal. She said there is no city match required and added the application is due December 2, 2021.

**Councilor Rodriguez** asked how the oral history would be made available. **Ms. Jones** answered the Carlsbad Public Library is working with Pearl of the Pecos and Carlsbad MainStreet to do history walks and the Library's part would be to do interviews with important people in the community that relate to the project. A video or audio recording would be done for the component that would fit into the heritage walks.

**Councilor Walterscheid** asked what an oral history is. **Ms. Jones** answered that oral history is the spoken words, with someone in the community in an audio or video recording. She said the person would be an expert in the topic and what their role in the community is.

**Councilor Shirley** said the MainStreet side is very excited about the heritage walk aspect of this project and have already been working on this project.

0:08:50        **MOTION**

The motion was made by Councilor Shirley and seconded by Councilor Walterscheid to approve Approval of Submission of an American Library Association American Rescue Plan Humanities Grant

0:08:55        **VOTE**

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

0:09:09        **6. CONSIDER APPROVAL TO ACCEPT A BUREAU OF JUSTICE  
FY2021 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FOR  
\$23,515 WITH \$10,131 TO BE DISTRIBUTED TO THE CITY OF ARTESIA**

**Chief Skinner** explained this is to consider approval of the Edward Byrne Memorial Justice Assistance Grant. He thanked Angie Barrios-Testa for her work on this grant which included working with Eddy County and the Artesia Police Department. He said the grant was awarded in the amount of \$23,515.00. He said the City portion will be \$13,384.00, with \$10,131.00 awarded to Artesia. He said it would be used for information sharing technology program.

**Councilor Rodriguez** asked how the money was arrived at, what formula was used. **Chief Skinner** answered it was based on the size of the agency and the amount of people that applied for the funds.

0:11:02        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve and to accept a Bureau of Justice FY2021 Edward Byrne Memorial Justice Assistance Grant for \$23,515 with \$10,131 to be distributed to the City of Artesia

0:11:06        **VOTE**

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

0:11:21        **7. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW MOBILE SALES (VENDING) ON CITY PROPERTY AT THE RAY ANAYA SAN JOSE PARK LOCATED AT 300 DIAZ BY OOOY'S EXPRESS, LLC APPLICANT: JOSE AGUILAR**

Mr. Patterson explained this is a request for mobile food truck sales by Ooy's Express, LLC. at Ray Anaya San Jose Plaza. He said it would be located on City property and needs the approval of City Council. He said Planning and Zoning Department recommends approval with the following conditions: shall not disturb the peace with loud speaker, megaphone, bell, music or other disruptive noise, the applicant shall limit vending from 11 a.m. to 8 p.m. as per the application information. He said approval will allow the applicant to vend on city owned property at Ray Anaya San Jose Plaza at 300 Diaz, beginning Wednesday November 10, 2021 through Friday December 31, 2022, and the applicant will need to provide the City with a surety bond.

Councilor Rodriguez asked how this requested location plays in with the vendors who have already been approved to vend there. Mr. Patterson said the vendors would need to work out the issue between themselves and the previous vendors have precedence over the location.

Councilor Chavez asked how many vendors are already on the property. Mr. Patterson answered there have been two vendors already approved and this will be the third. Councilor Chavez asked if there will be enough dumpsters for a third vendor at this location. Mr. Patterson said he could speak with the utilities department and with the vendors at this location to see if their needs are being met.

0:14:07        **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Walterscheid to approve Temporary Use Application to allow mobile sales (vending) on City property at the Ray Anaya San Jose Park located at 300 Diaz by Ooy's Express, LLC Applicant: Jose Aguilar

0:14:11        **VOTE**

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

0:14:28        **8. CONSIDER APPROVAL OF ORDINANCE 2021-21, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL 2 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.40 ACRES LOCATED AT 502 N SIXTH STREET APPLICANT/OWNER: JOSHUA AND AMANDA MOORE**

0:14:53        **A. Public Hearing**

**Mr. Patterson** explained this is a request for a zone change from "R-2" Residential to "C-2" Commercial 2 District creating a spot zone. He said the request was brought before the Planning and Zoning Commission on October 4, 2021 at their regular meeting. He said there was a vote and it failed to reach a recommendation for this item.

**Councilor Walterscheid** asked what the property owners would like to use the property for. **Mr. Patterson** said the owner would like to lease the property for automotive repair or hot rod shop.

**Councilor Anaya-Flores** asked if this property has been before City Council previously. **Mr. Patterson** answered, yes.

**Elodia Enriquez** and husband Vicente who live at 518 N. Sixth St., next to the property and have lived there for 20 years. She said they have worked hard to make a nice home and said there are no sidewalks on this part of the street, there are people in wheelchairs and mothers with strollers and more traffic would not be a good thing.

**Eddie Hernandez** lives at 505 N. Sixth St., he said when there was a previous business in the building there was a lot of noise until 9 p.m. or 10 p.m. He said he is close to retirement and if a business is allowed to open at the location he would have to pack up and move. He said if approved as "C-2" any business can open up at the location.

**David Ortega** lives at 505 1/2 N. Sixth St., said he works a night shift and sleeps during the day. He said when a previous business was at the location, they ran a generator all day and night.

**Jocelyn Arimonte** said her parents live at 518 N. Sixth and said she can confirm there is a lot of traffic on Sixth Street. She added no one respects the school zone and with a business being there it would create more traffic.

0:22:40        **B. Approval of Ordinance**

0:22:45        **Councilor Rodriguez** said he contacted a member of the Planning and Zoning Commission to ask what the intent of the vote was on October 4, 2021. He said the member stated the intent was to deny the request for a zone change.

0:23:07        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to deny Approval of Ordinance 2021-21, an Ordinance rezoning part of "R-2" Residential 2 District to "C-2" Commercial 2 District for an approximately 0.40 acres located at 502 N Sixth Street Applicant/Owner: Joshua and Amanda Moore

0:23:14        **Vote**

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

0:23:34        **9. CONSIDER APPROVAL OF ORDINANCE 2021-22, AN ORDINANCE REZONING PART OF "R-2" RESIDENTIAL 2 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.17 ACRES LOCATED AT 510 N SIXTH STREET APPLICANT/OWNER: JOSHUA AND AMANDA MOORE**

0:24:01        **A. Public Hearing**

**Mr. Patterson** explained this request is for a zone change from "R-2" Residential 2 District to "C-2" Commercial 2 District and this property is adjacent to the previous property ( 502 N. Sixth St.) and a zone change would create a spot zone. He said this request was brought before the Planning and Zoning Commission at their regular meeting on October 4, 2021 and recommended denial.

All previous citizens were against the ordinance.

0:25:17        **B. Approval of Ordinance**

0:25:19        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Estrada to deny Approval of Ordinance 2021-22, an Ordinance rezoning part of "R-2" Residential 2 District to "C-2" Commercial 2 District for an approximately 0.17 acres located at 510 N Sixth Street Applicant/Owner: Joshua and Amanda Moore

0:25:27        **VOTE**

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

0:25:46        **10. CONSIDER APPROVAL OF ORDINANCE 2021-23, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "C-1" COMMERCIAL 1 DISTRICT FOR AN APPROXIMATELY 0.40 ACRES LOCATED AT 412 E CHURCH STREET APPLICANT: JOSHUA & AMANDA MOORE**

0:26:15        **A. Public Hearing**

**Mr. Patterson** explained this is a request to change zoning from "R-1" Residential 1 District to "C-1" Commercial 1 District. He said the surrounding houses are zoned

residential and the park across the street is zoned "I" for industrial and this would create a spot zone. He said this request was brought before the Planning and Zoning Commission at the October 4, 2021 regular meeting and failed to reach a positive vote for recommendation.

**Councilor Walterscheid** asked what the owners plan to do with the property. **Mr. Patterson** answered the owner stated he wanted to operate a restaurant or some kind of food service on the property.

**R. L. Olen** and his wife live adjacent to this lot. He said this is not a place for a cafe and he has a petition with over 100 signatures that are concerned about traffic congestion, noise, trash and excess amounts of goings on. He said he appreciates the speed bumps that have been installed. He said the newspaper stated about 500 people per day visited the water park and if there is a restaurant or cafe there would be more pedestrian traffic and more congestion.

**Jim Rutley** lives near the property and thanked the City for the upkeep of the beach area. He said his opposition is that there are commercial areas across the river and down by the tennis courts and maybe down by Albertsons. He feels if this gets approved anything else is possible to be put in. He said he feels this would hurt the investments the residents have made to their property. He said this zone change would only benefit the business and not the residents.

**Dean Hammer** lives near the property and opposes for all the reasons already mentioned. He said he loves the area and feels this would hurt property values.

**Jim Sexton** said he doesn't live in the area, however he helped build it. He said a restaurant could grow and possible serve alcohol in the future. He said there is a handicap playground nearby and would like to keep it child friendly. He said with the water park near and children crossing the street to get to the water park it would not be safe.

**Adalaide and Ramon Avitia** said they are new homeowners to the area and the traffic is heavy. She said she has almost been hit by vehicles while walking her baby in the stroller. She said having another business in the area is not a good idea.

**Ramon Avitia** said keeping the beauty of the park is important and with a restaurant there will be more waste and there will be oil, and a trash bin for oil and the smell is horrid.

**Councilor Carter** stated with everything else the residents in this area have to put up with, they shouldn't be asked to also put up with a new restaurant.

0:40:02      **B. Approval of Ordinance**



0:40:13        **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to deny Approval of Ordinance 2021-23, an Ordinance rezoning part of "R-1" Residential 1 District to "C-1" Commercial 1 District for an approximately 0.40 acres located at 412 E Church Street Applicant: Joshua & Amanda Moore

0:40:21        **VOTE**

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

0:40:52        **11. COUNCIL COMMITTEE REPORTS**

There were no reports.

0:41:04        **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:41:08        **12. ADJOURN**

0:41:13        **MOTION**

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


0:41:19        **VOTE**

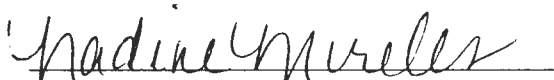
The vote was as follows: Yes - Rodriguez, Estrada, Shirley, Walterscheid, Anaya-Flores, Chavez, Waters, Carter; No - None; Absent - None; the motion is carried.

0:41:36        **Adjourn**

There being no further business, the meeting was adjourned at 6:41 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk