

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK
MUNICIPAL COMPLEX BUILDING ON OCTOBER 11, 2022 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor

Absent:

Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Angie Barrios-Testa	Director of Municipal Services
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Brent Griffith	IT Technician
	Melissa Salcido	Finance Director
	Ken Ahrens	Assistant Fire Chief
	Jeff Patterson	Planning Director
	Eddie Duarte	Police Department Captain
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Missi Currier	Strategy 360 Representative

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**

0:00:03 **Invocation - Pledge of Allegiance**

0:00:38 **1. APPROVAL OF AGENDA**

0:00:40 **MOTION**

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

0:00:44 **VOTE**

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

0:01:00 **2. CONSIDER APPROVAL OF RESOLUTION 2022-52, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE FY 2022-23 BUDGET**

Mrs. Salcido reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2022-2023 Fiscal Year Budget highlighting the Health Insurance Fund, General Fund, the Municipal Transit Fund, the Solid Waste Fund, the Sports Complex Fund, the Water & Sewer Fund, the Employee Health Insurance Refund, and the Lodgers' Tax Fund.

Councilor Walterscheid asked who is on the Lodgers' Tax Board that approves the amounts requested. **Mrs. Salcido** explained there is a Lodgers' Tax Advisory Board and the requests are presented to them monthly and the Advisory Board approves or denies the requests.

Mayor Janway said it is approved by the Advisory Board before it comes before Council.

Councilor Forrest asked how many pickle ball courts will be built. **Mayor Janway** said the plan is to double the amount of the current courts.

0:05:55 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Forrest to approve Resolution 2022-52, a Resolution making certain budgetary adjustments to the FY 2022-23 budget.

0:05:59 **VOTE**

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

0:06:12 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on September 27, 2022
- B. City Personnel Report
- C. Monthly Reports
 - 1) Human Resources Department September 2022
 - 2) Municipal Court Department September 2022
- D. Board Appointments

- 1) Alejandro Ruiz Sr. Recreation Center Advisory Board appoint Linda Morgan, four year term, appoint Liz Gordy, four year term
- 2) Carlsbad Cemetery Advisory Committee appoint Sam Plumlee, two year term
- 3) Shooting Range Advisory Committee appoint Rex Prather, appoint Brian Fox

0:06:39 **MOTION**

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

0:06:45 **VOTE**

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

0:07:00 **4. CONSIDER APPROVAL TO ACCEPT A BUREAU OF JUSTICE FY2022 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AWARD FROM THE U.S. DEPARTMENT OF JUSTICE IN THE AMOUNT OF \$14,809**

Mr. Lowe explained this request is for a grant for the Carlsbad Police Department to help implement a license plate reader program.

0:07:54 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Rodriguez to approve Acceptance of a Bureau of Justice FY2022 Edward Byrne Memorial Justice Assistance Grant Award from the U.S. Department of Justice in the amount of \$14,809.

0:08:01 **VOTE**

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

0:08:12 **5. CONSIDER APPROVAL TO ACCEPT THE 2022 COPS TECHNOLOGY AND EQUIPMENT PROGRAM INVITATIONAL SOLICITATION AWARD IN THE AMOUNT OF \$575,000 FOR A PUBLIC SAFETY MOBILE COMMAND UNIT**

Mrs. Barrios-Testa explained this request is for a Grant from the Department of Justice titled Community Oriented Policing Services (COPS). She said the goal is to increase the community policing capacity and crime prevention efforts for law enforcement agencies. She said the COPS objective is to provide funds for projects which will improve police effectiveness and flow of information among law enforcement agencies. She said the \$575,000 will be used to purchase a public safety mobile command unit. She said this project was on the ICIP list and was submitted in May 2021 for consideration under the congressionally directed spending to our area Senators Lujan and Heinrich offices. She said the plan is to have the police and fire departments work with the Office of Emergency Management on implementing the project, following the approval and acceptance of this grant. She said the departments will begin conducting partner and stakeholder meetings. She said the Safety Command Center will not only

be a hub for law enforcement related uses but will also be a key resource for community events. The Carlsbad Police Department will keep and maintain the equipment.

0:10:35 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Rodriguez to approve acceptance of 2022 COPS Technology and Equipment Program Invitational Solicitation Award in the amount of \$575,000 for a Public Safety Mobile Command Unit

0:10:39 **VOTE**

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

0:10:52 **6. COUNCIL COMMITTEE REPORTS**

None to report.

0:11:00 **Mayor Janway** asked Missi Currier to say a few words about Strategy 360 and clawbacks.

Ms. Currier discussed destination sourcing and clawbacks. She said a 60 day session will begin in January 2023. She said discussions in a 60 day session can be about anything and November elections are not a factor. She said Strategy 360 has continued to discuss the issues with legislators surrounding Carlsbad and Hobbs with destination sourcing and the impacts being experienced due to GRT losses. She said the losses are due to the differences between origin based sourcing and destination based sourcing. She said an example is, if Forrest Tire sells a tire in the county, and replaces the tire in the county and the service is charged in the county opposed to being charged in the municipality, where the business is located. She said due to this change the City of Carlsbad is losing millions of dollars in GRT. She explained clawbacks and said clawbacks are due to the public learning more about taxes and how they are taxed within the municipality and county. She said an example of clawbacks is, if Carter's Air Conditioning does a job in the middle of nowhere, on a rig, that service will be charged in the county and when the business realizes they have been overcharged in the past and request a refund from New Mexico Taxation and Revenue Department, once the refund is approved and paid the money comes from the budget that has already been approved, not from the State of New Mexico. She said clawbacks can go back three years. She said the problem comes in when you have spent all the approved budget and the State of New Mexico comes to take clawback money from the budget. She said destination sourcing is creating an opportunity for more people to realize the opportunity for clawbacks. She said she doesn't know how to fix this issue, and it is one of the most difficult issues to deal with. She said other municipalities are realizing this is happening. She said Albuquerque Mayor Tim Keller will start working with Strategy 360 to determine if the impact is large enough in Albuquerque to make this a legislative priority. She said the clawbacks are more of a legal issue than legislative. She said the legislative fixes for destination sourcing need to be found. She said there are allies now,

the knowledge and the understanding of what they are experiencing in their community and the impact of destination sourcing. She said clawbacks need a fix and that will probably be handled legally. She said although there is no fix at this time, she is comfortable going into session.

Mayor Janway said we are looking into the legal part of clawbacks and have contacted several attorneys. He said clawbacks requests are at about \$5M now.

Councilor Walterscheid asked Ms. Currier if she thinks things will be figured out by January 2023. She said she feels it is moving, not very fast, but not at a standstill either. She said until the elections are over, there is no way to know if the overall tax situation will change. She said they are talking to anyone who will listen, on all sides of the aisles to make sure they are aware of the impacts to the communities. She said she is confident with where we are now and doesn't feel it is a bad spot.

Mayor Janway said Senator Dave Kerman and Representative Catheryn Brown are pleading the effort. **Ms. Currier** said Senator Kerman and Representative Brown have been wonderful and Representative Larry Scott from Hobbs has been great. She said she is working on bipartisan support and Democratic support is needed to get this moving. She said leadership is listening and has recognized there is an issue. She said there have been talks with the Governor. She said there is a legislative finance committee report that specifically names Carlsbad and Hobbs as to how destination sourcing has affected the two communities more than any other.

Councilor Rodriguez asked if there will be a stand-alone bill or will there be other items tacked onto this bill. **Ms. Currier** said yes a stand-alone bill will be introduced, although the bill could become part of an omnibus, due to a major tax package that will go through.

Councilor Chavez asked who is actually benefitting from the destination sourcing. **Ms. Currier** said smaller bedroom communities that don't have service communities, for example, Taos, Rio Rancho and even Jal. She said Jal could be affected by clawbacks and Jal is being encouraged to keep the bonds and spending down, as clawbacks may affect them in later years.

Ms. Currier stated the State of New Mexico benefits more than the county, however the county is benefitting. **Councilor Rodriguez** stated what he has seen the county's gain is not proportionate to the City's loss, and it is not an even transfer.

Councilor Forrest stated at least Albuquerque is on board and feels that would be huge to have them on board. **Ms. Currier** said Albuquerque is working with their analyst. She said when Mrs. Salcido and Mr. Spears from Hobbs run their numbers they will be able to determine the top ten businesses they have lost money from. She said it is taking longer for Albuquerque to run their numbers as they are much larger than

Carlsbad or Hobbs. She said HB6 helped with more retail money, however it has also lost money on the service sector side. She said Mayor Keller was previously a state auditor and understands the checks and balances.

0:27:08 **Mayor Janway** thanked Ms. Currier for all her work.

0:27:29 **7. ADJOURN**

0:27:35 **MOTION**

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

0:27:41 **VOTE**

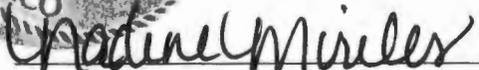
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Forrest, Niemeier, Walterscheid; No - None; Absent - None; the motion carried.

0:27:57 **Adjourn**

There being no further business, the meeting was adjourned at 6:28 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk