

**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 NOVEMBER 8, 2022 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor <i>via telephone</i>
	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
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	John Radford	Representative with Lumio, HX
	Eric Ellis	Representative with Lumio, HX

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

0:00:36 **1. APPROVAL OF AGENDA**

0:00:38 **MOTION**

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

0:00:42 **VOTE**

The vote was as follows: Yes - Chavez, Waters, Carter, Rodriguez, Forrest, Niemeier, Walterscheid; No - None; Absent - None; No vote from Councilor Anaya-Flores due to technical difficulties with the telephone line, the motion carried.

0:01:01 **2. CITY OF CARLSBAD FINANCIALS - SEPTEMBER 2022**

Mrs. Salcido reviewed the revenues and expenditures as of September 2022 for the General Fund contained within the City Budget.

0:03:11 **3. CONSIDER APPROVAL OF RESOLUTION 2022-55, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2022-23 FISCAL YEAR BUDGET**

Mrs. Salcido reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2022-2023 Fiscal Year Budget highlighting the General Fund, Gross Receipts Tax, the Lodgers' Tax Fund, the Landfill Construction Fund.

0:04:17 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve Resolution 2022-55, a Resolution making certain budgetary adjustments to the 2022-23 Fiscal Year Budget

0:04:23 **VOTE**

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

0:04:37 **4. CONSIDER APPROVAL OF RESOLUTION 2022-56, A RESOLUTION CERTIFYING THE ANNUAL FIXED ASSET INVENTORY OF THE CITY OF CARLSBAD AS OF JUNE 30, 2022**

Mrs. Salcido explained this inventory is required by the New Mexico State Auditor, per the State Audit Rule, and NMSA 12-6-10 Annual Inventory of fixed assets costing \$5,000.00 or more. She is requesting approval of this resolution, certifying the Annual Fixed Asset review for Fiscal Year 2022.

0:05:28 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve of Resolution 2022-56, a Resolution certifying the annual fixed asset inventory of the City of Carlsbad as of June 30, 2022

0:05:35 **VOTE**

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

0:05:48 **5. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on October 25, 2022
- B. City Personnel Report
- C. Purchasing
 - 1) Consider Approval to Award Bid 2022-12 to Constructors Inc. for Reconstruction of Runway 14R-32L at the Cavern City Terminal
- D. Contracts and Agreements
 - 1) Consider Approval of Memorandum of Understanding between the City of Carlsbad, Carlsbad Public Library and Cornerstones of Science to participate as a Pilot Library in creating a Serving Communities Action Plan Program
 - 2) Consider Approval of Extension to the Agreement between the City of Carlsbad and Becky Thompson for Concession Services at the Bob Forrest Youth Sports Complex
- E. Monthly Reports
 - 1) Human Resources Department October 2022

0:06:12 **Mayor Janway asked Mr. Lowe to explain C.1 Consider Approval to Award Bid 2022-12 to Constructors Inc. for Reconstruction of Runway 14R-32L at the Cavern City Terminal. Mr. Lowe** said there were two bids received for the reconstruction of runway 14R-32L and the low bidder was Constructor's. He said the bid will be awarded to Constructor's and the project funding by the FAA (Federal Aviation Administration) who will fund \$3.5M of the project, NMDOT (New Mexico Department of Transportation) will fund \$802,000.00 and the City portion is \$89,000.00.

0:06:53 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve Award of Bid 2022-12 to Constructors Inc. for Reconstruction of Runway 14R-32L at the Cavern City Terminal.

0:06:58 **VOTE**

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

0:07:15 **6. CONSIDER APPROVAL TO ADOPT THE CITY OF CARLSBAD VETERANS MEMORIAL CEMETERY RULES AND REGULATIONS FOR THE CARLSBAD CEMETERY**

Mr. Lowe explained the northwest corner of Carlsbad Cemetery has been designated as Carlsbad Veterans Memorial Cemetery. He said these are proposed rules and regulations that address operational details, management guidelines, and eligibility for military members, spouses, children and military service animals. He said there is an error on page 5, stating parents are included, and that is not correct. He said military members include armed forces, reserves and national guardsmen. He said these rules will help establish uniformity and an aesthetic appearance befitting of a Veterans

Cemetery. He said the Cemetery Committee voted to recommend these rules and regulations to the Governing Body during their October 28, 2022 meeting.

Mayor Janway introduced Mr. Alan Wood. **Mr. Wood** said he is serving as the President of the Cemetery Committee. He said he is excited about the cemetery and this is very much in line with National Cemeteries. He said the nice thing about this cemetery is that reservists and national guardsmen are allowed to be buried here and that is not allowed at national cemeteries. He said the committal shelter can be used for the service and after the service the casket will be moved to the Veterans Cemetery. He said he is happy the City has come together to honor veterans in this way.

Councilor Walterscheid asked how and when this was voted on. He said he doesn't remember voting to approve a Veterans Cemetery in the Carlsbad Cemetery. He said he agrees the Veterans Cemetery is wonderful and great. He asked if getting a plot at a reduced rate is correct and if it is against the anti-donation clause. **Mrs. Madrid-Boyea** said there was a vote to change the Cemetery Board into a Committee and appointed by Mayor Janway at a previous meeting. She said the Veterans Cemetery has been in the works for many years and there are veterans who would like to be buried locally. She said there is a need in the City for a Veterans Cemetery. She said the discounted rate for the Veterans Cemetery for Veterans is in recognition of their service to our country. She said the discounted rate does not violate the anti-donation clause.

Councilor Walterscheid said he was on the Cemetery Board several years ago and there was discussion with the State about a Veterans Cemetery. He asked why it is taking so long. **Mayor Janway** explained the City has been in talks with the State for a National Veterans Cemetery for about 9 or 10 years.

Councilor Rodriguez said the Cemetery Committee was asked to take on actions just like any other committee appointed by Mayor Janway. He explained to Councilor Walterscheid a lot of the work that has been done in the Veterans portion of the cemetery has been done by private donations. He said the difference in our cemetery and a state cemetery is a National Guardsman or Reservist cannot be buried in a state cemetery. **Councilor Walterscheid** said he feels the Veterans Cemetery is a good thing, and thanked everyone for their explanations.

Mayor Janway reminded everyone Friday, November 11, 2022 is Veterans Day and invited everyone to the parade. He said there will also be a Ceremony at the Court House.

0:18:44 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve adoption the City of Carlsbad Veterans Memorial Cemetery Rules and Regulations for the Carlsbad Cemetery

0:18:48 **VOTE**

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

0:19:02 **7. CONSIDER APPROVAL TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO HOST THE WORLD ON THE MOVE TRAVELING EXHIBIT AT THE CARLSBAD PUBLIC LIBRARY**

Mrs. Barrios-Testa explained the Carlsbad Public Library would like to apply to host a traveling exhibit: World on the Move: 250,000 Years of Human Migration. She said this exhibit is from The American Library Association and the American Anthropological Association and the Smithsonian Center for Folk Life and Cultural Heritage. She said this is a highly competitive application with only ten (10) Libraries throughout the country being awarded this prestigious opportunity. She said Sarah Jones, Library Director has been working very hard to bring educational programs that match our community values and rich cultural history of Carlsbad. She said this exhibit will help teach about migration histories and uses a welcome case study across human histories and a variety of cultures. She said if approved, this would put Carlsbad, NM on the map and draw local attendance and from surrounding areas. She said the application deadline is November 14, 2022 and the award notification will be in mid-December. She said the tour would take place from March 2023 through August 2025.

0:21:19 **Councilor Niemeier** gave kudos to Sarah Jones for the amazing job she is doing at the library, with the STEM lab and the upcoming projects.

0:21:36 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Walterscheid to approve submission of an application to Host the World on the Move Traveling Exhibit at the Carlsbad Public Library

0:21:41 **VOTE**

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

0:21:56 **8. CONSIDER APPROVAL OF ACCEPTANCE OF GRANT AGREEMENT FROM NEW MEXICO DEPARTMENT OF FINANCE FOR A LAW ENFORCEMENT FUND GRANT AND CARLSBAD POLICE DEPARTMENT RETENTION ALLOCATION PLAN**

Chief Skinner explained this request is for a grant with the intention of hiring and retaining officers. He said officers are leaving this profession and competing for a smaller group of people and this is happening all over the nation. He said there is an emphasis on hiring and retaining the right officers. He said he wants to bring the right officers that will be a positive attribute to our community. He said there is over \$1M to be allocated through the next three (3) fiscal years beginning with \$600,000.00 this year, \$300,000.00 next year and \$150,000.00 the third year. He said any unused funds would

revert back to the state, however there are several ways to meet the qualifications to receive all the allocations the state is giving. He said the Police Department hires throughout the year. He said he is hoping for a retention allocation for all employees of the Police Department. He said this is a common practice to offer a retention allocation due to having critical shortages in law enforcement. He said the state is giving a good boost to hire new officers and the retention allocation will be a good thing. **Councilor Chavez** asked if it is the full \$1M or a portion. **Chief Skinner** said for the first year the amount is up to \$600,000.00, for Carlsbad Police Department and only going to law enforcement officials. **Councilor Chavez** asked if this came from the Governor. **Chief Skinner** said yes, that is where the initiative started. **Chief Skinner** mentioned house bill 68, which focuses on effort on recruitment and retention. **Chief Skinner** said police departments are struggling coming out of the pandemic.

Councilor Forrest said he has met several officers from El Paso and asked Chief Skinner if that is where the police department is recruiting or is it word of mouth. **Chief Skinner** said recruiting is done throughout the region, although there is a booth at the Cielo Vista Mall in El Paso. **Chief Skinner** said due to the pay here and progressive things being done, there is a good contingency with El Paso.

Councilor Rodriguez said he believes there is a statewide need and it is made obvious by granting of the funds. He said he would like to commend Chief Skinner for coming up with a plan and maximizing our potential.

0:28:21 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of acceptance of Grant Agreement from New Mexico Department of Finance for a Law Enforcement Fund Grant and Carlsbad Police Department Retention Allocation Plan.

0:28:26 **VOTE**

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

0:28:43 **9. CONSIDER APPROVAL OF REQUEST FOR A TEMPORARY BUSINESS LICENSE TO CONDUCT DOOR TO DOOR SALES OF SOLAR ENERGY EQUIPMENT BY LUMIO HX, INC. OWNER: GREG BUTTERFIELD**

Mr. Patterson explained this request is for a business license to conduct door-to-door solicitations for the sale of solar panels and related equipment. He said there has been no previous request from Lumio HX, Inc. for a door to door solicitation license in Carlsbad, and a background check report was completed by the Carlsbad Police Department on October 19, 2022. He said the background check indicated the company had a favorable response rate and an A+ rating, per the Better Business Bureau, however, the BBB inquiry also uncovered complaints regarding this company where the company failed to secure needed permitting and cases where the local electricity

provider was unable to complete hookup of installed solar equipment because of this failure. He said even with a mixed background check, the Planning Department recommends approval with the following conditions: The applicant will secure any and all needed permits for the installation of solar panels and related equipment, and fully comply with all of the criteria listed within Chapter 28, Article VI, Solicitations, of the Carlsbad Code of Ordinances.

Councilor Chavez asked Mr. Patterson if there have been any problems with this company in Carlsbad. **Mr. Patterson** said no there haven't been any problems with this company, this is the first time this company has come to Carlsbad.

Councilor Walterscheid asked why this in day in age there is a need for door to door sales. He asked why the company can't just advertise and use the internet to make sales. **Mr. Patterson** said he could not speak for the applicant and assumed this was an effective way to get their name out in the community, drum up business and make personal contact with people.

0:31:37 **Mayor Janway** asked if Mr. Butterfield was present. He was not. **Mr. John Radford** a co-manager was present and spoke on behalf of the company. **Mr. Radford** explained the reason the company goes door to door is because word of mouth advertisement is the best advertisement. He said their foundation is integrity. He said Xcel has a monopoly in this area and is overcharging customers. He said this will be a cheaper option and the company would also provide knowledge about solar options. **Councilor Rodriguez** asked Mr. Radford how this is cheaper than Xcel. **Mr. Radford** said due to inflation and rates going up. He added homeowners must qualify for solar panels with a newer roof and need plenty of sunshine. He said it will be powered by the sun and will cancel the Xcel bill and 90% of the time it is cheaper and depends on the kilowatts used. **Councilor Rodriguez** asked if the company pays for all installation. **Mr. Radford** explained there is no upfront fee as long as your house qualifies. He said the company will pay for installation, take care of the city permitting, will contact Xcel and the owner will now basically be a partner of Xcel. He said the company will make sure the home is overproducing and won't be pulling from the electric grid and therefore you wouldn't have an Xcel bill for days that are rainy or cloudy.

Councilor Rodriguez asked about Xcel credits and how that would work. **Mr. Radford** explained Xcel is overcharging and with the solar panels you will have a flat fee and be self-sufficient.

Councilor Walterscheid asked if this was subsidized by the Government. **Mr. Eric Ellis**, with Lumio, said yes it is, there is 30% that goes towards the installation, and the company is trying to reduce the amount of stress on the grid. He said the company is part of the solution, and are trying to come up with new ways of renewable energy. He said if a home uses a lot of energy those homes will see more of a savings than those homes that use less energy. He said the company is here to offer options, as Xcel is the

only energy company in the area, and they are not here necessarily to sell. He said the energy direction is going electric, even with cars becoming electric.

Councilor Rodriguez said he agrees with Councilor Walterscheid and does not like the door to door sales method.

0:37:55 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to deny a request for a temporary Business License to conduct door to door sales of Solar Energy Equipment by Lumio HX, Inc. Owner: Greg Butterfield

0:38:02 **VOTE**

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

0:38:30 **10. CONSIDER APPROVAL OF RESOLUTION 2022-57, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, WEEDS AND DEBRIS AT 706 ALVARADO ST OWNERS: VICTOR PRICE AND SOLEDAD PRICE**

Mrs. Madrid-Boyea explained this request is for the property commonly known as 706 Alvarado St. She said there appears to be a single-family residence on the property with a large back lot. She said the Eddy County Assessor's Office lists Victor H. Price and Soledad Price as owning or having an interest in the property and the property appears to be occupied but has not been maintained. She said Animal Control received a complaint about a cow in a dog kennel and there is also junk, a non-running vehicle, vehicle parts, tires, weeds, and general debris scattered throughout the property. She said a letter was mailed to the owner, who said he lives in Santa Teresa, NM and has a rental management company in charge of this property. She said the property remains out of compliance. She said Code Enforcement has spoken to the rental management company who said it would be resolved and the property would be cleaned up immediately. She said a letter from code enforcement was sent by certified mail on January 28, 2022 to the owners in Santa Teresa, NM, and it was unclaimed. She said there have been multiple inspections and the most recent inspections completed in September, 2022 found that the property remains out of compliance, however, the cow has been removed. She said the property management company told code enforcement they could not do anything because the tenants worked in the oil field. She said the Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel. She said a resolution has been prepared which, if adopted, would require the property owner to remove all ruins, rubbish, wreckage, or debris from the property within thirty days of the service of the resolution. She said on October 24, 2022, a certified letter was sent by the Office of the City Attorney to Victor H and Soledad Price at the address provided to code enforcement in Santa Teresa, NM.

0:41:56 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Resolution 2022-57, a Resolution requiring the removal of the ruins, rubbish, wreckage, weeds and debris at 706 Alvarado St Owners: Victor Price and Soledad Price

0:42:00 **VOTE**

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

0:42:14 **11. CONSIDER APPROVAL OF RESOLUTION 2022-58, A
RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH,
WRECKAGE, WEEDS AND DEBRIS AT 512 AND 512 1/2 ALVARADO ST OWNER:
LOUIS MATTA**

Mrs. Madrid-Boyea explained this request is for the property commonly known as 512 & 512 1/2 Alvarado St. where there appears to be a single-family residence on the property. She said the Eddy County Assessor's Office lists Louis V. Matta, et al as owning or having an interest in the property and the Assessor's records list Louis V. Matta, et al's address in Carlsbad, NM 88220. She said the property appears to be occupied but has not been maintained and there is junk, a non-running vehicle, appliances, an unhooked flatbed trailer on the street, plumbing and fencing in the alley, weeds, and general debris scattered throughout the property. She said Code Enforcement spoke to the renters, who said they will remove the appliances and a verbal warning was given on August 15, 2022. She said a letter from Code Enforcement was sent by certified mail on September 19, 2022 to the owner and it was claimed. She said the property has been inspected multiple times by the City Code Enforcement and the Fire Marshal and the most recent inspections completed in September, 2022 found that the property remains out of compliance with applicable codes. She said the Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel. She said a resolution has been prepared which, if adopted, would require the property owner to remove all ruins, rubbish, wreckage, or debris from the property within thirty days of the service of the resolution. She said on October 25, 2022, a certified letter was sent to by the Office of the City Attorney to Louis V. Matta, et al, at the address on file with the County Assessor's Office. She said Mr. Matta did bring photographs to Mrs. Madrid-Boyea's office and they had a discussion. **Councilor Walterscheid** asked if this resolution is approved, the owner has 30 days to clean up the property. **Mrs. Madrid-Boyea** said yes, that is correct. He said that it doesn't look like much compared to other properties.

Councilor Chavez asked if there has been any progress on this property. **Mrs. Madrid-Boyea** said there has been some progress made and Mr. Matta is willing to cooperate. **Mr. Matta** said he tried to clean what he could and he is in the process of building a fence. He said he told his tenants to keep the yard clean and they have worked on the yard.

Councilor Forrest asked Mr. Matta if he lives at the residence. **Mr. Matta** said no he does not live there, however he rents it out. He said the back house is for his maintenance man to live in and he started hauling in junk. **Mr. Matta** said he was not aware of the things being brought in or the verbal warning that was given to his tenant.

Councilor Walterscheid asked Mr. Matta if he thinks 30 days is enough time to get this property cleaned. **Mr. Matta** said yes, he feels that is enough time.

Councilor Rodriguez wanted to clarify that the 30 days doesn't start until the resolution is served, and means that is a little more than 30 days. He said he wants the tenants to understand this is serious. **Mrs. Madrid-Boyea** said yes the 30 days starts when the resolution is served. **Mr. Matta** said he understands, that his tenants will be out if they fail to clean the property.

0:49:36 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Resolution 2022-58, a Resolution requiring the removal of the ruins, rubbish, wreckage, weeds and debris at 512 and 512 1/2 Alvarado St Owner: Louis Matta

0:49:41 **VOTE**

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

0:50:05 **12. CONSIDER APPROVAL OF RESOLUTION 2022-59, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, WEEDS AND DEBRIS AT 123 CARLGO ST OWNER: MIGUEL AND IDA VALENZUELA KBP DEVELOPMENT**

Mrs. Madrid-Boyea explained this request is for the property commonly known as 123 Carlgo St. where there appears to be a single-family mobile home on the property. She said the Eddy County Assessor's Office lists Miguel and Ida Valenzuela, KBP Development in Carlsbad as owning or having an interest in the property. She said the mobile home on the property appears to be un-occupied but a tent in the yard may be occupied. She said there is junk, trash, a non-running wrecked vehicle, wooden pallets weeds, and general debris scattered throughout the property and a letter from code enforcement was sent by certified mail on April 8, 2022 to the owners, it was returned to sender unclaimed. She said the property has been inspected multiple times by the City Code Enforcement Officer and the Fire Marshal and an inspection in September, 2022 found that the property remains out of compliance with applicable codes. She said the Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel. She said a resolution has been prepared which, if adopted, would require the property owner to remove all ruins, rubbish, wreckage, or debris from the property within thirty days of the service of the resolution. She said on

October 27, 2022, a certified letter was sent to by the Office of the City Attorney to Miguel and Ida Valenzuela, KBP Development in Carlsbad, NM 88220.

0:52:29 **Mayor Janway asked if there was a representative present for the property. No one appeared.**

0:52:36 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Resolution 2022-59, a Resolution requiring the removal of the ruins, rubbish, wreckage, weeds and debris at 123 Carlgo St Owner: Miguel and Ida Valenzuela KBP Development

0:52:42 **VOTE**

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

0:52:55 **13. CONSIDER APPROVAL OF ORDINANCE 2022-11, AN ORDINANCE AMENDING CHAPTER 2 ARTICLE 1, OF THE CODE OF ORDINANCES REGARDING WARD BOUNDARIES FOR THE CARLSBAD CITY COUNCIL**

0:53:13 **A. Public Hearing**

Mr. Lowe explained this request is to redistrict City Wards, that were presented at the September 13, 2022 Council Meeting. He said the plan Council voted on was plan A, which needs to be adopted by ordinance.

0:53:50 **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.

0:54:05 **B. Approval of Ordinance**

0:54:07 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Niemeier to approve Ordinance 2022-11, an Ordinance amending Chapter 2 Article 1, of the Code of Ordinances regarding ward boundaries for the Carlsbad City Council

0:54:12 **VOTE**

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

0:54:25 **14. CONSIDER APPROVAL OF ORDINANCE 2022-12, AN ORDINANCE AMENDING SECTION 50-3(A) OF THE CITY OF CARLSBAD CODE OF ORDINANCES REGARDING PENALTY ASSESSMENTS FOR THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE, 2010 COMPILATION AND AMENDING ORDINANCE NO 2011- 10 AND 2019-07 REGARDING THE OPERATION OF A HAND-HELD MOBILE TELEPHONE TO MAKE A VIOLATION OF THAT ORDINANCE A PENALTY ASSESSMENT OFFENSE**

0:55:04 **A. Public Hearing**

Chief Skinner explained this request is to increase penalty assessment fines. He said no increases have taken place since 2019. He said Carlsbad will still be in the lower 33% of the state for penalty assessments. He said there is a \$29.00 court fee, other fees are left up to the municipality. He said the main goal of police officers is to keep our city safe not write tickets. He said the money will go to running municipal court and administration fees and thinks the increase is well worth it. He said some infractions did not have assessment fees and with the out of town traffic here in Carlsbad, it is easier for an out of towners to pay the fee and not to have to return to Carlsbad for a court date. He said of course some traffic stops require a court date. He said most of the increases were a flat \$40.00 increase and some went up by less than \$40.00. He said this increase is not to hurt anyone's pocketbook as it is more of a compliance issue. He said there is also a cost to process the paperwork in court and to the state.

Councilor Walterscheid asked if the officers will be enforcing the muffler violation. **Chief Skinner** said yes they will. He said the reason for the increase is the complaints that have been made about loud mufflers.

Councilor Walterscheid also asked what the littering fine is currently, \$300.00, is that the most that can be assessed. **Mrs. Madrid-Boyea** said it could go to \$500.00.

Councilor Walterscheid asked why we don't increase it, littering is such a problem here. **Mrs. Madrid-Boyea** said state law prohibits petty misdemeanors to go higher than \$500.00. **Councilor Walterscheid** asked why magistrate court has higher assessments. **Mrs. Madrid-Boyea** answered magistrate court is different from municipal court and their assessments are allowed to be higher, due to being more serious crimes.

Councilor Chavez asked if the failure to provide financial responsibility means not having an insurance policy and if the insurance and cell phone assessment is the same. **Chief Skinner** said yes. **Chief Skinner** said one of factors of accidents is people using cell phones. He said they are trying to make increases in the violations that are most common.

Councilor Forrest asked if the proposal for cell phone violation is \$340.00. **Mrs. Madrid-Boyea** and **Chief Skinner** said yes, that is what is being proposed. He said he is glad to see the increase. **Mrs. Madrid-Boyea** said there was a team that studied the most common offenses to add to the penalty assessment and the study included

administration and the police department. She said it was strategic in which offenses had an increase.

1:03:33 **B. Approval of Ordinance**

1:03:35 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve Ordinance 2022-12, an Ordinance amending Section 50-3(a) of the City of Carlsbad Code of Ordinances regarding Penalty Assessments for the New Mexico Uniform Traffic Ordinance, 2010 Compilation and Amending Ordinance No 2011-10 and 2019-07 regarding the operation of a hand-held mobile telephone to make a violation of that Ordinance a Penalty Assessment Offense

1:03:40 **VOTE**

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

1:03:54 **15. CONSIDER APPROVAL OF ORDINANCE 2022-13, AN ORDINANCE REZONING PART OF "I" INDUSTRIAL DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.35 ACRE PROPERTY LOCATED AT 1013 S COTTONWOOD AVENUE OWNER: CARLSBAD COMMUNITY OF HOPE CENTER, INC./ROBERT JACQUEZ**

1:04:20 **A. Public Hearing**

Mr. Patterson explained this request is for a change in zoning from (I) Industrial to "C-2" Commercial 2 District for this property, other properties surrounding are zoned (I) Industrial and "C-2" Commercial 2 District. He added this would not create a spot zone. He said Planning and Zoning Commission voted on this at the October 3, 2022 meeting and recommends approval.

1:05:23 **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

1:05:41 **B. Approval of Ordinance**

1:05:41 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Forrest to approve Ordinance 2022-13, an Ordinance rezoning part of "I" Industrial District to "C-2" Commercial 2 District for an approximately 0.35 acre property located at 1013 S Cottonwood Avenue Owner: Carlsbad Community of Hope Center, Inc./Robert Jacquez

1:05:46 **VOTE**

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

1:05:59 **16. COUNCIL COMMITTEE REPORTS**

No reports.

1:06:08 **Mayor Janway** said he would like to re-appoint an OHV (Off Highway Vehicle) Committee to review the OHV ordinance. He appointed Harold Klaus, David Rhodes, Leo Estrada as Chairman, Chief Skinner, Ted Cordova and Wes Carter.

Councilor Chavez offered to be on the OHV Committee. **Mayor Janway** appointed Councilor Chavez to the Committee.

1:07:23 **17. ADJOURN**

1:07:30 **MOTION**

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

1:07:46 **VOTE**


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

1:08:04 **Adjourn**

Since no further business, the meeting was adjourned at 7:08 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk