

**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 JANUARY 10, 2023 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 <i>via telephone</i>
	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	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	David Lozano	Citizen
	Tracy Hughes	Citizen
	Cindy Houghton	Citizen
	Ms. Violet	Citizen
	Ms. Montez	Citizen
	Israel Munoz	Citizen
Rosella Munoz	Citizen	
Woods Houghton	Citizen	
Shamrock Hall	Citizen	
Sarah Carnero	Citizen	
Jonathan Rocha	Citizen	
Sai Luna	Citizen	

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:02 **Call Meeting to Order**

0:00:04 Invocation - Pledge of Allegiance

0:00:37 **1. APPROVAL OF AGENDA**

0:00:42 **MOTION**

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

0:00:45 **VOTE**

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

0:01:02 **2. CONSIDER APPROVAL OF RESOLUTION 2023-01, 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, the Cannabis Revenue Fund, the Municipal Transit Fund, the Lodgers' Tax Fund, the Insurance Fund, and the Street Improvement Fund.

0:03:44 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Chavez to approve Resolution 2023-01, a Resolution making certain budgetary adjustments to the 2022-23 Fiscal Year Budget

0:03:49 **VOTE**

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

0:04:01 **3. CITY OF CARLSBAD FINANCIALS - NOVEMBER 2022**

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

0:05:22 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on December 13, 2022
- B. City Personnel Report
- C. Contracts and Agreements

- 1) Consider Approval of Agreement between the City of Carlsbad and New Mexico Department of Transportation for a Section 5311 and Section 5339(b) for FY2023 funding assistance for Carlsbad Municipal Transit
- 2) Consider Approval of Lease Agreement between the City of Carlsbad and Shawn Mitchell dba Courtesy Sporting and Pawn, LLC for a Building located at the Carlsbad Municipal Shooting Range

D. Monthly Reports

- 1) Community Development Department November 2022
- 2) Human Resources Department December 2022
- 3) Municipal Court Department December 2022
- 4) Municipal Services Department November 2022
- 5) Transportation and Facilities Department December 2022
- 6) Utilities Department November 2022

E. Board Appointments

- 1) Lodger's Tax Advisory Board Reappoint Dale Balzano four-year term

Mayor Janway asked Mr. Lowe to discuss C.2 Consider Approval of Lease Agreement between the City of Carlsbad and Shawn Mitchell dba Courtesy Sporting and Pawn, LLC for a Building located at the Carlsbad Municipal Shooting Range

Mr. Lowe explained this request is to enter into a two year lease agreement with Courtesy Sporting and Pawn for a 552 sq. ft. building located at the shooting range. He said Courtesy would like to lease this building for the purpose of selling shooting related accessories. He said this specifically excludes the sale of fire arms. He said an appraiser established fair market value at \$250.00 per year as it has no plumbing, restrooms or running water and has been vacant for years.

Councilor Walterscheid asked if sales would take place during only daylight hours.

Mr. Lowe said he has spoken to Mr. Mitchell and Courtesy will be staffing the building, although no operation hours have been set.

0:07:10 **MOTION**

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

0:07:16 **VOTE**

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

0:07:30 **5. CONSIDER APPROVAL OF PARTNERSHIP WITH BUREAU OF LAND MANAGEMENT (BLM) TO DESIGNATE A STEVE WEST BIRDING AREA AT SIX MILE DAM**

Mr. Lowe explained over the last two years the City of Carlsbad has partnered with the Bureau of Land Management, Eddy County and numerous community partners to revitalize the Six Mile Dam area. He said visitors enjoy the area for a variety of outdoor

activities and an area for bird watching. He said generations of Carlsbad residents have benefitted from Steve West's extensive knowledge of the area's plants and wildlife. **Mr. Lowe** invited everyone to go to Six Mile Dam to see the improvements that have been made.

Ms. Tracy Hughes said in 2020, a partnership was started with government agencies and local businesses. She would like to further the development below the dam by improving roads, installing erosion control structures, vegetation treatment and adding eight picnic areas. She said the atmosphere has been greatly improved as to the type of activity that goes on at the Dam. She said it is becoming popular with tourists due to social media.

Councilor Walterscheid asked where the picnic areas would be located. **Ms. Hughes** said the picnic areas would be located only on one side of the river.

Councilor Walterscheid asked if there will be trails. **Ms. Hughes** said there will be boulders placed on some of the unauthorized trails to create one main trail to help with the erosion problem. She said by doing this the grasslands would start to grow.

Councilor Walterscheid asked if there will be a low water crossing. She said there are no plans for a low water crossing.

0:12:47 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve a partnership with Bureau of Land Management (BLM) to designate a Steve West Birding Area at Six Mile Dam

0:12:53 **VOTE**

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

0:13:08 **6. CONSIDER APPROVAL OF ACCEPTANCE OF DEPARTMENT OF FINANCE AND ADMINISTRATION APPROPRIATION GRANT FOR FEDERAL INFRASTRUCTURE PROJECTS**

Mrs. Barrios-Testa explained this request is to accept a grant in the amount of \$275,002.00, which was to be used for the Dark Canyon Bridge project. She said the timeline to get the grant completed by June 30, 2023 for the Dark Canyon Bridge project is too short of a time frame. She asked that this grant be accepted and to be used towards an alternate project; the Double Eagle Waterline Project. She said this is a \$2M grant with a \$500,000.00 match. She said the Department of Finance and Administration is aware of this dilemma and are waiting for the submittal of grant paperwork after Council approval.

0:14:56 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Walterscheid to approve acceptance of Department of Finance and Administration Appropriation Grant for Federal Infrastructure Projects

0:15:01 **VOTE**

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

0:15:13 **7. CONSIDER APPROVAL OF AN APPEAL OF THE DECISION BY THE PLANNING & ZONING COMMISSION TO APPROVE A CONDITIONAL USE PERMIT REQUEST TO ALLOW A COMMUNITY SERVICES CENTER TO BE LOCATED AT 2314 VERMONT ZONED "R-1" RESIDENTIAL 1 DISTRICT**
APPELLANT: DAVID LOZANO

Mr. Patterson explained this request is for a 30'x60' steel building that would serve as a central location to provide information of local services available to the recovering community and would serve as a space for 12-step recovery groups to meet. He said this would require a conditional use permit being the location is zoned "R-1" Residential 1 District. He said at the December 5, 2022 Planning and Zoning Meeting there were only 3 commissioners present and this item would require the majority of a 5 member board for approval. He said at the meeting the vote was 2 for and 1 against, therefore the item did not pass and the application was considered denied. He said on December 12, 2022, Mr. Lozano submitted an appeal and cited his reason for appeal from the Ordinance. He said The Planning Department deemed that the appellant was aggrieved person and that the interest by the appellant was immediate and substantial. He said the City Council, by a concurring vote of two-thirds of all members, or the Planning and Zoning Commission, by a simple majority, whichever the case might be, may reverse, affirm (wholly or partly), remand back or modify the requirement, decision or determination and shall make any requirement, decision or determination that, in its opinion, should be made in order to remedy those situations noted in the appeal.

Councilor Walterscheid asked if there are citizens against this. **Mr. Patterson** said there are numerous citizens and neighbors who showed up at the Planning and Zoning Commission Meeting and spoke against the request.

Councilor Niemeier asked how many facilities similar to this are in the city. **Mr. Patterson** said he is not aware of any like this, there are other facilities that cater to the recovering community, however they are not this simple, where people are allowed to come and go.

Councilor Chavez asked if this is approved, will it be a conditional use permit and if the property could be sold and keep the conditional use permit. **Mr. Patterson** said if approved, the conditional use permit could not be used by a buyer of the property,

conditional use permits do not go with a property, the permits are specific to the property owner. **Mr. Patterson** said if the new owner wanted to continue to use the property for this purpose, the new owner would need to apply for a conditional use permit.

Councilor Walterscheid asked if this would be a come and go facility and not be used to house people. **Mr. Patterson** said the application states it will not house people, however it will offer information about services in Carlsbad with no overnight stays.

Mayor Janway asked **Mrs. Madrid-Boyea** to explain the process of approving this request. **Mrs. Madrid-Boyea** said it would require a two-thirds vote of City Council, that would mean 6 would need to vote to overturn the Planning & Zoning decision of the appeal request, if there is less than 6 the appeal would be denied.

0:21:02 **Mayor Janway** asked anyone who would like to speak for the approval of the appeal.

Mr. David Lozano, property owner, came forward and explained the group of people have been meeting at churches in Carlsbad and he purchased the property from the church because the group is running out of places to meet. He said the Alano Club is another facility, however it is at capacity and cannot hold any more meetings. He said there are 40-60 people in this current group and he would like this building to be built for this group to use 5 days a week for about an hour and half. He said there would be a community resource office available for 2-3 hours a day. He added there is local support for this facility.

Councilor Niemeier asked who is funding this project. **Mr. Lozano** said a non-profit organization called The Spirit of Life will be funding this project.

Councilor Walterscheid asked what time of day these meetings will take place. **Mr. Lozano** said from 7-8 p.m.

Ms. Cindy Houghton said her family is affected by alcoholism and drug abuse. She said Alcohol Anonymous is vitally important to sobriety and to have a community for support. She said it is important to have a place for the recovering addicts to meet. She begged Council to please overturn the Planning & Zoning Commission decision. She said she is extremely passionate about this recovery group. She said they need a place for their own and where children will be allowed, as some churches have shut down or needed the space that was being used for the meetings.

Ms. Violet, speaking for the AA group, said it has been scary with all the moves that have happened and not knowing if the group that has helped her stay sober for 2 years would still exist. She said these meetings are her livelihood and having a place to have meetings helps her to keep her life together and there is bonding and common goals

with the people in this group. She said this group has helped her regain custody of her daughter, hold a job and took her away from drugs and crime.

Ms. Montez said she has been a member of this group for 6 months.

Mr. Israel Munoz said before drugs he was a school teacher, a director at the Boys and Girls Club and he lost it all in 2 years. He said a place to meet is important and is asking for approval to overturn the Planning & Zoning Commission's decision.

Mr. Woods Houghton said he is a professor at New Mexico State University and there is scientific proof that 12-step programs work. He said a person involved in a 12-step program shows their brain scans change after 2 years. He said it is hard to have a 12-step program if there is no place to meet. He said 30 meetings in 30 days is essential and having in a central location would make it easier. **Councilor Walterscheid** asked how many people would be attending these meetings. **Mr. Houghton** said over 3,900 people in 12-15 years have been helped with this program. **Councilor Walterscheid** asked how many people would be attending these meetings and if there is enough parking. **Mr. Houghton** said approximately 40 people would be attending nightly. **Mr. Houghton** said the church parking lot is also available for parking.

0:35:30 **Mayor Janway** asked if anyone would like to speak against the approval of the appeal.

Ms. Shamrock Hall said she lives in the area and there is a known drug house next to the proposed facility. She said it would be unsafe for a playground to be placed in the area where needles are being thrown on the ground. She said she is for recovery, however this is not a good place for a recovery facility.

Ms. Sarah Carnero said she is not for or against the facility and she is a recovering alcoholic. She said the program is great just not for this area. She said this location is too public and recovering people may be embarrassed to go to the location and who might see them, she was embarrassed when she first started attending meetings. She said she might know a location that is out of the city limits and is a church.

Mr. Jonathan Rocha said the proposed location isn't ideal. He said the property he owns would be a benefit to a lot of people. He said he has a property that is an abandoned church, however would facilitate what is being discussed. He said it is an acre lot and located on Howard Road and he feels it would be a little more discreet. He said he is open to discussing this option. He said using the property for this purpose would be meaningful and the infrastructure is there, there is enough parking and meeting space. He said he is offering his property and it could be a long term solution.

Mr. Sai Luna said he has been sober for 2 years. He said drugs can be found anywhere, and saying this area is not good area, is only the opinions of the residents in the area.

He said this program works. He said he is a functioning member of society due to this program and a place to hold meetings is needed. He said the group would be in charge of cleaning up the area, and not just hold meetings.

Mr. Jim Holland said he is an alcoholic and has been sober for over 20 years due to this group. He said he would like to address the crime in the area and active drug addicts and alcoholics will avoid a recovery house. He said he feels crime would decrease with a recovery house in the area. He said the program is looking for people who want to get sober. He said he supports this and it will be a great asset to the city. He asked Council to approve this request for the recovery community.

Councilor Walterscheid asked Mr. Lozano and Mr. Houghton if they would entertain Mr. Rocha's offer.

Ms. Houghton said there will be an eight foot fence built around the facility as there will be children there.

Ms. Houghton explained most newcomers to recovery do not have a driver's license or the ability to get around and would be a struggle to get them outside the city limits to Mr. Rocha's facility. She said people walk and ride their bikes to the meetings and it would be a hindrance to be out of the city limits.

Councilor Chavez stated his concern would be traffic and parking. He said he would like to see an agreement signed by the church for use of their parking lot.

Ms. Houghton said there will be at least 20 parking spaces available at the facility and the church has been very supportive and parking would not be an issue. She said the parking issue was understood when the application/permit process was started.

Mr. Lozano said there is at least 60 parking spaces across the street. **Councilor Chavez** stated he would still like to see an agreement.

Councilor Rodriguez said there has been talk about people walking and riding bikes, will there also be vehicles at the meeting. **Ms. Houghton** said yes there will also be vehicles. He questioned if the parking is adequate for all members, if they have vehicles. **Ms. Houghton** said yes, the parking is adequate.

Ms. Rosella Munoz, Admissions Coordinator at Lifehouse, said Lifehouse has a sober living facility on 8th St. and the clients at the facility would be able to walk to this location for their meetings. She said there are some clients that do have vehicles, although the newcomers would be walking.

Ms. Carnero said she has been run over in the past by crossing a street and asked if there will be cross walks or crossing guards for the people crossing the street. She said

she has a traumatic brain injury due to her accident. She said there are sobriety meetings on the corner of Cypress and Stevens Streets and crime has not gone down in that area. She said there is a drug house in that area and if recovery people do not lock their doors they could possibly get their cars robbed.

Mr. Houghton explained he worked on Stevens St. for 36 years and there has always been a drug house on the corner. He made the point there are drug houses everywhere and you would need to go to the middle of the desert to not find a drug house.

Councilor Carter asked how often the conditional use permit would need to be renewed. **Mr. Patterson** said once granted the only reason to renew the permit would be if the use of the property or if the scale of the operation changed.

Councilor Forrest asked how often meetings are held. **Mr. Lozano** explained the meetings would be held 5 nights a week at this location.

Mayor Janway asked **Mrs. Madrid-Boyea** to explain the voting process again. **Mrs. Madrid -Boyea** explained this is an approval of an appeal by the decision of Planning & Zoning Commission. She said a motion will need to be made to approve or deny the appeal or it can be sent back to the Planning & Zoning Commission for reconsideration.

Mrs. Madrid-Boyea asked Mr. Patterson to explain the voting process. **Mr. Patterson** explained the City Council, by a concurring vote of two-thirds of all members, may reverse, affirm (wholly or partly), remand back or modify the requirement, decision or determination and shall make any requirement, decision or determination that, in its opinion, should be made in order to remedy those situations noted in the appeal.

Mayor Janway asked **Mrs. Madrid-Boyea** to explain what needs to be done to vote in favor of **Mr. Lozano's** request. **Mrs. Madrid-Boyea** explained a motion will need to be made to either uphold the decision by the Planning & Zoning Commission and there would not be permission to proceed with the planned facility. She explained the motion could be to reverse the decision of the Planning & Zoning Commission and if the vote passed, it would grant permission to proceed with the facility. She said the last option is to send it back to the Planning & Zoning Commission.

Mayor Janway asked the Council what they would like to do.

Councilor Carter said he would like to overturn the appeal, however with only three commissioners voting at the December 5, 2022 meeting he would like to send it back to the Planning & Zoning Commission with a five person group for a re-vote.

0:57:18 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez send this item back to Planning & Zoning Commission for a re-vote.

0:57:23 **VOTE**

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

0:57:48 **Mayor Janway asked Mr. Patterson to explain the process once more.**

Mr. Patterson explained this will go to the Planning & Zoning Commission to be held on February 6, 2023 for a re-vote with a five person group. **Mr. Patterson** explained all persons affected by the re-vote will be notified.

0:58:14 **8. COUNCIL COMMITTEE REPORTS**

There were no reports.

0:58:23 **Mayor Janway** asked if anyone in the audience would like to address the Council. No one appeared.

0:58:30 **9. ADJOURN**

0:58:34 **MOTION**

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

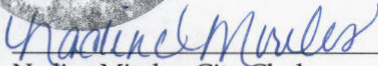
0:58:41 **VOTE**

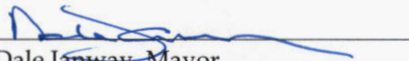
The vote was as follows: Yes - Chavez, Waters, Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores; No - None; Absent - None; the motion carried.

0:58:57 **Adjourn**

There being no further business, the meeting was adjourned at 6:58 p.m.




Nadine Mireles, City Clerk


Dale Janway, Mayor