

**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 FEBRUARY 14, 2023 AT 6:00 P.M.**

Present:	Dale Janway Lisa A. Anaya Flores Edward T. Rodriguez Jason O. Chavez Judith E. Waters Wesley A. Carter Mark C. Walterscheid Jeff Forrest Karla Niemeier	Mayor Councilor <i>via telephone</i> Councilor Councilor <i>via telephone</i> Councilor Councilor Councilor Councilor Councilor
Absent:		
Also Present:	John Lowe K.C. Cass Ted Cordova Denise Madrid-Boyea Nadine Mireles Angie Barrios-Testa Mike Abell Wayne Hatfield Brent Griffith Melissa Salcido Ken Ahrens Jeff Patterson Shane Skinner Patrick Cass Kat Davis Norbert Rempert	City Administrator Deputy City Administrator Deputy City Administrator City Attorney City Clerk Director of Municipal Services Director of Utilities IT Director IT Technician Finance Director Fire Chief Planning Director Police Chief Public Works Director MainStreet Director 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**

0:00:11      Invocation - Pledge of Allegiance

0:00:46      **1. APPROVAL OF AGENDA**

0:00:47        **MOTION**

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

0:00:51        **VOTE**

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

0:01:16        **Mayor Janway** introduced Kat Davis, MainStreet Director. **Ms. Davis** gave an impact report with New Mexico MainStreet partners. She said Carlsbad is the first community in the state to receive this report. She explained the report is about what is done at the local level. She said there is a page detailing investment into downtown throughout the year. She said it also mentions other projects throughout the year such as: Beautification Projects and CavernFest. She said this would not be possible without all the support from City Council. She said she is present tonight, mainly to say thank you for all the support and hopes this will continue for many more years.

**Councilor Walterscheid** asked about the Cavern Theater. **Ms. Davis** said that would be a question for Mr. Ken Britt. She said she was at the theater today and it has been painted. She said she does not have a timeline for an opening date. She mentioned MainStreet was awarded a grant for \$350,000.00 and City of Carlsbad was awarded \$3.3M for the Cavern Theatre.

**Mayor Janway** congratulated Ms. Davis and said this is a great update and he is proud.

0:04:15        **2. CONSIDER APPROVAL OF RESOLUTION 2023-03, 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 Law Enforcement Protection Fund, the Water and Sewer Fund, the Airport Improvement Fund.

**Councilor Walterscheid** asked why the amount of increases is so high. **Mrs. Salcido** explained the Xcel bill went up by 16% for February 2022 and the amount had already been budgeted and did not realize the amount should have been budgeted at a higher amount. **Councilor Walterscheid** asked what the percentage was. **Mrs. Salcido** said she did not have that information at the moment and would get him the answer.

**Mr. Lowe** explained an analysis was done for 5 months and from there it was determined what amount it would take to get through the end of this fiscal year, and that is why there are varying amounts for the different departments.

0:08:19        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve Resolution 2023-03, a Resolution making certain budgetary adjustments to the 2022-23 Fiscal Year Budget

0:08:24        **VOTE**

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

0:08:41        **3. CITY OF CARLSBAD FINANCIALS - DECEMBER 2022**

**Mrs. Salcido** reviewed the revenues and expenditures as of December 2022 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:10:04        **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on January 24, 2023
- B. City Personnel Report
- C. Purchasing
  - 1) Consider Approval to Award RFP 2023-02 to Ben Jenkins Auctioneers for Auctioneer Services for all City Departments
- D. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and Shorthorn Little League for Sports Services at the Bob Forrest Youth Sports Complex
  - 2) Consider Approval of Agreement between the City of Carlsbad and National Little Girls Softball for Sports Services at the Bob Forrest Youth Sports Complex
  - 3) Consider Approval of Memorandum of Understanding between the City of Carlsbad, Department of Homeland Security, and the State Fire Marshal Division to allow the Carlsbad Fire Department to provide Fire and Life Safety Inspections
  - 4) Consider Approval of Lease and Service Agreement between the City of Carlsbad and Safe Haven Baby Boxes for a Safe Surrender Baby Box at Fire Station No. 1
- E. Monthly Reports
  - 1) Human Resources Department January 2023
  - 2) Municipal Court Department January 2023
  - 3) Transportation and Facilities Department January 2023
- F. Set Date: March 28, 2023
  - 1) Ordinance for Safe and Anonymous Surrender of Infants
  - 2) Ordinance authorizing the lease of property commonly known as Port Jefferson, 814 E Riverside Dr., Carlsbad, NM and to enter into a Lease Agreement with the Carlsbad Chamber of Commerce for Concession Services

0:10:28        **Mayor Janway asked Mr. Lowe to discuss D.4 Consider Approval of Lease and Service Agreement between the City of Carlsbad and Safe Haven Baby Boxes for a Safe Surrender Baby Box at Fire Station No. 1**

**Mr. Lowe** explained this request to enter into an agreement for a Safe Haven Baby Box to be located at Fire Station No. 1. He said recently a grant was accepted for installation of the baby box. He said this agreement outlines the responsibilities of the City of Carlsbad and the Safe Haven Baby Box Company. He said the initial cost is \$11,000.00 and an annual fee of \$300.00 for the safe operation of the device.

0:11:13        **Councilor Walterscheid asked for an explanation of D.1 Consider Approval of Agreement between the City of Carlsbad and Shorthorn Little League for Sports Services at the Bob Forrest Youth Sports Complex.**

**Mr. Lowe** explained item D.1 is an annual agreement with Shorthorn Little League to provide services at the BFYSC, the agreement is a one-year agreement expiring in December 2023. He said it is a \$21,000.00 agreement and these agreements have been in place for approximately 10 years. He said the agreements dictate what the league will be responsible for, as in picking up trash, chalking the field and finding umpires. He said if everything is done appropriately they could get reimbursed and the agreements have worked very well in the past. **Councilor Walterscheid** asked about National Little League. He said in the beginning the fields were to be used as practice fields and he doesn't feel they look like practice fields. **Mr. Lowe** explained these are practice fields when league play is not in season. **Councilor Walterscheid** said they are not watered and don't look nice. **Mr. Lowe** clarified that Councilor Walterscheid is thinking of the old fields not the fields at (BFYSC). **Councilor Walterscheid** said the old fields look bad and was under the impression that the old fields were for practice and the BFYSC was for games. **Councilor Walterscheid** asked if the old fields will be watered. **Mr. Lowe** said yes, they will be watered and mowed during the summer months.

0:13:32        **MOTION**

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

0:13:38        **VOTE**

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

0:13:59        **5. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW PARKING OF A TEMPORARY FOOD TRUCK AND FOOD SALES IN THE DOWNTOWN AREA ALONG NORTH CANYON STREET WITHIN THE PUBLIC STREET RIGHT OF WAY APPLICANT: CARLSBAD MAINSTREET**

**Mr. Patterson** explained this request is for Carlsbad MainStreet requesting permission from the City Council to host a food truck near the intersection of N. Canyon St. and Mermod St. for MainStreet. He said Executive Director Kat Davis plans to contact and

invite local food truck owners to park within the on-street parking spaces on the west side of N. Canyon St. He said the plan is to have one truck sign up through MainStreet and use the space for one week at a time. He said MainStreet will vet all food trucks to ensure that the truck owners have all required licensing and permitting through the City and the State. He said approval of this Temporary Use Permit will give MainStreet a blanket permission to place one truck at a time within the spot indicated. He said the Planning Department recommends approval of this request with the following conditions: The applicant shall not disturb the peace with a loud speaker, megaphone, bell, music or other disruptive noise, approval of this request grants permission to the applicant to host food trucks within the downtown district along N. Canyon St., the food trucks will be set up within the public street Right Of Way, one truck at a time, the trucks will set up on any day of the week and during MainStreet events and the applicant will need to provide a surety bond.

**Councilor Niemeier** asked what happens at the end of the event with all the trash. **Mr. Patterson** said he is not sure, there are trash cans available in the area and he would hope they would use them. He said there have been no complaints about trash during the events. **Councilor Niemeier** asked if the food trucks bag it up and take it to a city dumpster. **Mr. Patterson** said he believes that is what is happening. **Ms. Davis** said there are usually additional roll out containers to collect the trash.

0:17:24      **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Temporary Use Application to allow parking of a temporary Food Truck and Food Sales in the downtown area along North Canyon Street within the public street Right of Way Applicant: Carlsbad MainStreet

0:17:29      **VOTE**

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

0:17:43      **6. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) OF FOOD AND DRINKS (NON-ALCOHOLIC) ON CITY PROPERTY LOCATED AT THE RAY ANAYA SAN JOSE PLAZA PARK, 300 DIAZ STREET BY HOUSE OF GRUB OWNER: PATRICK RENFRO**

**Mr. Patterson** explained this request is to allow vending of food & drinks on City-owned property in the parking area at 300 Diaz St. at the Ray Anaya San Jose Plaza Park. He said the applicant wishes to vend food and non-alcoholic drinks from 11 AM - 7 PM Wednesday through Saturday, each week throughout the year. He said the City Council has approved one other mobile vendor to operate within the Ray Anaya San Jose Plaza Park, The Cold Shoulder near San Jose Blvd. and this request is not a conflict with The Cold Shoulder. He said the attached map shows where House of Grub would like to locate. He said the Planning Department recommends the approval of the

request with the following conditions: The applicant shall not disturb the peace with a loud speaker, megaphone, bell, music or other disruptive noise, the applicant shall limit vending from 11am - 7pm, as per the application information, approval of this request grants permission to the applicant to vend food and drinks (non-alcoholic) on City-owned property in the Ray Anaya San Jose Plaza Park parking lot along Diaz St. from Wednesday, February 15, 2023, through Sunday, December 31, 2023.

**Councilor Niemeier** asked about the trash from the food trucks in the Ray Anaya Plaza Park. **Mr. Patterson** said there are trash cans available and at this time is not a City requirement for the vendors to apply and pay for trash service.

**Councilor Walterscheid** asked to hear from Mr. Patrick Renfro.

**Mr. Patrick Renfro** explained that there are homeless people in the park that ask for food. He said he asks them to pick up trash and he will give them food. He said he is a "to go" food truck vendor and most people pick up their food and leave, not eat at the park. He said he usually has one bag of trash. He said he tried moving to a permanent location and it didn't work out, therefore he is back at the Plaza.

0:21:45        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Temporary Use Application to allow for mobile sales (vending) of food and drinks (non-alcoholic) on City property located at the Ray Anaya San Jose Plaza Park, 300 Diaz Street by House of Grub Owner: Patrick Renfro

0:21:49        **VOTE**

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

0:22:05        **7. CONSIDER APPROVAL OF RESOLUTION 2023-04, A RESOLUTION ADOPTING A DESIGNATED METHOD OF DESTRUCTION FOR ELIGIBLE MUNICIPAL RECORDS**

**Mr. Lowe** explained this request is for approval of the destruction (shredding) of records, the records list attached have met their retention period which reflects federal and state retention requirements. He said the directors have reviewed and approved the destruction of records pertaining to their departments. He said records destruction reduces the requirements for storage space and ensures consistency in the disposition and handling, reducing the chance of reckless disposal and ensures compliance with the State of New Mexico retention requirement. He said there are 640 boxes to be shredded at this time.

**Councilor Forrest** asked how long the city needs to keep the records. **Mr. Lowe** said it varies depending on the type of records.

0:23:30        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to approve Resolution 2023-04, a Resolution adopting a designated method of destruction for eligible Municipal Records

0:23:34        **VOTE**

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

0:23:47        **8. CONSIDER APPROVAL OF RESOLUTION 2023-05, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WEEDS AND DEBRIS FOR PROPERTY LOCATED EAST OF 711 IRVIN STREET OWNER: SAMUEL A GARCIA AND THE ESTATE OF IGNACIO MORALEZ**

Mrs. Madrid-Boyea explained this request is for a proposed resolution requiring the removal of the weeds at 709 Irvin (vacant lot East of 711 Irvin). She said this is a vacant lot and the Eddy County Assessor's Office lists Samuel A. Garcia and the Estate of Ignacio Morales as owning or having an interest in the property. She said the Assessor's records list Samuel Garcia's address in Eunice, NM. She said the property appears to be vacant with no structures and has not been maintained. She said this property is a problem and the neighbors keep contacting code enforcement about the condition of the property. She said there are weeds throughout the property, trash dumped, unauthorized persons have camped on the parcel, invasive trees that need to be removed and sprayed. She said the property has been inspected by the City Code Enforcement Officer and the Fire Marshal and they have 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 nearby residences and 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, debris and weeds from the property within thirty days of the service of the resolution. She said on February 3, 2023, a certified letter was sent to Samuel A. Garcia & Estate of Ignacio Morales at the address on file with the County Assessor.

0:26:31        **Mayor Janway asked if there was a representative of the property present. No one appeared.**

0:26:38        **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to approve Resolution 2023-05, a Resolution requiring the removal of the ruins, rubbish, weeds and debris for property located East of 711 Irvin Street Owner: Samuel A Garcia and the Estate of Ignacio Morales

0:26:45        **VOTE**

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

0:26:58 **9. COUNCIL COMMITTEE REPORTS**

No reports

0:27:12 **Mayor Janway asked if anyone in the audience would like to address the Council.**

0:27:18 **Mr. Norbert Rempert** said he wanted to make everyone aware the Carlsbad Caverns National Parks Trails are closed at this time. He said the reason he was told the trails are closed is due to rain. He said he would like the City of Carlsbad to talk with the Caverns to determine if this is true or to find out more and the trails be opened up.

**Mr. Norbert Rempert** said he would like to remind us about the Wal-Mart massacre in El Paso, TX. He said there are more deaths in New Mexico every day, than in the El Paso, TX Wal-Mart. He said is he happy to hear about the safe haven baby box. He said New Mexico is not a safe haven for pre-born children. He said before last fall this was not an issue for Eddy County and Carlsbad. He said the Veteran's Administration now give abortions, he said he is not sure if they are being done in Artesia, however he knows they are being done in VA facilities elsewhere. He said he feels this will soon be in Carlsbad. He said the national pharmacy chains, CVS, Walgreens and Rite Aid will start selling abortion drugs for at home abortions. He said Santa Fe and District of Colombia values are now being imposed on Eddy County and Carlsbad. He said Clovis, Hobbs, Eunice, Roosevelt County and Lea County have passed binding ordinances to make abortion virtually impossible in those areas. He said he thinks it is time we form a coalition with those counties and communities to become a safe haven for the pre-born. He said the ordinances passed in other communities are not explicitly outlawing abortion, however, there are federal laws on the books that prohibit the mailing or sending interstate abortion implements and the ordinance focuses on making abortion clinics follow federal law, which would make it almost impossible to perform abortions. He said time is of the essence and we must act and work together with other communities on this issue.

0:34:14 **Mayor Janway asked if anyone else would like to address the Council. No one appeared.**

0:34:18 **10. ADJOURN**

0:34:24 **MOTION**

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

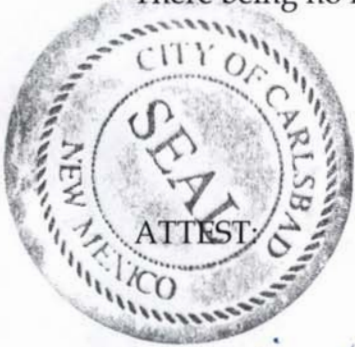
0:34:32 **VOTE**



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

0:34:51      **Adjourn**

There being no further business, the meeting was adjourned at 6:34 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk