

**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 APRIL 11, 2023 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor
	Judith E. Waters	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
	John Majerus	Assistant Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Joshua Moore	Transit Director
	Charlie Garcia	Police Officer
	Matt Bernin	Telecommunicator
	Cassi Parker	Telecommunicator
	Gwen Lopez	Telecommunicator
	Michael Munoz	Telecommunicator
	Samantha Luna	Telecommunicator
	Bianca Gutierrez	Telecommunicator
	Katey Prell	Dispatch Commander

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**

0:00:20        Invocation - Pledge of Allegiance

0:00:40        **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 - Waters, Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez; No - None; Absent - None; the motion carried.

0:01:00        **2.        CONSIDER APPROVAL OF RESOLUTION 2023-15, A  
RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2022-  
23 FISCAL YEAR BUDGET**

**Mrs. Salcido** reviewed the third-quarter Budgetary Adjustments for Fiscal Year 2023 highlighting the Capital Projects Fund, the Golf Pro Shop Fund, the Law Enforcement Protection Fund, and the General Fund.

**Councilor Forrest** asked Mrs. Salcido if the \$25 million that was vetoed from Santa Fe was included in the budget. Mrs. Salcido answered no it was not fit into the budget.

0:03:02        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Resolution 2023-25, a Resolution making certain Budgetary Adjustments to the 2022-23 Fiscal Year Budget.

0:03:10        **VOTE**

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

0:03:26        **3. ROUTINE AND REGULAR BUSINESS**

- A.    Minutes of the Regular City Council Meeting held on March 28, 2023
- B.    City Personnel Report
- C.    Purchasing
  - 1) Consider Approval to Award RFP 2023-04 to Advantage Heating and Cooling for the provision and installation of HVAC units at the Walter Gerrells Performing Arts Center
  - 2) Consider Approval to Award RFP 2023-05 to Total Productions for Sound

System upgrades at the Walter Gerrells Performing Arts Center

D. Monthly Reports

1) Human Resources Department March 2023

E. Set the Date: May 9, 2023

1) Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.76 acre property located at 206 E Rose Street

2) Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial 2 District for an approximately 2.964 acre property located at 2013 San Jose Blvd

0:03:48 **Mayor Janway asked Mr. Lowe to briefly discuss Agenda item C1, Consider Approval to Award RFP 2023-04 to Advantage Heating and Cooling for the provision and installation of HVAC units at the Walter Gerrells Performing Arts Center. Mr. Lowe** said the City conducted bids for the provision and installation for eight, 5-ton heating and cooling units for the Walter Gerrells Civic Center, and the City received three bids with the lowest bidder being Advantage Heating and Cooling. He said the City recommends awarding this bid to Advantage Heating and Cooling in the cost of \$89,000.

0:04:17 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to approve Routine and Regular Business.

0:04:23 **VOTE**

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

0:04:41 **4. CONSIDER APPROVAL TO ACCEPT CAPITAL OUTLAY GRANT FROM THE NEW MEXICO AGING AND LONG TERM SERVICES DEPARTMENT FOR KITCHEN EQUIPMENT FOR THE ALEJANDRO RUIZ SENIOR CENTER**

**Mr. Lowe** said this item is for approval to accept a Capital Outlay Grant for Alejandro Ruiz Senior Center in the amount of \$7,811 to purchase commercial equipment. He said the City will incur the expenditures and will submit a reimbursement as the funds are spent. He said the kitchen equipment that needs to be replaced are a gas range and a gas oil fryer.

0:05:20 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Rodriguez to approve to accept Capital Outlay Grant from the New Mexico Aging and Long Term Services Department for kitchen equipment for the Alejandro Ruiz Senior Center.

0:05:25        **VOTE**

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

0:05:40        **5. CONSIDER APPROVAL TO ACCEPT A STATE OF NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT GRANT FOR THE INSTALLATION OF FILM PROJECTION SYSTEM AT THE CAVERN THEATRE**

**Mrs. Barrios-Testa** said this Grant Agreement is for an application that Carlsbad Mainstreet Director, Kat Davis, submitted when the City was applying for a previous grant for the last phase of the reconstruction for the Cavern Theatre. She said this is to help fund the equipment for the sound system in the Cavern Theatre. She said this grant does require a 20% match, and they allowed the City to qualify the funding that has already been spent on the project to be put towards that percentage. She said \$28,000 is for in-kind services for Kat Davis' work on this project as well as City Administration for the administration of the grant.

0:07:02        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Anaya-Flores to approve to accept a State of New Mexico Economic Development Department Grant for the installation of film projection system at the Cavern Theatre.

0:07:10        **VOTE**

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

0:07:40        **6. CONSIDER APPROVAL OF NEWLY UPDATED DRUG AND ALCOHOL TESTING POLICY RECOMMENDED BY THE FEDERAL TRANSIT ADMINISTRATION FOR CARLSBAD MUNICIPAL TRANSIT**

**Mr. Moore** said the Transit Department annually undergoes an audit through the company Precision Compliance. He said they are a third-party for New Mexico Department of Transportation who assists the City of Carlsbad with staying compliant with the Drug and Alcohol Program for the Transit Department. He said this year they recommended to update the template for read-ability and clarity.

**Councilor Walterscheid** asked Mr. Moore when they do test for drugs or alcohol, does the NMDOT give certain levels to how much a person can have in their system before they would fail. **Mr. Moore** said the end-user does not see the results, he said an MRO, a Medical Review Officer, is the person that the tests are submitted to. He said if there are any traces of substances, the MRO will identify if it is within a threshold or not.

0:08:59        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve the newly updated Drug and Alcohol Testing Policy recommended by the Federal Transit Administration for Carlsbad Municipal Transit.

0:09:04        **VOTE**

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

0:09:19        **7. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW MOBILE SALES (VENDING) ON CITY PROPERTY AT THE CARLSBAD BEACH PARK LOCATED AT 814 E RIVERSIDE DRIVE BY THE FROZEN CACTUS OWNER: DUSTIN BRATCHER**

**Mr. Patterson** said this request is to locate vending at the Beach Park area for the Frozen Cactus. He said in the applicant's letter, the owner stated he will mainly set up on Friday evening, Saturdays and Sundays and occasionally on a weekday evening. **Mr. Patterson** said the City Planning Department recommends approval of this request with the following conditions; the applicant shall not disturb the peace with loud speaker megaphone, bell music, or other disruptive noise. He said the approval of this request grants permission for the applicant to vend food and drinks (non-alcoholic) on City owned property in the Carlsbad Beach parking lot from Wednesday, April 12, 2023 through Sunday, December 31, 2023. He said the applicant shall provide the City with proof of liability insurance naming the City as additional insured.

**Councilor Walterscheid** asked **Mr. Patterson** if the approval of this request will cause an issue with the Chamber of Commerce since they will hire vendors for food and drink. **Mr. Patterson** said he has not communicated with anyone at the Chamber of Commerce, but he knows the vendor that was previously there did not have a non-compete clause. He said he is unaware if the Chamber of Commerce has one. **Mr. Lowe** said the Agreement that was approved by Council in the last meeting for the Chamber, it states they have a non-exclusive agreement with the City of Carlsbad in the Beach area.

**Councilor Rodriguez** said he would like for the hours of operation to be listed, since they weren't stated, to match with the other vendors in the area. He said he would recommend the vendor to police the area for trash.

0:12:30        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve Temporary Use Application to allow mobile sales (vending) on City property at the Carlsbad Beach Park located at 814 E Riverside Drive by The Frozen Cactus Owner: Dustin Bratcher.

0:12:37        **VOTE**

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

0:12:51        **8.        CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW MOBILE SALES (VENDING) OF FOOD AND DRINKS WITHIN CITY STREETS THROUGHOUT THE CITY BY THE ICE CREAM MAN, LLC OWNER: JASON STEARNS**

**Mr. Patterson** said this is for Council consideration to allow for mobile sales and vending of food, ice cream, and drinks (non-alcoholic) within City streets for The Ice Cream Man LLC. 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. He said the approval of this request would grant permission to the applicant to vend food and drink (non-alcoholic) within City streets from Wednesday, April 12, 2023 through Sunday, December 31, 2023, and the applicant shall provide the City with proof of liability insurance, naming the City as additional insured.

**Councilor Walterscheid** asked Mr. Patterson what the hours of operation would be, stating he does not want the vendor to be running too early in the day or too late at night. **Mr. Patterson** said in the past for door-to-door solicitors, the Planning Department would specify for their hours to be between 9:00 am to dark. **Mr. Patterson** said the applicant is not door-to-door but they will be going through residential streets. **Councilor Walterscheid** said he would prefer a set time for the applicants.

**Councilor Rodriguez** said the City does have other vendors who sell food and drink and he would like for their hours to match.

0:15:25        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor to approve Temporary Use Application to allow mobile sales (vending) of food and drinks within City streets throughout the City by The Ice Cream Man, LLC Owner: Jason Stearns.

0:15:31        **VOTE**

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

0:15:54        **9.        CONSIDER APPROVAL OF REQUEST FROM MILTON'S BREWERY TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS IN THE DOWNTOWN AREA DURING A JOINT MILTON'S AND CARLSBAD MAINSTREET CINCO DE MAYO EVENT**

**Mr. Patterson** said Milton's Brewing is requesting permission to host a Beer Garden within Mermod St. as part of a Cinco de Mayo event. He said the event will operate starting at 2:00 pm and will end at 11:00 pm with the alcohol service within the Beer Garden starting at 4:00 pm and ending at 10:00 pm. **Mr. Patterson** said there will be one controlled entrance that will be limited to people 21 years or older and they will have to provide a valid ID as proof of age. He said all approved entrants will be given a bracelet which will be required to purchase beer or wine within the Beer Garden. He

said all designated drivers that enter the Beer Garden will be given a separate bracelet as identification. He said no alcohol will be allowed to be taken out of the designated area. **Mr. Patterson** said in conjunction with this event, there will also a car show, band, and dance area within Mermod St. He said Mermod St. will be closed from Canal St. to Canyon St. for the duration of the event. **Mr. Patterson** said the City Planning Department recommends approval of this request with the following conditions; the alcohol server obtain all required licensing and permits, Milton's Brewing comply with all laws, rules, regulations, requirements, and restriction for service at the location, including but not limited to: fencing of the service area, carding of customers, and providing appropriate security; Milton's Brewing shall name the City of Carlsbad as an additional insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator.

0:17:51        **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Request from Milton's Brewery to serve alcohol (beer & wine) on City streets in the downtown area during a joint Milton's and Carlsbad Mainstreet Cinco de Mayo event.

0:17:56        **VOTE**

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

0:19:01        **10. CONSIDER APPROVAL OF ORDINANCE 2023-06, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 20.86 ACRE PROPERTY LOCATED AT 3618 AND 3619 HARVEST LANE APPLICANT: THADDAEUS WINN AND TARA LAMB**

0:20:48        **A. Public Hearing**

**Mr. Patterson** said this request is to change the zoning for the subject property, 3618 and 3619 Harvest Lane from "R-R" Rural Residential District to "C-2" Commercial 2 District. He said the properties to the East and West are zoned Rural Residential and the properties to the North and South are out of city limits, so this would create a spot zone. He said this property is located adjacent to the path for the new West Bypass Route. He said the applicant brought this item before the Planning and Zoning Commission at their March 6, 2023 meeting, and the commission considered the item and recommended approval.

**Councilor Forrest** asked **Mr. Patterson** how close is the nearest house to this property. **Mr. Patterson** said the property is adjacent to residential property that is occupied at the moment. **Mr. Forrest** asked if the applicant lives on that property. **Mr. Patterson** said no they do not. **Mr. Forrest** asked if they are wanting to rent it out to a trucking yard. **Mr. Patterson** said he is not aware of the applicant's plans.

0:20:59        **B.     Approval of Ordinance**

0:21:01        **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Ordinance 2023-06, an Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial 2 District for an approximately 20.86 acre property located at 3618 and 3619 Harvest Lane Applicant: Thaddaeus Winn and Tara Lamb.

0:21:05        **VOTE**

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

0:21:31        **11.     CONSIDER APPROVAL OF ORDINANCE 2023-07, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "R-1" RESIDENTIAL 1 DISTRICT FOR AN APPROXIMATELY 0.138 ACRE PROPERTY LOCATED AT 106 N FOURTH STREET APPLICANT: RAY AND KORINA DOPORTO**

0:21:57        **A.     Public Hearing**

**Mr. Patterson** said this is a request to change the zoning from "C-2" Commercial 2 District to "R-1" Residential 1 District for the subject property 106 N. Fourth St. He said the City Planning Department surmised that this property was zoned commercial by mistake. He said from what they have been told, it has always been a residential property, and as such it would not create a spot-zone if changed. He said the applicant brought this item before the City Planning and Zoning Commission at the March 6, 2023 meeting, the commission considered the item and recommended approval.

**Councilor Walterscheid** asked Mr. Patterson if the adjoining properties have barns or storage facilities. **Mr. Patterson** said he would have to double-check, but he believes they may be commercially zoned but he is not sure if commercial activity takes place there. **Mr. Rodriguez** said it is "C-2" and it looks as if it is a store room. **Mr. Walterscheid** asked if there is housing around the other sides. **Mr. Patterson** said South of the applicant is the West Texas corridor. He said there is a mix of commercial and residential properties on Fourth Street.

0:24:10        **B.     Approval of Ordinance**

0:24:14        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve Ordinance 2023-07, an Ordinance rezoning part of "C-2" Commercial 2 District to "R-1" Residential 1 District for an approximately 0.138 acre property located at 106 N Fourth Street Applicant: Ray and Korina Doport.



0:24:18        **VOTE**

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

0:24:33        **12. CONSIDER APPROVAL OF RESOLUTION 2023-16, A RESOLUTION TO SUPPORT AND ENCOURAGE THE STATE OF NEW MEXICO TO RE-CLASSIFY AND RECOGNIZE THE CARLSBAD POLICE DEPARTMENT TELECOMMUNICATORS AS FIRST RESPONDERS**

**Chief Skinner** said this Resolution is fundamentally symbolic and progressive in the effort to have our departmental telecommunicators and those from around the nation to gain the support in being reclassified as a first responder. He said telecommunicators are often the first person that serve people in crisis and need, and they are subjected to the same stressors and traumas that all other first responders have to endure. He said the Carlsbad Police Department dispatch center is currently in the process of becoming a state and nationally accredited program, which specifies best practice standards. He said if reclassified, this will allow telecommunicators to be moved to a retirement plan similar to first responders, to include other crucial benefits, such as mental health counseling. **Chief Skinner** said 911 is a rapidly changing platform which will soon include text and video to 911, amongst other enhanced technological advances. He said these advances will result in our telecommunicators to be exposed to even higher levels of trauma. He said the federal government standard recognized telecommunicators as clerical workers, and he disagrees with this statement being that the things they endure in the profession lasts them a lifetime. He said he wants to recognize Commander, Katey Prell, and her entire team. He said Ms. Prell traveled to Santa Fe to support this legislation at a state level, as well as Washington D.C. to get a foothold at a national level.

**Councilor Forrest** asked if any of this was brought up at the last legislative session. **Chief Skinner** said it was brought up and he thinks it is gaining a lot of support in Santa Fe. He said there are other municipalities and counties around the state that have adopted a Resolution similar to this one, and he believes it is beginning to lean in favor and that his overall goal is to get it recognized at the national level.

0:30:04        **Councilor Walterscheid** asked the telecommunicators in the audience to stand up and introduce themselves. Those who introduced themselves were, Matt Bernin, Cassi Parker, and Gwen Lopez. **Ms. Lopez** said it is a very challenging job but she is proud to be able to do it. Also introduced were, Michael Munoz, Samantha Luna, Bianca Gutierrez, and Katey Prell. **Ms. Prell** said when she visited Santa Fe, the bill did not pass due to time constraints. She said the bill was to change the PERA plan to the police plan for dispatchers.

0:36:57        **Mayor Janway** asked if there were any further questions or comments.

**Councilor Anaya-Flores** thanked the dispatchers in the audience for everything they do.

0:38:27      **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve Resolution 2023-16, a Resolution to support and encourage the State of New Mexico to Re-Classify and Recognize the Carlsbad Police Department Telecommunicators as First Responders.

0:38:34      **VOTE**

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

0:38:49      **13. COUNCIL COMMITTEE REPORTS**

No reports.

0:39:00      **Mayor Janway** asked if anyone in the audience would like to address the Council. No one appeared.

0:39:10      **14. ADJOURN**

0:39:13      **MOTION**

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

0:39:25      **VOTE**

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

0:39:44      Adjourn

There being no further business, the meeting was adjourned at 6:39 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk