

**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 25, 2023 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor <i>via phone</i>
	Edward T. Rodriguez	Councilor <i>via phone</i>
	Jason O. Chavez	Councilor <i>via phone</i>
	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
	Sandy Gonzales	Assistant Treasurer
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Wanda Aguilar	Executive Assistant
	Kyle Marksteiner	Public Information Officer
	Charlie Garcia	Police Officer
	John Bowen	Citizen
	Benjamin Sanchez	Citizen
	Andrue Caswell	Student Advisory Board
	Aaliyah Montoya	Student Advisory Board
	Jack Dodd	Student Advisory Board
	Campbell Foster	Student Advisory Board
	Sophia Salazar	Student Advisory Board

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**

0:00:12        Invocation - Pledge of Allegiance

**Mayor Janway** welcomed members of the Student Advisory Board. He said our Student Advisory Committee was formed several years ago and former City Councilor, Sandra Nunley, helped run it. He said we are proud to have such a great group of students, grades 6-12. **Mayor Janway** said Covid-19 slowed down this advisory board for many years, but this year the committee has met three times. He thanked Dr. Keely Scruggs and everyone with Carlsbad Municipal Schools for their help to coordinate the committee. He said so far this year, the Student Advisory Board has toured the miniature golf course and were the first people to play at the course. He said they also toured the Police Department, the Fire Department, and the Carlsbad Hall of Fame, and have plans to tour the Municipal Court. **Mayor Janway** said not everyone on the Student Advisory Board was able to make it, but he wanted to introduce the students present and give out certificates. Those introduced were, Andrué Caswell, Aaliyah Montoya, Jack Dodd, Campbell Foster and Sophia Salazar.

0:06:57        **1. APPROVAL OF AGENDA**

0:07:01        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to approve the Agenda.

0:07:04        **VOTE**

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

0:07:24        **2. CITY OF CARLSBAD FINANCIALS - MARCH 2023**

**Mrs. Gonzales** reviewed the revenues and expenditures as of March 2023 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:08:50        **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on April 11, 2023
- B. City Personnel Report
- C. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad and EMSRx LLC for the Provision of Medical Director Services for the Carlsbad Fire Department and Carlsbad Police Department

- 2) Consider Approval of Agreement between the City of Carlsbad and Salado Isolation Mining Contractors, LLC for the use of the Carlsbad Shooting Range
- D. Monthly Reports
  - 1) Community Development Department March 2023
  - 2) Municipal Court Department March 2023
  - 3) Municipal Services Department March 2023
  - 4) Transportation and Facilities Department March 2023
- E. Board Appointments
  - 1) North Mesa Senior Recreation Center Advisory Board appoint John Caraway remainder two-year term

0:09:04        **Mayor Janway asked Mr. Lowe to briefly discuss Agenda item C1, Consider Approval of Agreement between the City of Carlsbad and EMSRx LLC for the Provision of Medical Director Services for the Carlsbad Fire Department and Carlsbad Police Department.**

Mr. Lowe explained this is a request is for approval of an extension to an annual agreement with EMSRx. He said this agreement allows the Fire Department and Police Department to provide medical director services. He said the state of New Mexico requires a licensed position to provide these services. Mr. Lowe said this agreement is for a one-year term, beginning May 1, 2023 and terminating on April 30, 2024.

0:09:50        **MOTION**

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

0:09:55        **VOTE**

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

0:10:19        **4. CONSIDER APPROVAL OF SUBMISSION OF AN ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT APPLICATION TO THE US DEPARTMENT OF ENERGY FOR LIGHTING UPGRADES AT THE BOB FORREST YOUTH SPORTS COMPLEX**

Mr. Lowe said this request is for approval to apply for an Energy Efficient Conservation Block Grant. He said under the terms of this agreement, the City will receive \$76,000 in grant monies to upgrade one softball field with LED lighting. He said this will bring cost savings to approximately \$14,000 yearly to the City. He said the estimated cost of this project is \$130,000 with the cost of \$50,000 to the City. Mr. Lowe said the City will be required to adopt an Energy Efficiency and Conservation Strategy plan within one year after the award.

0:11:10        **Mayor Janway asked if there were any questions or comments for Mr. Lowe.**

**Councilor Walterscheid** asked Mr. Lowe if LED lighting will save a lot of energy. **Mr. Lowe** answered yes. **Councilor Walterscheid** asked if any of the parks in the City have LED lighting. **Mr. Lowe** said yes, in some of the parks and in some street lights.

0:11:46        **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Niemeier to approve the submission of an Energy Efficiency and Conservation Block Grant Application to the US Department of Energy for Lighting upgrades at the Bob Forrest Youth Sports Complex.

0:11:54        **VOTE**

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

0:12:14        **5. CONSIDER APPROVAL OF AN APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO GRANT A VARIANCE TO THE RESIDENT AT 1108 TRACY PLACE TO PARK A RECREATION VEHICLE (BOAT) WITHIN THE REQUIRED FRONT SETBACK APPELLANT: JOHN BOWEN**

**Mr. Patterson** said this item was originally heard at the March 6, 2023 Planning & Zoning Commission meeting. He said the applicant for the variance, Benjamin Sanchez, appeared before the Commission and stated his case; asking for the variance. He added at that meeting, the appellant, John Bowen, appeared before the commission and stated his objection to that request. He said the Planning & Zoning Commission considered the statements made and voted to approve the request, and grant the applicant a variance, with the vote of three in favor, two against, with zero absent. **Mr. Patterson** said on March 16, 2023, Mr. Bowen submitted a letter to the Planning office stating his intent to appeal the decision of granting the variance reached by the Planning and Zoning Commission. He said Mr. Bowen was deemed an aggrieved party and his letter for appeal was submitted before the deadline to appeal. He said in his appeal letter, Mr. Bowen stated seven points in which he disagreed with the decision and stated he wished to appeal the decision to City Council. **Mr. Patterson** said the City Council, by 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 ought to be made in order to remedy those situations noted in the appeal.

0:14:15        **Mayor Janway asked if there were any questions for Mr. Patterson.**

**Councilor Walterscheid** asked Mr. Patterson if we are going to address everyone who has a vehicle parked on the street on Tracy Place. **Mr. Patterson** said the Ordinance states if they are there long-term, then yes, we do need to address it with Code Enforcement. He said with RV's and sometimes trailers, if they are there temporarily due to a job, they will allow it for a day or two. He said Code Enforcement is intending on addressing those matters if they are against the Ordinance.

0:15:09 **Councilor Forrest** asked to confirm what the Council's vote would mean; either for or against the variance. **Mrs. Boyea-Madrid** said a variance was requested by the homeowner to park a boat within the setback. She said the request went to Planning & Zoning, and they voted in favor to allow the variance. She said Mr. Bowen is an aggrieved party and he has appealed the variance to City Council. **Mrs. Madrid-Boyea** said the Council can reverse Planning & Zoning's decision, affirm Planning & Zoning's decision in whole or in part, remand it back to Planning & Zoning, or modify the decision. She explained whatever Council decides has to be in order to remedy the situations noted in the appeal.

0:17:33 **Mayor Janway** asked Mr. Bowen if he had any statements he would like to make. **Mr. Bowen** said he has lived on Tracy Place for several years. He said there are several things in his appeal letter that are noteworthy, the homeowner never displayed signage that he was requesting a variance; the code violation for parking his trailer could be resent if he would park it under his carport. **Mr. Bowen** said the homeowner was asked if he could park it in his carport, the homeowner answered yes, but he would prefer not to due to storage under his carport. **Mr. Bowen** said he believes the homeowner can also park it in his backyard or on the south side of his property. **Mr. Bowen** said it is not just neighbors who are within 100 feet of his property, but the entire Tracy Place. He said two Planning & Zoning Commissioners own property in the Tracy edition. He said he thinks they should not have voted since they live in the area, noting that he would like for the conflict of interest to be addressed. **Mr. Bowen** said the homeowner at 1108 Tracy Place also has a utility trailer parked in his front yard that has been there for several months. He said the boat trailer has been there since 2020, and he has reported it several times to Planning & Zoning. He said he does not understand the support behind the variance, and he said if an Ordinance is violated, there should be repercussions. He said the Zoning Ordinances are very clear, stating that it says the variances are the exception and not the rule. **Mr. Bowen** said there are several trailers parked on Tracy Place and he has called on them before.

0:23:35 **Councilor Walterscheid** asked why is this homeowner being singled out if there are more residents on Tracy Place who have parked trailers. **Mr. Bowen** said he has compiled a list since 2020 of trailers parked on Tracy Place. He said there has been progress in trailers being removed but would like the process to be faster. **Mr. Bowen** thanked the Council for their time.

0:24:37 **Mayor Janway** asked the owner, Benjamin Sanchez, if he would like to address the council. **Mr. Sanchez** said he has lived at 1108 Tracy Place for the past ten years. He said there was a board member that has property on Tracy Place, and he believes it is of importance. He said the statement that was made, the board member that asked if the boat was there at the time, this member stated they did not notice the boat in general. **Mr. Sanchez** said his surrounding neighbors have never addressed

him with an issue about his boat being parked there, except one gentleman. He said he does not think one person should receive preferential treatment over the general consensus of the neighborhood. **Mr. Sanchez** said he understands Mr. Bowen has an issue with it, but he does not have to come to that part of the neighborhood. He said the variance was granted, and he asked the Council members if they could uphold it.

0:25:51 **Mayor Janway** asked if there were any questions or comments for Mr. Sanchez. **Councilor Forrest** said he drove by Mr. Sanchez's residence and he believes the boat is in great shape; no debris on the boat or flat tires on the trailer. He said the yard is in great shape, and if he were to live by Mr. Sanchez he would be happy to know he has a neighbor that takes care of his property. **Mr. Sanchez** thanked Councilor Forrest, and went on to say the boat is brand new. He said the boat is not an eye-sore or inoperable. He said Mr. Bowen is aware of the Ordinance, because the Planning & Zoning Commission came to his property to ask him to remove an inoperable vehicle from his property. **Mr. Sanchez** said the variance is a tool, and he did follow all procedures. He said he posted signage, followed every letter of instruction, and sent letters of intent to all of his neighbors. He said Mr. Bowen did receive a letter. **Mr. Sanchez** said several neighbors did stop by his house after receiving the letters and asked him to go into further detail. He said he told them he would like to park his boat on his property, and they have the opportunity to show up at this meeting to voice their opinion.

0:28:08 **Mayor Janway** asked if there were any further questions or comments. **Mr. Bowen** returned to the podium and said he never had an inoperable vehicle parked in his driveway. He said the Inspector left him paperwork and asked him if it was operable, and he told her yes. He said it is parked behind his house, next to the garage. He said it is in no violation of any Ordinance. He said Mr. Sanchez's trailer is in violation of an Ordinance. **Mr. Bowen** said he disagrees with Mr. Sanchez's statement that he does not want to park his boat under his carport, and believes it makes his argument irrelevant. He said we all need to adhere to the Ordinances put-forth to our community. He said almost any neighborhood in Carlsbad has illegally parked trailers in the driveway. **Mr. Bowen** said he thinks Mr. Patterson should hire more Inspectors, or tighten the grip on their inspections. He asked Council members to support the Ordinances. He said Tracy edition is an old neighborhood and it has always looked nice until people started parking their trailers illegally in the front of their houses.

0:30:42 **Mr. Sanchez** came to the podium and said it is not an issue for him to park the boat under the carport. He said if he were to park the boat under the carport, he would have to move a different vehicle of his out from under the carport, and we would be back to this same situation.

0:31:11 **Councilor Forrest** reiterated that he drove through Tracy edition and everything he saw at 1108 Tracy Place is in great shape. He said if we were to start appealing variances, they would have to do it with everyone in the community. He

said we need to support the decision of Planning and Zoning's Commission to grant the variance.

0:31:52 **Mrs. Boyea-Madrid** said the item is to approve an appeal of the decision by the Planning and Zoning's Commission to grant a variance. She said if you vote yes to approve the appeal, the variance is over-ridden. She said if you were to vote no, that means Planning and Zoning's decision stands.

0:32:44 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to deny the appeal and to uphold the decision by the Planning and Zoning Commission to grant a variance to the resident at 1108 Tracy Place to park a recreation vehicle (boat) within the required front setback Appellant: John Bowen.

0:33:26 **Councilor Carter** said he agrees with Mr. Bowen. He said we have Ordinances in place for a reason. He said he also agrees with Councilor Forrest on the cleanliness of 1108 Tracy Place. He said for all the residences that aren't kept-up or clean, if they grant the variance, they will not have a legal leg to stand on. He said he values Planning and Zoning's opinions but he believes they made a mistake on this situation. **Councilor Niemeier** asked if it is case-by-case or if it sets a precedence. **Councilor Carter** said the Ordinance is clearly written. He said we can either appeal the decision made by Planning and Zoning or grant the variance and change the Ordinance to where anybody can park anything in their front yard. He said if we grant the variance, this situation will most likely come up again in the future.

0:35:12 **Mrs. Boyea-Madrid** said the motion is to approve the decision of the Planning and Zoning to grant the variance. She asked Councilor Forrest if that is what he is moving for. **Councilor Forrest** answered yes. **Mrs. Boyea-Madrid** said Council members have other options; modify, overturn, remand, or reaffirm. **Councilor Walterscheid** said in his opinion, the boat is fine, but the other trailers in the yard should be removed. **Councilor Carter** asked what is the difference in the Ordinance. He said they are all against the Ordinance.

0:37:02 **VOTE**

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

0:37:43 **Mrs. Boyea-Madrid** said this is six Councilors in favor of approving the decision of Planning and Zoning's to grant a variance, and two against the motion. Therefore, the motion passes and the variance is granted.

0:38:05        **6.        CONSIDER APPROVAL OF RESOLUTION 2023-17, A RESOLUTION DECLARING CERTAIN CITY PROPERTY UNUSABLE OR OBSOLETE**

**Mr. Lowe** said this Resolution is brought before Council declaring certain City property unusable or obsolete, which include vehicles from the Police Department, ARC trucks from the Solid Waste Department, a street sweeper in the Public Works Department, and a couple of vans from the Transit Department. He said most of these vehicles are close to 10 years old or older, and have been declared unusable or obsolete and will be disposed of by auction.

0:38:50        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Forrest to approve Resolution 2023-17, a Resolution declaring certain City Property Unusable or Obsolete.

0:38:56        **VOTE**

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

0:39:18        **7.        CONSIDER APPROVAL OF RESOLUTION 2023-18, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURE, WRECKAGE AND DEBRIS AT 104 S THIRD STREET OWNER: JIMMY WILCOX**

**Mrs. Madrid-Boyea** said this Resolution involves property located at 104 S Third Street which would require the removal of the ruined, damaged or dilapidated buildings or structure, and the ruins, rubbish, wreckage and debris. She said there are dilapidated structures on the property and a large amount of rubbish, debris and weeds. She said the Eddy County Assessor's office lists Jimmy Wilcox as owning or having interest in the property. She said Code Enforcement has been to the property and the structures were red-tagged by the Building Department in 2019. She said the electric, water, and gas utilities have been disconnected, the buildings continue to degrade and the property attracts transients. She said the property was inspected and it remains out of compliance with applicable codes. She said the ruined or dilapidated structures remain on the property and the property is not secured. **Mrs. Madrid-Boyea** said the Fire Chief found that the property presents an extreme fire hazard for responding fire fighters and emergency personnel and recommends the buildings be demolished and the property be cleaned and the debris be removed. She said a Resolution has been prepared, which if adopted would require the owner to remove all the ruins, dilapidated structures, rubbish, wreckage, debris and weeds from the property within 30 days of service of the Resolution.



0:41:55        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Walterscheid to approve Resolution 2023-18, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structure, wreckage and debris at 104 S Third Street Owner: Jimmy Wilcox.

0:42:05        **VOTE**

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

0:42:36        **8. CONSIDER APPROVAL OF RESOLUTION 2023-19, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS OR WEEDS AT 204 S MAPLE STREET OWNERS: RAYMUNDO SAIZ AND MANUELA SAIZ**

Mrs. Madrid-Boyea said this proposed Resolution requires the removal of the ruins, rubbish, wreckage, debris, or weeds at 204 S Maple Street. She said there appears to be a large number of overgrown weeds and grass, as well as non-running vehicles, junk and debris. She said the Eddy County Assessor's office lists Raymundo Saiz and Manuela Saiz as owning or having an interest in the property. She said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding fire fighters and emergency personnel, and recommends that the property be cleaned and the weeds, trash, and debris be removed. She said if this Resolution is adopted, it would require the property owner to remove all ruins, rubbish, wreckage, debris or weeds from the property within 30 days of service of the Resolution.

0:44:30        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Niemeier to approve Resolution 2023-19, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris or weeds at 204 S Maple Street Owners: Raymundo Saiz and Manuela Saiz.

0:44:37        **VOTE**

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

0:44:54        **9. COUNCIL COMMITTEE REPORTS**

Councilor Niemeier reminded everyone of a going away party later in the evening for David Beaty, former manager of Albertsons, at the Country Club.

Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.

0:45:23 **10. ADJOURN**

0:45:28 **MOTION**

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

0:45:35 **VOTE**


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

0:45:50 **Adjourn**

There being no further business, the meeting was adjourned at 6:45 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk