

**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 JUNE 27, 2023 AT 6:00 P.M.**

Present:	Dale Janway Edward T. Rodriguez Jason O. Chavez Mark C. Walterscheid Jeff Forrest Karla Niemeier Judith E. Waters	Mayor Councilor Councilor Councilor Councilor Councilor Councilor
Absent:	Lisa A. Anaya-Flores Wesley A. Carter	Councilor Councilor
Also Present:	John Lowe K.C. Cass Ted Cordova Wendy Austin Denise Madrid-Boyea Nadine Mireles Angie Barrios-Testa Mike Abell Wayne Hatfield Brent Griffith Melissa Salcido Ken Ahrens Jeff Patterson Shane Skinner Patrick Cass Charlie Garcia Missi Currier Jim Waters	City Administrator Deputy 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 Police Officer Cambiar Consulting Citizen

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

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

0:00:20 Invocation – Pledge of Allegiance

0:00:48 **1. APPROVAL OF AGENDA**

0:00:49 **MOTION**

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

0:00:53 **VOTE**

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

0:01:09 **2. CITY OF CARLSBAD FINANCIALS - MAY 2023**

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

0:02:39 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on June 13, 2023
- B. City Personnel Report
- C. Purchasing
 - 1) Consider Approval to Advertise Invitation to Bid for Double Eagle Waterline Replacement Project
 - 2) Consider Approval to Award RFP 2023-06 to Aquatic Consultants for Professional Aquatic Management Services
- D. Contracts and Agreements
 - 1) Consider Approval of Agreement between the City of Carlsbad and Eddy County for the Provision of General Services for Eddy County Residents for Fiscal Year 2023-2024
 - 2) Consider Approval of Agreement between the City of Carlsbad and Carlsbad Municipal Schools for General Services for Fiscal Year 2023-24
- E. Monthly Reports
 - 1) Community Development Department May 2023
 - 2) Municipal Court Department May 2023
 - 3) Municipal Services Department May 2023
 - 4) Utilities Department May 2023

0:02:58 **Mayor Janway asked Mr. Cass to briefly explain Agenda item C1, Consider Approval to Advertise Invitation to Bid for Double Eagle Waterline Replacement Project.**

Mr. Cass said this project is a portion of the north well collector line, that includes all the wells on the Caprock. He said this will encompass the \$2 million of Economic Development Administration funds that the City received and has now been given the opportunity to use. **Mr. Cass** said there is an old 22-inch steel line that exists there now that was constructed in the mid-1940s. He said this will be replaced with a 24-inch C900 PVC line.

Councilor Walterscheid asked if this area is rocky. **Mr. Cass** said it is rocky and it is on the Caprock. He said it is the north well of the Double Eagle Water System.

0:04:44 **MOTION**

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

0:04:51 **VOTE**

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

0:05:07 **4. CONSIDER APPROVAL OF PROPOSAL FROM CAMBIAR CONSULTING, LLC (MISSI CURRIER) TO PROVIDE PROFESSIONAL LOBBYING SERVICES TO SUPPORT THE CITY'S AGENDA WITH A FOCUS ON THE NEW MEXICO LEGISLATURE**

Mr. Lowe said this is an agreement with Cambiar Consulting, LLC, to provide lobbying services on behalf of the City of Carlsbad. He said Missi Currier is the cofounder of Cambiar Consulting and has been a registered lobbyist for the City of Carlsbad for the last several years.

Missi Currier said as of right now, the interim committees are starting to meet again throughout the state; including Tax and Rev, Legislative Finance Committee, Transportation and many others. She said it would be an honor to represent the City of Carlsbad throughout the interim, as well as going into the legislative session, which will start in January 2024. **Ms. Currier** said she knows there is a lot of work to consider between destination sourcing and road funding. She said she looks forward to continuing conversations to support the City of Carlsbad.

Councilor Rodriguez said Ms. Currier is very knowledgeable and working with her has been beneficial. He said she is good at getting doors open and getting an audience. He said he would like to work with her in the future.

0:07:29 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of proposal from Cambiar Consulting, LLC (Missi Currier) to provide Professional Lobbying Services to support the City's agenda with a focus on the New Mexico Legislature.

0:07:36 **VOTE**

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

0:07:53 **5. CONSIDER APPROVAL OF REQUEST FROM DONNA DAVIS FOR OUTSIDE CITY LIMITS WATER SERVICE FOR PROPERTY LOCATED AT 217-2 GRASSBURR LANE**

Mr. Abell said at the regular scheduled meeting of the Board of Water and Sewer Commissioners on May 18, 2023, a request for water service outside of the serving district was presented and recommended for approval.

Councilor Walterscheid asked if it will cost the City to grant this service and if we have the amount of water necessary to provide service. **Mr. Abell** said the City of Carlsbad has a mechanism in place for residents that live outside of the serving district. He said this consists of them applying to the City of Carlsbad for water. **Mr. Abell** said the service itself will be set on Grassburr Lane, and the property is off of Mission Ave.

Mr. Walterscheid asked if the lines are of appropriate size to give them water without affecting everyone else in the area. **Mr. Abell** answered yes.

Councilor Chavez asked if this is two times the rate. **Mr. Abell** said yes, he believes that it is part of the contract.

Councilor Walterscheid asked if it will stay that way until the City of Carlsbad annexes that portion. **Mr. Abell** answered yes, normally in that situation, the property would have to be annexed into the City at their request, and then it would be determined at that point.

Councilor Rodriguez asked what would happen if the property sells. **Mr. Abell** said if the property sells, the new property owner would have to come before the Board of Water and Sewer Commissioners once again, and ask for water service to be continued or granted to them at that time.

0:10:56 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve request from Donna Davis for Outside City Limits Water Service for property located at 217-2 Grassburr Lane.

0:11:01 **VOTE**

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

0:11:19 **6. CONSIDER APPROVAL OF REQUEST FROM DONNA DAVIS FOR OUTSIDE CITY LIMITS WATER SERVICE FOR PROPERTY LOCATED AT 217-3 GRASSBURR LANE**

Mr. Abell said this is the second service that Ms. Davis requested at the May 18, 2023 Water and Sewer board meeting. He said it was presented and recommended for approval.

Councilor Walterscheid asked if Ms. Davis is looking forward to developing more lots. **Mr. Abell** said she went before the County and subdivided the lots and then came to the City, wanting water service for those lots, for construction for her new homes.

0:12:23 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve request from Donna Davis for Outside City Limits Water Service for property located at 217-3 Grassburr Lane.

0:12:28 **VOTE**

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

0:12:42 **7. CONSIDER APPROVAL OF ACCEPTANCE OF FEDERAL AVIATION ADMINISTRATION (FAA) GRANT FOR THE PRELIMINARY ENGINEERING REPORT FOR THE RESURFACING AND RENUMBERING OF RUNWAY 3-21 AT THE CAVERN CITY AIR TERMINAL**

Mr. Lowe said this is a request to accept a FAA grant for the Cavern City Air Terminal for the Preliminary Engineering Report on Runway 3-21. He said grant is in the amount of \$124,000, with a state match of \$7,491 and a city match of \$832. **Mr. Lowe** said this project has been budgeted in the Fiscal Year 2024 budget.

0:13:24 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Rodriguez to approve acceptance of Federal Aviation Administration (FAA) grant for the Preliminary Engineering Report for the resurfacing and renumbering of Runway 3-21 at the Cavern City Air Terminal.

0:13:30 **VOTE**

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

0:13:44 **8. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW MOBILE SALES (VENDING) OF SNOW CONES ON CITY PROPERTY AT THE CARLSBAD BEACH PARK, BY THE SPOT OWNER: SHANE RODRIGUEZ**

Mr. Patterson said this is a request for permission to vend on City owned property at the Carlsbad Beach Park by the Spot, owner Shane Rodriguez. He said the applicant's material indicated snow cones, and he was informed by the applicant that they will sell more than just snow cones, but no alcohol. **Mr. Patterson** said they asked to vend from 11:00 am to 8:00 pm, Monday through Sunday. He said the approval of this request with the following conditions is recommended, the applicant shall not disturb the peace with a loud speaker, megaphone, bell, music, or other disruptive noise; the applicant shall vend toward the sidewalk side of the beach parking lot and shall appropriately

handle all waste associated with the business. He said the approval of this request grants permission to the applicant to vend snow cones and other related food and drinks (non-alcoholic) on City owned property at the Carlsbad Beach Park from Wednesday, June 28, 2023 until Sunday, December 31, 2023. He said they would have to provide a surety bond to the City.

Councilor Walterscheid asked how many snow cone trucks do we have. **Mr. Patterson** said he believes we have approved three snow cone trucks.

Councilor Chavez asked how many vendors do we have at the Carlsbad Beach Park. **Mr. Patterson** said if this gets approval, there would be five.

Councilor Chavez asked if there are enough trash cans. **Mr. Patterson** said he has not received any complaints that there is an accumulation of trash or not enough receptacles. He said it is something he can look into and make sure of. **Councilor Chavez** said we should consider charging them for trash, since we charge all of other businesses for trash.

0:16:34 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Temporary Use Application to allow mobile sales (vending) of snow cones on City property at the Carlsbad Beach Park, by The Spot Owner: Shane Rodriguez.

0:16:45 **VOTE**

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

0:16:57 **9. CONSIDER APPROVAL OF ANNUAL CITY LIQUOR LICENSE RENEWALS**

Mrs. Mireles said the City Clerk's office annually requests the City Council's approval of all City Liquor License renewals. She said the renewals are being renewed yearly upon the payment of a \$250 fee and proof of a valid state issued Liquor License. She said the City currently has 49 Liquor Licenses.

Councilor Walterscheid said \$250 is a small fee.

Councilor Forrest said it used to be a lot more. **Mrs. Mireles** said \$250 is the fee only for the City License. She said they have to have a valid State Liquor License in order to receive a City Liquor License.

Councilor Walterscheid asked if one has ever been taken away. **Mrs. Mireles** said no, the New Mexico Regulation and Licensing Department has jurisdiction over that.

0:18:21 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Forrest to approve of Annual City Liquor License Renewals.

0:18:30 **VOTE**

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

0:18:44 **10. CONSIDER APPROVAL OF ANNUAL CITY CANNABIS LICENSE NEW AND RENEWALS**

Mrs. Mireles said in 2021, the City of Carlsbad adopted Ordinance 2021-20, which requires any applicant for a recreational cannabis establishment to secure a City Cannabis License. She said each City Cannabis License carries a fee of \$250 annually and should be renewed by July 1 of each year. She said the City of Carlsbad currently has 25 Cannabis Licenses.

Councilor Forrest asked if there is anything we can do to limit the number of licenses we have. **Mrs. Mireles** said no, it is regulated by the state.

Mayor Janway asked **Mrs. Boyea-Madrid** if it is in the regulations that we cannot tamper a license being issued. **Ms. Madrid-Boyea** said yes that is correct, it is all regulated by state statute and our role as a municipality is to monitor time, place, and manner. She said if there is an infraction or violation of the state statute, that would need to be referred to the state for their enforcement. She said there is no limit on the number of cannabis businesses we have, as long as they comply with the state's requirements.

Councilor Forrest asked if the City of Artesia tried to block cannabis licenses. **Mrs. Madrid-Boyea** said she does not know what Artesia has done, but she understands the County may have taken some measures to try to impose their own ordinances.

0:21:06 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Annual City Cannabis License New and Renewals.

0:21:12 **VOTE**

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

0:21:25 **11. CONSIDER APPROVAL OF RESOLUTION 2023-30, A RESOLUTION TO DEEM CERTAIN UTILITY ACCOUNTS UNCOLLECTABLE**

Mrs. Austin said this proposed Resolution is to write off uncollectible utility accounts. She said state statute 3-37-7 states that uncollectable accounts which have not been collected for a period of more than four years, should be written off the balance sheet.

Mrs. Austin said in addition, the City's auditors require that uncollectible accounts be written off, so that the City's balance sheet fairly represents the amounts that can be reasonably collected. **Mrs. Austin** said Resolution 2023-30 proposes a write off of 312 accounts for service years 2017 through 2018. She said the amount of the write off is approximately \$56,000 with an average account balance of \$156. She said the amount of the write off is less than 1% of the utility revenue collected during this time frame, and this represents less than 15% which is within our limits acceptable on an audit finding. **Mrs. Austin** said the City does not waive its right to collect these amounts in the future.

Councilor Rodriguez asked if there is a lien placed on these when we say we reserve the right. **Mrs. Austin** answered yes. She said even though we write off the account from the balance sheet, we do keep a record of the utility owner, and if they do come forward in the future to open an account, we look at our records and let them know they have an unpaid balance.

Councilor Walterscheid asked if the amount ever goes away. **Mrs. Austin** said no it does not go away, it is just written off the balance sheet.

Councilor Chavez asked if we were to put a lien on somebody, can they sue us for that. **Mrs. Austin** said no, there is state statute that covers the lien process.

0:24:51 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Rodriguez to approve of Resolution 2023-30, a Resolution to deem certain Utility Accounts Uncollectable.

0:24:58 **VOTE**

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

0:25:10 **12. CONSIDER APPROVAL OF RESOLUTION 2023-31, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS, DEBRIS AND SECURING THE ABANDONED STRUCTURE AT 112 S ASH/112-B S ASH OWNER: JAMES AND LETHA FUDGE C/O JEREMY AND TRACY BOLDUC**

Mrs. Madrid-Boyea said the property is located in a residential neighborhood. She said there appears to be a residential structure and a garage on the property. She said there are weeds on the property and in the alley. **Mrs. Madrid-Boyea** said the Eddy County Assessor's office names James R. and Letha G. Fudge c/o Jeremy and Tracy Bolduc as owning or having an interest in the property. She said the property has a structure at 112 S. Ash that appears to be occupied, and the other structures, and garage, need to be secured. **Mrs. Madrid-Boyea** said Code Enforcement has been to the property, a Notice of Violation was sent on October 15, 2020, March 31, 2021, and April 13, 2021. She said a complaint was received on October 26, 2022. She said the property has been inspected by City Code Enforcement and the Fire Chief, and they found that the property remains

out of compliance with applicable codes. She said the damaged and unsecured structure, weeds, and debris remain on the property. **Mrs. Madrid-Boyea** said the Fire Chief found that the property presents an extreme fire hazard for responding fire fighters and emergency personnel. She said she has prepared a Resolution for review, which if adopted, would require the owner to secure the ruined structure, and remove the debris and weeds from the property within 30 days of service of the Resolution. **Mrs. Madrid-Boyea** said she has spoken to Tracy Bolduc and she explained that her and her husband live out of town, and they have had some situations where they are unable to clean the property themselves, but they are going to pay someone to clean the property. **Mrs. Madrid-Boyea** said Mrs. Bolduc promised to get started on it immediately.

Councilor Walterscheid said it looks as if the owners are waiting for the City to come and pick up their trash. **Mrs. Madrid-Boyea** said it appears to her the same way, and the Planning Department has checked, but no request was put in for the grappler to pick it up. She said however, we went ahead and put in the request for them.

Councilor Rodriguez said he appreciates them trying to clean it up, but he would like for the Resolution to be adopted. He said if they have it cleaned by the end of the 30-day time period, then we can step away from it, but if not, we need to take the necessary action at the appropriate time.

0:30:45 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Resolution 2023-31, a Resolution requiring the removal of the weeds, debris and securing the abandoned structure at 112 S Ash/112-B S Ash Owner: James and Letha Fudge c/o Jeremy and Tracy Bolduc.

0:30:49 **VOTE**

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

0:31:04 **13. COUNCIL COMMITTEE REPORTS**

No reports.

0:31:09 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:31:14 **14. ADJOURN**

0:31:19 **MOTION**

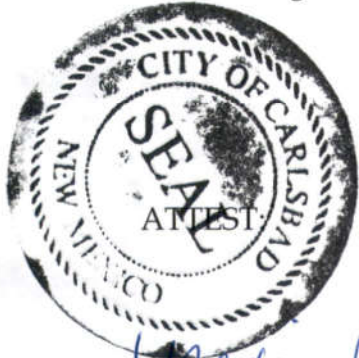
The motion was made by Councilor Waters and seconded by Councilor Forrest to adjourn.

0:31:28 **VOTE**

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

0:31:30 **Adjourn**

There being no further business, the meeting was adjourned at 5:31 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk