

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

Present:	Dale Janway Lisa A. Anaya Flores Edward T. Rodriguez Jason O. Chavez Mark C. Walterscheid Jeff Forrest Karla Niemeier Judith E. Waters	Mayor Councilor Councilor Councilor Councilor Councilor Councilor Councilor
Absent:	Wesley A. Carter	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 Allan Henriksen Melissa Salcido Ken Ahrens Jeff Patterson Eddie Duarte Patrick Cass Charlie Garcia Therese Rodriguez 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 IT Technician Finance Director Fire Chief Planning Director Captain Public Works Director Police Officer Citizen 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**

0:00:09 Invocation – Pledge of Allegiance

0:00:47 **1. APPROVAL OF AGENDA**

Mayor Janway said there is a request to pull Agenda item 7 and schedule it for a later Council meeting; Consider Approval of an Appeal of the decision by the Planning and Zoning Commission to deny a Variance request to reduce the required side property setback at 1209 W Thomas Appellant: Lucas McDonald.

0:00:52 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve the Agenda with the change of removing item 7.

0:00:58 **VOTE**

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

0:01:12 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on June 27, 2023
- B. City Personnel Report
- C. Contracts and Agreements
 - 1) Consider Approval of Memorandum of Understanding between the City of Carlsbad, Eddy County and the City of Artesia for the Use of Opioid Settlement Funds
 - 2) Consider Approval of Memorandum of Agreement for the City of Carlsbad to enter into a Combined Application in order to relinquish Community DWI Enforcement Funds to the New Mexico State Police
 - 3) Consider Approval of Agreement between the City of Carlsbad and NM Department of Finance for an E911 Grant Agreement for the 911 Telephone Emergency System at the Carlsbad Police Department
 - 4) Consider Approval of Renewal Agreement between the City of Carlsbad and Garden Mart Inc. for Grounds Keeping and Maintenance Services of City Wide Landscapes, Medians, Gateways and Properties
- D. Monthly Reports
 - 1) Human Resources Department June 2023

0:01:31 **Mayor Janway** asked **Mr. Lowe** to briefly discuss item C2, Consider Approval of Memorandum of Agreement for the City of Carlsbad to enter into a Combined Application in order to relinquish Community DWI Enforcement Funds to the New Mexico State Police.

Mr. Lowe said this is a request to file a combined application with the Eddy County DWI program and the City of Artesia. He said the City of Carlsbad has participated in this application process for the past 25 years. He said the awarded funds will be distributed to the New Mexico State Police for DWI Enforcement activities within Eddy County and will continue to benefit the overall safety of the public in Carlsbad and Eddy County. **Mr. Lowe** said the DWI program is eligible for \$8,000 and the Carlsbad Police Department generated \$2,101 from their efforts combatting DWI. **Mr. Lowe** said

the City of Carlsbad has been fortunate in recent years to obtain grant funding from other sources for DWI activities and enforcement in the City of Carlsbad.

0:02:33 **MOTION**

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

0:02:41 **VOTE**

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

0:02:59 **3. CONSIDER APPROVAL OF SUBMISSION OF A GRANT APPLICATION TO THE AMERICAN LIBRARY ASSOCIATION FOR AN AMERICANS AND THE HOLOCAUST TRAVELING EXHIBITION**

Mrs. Barrios-Testa said this is a request to authorize a submission of a grant application under the American Library Association. She said the Carlsbad Public Library has been working to bring quality programs to the library. She said the program is called Americans in the Holocaust and it is made available through the partnership with the American Library Association and the United States Holocaust Memorial Museum. Mrs. Barrios-Testa said this grant will reward 50 sites that will be selected for the opportunity and the traveling exhibit will be for a 5-6-week loan period. She said the program will pay for the cost of shipping and the program will provide \$3,000 in allowance for programming.

0:04:23 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Anaya-Flores to approve of submission of a Grant Application to the American Library Association for an Americans and the Holocaust Traveling Exhibition.

0:04:29 **VOTE**

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

0:04:42 **4. CONSIDER APPROVAL OF ACCEPTANCE OF T-MOBILE HOMETOWN GRANT FOR THE CARLSBAD PUBLIC LIBRARY'S DIGITAL ARCHIVE AND MEETING SPACE**

Mrs. Barrios-Testa said this request is to formally accept the grant funding from T-Mobile. She said the City of Carlsbad applied for this grant in March 2023. She said it was a project that has been on the ICIP for a few years, and although the Carlsbad Public Library has been working on the archive, this will bring in a room where visitors can come in and view it. Mrs. Barrios-Testa said this is a great opportunity that we were awarded. She said there were 25 overall grants awarded, and Carlsbad is one of two that were awarded in New Mexico. She said they are awarding \$40,000 plus \$300 for the event that was already held.

0:05:56 **Councilor Walterscheid** thanked Mrs. Barrios-Testa for her hard work.

0:06:33 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Niemeier to approve of acceptance of T-Mobile Hometown Grant for the Carlsbad Public Library's Digital Archive and Meeting Space.

0:06:37 **VOTE**

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

0:06:52 **5. CONSIDER APPROVAL OF ACCEPTANCE OF GRANT AGREEMENT FROM THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION FOR THE CARLSBAD POLICE DEPARTMENT TO PURCHASE AND EQUIP POLICE VEHICLES**

Mr. Lowe said this request is to enter into a grant agreement with the New Mexico Department of Finance to purchase and equip police vehicles during the 2023 legislative session. He said the City was allocated \$100,000 for police vehicles. He said the funding is now available and the funds will be spent in advance and the City will be reimbursed for all eligible expenditures. He said this money has been budgeted in the Fiscal Year 2024 budget.

0:07:36 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Waters to approve of acceptance of Grant Agreement from the New Mexico Department of Finance and Administration for the Carlsbad Police Department to Purchase and Equip Police Vehicles.

0:07:44 **VOTE**

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

0:07:56 **6. CONSIDER APPROVAL OF TEMPORARY BUSINESS LICENSE TO CONDUCT DOOR TO DOOR SALES OF EDUCATIONAL BOOKS BY SOUTHWESTERN ADVANTAGE DBA RENE'S BOOKS**

Mr. Patterson said the applicant is requesting a business license to conduct door to door solicitations for the sell and distribution of educational books and applications. He said a background report was provided by the Police Department, however that report was inconclusive. He said the Planning Department would recommend approval of the business license in compliance with Section 28-166 of the Carlsbad Code of Ordinances with the following conditions; the door to door solicitor shall not begin solicitation before 9:00 am or continue any solicitation after 7:00 pm.

Councilor Forrest said he doesn't agree with door to door solicitors. He said they could try to promote their business through social media.

0:09:32 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to deny Temporary Business License to conduct door to door sales of educational books by Southwestern Advantage dba Rene's Books.

0:09:49 **VOTE**

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

0:10:09 **8. CONSIDER APPROVAL OF RESOLUTION 2023-32, A RESOLUTION INCREASING THE CONTRIBUTION FROM THE CITY OF CARLSBAD (CITY), TO THE NEW MEXICO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA) FOR CARLSBAD POLICE OFFICERS ASSOCIATION (CPOA) UNION MEMBERS PARTICIPATING IN MUNICIPAL GENERAL PLAN 3**

Mrs. Austin said Resolution 2023-32 will increase the PERA contribution from the City of Carlsbad for Carlsbad Police Officers Association (CPOA) union members participating in Municipal General Plan 3. She said state statute authorizes affiliated public employers of PERA to contribute up to 75% of its employee's member contribution. She said in an effort to recruit hire and retain law enforcement personnel; the City of Carlsbad is recommending a 57.77% pickup for CPOA union members in Municipal General Plan 3. Mrs. Austin said it is a decrease to the employees' contribution of 5.65% and an increase of the City's contribution of 6.65%. She said CPOA union member participating in Municipal General Plan 3 include Animal Control Officers, Animal Control Supervisors, Community Service Officers, Evidence Clerks, Records Clerks, Record Clerks Supervisors, Telecommunicators, and Telecommunicator Supervisors. She said this increase will be at a cost in the Fiscal Year 2024 budget of \$90,000 to the City.

Councilor Forrest asked if this match is similar with what union members were asking for. Mrs. Austin said yes. Councilor Chavez asked if this was agreed on amongst the union members. Mrs. Austin answered yes.

Mrs. Austin said if Council members approve this Resolution, then our Resolution will go before the PERA board in August 2023. She said if the PERA board approves it, the rate changes will be implemented in the first pay period in September.

0:13:01 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Resolution 2023-32, a Resolution increasing the contribution from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA)

for Carlsbad Police Officers Association (CPOA) union members participating in Municipal General Plan 3.

0:13:07 **VOTE**

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

0:13:21 **9. CONSIDER APPROVAL OF RESOLUTION 2023-33, A RESOLUTION INCREASING THE CONTRIBUTION FROM THE CITY OF CARLSBAD (CITY), TO THE NEW MEXICO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA) FOR MUNICIPAL POLICE PLAN 5**

Mrs. Austin said this is a supplement to the previous Resolution. She said the previous Resolution covered certified police officer within the union, but this Resolution will cover the certified officers that are not in the union. She said this includes the Police Chief, the Assistant Police Chief, Captains, Lieutenants, Corporals, Detectives, Evidence Technicians, Patrolmen and Sergeants. Mrs. Austin said this increase to the Fiscal Year 2024 budget would be approximately \$500,000.

Councilor Walterscheid asked if this is the same pay rate of the County. Mrs. Austin said there is a larger picture to consider, she said in her opinion, the City of Carlsbad pays very well and offers great benefits to our employees, even those within the police union. She answered yes, it is very comparable, if not better. Councilor Chavez asked if this is for non-union members. Mrs. Austin said this Resolution is for all in Municipal Police Plan 5, which is non-union. Mr. Lowe said this under Municipal Police Plan 5 includes some union members and some non-union members.

Councilor Rodriguez said he applauds the effort to give our employees structure and in a manner that is what they were asking for.

0:15:53 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Resolution 2023-33, a Resolution increasing the contribution from the City of Carlsbad (City), to the New Mexico Public Employees Retirement Association (PERA) for Municipal Police Plan 5.

0:15:58 **VOTE**

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

0:16:13 **10. CONSIDER APPROVAL OF RESOLUTION 2023-34, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS OR WEEDS AT 2506 PRIMROSE OWNER: NORWEST BANK NM, ALBERT LOPEZ K OF S**

Mrs. Madrid-Boyea said this proposed Resolution involves property at 2506 Primrose. She said there is not a residence on the property but there is an old mobile home that had burned on the property in 2019, and a shed that appears to be occupied. She said there is an enormous amount of junk, trash, debris and rubble. She said the Eddy County Assessor's Office lists Norwest Bank NM as owning or having an interest in the property. **Mrs. Madrid-Boyea** said Code Enforcement has been to this property many times; there was a verbal warning given in April 2023 and a Notice of Violation was mailed to the owner at the certified address on May 8, 2023 and on June 6, 2023. She said Code Enforcement has spoken to the occupants in person regarding the complaints and code violations. She said the property has been inspected by City Code Enforcement and the Fire Marshall who found that it remains out of compliance and that the property presents an extreme fire hazard for responding firefighters and emergency personnel, and they recommend that the property be cleaned, and the weeds, trash, and debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for consideration.

Councilor Walterscheid asked if the yard is being used for construction. **Mrs. Madrid-Boyea** said it looks like they are using it for storage. **Mr. Walterscheid** asked if it is actively being used. **Mrs. Madrid-Boyea** said she is not certain, but it looks like there is an individual that is regularly staying there.

Mr. Patterson said from his understanding, the people that are staying at the property, are just accumulating junk. He said it is not being used as a business or a yard. **Mr. Patterson** said he believes someone is living in the van on the property.

Councilor Rodriguez said he drove past this property on the way to the meeting and he believes the pictures provided don't do it justice.

0:20:15 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Resolution 2023-34, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris or weeds at 2506 Primrose Owner: Norwest Bank NM, Albert Lopez K of S.

0:20:29 **VOTE**

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

0:20:43 **11. COUNCIL COMMITTEE REPORTS**

0:20:53 **Mayor Janway** asked if anyone in the audience would like to address the Council. **Jason Stearns**, owner of Zia Valley Food Court and the Ice Cream Man, came to the podium. He explained he is having safety issues at his food court's location, including drainage problems, trash, and parking. He thanked Council

members for approving his ice cream truck and said he has gotten an extreme amount of positive feedback from the community. He said the Wingstop located next to his property has their delivery trucks blocking his gate, which makes it unsafe for his customers to leave. He said it was recommended to him to go before Council members and express his concerns, and to try to make that specific area a fire lane. **Mr. Stearns** said this business is on the corner of Kircher and National Parks Highway. He said Mr. Jenkins owns the business next to Wingstop. **Mr. Stearns** said he has had ongoing issues with Mr. Jenkins for the last 18 months. **Mr. Stearns** said Mr. Jenkins' parking lot slopes straight to the fence line which is adjacent to his. He said any time it has rained; his property gets flooded. He said Mr. Jenkins is operating in code violation. **Mr. Stearns** said according to the Ordinance, Mr. Jenkins is supposed to have an engineered drainage system on his property. **Mr. Stearns** said he also pays for his trash to be taken out twice a week but it only gets picked up once a week. **Mr. Stearns** said he comes before Council members to ask for their assistance to resolve these issues.

Mayor Janway asked **Mrs. Madrid-Boyea** to explain the process to **Mr. Stearns** on how the City handles code violations. **Mrs. Madrid-Boyea** said Mr. Stearns has an attorney, therefore she could not discuss any matters regarding his complaints without his attorney present.

Mr. Stearns asked to discuss the semi-truck that is parked in front of his gate. **Mr. Patterson** said this has been reported, and he believes the police have cited two different drivers. He said Wingstop has been informed but he believes it is still happening.

Captain Duarte said to his understanding, a Wingstop vehicle has been parking partly on the sidewalk and the shoulder and it was not only blocking Mr. Stearns' private property entry way, but it was also creating an issue for people pulling out of Mr. Stearns' property. He said the Traffic Division has issued citations.

Mayor Janway asked **Mr. Patterson** if there is anything else he would like to add to prevent any more issues. **Mr. Patterson** said he could visit the manager and property owner of Wingstop and tell them to pull their delivery trucks into the parking lot. **Mr. Stearns** said he wants a fire lane. **Mrs. Denise-Boyea** said an issue with a fire lane is that it is a state highway and it is governed by the state. **Mayor Janway** suggested a no parking sign.

Councilor Chavez asked if the semi-truck is parking on the sidewalk, and if so there is an Ordinance regarding that. He said if he were to park on the street, then he would be blocking two lanes of traffic. **Captain Duarte** said citations could be issued every single day but there might not be any change.

Councilor Niemeier asked if his trash not being picked up has been addressed. **Mr. Stearns** said no.

0:46:35 Mayor Janway asked if there were any further questions or comments for Mr. Stearns. There were none.

0:46:42 Mayor Janway asked if there were anyone else who would like to address the Council. No one appeared.

0:46:55 12. ADJOURN

0:46:55 MOTION

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

0:47:03 VOTE

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

0:47:15 Adjourn

There being no further business, the meeting was adjourned at 6:47 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk