

**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 25, 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
	Wendy Austin	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
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Mary Kairouz	WSP
	Robin Terrell	Mewbourne Oil
	Bradley Bishop	Mewbourne Oil
	Robert Duran	Curbside Cravings
	Wade Smith	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**

0:00:48 Invocation - Pledge of Allegiance

0:01:24 **1. APPROVAL OF AGENDA**

0:01:27 **MOTION**

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

0:01:32 **VOTE**

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

0:01:45 **2. CITY OF CARLSBAD FINANCIALS - JUNE 2023**

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

0:03:21 **3. CONSIDER APPROVAL OF RESOLUTION 2023-35, A RESOLUTION APPROVING THE 4TH QUARTER FINANCIAL REPORT AS OF JUNE 30, 2023**

Mrs. Salcido said this is the 4th quarter Fiscal Year 2023 finance reports. She presented the DFA recap; she said this information is the same as the June 2023 finance reports that were previously reviewed, however the Department of Finance and Administration requires to consolidate our City funds into their designated chart of accounts. She said DFA also requires that the governing body approve these 4th quarter financial reports and submit the reports along with our final budget.

0:04:11 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Waters to approve of Resolution 2023-35, a Resolution approving the 4th Quarter Financial Report as of June 30, 2023.

0:04:18 **VOTE**

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

0:04:34 **4. CONSIDER APPROVAL OF RESOLUTION 2023-36, A RESOLUTION APPROVING THE CITY OF CARLSBAD 2023-24 FISCAL YEAR FINAL BUDGET**

Mrs. Salcido reviewed the final budget for Fiscal Year 2024, highlighting increases from the interim budget to the final budget. Mrs. Salcido thanked Chairman Rodriguez of the Budget Committee, Councilor Carter, Councilor Chavez, and Councilor Forrest for their expertise and guidance in developing the Fiscal Year 2024 budget.

Councilor Rodriguez thanked the Finance Department for their diligence.

0:06:28 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve of Resolution 2023-36, a Resolution approving the City of Carlsbad 2023-24 Fiscal Year Final Budget.

0:06:34 **VOTE**

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

0:06:52 **5. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on July 11, 2023
- B. City Personnel Report
- C. Contracts and Agreements
 - 1) Consider Approval of renewal Agreement between the City of Carlsbad a and Carlsbad MainStreet for Pearl of the Pecos Arts and Cultural District Management
 - 2) Consider Approval of renewal Agreement between the City of Carlsbad and Robert Jacquez dba Ultra Clean Carpet for the cleaning of city restrooms and Janitorial services
 - 3) Consider Approval of 30-day extension to the Agreement between the City of Carlsbad and Orlando Garza dba Guadalupe Pest Control, LLC for Grounds Maintenance and Grave opening and closing services at Carlsbad Cemeteries
- D. Monthly Reports
 - 1) Community Development Department June 2023
 - 2) Municipal Court Department June 2023
 - 3) Municipal Services Department June 2023
 - 4) Transportation and Facilities Department June 2023
- E. Board Appointments
 - 1) Carlsbad Museum and Art Center Board appoint Jeff Pangburn four-year term
- F. Set the Date: August 22, 2023
 - 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 4.15 acre property located at 2412 Tulip Street
 - 2) Ordinance rezoning part of "R-R" Rural Residential District to "R-2" Residential 2 District for an approximately 5.50 acre property located at West of 301 W Chapman Road
 - 3) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.23 acre property located at the Northwest intersection of North First Street and Northeast First Street

0:07:10 **Mayor Janway asked Mr. Lowe to briefly discuss Agenda item C1, Consider Approval of renewal Agreement between the City of Carlsbad and Carlsbad MainStreet for Pearl of the Pecos Arts and Cultural District Management.**

Mr. Lowe said in 2018, the City of Carlsbad was approved to form the Carlsbad Arts and Cultural District (ACD). He said the ACD is a partnership between the City of Carlsbad, Creative Carlsbad and MainStreet. Mr. Lowe said this is an agreement with Carlsbad MainStreet to act as the program manager for the Pearl of the Pecos Arts and Cultural District. He said the City will fund \$30,000 for the Director position, and these funds have been included in the Fiscal Year 2024 budget.

0:07:52 **MOTION**

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

0:07:59 **VOTE**

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

0:08:16 **6. CONSIDER APPROVAL OF REQUEST FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF INTER-LOCAL LIQUOR LICENSE NO 2625 WITH ON PREMISE CONSUMPTION FOR PUMPJACK LLC LOCATED AT 1503 S CANAL**

Mr. Lowe said a public hearing was held on July 19, 2023 and there was no opposition to this proposed license. He said the applicant is Shawna Calhoun.

0:09:22 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Rodriguez to approve of request for a Transfer of Ownership and change of location of Inter-Local Liquor License No 2625 with on premise consumption for Pumpjack LLC located at 1503 S Canal.

0:09:31 **VOTE**

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

0:09:45 **7. CONSIDER APPROVAL OF REQUEST FROM MEWBOURNE OIL TO DRILL AND CONSTRUCT A GAS PRODUCTION WELL SUNRISE 31 WOLI FEE #1H WITHIN THE CITY LIMITS**

Mr. Lowe said this is a request from Mewbourne Oil to drill inside the City limits. He said on May 1, 2023, the City received an application to drill from Mewbourne. Mr. Lowe said Chapter 34 of the Carlsbad Code of Ordinances defines this process for the applicant to obtain a permit. He said the City of Carlsbad retained WSP Environmental and Infrastructure, Inc. (WSP) to review the application, and on June 7, 2023, WSP deemed the application complete and ready for Council consideration.

0:10:50 **Mayor Janway asked if there were any questions or comments from the Council.**

Councilor Chavez said according to the paperwork, WSP does not have any liability insurance, and asked if this was correct. **Ms. Kairouz** said the insurance expired on July 1, 2023, and it needs to be renewed.

Robin Terrell, District Manager of Mewbourne Oil Company, said there are some conflicting maps. He said the Oil Conservation District (OCD) map shows that the surface location was outside the city limits of Carlsbad. **Mr. Terrell** said Mewbourne Oil did mistakenly start the drilling process prior to having approval from the City of Carlsbad. He said they did have approval from OCD.

Bradley Bishop passed out the OCD map to Council members.

Councilor Walterscheid asked how far along Mewbourne is in the drilling process. **Mr. Terrell** said they have drilled 3,200 ft. of one of the 14,000 ft. wells. **Mr. Terrell** said **Mr. Lowe** told him they needed to cease and desist their drilling operations. He said over the weekend, the appropriate plugs were set, moved the drilling rig out, and submitted paperwork for Council approval. **Councilor Walterscheid** asked if the drilling rig was taken down. **Mr. Terrell** said yes, the rig was moved to another location and drilled subsequent wells.

Councilor Chavez asked if the OCD website is an official record for maps. **Mrs. Madrid-Boyea** said she does not know where the official map comes from.

Councilor Rodriguez asked in their permit process, do they have to submit a metes and bounds survey to the OCD. **Mr. Terrell** said yes, there is an official plat for the surface location of the well.

Councilor Forrest asked if there is any liability. **Mr. Terrell** said yes.

Councilor Carter asked if this meets all of the terms and conditions that the City of Carlsbad requires to drill within the city limits. **Ms. Kairouz** said no, they have one more issue that is being within 500 ft. of an existing residence or commercial building. She said right now it is at 417 ft.

Mr. Terrell said he has reached out to Tool Pushers, the company within the 500 ft. boundary, and asked them if they had any problems with the drilling. **Councilor Carter** said his concern is if the Ordinance that was drafted years ago allowed for a variance.

Mayor Janway asked **Mrs. Madrid-Boyea** to go over the specific Ordinance. **Mrs. Madrid-Boyea** said the Ordinance was passed in 2004 and it provides that no well shall be drilled at any location within the city and no permit shall be issued for any well to be drilled at any location within the city, nor shall any storage tank be located within the

city nearer than 500 ft. to any existing residents or commercial building. Provided however, that the Council may, in considering any application for a permit, require a greater distance depending on the circumstances and so specify in the permit. **Mrs. Madrid-Boyea** said she was asked to review the entire Ordinance on the drilling of oil and gas wells and pipelines. She said she did not see any provision for a variance.

Councilor Carter said unless they are willing to move over the 83 ft. he does not see how this could move forward.

0:21:36 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Chavez to approve the request from Mewbourne Oil to drill and construct a Gas Production Well Sunrise 31 WOLI Fee #1H within the City Limits with the stipulation that Mewbourne Oil move the drilling rig to be in the 500 ft. range and in compliance with City Ordinance.

0:22:41 **VOTE**

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

0:23:34 **8. CONSIDER APPROVAL OF REQUEST FROM MEWBOURNE OIL TO DRILL AND CONSTRUCT A GAS PRODUCTION WELL SUNRISE 31/32 WOMP FEE #1H WITHIN THE CITY LIMITS**

Mr. Lowe said this request is from Mewbourne to drill inside city limits. He said this application was received by the City of Carlsbad on May 1, 2023.

0:23:59 **Mayor Janway** asked if there were any questions or comments from the Council.

Councilor Walterscheid said since the last vote was to deny unless they moved the well over, the vote should be the same with this item.

0:24:20 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Niemeier to approve the request from Mewbourne Oil to drill and construct a Gas Production Well Sunrise 31/32 WOMP Fee #1H within the City Limits with the stipulation that Mewbourne Oil move the drilling rig to be in the 500 ft. range and in compliance with City Ordinance.

0:24:32 **VOTE**

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

0:24:51 **9. CONSIDER APPROVAL OF RECOMMENDATION FROM THE BOARD OF WATER AND SEWER COMMISSIONERS REGARDING THE WATER TRUST BOARD APPLICATION FOR THE EFFLUENT 5B PROJECT**

Mr. Lowe said on September 13, 2022, the Council approved submitting a Water Trust Board Application to Effluent 5B Project. He said this fully engineered project was designed to bring effluent water from the new holding pond at the Lake Carlsbad Golf Course under the Pecos River to irrigate the grass throughout the Lake Carlsbad recreational area. Mr. Lowe said at the time of submission, it was anticipated that this project would be funded with a 90% grant and a 10% City match; however, this application was approved by the State of New Mexico with a 60% grant and a 40% City match. He said the funding breakdown is as follows, a \$4.3 million grant, a \$2.7 million City match, and a \$2.8 million required City loan, with the total cost for the City of Carlsbad being \$5.5 million. Mr. Lowe said at the regular meeting on July 20, 2023, the Board of Water and Sewer Commissioners voted to not accept the grant with a vote of four in favor and one absent.

0:26:08 **Mayor Janway asked if there were any questions or comments from the Council.**

Councilor Rodriguez said one of the topics of discussion at the Board of Water and Sewer Commissioners meeting was whether or not this could be resubmitted at a later date. Councilor Rodriguez said they can resubmit this, and denying this now does not mean we cannot reapply and be reconsidered. He said it did not fall within the financial parameters that we were seeking in order to make this viable for the City of Carlsbad.

0:27:07 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve the recommendation from the Board of Water and Sewer Commissioners regarding the Water Trust Board Application for the Effluent 5B Project.

0:27:14 **VOTE**

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

0:27:32 **10. CONSIDER APPROVAL OF ACCEPTANCE OF A JUNIOR BILL APPROPRIATION AGREEMENT FROM THE NEW MEXICO AGING & LONG-TERM SERVICES DEPARTMENT FOR SERVICES AND EQUIPMENT AT THE SENIOR CENTERS**

Mrs. Barrios-Testa said the City was allocated \$100,000 in Junior Bill money. She said this is separate from the regular capital outlay that our area legislatures had set aside for the City of Carlsbad to spend for the two senior centers. She said she is working with North Mesa Senior Center and Alejandro Ruiz Senior Center to put together a list of items that they need and did not have funded in their regular budget.

0:28:43 Mayor Janway asked if there were any questions or comments for Mrs. Barrios-Testa.

Councilor Rodriguez asked since this is a one-time money grant, does it have to be capital or fiscal. Mrs. Barrios-Testa said it does have to be spent this fiscal year. She said it could be used for small items as it is also for services. She said the plan is to split it in half between the two senior centers.

0:29:32 MOTION

The motion was made by Councilor Neimeier and seconded by Councilor Waters to approve of acceptance of a Junior Bill Appropriation Agreement from the New Mexico Aging & Long-Term Services Department for Services and Equipment at the Senior Centers.

0:29:39 VOTE

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

0:29:58 **11. INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN PRELIMINARY LIST PRESENTATION FOR FY 2023-2027 FOR COUNCIL REVIEW AND RECOMMENDATIONS**

Mrs. Barrios-Testa said this is for FY 2025-2029. She said it is a five-year planning tool that is updated annually so that we can move projects out that have been funded or if something has been reprioritized. She said the city staff works on this annual process and it typically runs the same timelines every year. She said in June there is a public meeting and an open comment meeting. She said the City is not required to participate but we do have to have projects on this list in order for us to receive State funding. She said going through this process helps us with federal programs.

Mrs. Barrios-Testa said comments can be provided tonight, through July 31, 2023 to make any updates to the list. She said this will allow us to prepare the final list to bring to the August 8, 2023 Council meeting. She said the deadline to upload the projects is August 18, 2023 for the municipality and September 8, 2023 for the senior projects.

0:34:04 Mayor Janway asked if there were any questions or comments for Mrs. Barrios-Testa.

Councilor Rodriguez said the night of the ICIP meeting was not very well attended. He asked Mrs. Barrios-Testa to inform us of other ways people had to comment. Mrs. Barrios-Testa said we provided a comment period from June 1, 2023 to June 16, 2023. She said people were able to call or email and provide comments. She said they did receive quite a bit of comments and had a lot of support for projects that are already on the list.

Councilor Walterscheid said the first five items on the list were Mike Abell's projects and it is interesting to see. Mrs. Barrios-Testa said we typically look at the need for the projects and how they are going to affect the community. She said it does not matter where the projects fall on the list when it comes to a funding source. She said as long as they are on the list, it is going to help for future funding sources.

0:36:36 **12. CONSIDER APPROVAL OF REQUEST BY MILTON'S BREWERY TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS DURING MILTON'S BREWING "80'S STREET PARTY"**

Mr. Patterson said Milton's Brewery is requesting to host an 80's street party on Wednesday, August 23, 2023. He said the event will be from 4:00 pm to 11:00 pm along Mermod Street and Canyon Street. He said as part of this event, Milton's Brewery plans for food trucks and local vendors along with alcohol service (beer & wine). He said the event will be set up by a licensed alcohol server and will be roped off, alcohol will be served from 4:00 pm to 10:00 pm, and the event will have controlled entrance for attendees and security will be provided. Mr. Patterson said the Planning Department would recommend approval of this request with the following conditions; the alcohol server obtain all required licenses and permits, Milton's Brewery and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location, including but not limited to, fencing of the serving area, carding of customers, and providing appropriate security, Milton's Brewery shall name the City of Carlsbad as an additional insured on their general liability insurance and liquor server insurance in the amount to be approved by the City Administrator.

0:38:31 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve of request by Milton's Brewery to serve alcohol (beer & wine) on City streets during Milton's Brewing "80's Street Party".

0:38:37 **VOTE**

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

0:38:51 **13. CONSIDER APPROVAL OF REQUEST BY MILTON'S BREWERY TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS DURING MILTON'S BREWING "SEPTEMBER FEST"**

Mr. Patterson said Milton's Brewery is requesting to host September Fest on Saturday, September 23, 2023. He said the event will be from 11:00 am to 11:00 pm along Mermod Street and Canyon Street. He said as part of this event, Milton's Brewery plans for an additional small brewer, food trucks, local vendors, and a cornhole tournament along with alcohol service (beer & wine). He said the event will be set up by a licensed alcohol server and will be roped off, alcohol will be served from 12:00 pm to 10:00 pm, and the event will have one controlled entrance for attendees and security will be provided. Mr. Patterson said the Planning Department would recommend approval of

this request with the following conditions; the alcohol server obtain all required licenses and permits, Milton's Brewery, Blackcock Brewery, and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location, including but not limited to, fencing of the service area, carding of customers, and providing appropriate security, Milton's Brewery and Blackcock Brewery shall name the City of Carlsbad as an additional insured on their general liability insurance and liquor server insurance in the amount to be approved by the City Administrator.

0:40:47 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Anaya-Flores to approve of request by Milton's Brewery to serve alcohol (beer & wine) on City streets during Milton's Brewing "SeptemberFest".

0:40:54 **VOTE**

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

0:41:10 **14. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) OF SNOW CONES AND RELATED FOOD AND DRINKS (NON-ALCOHOLIC) ON CITY PROPERTY AT THE CARLSBAD BEACH BY LA MONARCHA OWNER: ESTEFANIA VALENZUELA**

Mr. Patterson said this is a request for permission to allow for mobile sales and vending of snow cones and related food and drinks (non-alcoholic) on City property at the Carlsbad Beach Park. Mr. Patterson said the Planning Department would recommend approval of this 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 request grants permission to the applicant to vend snow cones and related food and drinks (non-alcoholic) on City owned property at the Beach Park parking lot from Thursday through Sunday starting on July 27, 2023, until December 31, 2023, and the applicant will need to provide a surety bond to the Planning Department.

0:42:49 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to approve of Temporary Use Application to allow for mobile sales (vending) of snow cones and related food and drinks (non-alcoholic) on City property at the Carlsbad Beach by La Monarcha Owner: Estefania Valenzuela.

0:43:05 **VOTE**

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

0:43:19 **15. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) OF FOOD AND DRINKS (NON-**

ALCOHOLIC) ON CITY PROPERTY AT THE CARLSBAD BEACH PARK BY CURBSIDE CRAVINGS OWNER: ROBERT DURAN

Mr. Patterson said the applicant is requesting to set up for mobile vending of food and drinks (non-alcoholic) on City owned property, both at the Beach Park parking lot and the Ray Anaya San Jose Plaza. He said the applicant did inform him that he currently has one food truck that he would like to go back and forth to test the market. Mr. Patterson said the applicant will be required to provide a surety bond for this type of request. He said the Planning Department recommends approval with the following conditions; the applicant shall not disturb the peace with a loud speaker, megaphone, bell, music, or other disruptive noise. He said approval of this request grants permission to the applicant to vend food and drinks (non-alcoholic) on City owned property at the Ray Anaya San Jose Plaza, Sunday through Saturday, 5:00 am to 11:00 pm, and at the Carlsbad Beach Park, 5:00 pm to 9:00 pm, Saturday through Sunday, beginning on July 26, 2023 through December 31, 2023.

Councilor Walterscheid asked what kind of food does this applicant want to serve. Mr. Patterson said the applicant did not specify in their application but he believes they are in attendance to further elaborate.

Robert Duran of Curbside Cravings, said there will be a different menu every day. He said some of the things they serve are enchiladas, tacos, and brisket.

0:46:01 **MOTION**

The motion was made by Councilor Neimeier and seconded by Councilor Anaya-Flores to approve of Temporary Use Application to allow for mobile sales (vending) of food and drinks (non-alcoholic) on City property at the Carlsbad Beach Park by Curbside Cravings Owner: Robert Duran.

0:46:06 **VOTE**

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

0:46:20 **16. CONSIDER APPROVAL TO TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) OF FOOD AND DRINKS (NON-ALCOHOLIC) ON CITY PROPERTY AT THE RAY ANAYA SAN JOSE PARK BY JD'S FOOD TRUCK OWNER: JORGE DEL MURO**

Mr. Patterson said the applicant is requesting to set up for mobile vending of food and drinks (non-alcoholic) on City owned property at the Ray Anaya San Jose Plaza. He said the Planning Department recommends approval with the following conditions; the applicant shall not disturb the peace with a loud speaker, megaphone, bell, music, or other disruptive noise. He said approval of this request grants permission to the applicant to vend food and drinks (non-alcoholic) on City owned property at the Ray Anaya San Jose Plaza, Thursday through Sunday, beginning on July 27, 2023 through

December 31, 2023. He said the applicant will need to provide a surety bond to the Planning Department.

Councilor Walterscheid asked what kind of food are they selling. **Mr. Patterson** said he is not sure but their application stated fast food.

0:48:05 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Chavez to approve of Temporary Use Application to allow for mobile sales (vending) of food and drinks (non-alcoholic) on City property at the Ray Anaya San Jose Park by JD's Food Truck Owner: Jorge Del Muro.

0:48:14 **VOTE**

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

0:48:36 **17. 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 STREET APPELLANT: LUCAS MCDONALD**

Mr. Patterson said at their regularly scheduled meeting on June 5, 2023, the Planning and Zoning Commission considered a request for a variance to reduce the required side property setback from a minimum of 5 ft. to 0 ft. at the subject property, 1209 W. Thomas Street. He said the subject property is currently zoned "R-1" Residential 1 District and the required side property setback is 5 ft. He said the applicant, Lucas McDonald, stated in his application that he plans to place a carport structure over his current driveway in order to provide shelter for his vehicles and provide a covered area for his children to play. **Mr. Patterson** said the Planning and Zoning Commission considered the application materials and the statements made, and voted to deny this request with a vote of four in favor of denial, zero against denial, and one absent. He said on June 6, 2023, the applicant submitted an email stating that he is appealing the decision of the Planning and Zoning Commission to the City Council.

0:50:01 **Mayor Janway** asked if there were any questions or comments for **Mr. Patterson**.

Councilor Walterscheid asked if Chief Ahrens could come to the podium and explain why the request is being denied.

Chief Ahrens said he believes Councilor Walterscheid is referencing fire lane regulations, as far as widths and access. **Chief Ahrens** said this plays a big part, more so in commercial properties than in residential. He said in cases of setback, especially on narrow residential roads, they have limited visibility and large trucks that need to go through. He said issues with fencing, carports and debris restricts their ability to gain entrance and serve our citizens.

Mayor Janway called the appellant, Lucas McDonald, to the podium. Mr. McDonald said he understands that the setback is in the fire code, but he has an alley that is accessible for the Fire Department to be able to access his house. He said he could still build the carport, but all he is asking for is to be able to utilize his driveway. He said a one car driveway does not look appealing.

Councilor Forrest said we have our City codes for a reason and we should not make exceptions.

0:54:46 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to deny the appeal and to uphold the decision by the Planning and Zoning Commission to deny a variance request to reduce the required side property setback at 1209 W Thomas Street Appellant: Lucas McDonald.

0:54:55 **VOTE**

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

0:55:18 **18. CONSIDER APPROVAL OF ORDINANCE 2023-13, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 18.5 ACRE PROPERTY LOCATED AT 3201 BOYD DRIVE APPLICANT: VALLEY PROPERTIES, LLC/CHRIS HAMILL**

0:55:41 **A. Public Hearing**

Mr. Patterson said this is a request for a zoning change from "R-R" Rural Residential District to "C-2" Commercial 2 District for approximately 18.5 acres at 3201 Boyd Drive. He said the properties to the east and west are zoned "R-R" Rural Residential District and the properties to the north and south are zoned "C-2" Commercial 2 District, therefore this would not create a spot-zone. He said this item was considered at the June 5, 2023, Planning and Zoning Commission meeting and the commission voted to recommend approval; with a vote of three in favor in approval, none against, one absent, and one abstain.

0:56:48 **Mayor Janway asked if anyone would like to speak regarding the Ordinance. No one appeared and the Mayor declared the public hearing closed and reconvened the Council into regular session.**

0:57:03 **B. Approval of Ordinance**

0:57:04 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Walterscheid to approve of Ordinance 2023-13, an Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial 2 District for an approximately 18.5 acre property located at 3201 Boyd Drive Applicant: Valley Properties, LLC/Chris Hamill.

0:57:17 **VOTE**

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

0:57:32 **19. CONSIDER APPROVAL OF RESOLUTION 2023-37, A RESOLUTION STATING THE REQUIREMENTS FOR NOTICE OF PUBLIC MEETINGS OF THE GOVERNING BODY, BOARDS, COMMISSIONS, COMMITTEE, AGENCIES, AUTHORITIES, OR OTHER POLICYMAKING BODIES OF THE CITY OF CARLSBAD**

Mr. Lowe said State statute requires the governing body to annually adopt a Resolution stating the requirements for notice of public meetings. He said the last amendment to the New Mexico Open Meetings Act was in 2013.

0:58:11 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Walterscheid to approve of Resolution 2023-37, a Resolution stating the requirements for notice of Public Meetings of the Governing Body, Boards, Commissions, Committee, Agencies, Authorities, or other Policymaking Bodies of the City of Carlsbad.

0:58:18 **VOTE**

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

0:58:31 **20. CONSIDER APPROVAL OF RESOLUTION 2023-38, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED, OR DILAPIDATED BUILDINGS OR STRUCTURE, RUINS, RUBBISH, WRECKAGE AND DEBRIS AT 411 N THIRD STREET OWNERS: JOSHUA LEIJA AND JAKOB DOMINGUEZ**

Mrs. Madrid-Boyea said this property is located at 411 N. Third Street in a residential area. She said there appears to be a fire damaged structure on the property, as well as rubbish, debris, and weeds that may have preexisted the fire. She said the Eddy County Assessor's Office lists the owners as Joshua Leija and Jakob Dominguez. She said Code Enforcement has spoken to one of the owners, Mr. Leija, who indicated that he lives at a different address. She said the property is vacant and unsecured. Mrs. Madrid-Boyea said Code Enforcement has been to the property, a Notice of Violation was mailed to the owners at the address on record, 411 N. Third, and the house was red tagged on June 1, 2023. She said there was a fire on the property on June 28, 2023 and the Fire Department was on scene shortly after it started. She said the property has recently been inspected by City Code Enforcement, Building Inspector, and the Fire Marshall,

and they all found that it remains out of compliance with applicable codes. She said the Fire Marshall found that the property presents an extreme fire hazard for responding firefighters and emergency personnel, and recommends that the buildings be demolished and that the property be left cleaned and the debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared which would require the owner to remove all ruins, dilapidated structures, rubbish, wreckage, debris, and weeds from the property within 30 days of service of the Resolution.

1:01:09 **Mayor Janway asked if there were any questions or comments for Mrs. Madrid-Boyea.**

Councilor Chavez asked if the car on the property is included in the Resolution. **Mrs. Madrid-Boyea** said if the car is still there when the demolition team arrives, they will typically try to locate the owner. She said if they cannot locate the owner it will be towed.

Councilor Walterscheid asked what happens when she cannot get ahold of the owners of the property. **Mrs. Madrid-Boyea** said they send a letter to the address that is on record and if they cannot get in contact with the owners, if a Resolution is passed, it will be posted on the property and they will attempt to have the Sheriff's Department serve the owners if they can be found. She said the Resolution is also posted in the Current Argus once it is passed.

1:02:17 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve of Resolution 2023-38, a Resolution requiring the removal of the ruined, damaged, or dilapidated buildings or structure, ruins, rubbish, wreckage and debris at 411 N Third Street Owners: Joshua Leija and Jakob Dominguez.

1:02:23 **VOTE**

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

1:02:38 **21. COUNCIL COMMITTEE REPORTS**

1:02:44 **Mayor Janway asked if anyone in the audience would like to address the Council.**

Wade Smith said his current residence is at 122 S. Fourth Street. He said he believed a report was issued to Code Enforcement about a neighbor at 118 S. Fourth with a collection of trash, debris, and an automobile. He said there has been an increase in debris in the last couple of months. He said the accumulation of trash keeps building and some of it is towards his property. He said he considers it a fire and a health hazard. **Mr. Smith** said he would like to see what can be done about this.

Mayor Janway asked Mr. Patterson to come up to the podium. **Mr. Patterson** said he and his Deputy Director visited this residence earlier in the day. He said he will direct Code Enforcement to begin addressing the property. **Mr. Smith** thanked Mr. Patterson.

1:05:09 **Councilor Walterscheid** said he was at a solar car show recently that was hosted at the Walter Gerrells Civic Center and it was a great occasion.

1:06:06 **22. ADJOURN**

1:06:12 **MOTION**

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

1:06:22 **VOTE**

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

1:06:40 Adjourn

There being no further business, the meeting was adjourned at 7:06 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk