

**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 AUGUST 08, 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
	Quay Dominguez	Compliance Clerk
	Angie Barrios-Testa	Director of Municipal Services
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Allan Henriksen	IT Technician
	Melissa Salcido	Finance Director
	Matthew Fletcher	Purchasing Director
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Mary Walterscheid	Garden Mart
	Zach Walterscheid	Garden Mart
	Orlando Garza	Guadalupe Pest Control
	Therese Rodriguez	Citizen
	Coby Gentry	Citizen
	Jim Waters	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**

0:00:05 Invocation - Pledge of Allegiance

0:00:39 **1. APPROVAL OF AGENDA**

0:00:42 **MOTION**

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

0:00:48 **VOTE**

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

0:01:03 **2. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on July 25, 2023
- B. City Personnel Report
- C. Purchasing
 - 1) Consider Approval of RFP 2023-09 to Orlando Garza, dba Guadalupe Pest Control for Cemetery Grounds Maintenance and Grave Opening/Closing
- D. Monthly Reports
 - 1) Human Resources Department July 2023
 - 2) Utilities Department June 2023
- E. Board Appointments
 - 1) City of Carlsbad Police Department's Citizen Advisory Board Appoint: Coby Gentry four-year term
 - 2) Carlsbad Public Library Board of Trustees Reappoint: Deborah Beard four-year term

Mayor Janway asked Mr. Fletcher to briefly discuss Agenda item C1, Consider Approval of RFP 2023-09 to Orlando Garza, dba Guadalupe Pest Control for Cemetery Grounds Maintenance and Grave Opening/Closing.

Councilor Walterscheid said he needs to recuse himself. **Mayor Janway** said he can abstain once the voting takes place.

Mr. Fletcher said the City contracts with an independent contractor for the landscape, maintenance, and grave digging services, for both the Carlsbad Cemetery and Sunset Gardens Cemetery. He said in accordance with the New Mexico procurement code, the City conducted a formal request for an RFP in order to select a contractor for this service. He said it is a customary practice of the City of Carlsbad to conduct an RFP for

contracts for a service, professional or non-professional as being solicited. **Mr. Fletcher** said an evaluation committee of six individuals representing a diverse cross-section of the community was selected to independently evaluate each proposal and assign a numerical value for each scoring category. He said the evaluations for each committee member was totaled and averaged to arrive at a total score for each proposal and the total is used as a factor to determine which contractor should be recommended for award for the contract. **Mr. Fletcher** said the City of Carlsbad received two proposals for this procurement, one from Garden Mart Inc. and the other from Orlando Garza. He said Orlando Garza received the higher score of the two and therefore is being recommended for award of the contract.

Mayor Janway asked if there were any questions for Mr. Fletcher.

Councilor Forrest asked if he verifies that both companies have the necessary licenses and insurance. **Mr. Fletcher** said yes, those documents are generally requested in the proposal and provided by the proposers.

Councilor Niemeier asked who is on the committee and how many. **Mr. Fletcher** said there are six people on the committee and it comprises a group of individuals from the community and some City officials. **Councilor Niemeier** said Garden Mart doesn't have points on the New Mexico Residents or Veteran Owned business category. She asked if that means they didn't answer that question. **Mr. Fletcher** said he asked to clarify that question during the review process and they do not have that certification. He said you have to qualify for it. He said they have to apply to the State Tax and Revenue Department to be declared a New Mexico resident business contractor or a veteran owned business contractor. **Mr. Fletcher** said Garden Mart has neither of those certifications.

Councilor Rodriguez said he believes that is known as a resident bidder. **Mr. Fletcher** said yes. He said it is designed to allow for New Mexico businesses to have an advantage when they are bidding against out of state bidders. He said with a bid, we would take the resident business' bid and reduce that number by 5% and compare the reduced number to other bids. He said in this case, if they qualify they get an additional five points added to their score.

0:06:19 **MOTION**

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

Councilor Walterscheid asked if there can be a rebuttal before the vote.

Mrs. Madrid-Boyea said there has been a motion and a second, therefore the next thing is the vote. She said there can be a discussion after.

Mayor Janway said he will allow Councilor Walterscheid to give a rebuttal, but not anyone from the audience at this time.

Councilor Walterscheid said Garden Mart possesses an irrigation license and the State of New Mexico requires a business owner to have that in their possession to be able to bid. He said Mr. Garza's contract is null and void because he doesn't have a license. He said Garden Mart is going to go through a process and fight this award.

0:09:57 **VOTE**

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

0:10:39 **3. CONSIDER APPROVAL OF REQUEST FOR A RESTAURANT A LIQUOR LICENSE FOR ROQUE BURRITOS, LLC LOCATED AT 1401 W MERMOD**

Mr. Lowe said a public hearing was held on July 26, 2023 and there were no oppositions to this proposed license. He said the Director of the Alcohol Beverage Control Division has reviewed the application and granted preliminary approval by this governing body.

0:11:15 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Forrest to approve of Request for a Restaurant A Liquor License for Roque Burritos, LLC located at 1401 W Mermod.

0:11:22 **VOTE**

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

0:11:47 **4. CONSIDER APPROVAL OF DEACCESSION AND SALE OF THE FRANK SCHOONOVER OIL ON CANVAS PAINTING UNDER A CONSIGNMENT AGREEMENT WITH THE OWINGS GALLERY**

Mrs. Barrios-Testa said this art piece is an illustration published in the Marmaduke of Tennessee by Edward Cummings in 1914. She said the Carlsbad Museum Director and the Carlsbad Museum Advisory Board are in support of the deaccession of this piece of art as it no longer consistent with the mission of the collections of the Carlsbad Museum. Mrs. Barrios-Testa said the City of Carlsbad is fortunate to have an impressive art collection and some stakeholders describe it as at a level of national significance. She said the sale of this piece will open up room for new art that aligns with the mission of the museum. She said Owings Gallery will assist with the sale because they have experience in sales such as this.

Councilor Chavez asked if the painting can be placed elsewhere instead of selling it. Mrs. Barrios-Testa said art has to be protected and things such as lighting and a HVAC system can affect an art piece. She said to display it somewhere else, there would have

to be upgrades. **Mrs. Barrios-Testa** said this is a professional services agreement. She said the City of Carlsbad can enter into with Council approval.

0:15:18 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of the Deaccession and Sale of the Frank Schoonover Oil on Canvas Painting under a Consignment Agreement with the Owings Gallery.

0:15:24 **VOTE**

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

0:15:41 **5. CONSIDER APPROVAL OF SUBMISSION OF A BUREAU OF JUSTICE FY2023 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AWARD TO THE U.S. DEPARTMENT OF JUSTICE**

Chief Skinner said this is a grant we have applied for in past fiscal years and have been granted. He said it has been very helpful and he would like to thank Mrs. Barrios-Testa and the Finance Department for reviewing, submitting, and managing these grants.

0:16:59 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of the Submission of a Bureau of Justice FY2023 Edward Byrne Memorial Justice Assistance Grant Award to the U.S. Department of Justice.

0:17:04 **VOTE**

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

0:17:22 **6. CONSIDER APPROVAL OF RESOLUTION 2023-39, A RESOLUTION RATIFYING THE AGREEMENT BETWEEN THE CITY OF CARLSBAD AND SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT (SENMEDD) FOR 2023-2024 MEMBERSHIP**

Mr. Lowe said the Southeastern New Mexico Economic Development District (SENMEDD) assists the City of Carlsbad with critical infrastructure planning, technical assistance, the ICIP, and the capital outlay program. He said the annual membership dues are \$7,641 and these funds have been approved in the FY24 budget.

0:18:02 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Niemeier to approve of Resolution 2023-39, a Resolution ratifying the Agreement between the City of Carlsbad and Southeastern New Mexico Economic Development District (SENMEDD) for 2023-2024 Membership.

0:18:08 **VOTE**

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

0:18:21 **7. CONSIDER APPROVAL OF RESOLUTION 2023-40, A RESOLUTION ADOPTING THE FY2025-2029 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)**

Mrs. Barrios-Testa said the list was presented on the July 25, 2023 regular Council meeting with an opportunity to make changes. She said there were no changes to the list therefore a proposed Resolution is being presented to submit to the State by the deadlines.

0:19:20 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Resolution 2023-40, a Resolution adopting the FY2025-2029 Infrastructure Capital Improvement Plan (ICIP).

0:19:26 **VOTE**

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

0:19:40 **8. COUNCIL COMMITTEE REPORTS**

Councilor Rodriguez said he would like to compliment the Summer Concert Series.

Mayor Janway asked **Mr. Lowe** to discuss water restrictions. **Mr. Lowe** said with the current drought conditions and extremely hot temperatures we are experiencing; the primary wellfield has dropped below Stage 1 water restrictions. He said this activated odd and even watering schedules, along with no outdoor watering between the hours of 10:00 am and 6:00 pm and no outdoor watering on Monday. **Mr. Lowe** said the City of Carlsbad shall implement reductions in the volume of the City water use on City Parks and grounds.

Mayor Janway asked if there were any questions or comments on water restrictions. **Councilor Niemeier** asked what are the consequences if somebody is watering on the wrong day. **Mayor Janway** said everything that was in place in the past was a recommendation and now it is an enforcement. **Mrs. Madrid-Boyea** said to her understanding, if there is a violation that is found, Code Enforcement and possibly other departments like Utilities and Public Works, would have a conversation with the property owner and seek their voluntary compliance. She said if there continues to be an intentional violation, it could go through the formal Code Enforcement process.

Councilor Walterscheid asked **Mr. Lowe** if the City Parks and Golf Course are following this schedule. **Mr. Lowe** said the Golf Course and the Pavilion Park are not watered with City water but with Effluent water. He said the Sports Complex is

irrigated with well water but all other City Parks are on the City water system and the volume will be reduced.

Mayor Janway asked if anyone in the audience would like to address the Council.

Mr. Garza said he would like to thank the Council, Mayor Janway and Mr. Lowe for their support. He said he will continue to make the Cemetery a beautiful place.

Mr. Walterscheid said he is protesting the contemplated award of the contract to Orlando Garza, Guadalupe Pest Control. He said this award is for the Cemetery Grounds Keeping, Maintenance, and Grave Digging Services which requires to work on irrigation and grave excavation. He said these services require construction industry division licenses. He said Mr. Garza does not possess these licenses and he does not state in his RFP response that he uses subcontractors with the appropriate construction industry division licenses. **Mr. Walterscheid** said Mr. Garza cannot be awarded the contract because he cannot legally perform these services. He said if it is awarded to him, he will go through the appropriate protesting and litigation.

0:25:56 **9. ADJOURN**

0:26:00 **MOTION**

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


0:26:09 **VOTE**

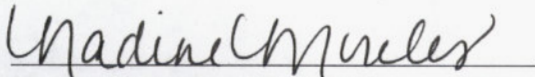
The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:26:22 **Adjourn**

There being no further business, the meeting was adjourned at 6:26 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk