

**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 SEPTEMBER 12, 2023 AT 6:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor <i>via phone</i>
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor
	Judith E. Waters	Councilor

Absent:

Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	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
	Allan Henriksen	IT Technician
	Melissa Salcido	Finance Director
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Joshua Moore	Transit Director
	Charlie Garcia	Police Officer
	Jim Waters	Citizen
	Therese Rodriguez	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**

0:00:04      Invocation - Pledge of Allegiance

0:00:40 Mayor Janway announced that he would like to pull Agenda item 14, Consider Approval of Ordinance 2023-18, an Ordinance amending a portion of Section 63(a) and (b) of Chapter 34 of the Code of Ordinances, regarding the proximity of wells, tanks or pipelines to buildings, and reschedule this item for a later date.

0:00:49 **1. APPROVAL OF AGENDA**

0:00:52 **MOTION**

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

0:00:57 **VOTE**

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

0:01:13 **2. CONSIDER APPROVAL OF RESOLUTION 2023-53, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2023-24 FISCAL YEAR BUDGET**

Mrs. Salcido reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2024 Fiscal Year Budget highlighting the General Fund, the Lodgers' Tax Promotional Fund, the Lodgers' Tax Non-Promotional Fund, and the Lodgers' Tax Discretionary Fund.

0:03:00 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Resolution 2023-53, a Resolution making certain Budgetary Adjustments to the 2023-24 Fiscal Year Budget.

0:03:06 **VOTE**

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

0:03:22 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Special City Council Meeting held on August 17, 2023
- B. Minutes of the Regular City Council Meeting held on August 22, 2023
- C. Minutes of the Special City Council Meeting held on August 31, 2023
- D. City Personnel Report
- E. Purchasing
  - 1) Consider Approval to Advertise Invitation to Bid for a 16-foot drop deck trailer for Facility Maintenance to be used for various city events
  - 2) Consider Approval to Reject and Re-Bid 2023-08 for HVAC replacement project for the Riverwalk Recreation Center
- F. Monthly Reports

- 1) Human Resources Department August 2023
- 2) Utilities Department July 2023
- G. Set the Date: October 24, 2023
  - 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-R" Rural Residential District for an approximately 1.766 acre property located East of Hamilton Street
  - 2) Ordinance rezoning part of "R-1" Residential 1 District to "C-1" Commercial 1 District for an approximately 0.24 acre property located at 400 Kircher Street
  - 3) Ordinance rezoning part of "C-2" Commercial 2 District to "R-2" Residential 2 District for an approximately 0.16 acre property located at 513 S Alameda Street
  - 4) Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.94 acre property located at 2908 San Jose Blvd

0:03:42        **Mayor Janway asked Mr. Lowe to briefly discuss Agenda item E2, Consider Approval to Reject and Re-Bid 2023-08 for HVAC replacement project for the Riverwalk Recreation Center.**

**Mr. Lowe** said the City of Carlsbad conducted bids to upgrade the HVAC system at the Riverwalk Recreation Center. He said the City of Carlsbad received one bid that was over budget and the City recommends rejecting this bid and rebidding the project at a later date with revised work. **Mr. Lowe** said the estimated bid was \$1.8 million and the available budget was \$1.4 million.

0:04:16        **MOTION**

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

0:04:23        **VOTE**

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

0:04:40        **4. CONSIDER APPROVAL OF REQUEST FROM BW GAS DBA AS ALLSUP'S FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF RETAILER LIQUOR LICENSE NO 4026 WITH OFF-PREMISES CONSUMPTION LOCATED AT 1010 S CANAL**

**Mr. Lowe** said there was a public hearing held on August 23, 2023 with no oppositions to this proposed license. He said the license at this location was moved to their new location on Chapman and that is why a new license is being requested.

0:05:37        **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to approve of request from BW Gas dba as Allsup's for a Transfer of Ownership and change of location of Retailer Liquor License No 4026 with off-premises consumption located at 1010 S Canal.

0:05:46           **VOTE**

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

0:06:01           **5. CONSIDER APPROVAL TO JOIN HOLTEC INTERNATIONAL AS A CO-PLAINTIFF IN LITIGATION IN FEDERAL COURT AGAINST THE STATE OF NEW MEXICO AND APPROVAL OF AN INDEMNITY AGREEMENT**

**Mrs. Madrid-Boyea** said the New Mexico legislature passed Senate Bill 53, which prohibits a consolidated interim storage facility in New Mexico, unless the state consents or concurs in the creation of the facility, and a permanent repository is in operation. She said Senate Bill 53 went into effect June 2023. She said federal laws in the United States Constitution has given authority to the nuclear regulatory commission to determine the requirements for the creation of interim storage facilities, which we believe preempts state laws. She said the City of Carlsbad is a member of the Eddy Lea Energy Alliance (ELEA), which has entered into certain agreements with Holtech International. **Mrs. Madrid-Boyea** said Holtech is a privately-owned corporation and it plans to develop a consolidated interim storage facility on land owned by ELEA. She said the Nuclear Regulatory Commission has conducted extensive environmental impact and safety studies, which has determined that the proposed facility has minimal environmental impacts and the facility and transportation system is safe and secure. She said the Nuclear Regulatory Commission issued a license to Holtech to construct and operate a consolidated interim storage facility in March 2023. She said Holtech is contemplating litigation against the state of New Mexico and seeks the support of the City of Carlsbad. **Mrs. Madrid-Boyea** said Holtech has agreed to indemnify the City of Carlsbad if it consents to join the litigation as a co-plaintiff.

**Councilor Walterscheid** asked what the City of Carlsbad gains by being a co-plaintiff and if surrounding areas are in support of the litigation. **Mayor Janway** said Hobbs is supporting the litigation. **Mrs. Madrid-Boyea** said the City of Hobbs has agreed to join as co-plaintiffs and they are taking it to their commissioners. She said Eddy County, Lea County, Carlsbad, and Hobbs are the four members. She said by being co-plaintiffs, it would show our support to Holtech to go forward with this litigation to try to get the courts to intervene so that the project can get started.

**Councilor Rodriguez** said we are looking at economic development in Carlsbad. He said it would be a major investment for our area if we keep the waste here. He said this could be generational income for people to have a place to work.

**Mrs. Madrid-Boyea** said the idea is that it would diversify the economy and provide good paying jobs once it becomes operational.

0:11:00        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Niemeier to approve to join Holtec International as a co-plaintiff in litigation in federal court against the State of New Mexico and approval of an Indemnity Agreement.

0:11:07        **Vote**

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

0:11:23        **6. CONSIDER APPROVAL TO ACCEPT AND APPROVE THE ENERGY EFFICIENCY AND CONSERVATION STRATEGY FOR THE CITY OF CARLSBAD**

**Mrs. Barrios-Testa** said this is the final draft for approval. She said the Department of Energy released the funding for Energy Efficiency and Conservation Block grant initiative. She said the City of Carlsbad is eligible to apply for a formula grant in the amount of \$76,000. She said the application approval was brought before Council at the April 25, 2023 meeting. She said as part of the requirement to apply for those funds, the City of Carlsbad is required to submit this energy efficiency strategy. **Mrs. Barrios-Testa** said we contracted with Souder Miller & Associates to help put the strategy together. She said we have three goals targeted; replacing 10% of obsolete lighting with efficient indoor and outdoor lighting by 2025, replace 100% of the obsolete lighting by 2030, and to develop a group of an internal team to oversee the implementation of municipal energy efficiency projects by 2025.

**Councilor Walterscheid** asked why did we not apply for the entire City of Carlsbad.

**Mrs. Barrios-Testa** said there is only \$76,000 set aside and the strategy will help to apply for future grants that are bigger in nature. She said the strategy can be expanded to add more city-wide partnerships.

0:14:26        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Waters to approve to accept and approve the Energy Efficiency and Conservation Strategy for the City of Carlsbad.

0:14:32        **VOTE**

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

0:14:45        **7. CONSIDER APPROVAL TO ACCEPT THE RAISE GRANT AWARD FROM THE U.S. DEPARTMENT OF TRANSPORTATION FOR THE PRELIMINARY PLAN OF THE DARK CANYON BRIDGE AND BIKEWAY PROJECT**

**Mrs. Barrios-Testa** said this grant agreement was developed between Federal Highway Administration and New Mexico Department of Transportation (NMDOT). She said in

April 2022 the City of Carlsbad applied for a preliminary design of the bridge in the amount of \$1,375,010 which includes the grant and the match. She said the City of Carlsbad was notified in September 2022 of the award. **Mrs. Barrios-Testa** said there was a subsequent implementation meeting where they advised us that it would be a process to develop the grant application. She said during the development process, NMDOT was requested to be the pass-through agency to assist us in managing the award because they have experience with RAISE grants. She said in anticipation of the award, the City of Carlsbad has already budgeted the project and will be ready to begin as soon as the grant agreement is fully executed.

0:16:39        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve to accept the RAISE Grant Award from the U.S. Department of Transportation for the Preliminary Plan of the Dark Canyon Bridge and Bikeway Project.

0:16:49        **VOTE**

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

0:17:08        **8. CONSIDER APPROVAL TO ACCEPT A GRANT FROM THE NEW MEXICO DEPARTMENT OF FINANCE FOR THE DOUBLE EAGLE WATERLINE REPLACEMENT PROJECT**

**Mr. Abell** said the City of Carlsbad applied for a grant and was awarded \$500,000 from the New Mexico Department of Finance to assist in our match requirements for the Double Eagle Waterline Replacement project. He said this will help offset the City's cost to this project.

**Councilor Walterscheid** asked if this grant agreement is for \$10 million. **Mr. Abell** said no, the EDA grant is approximately \$2 million with a required \$500,000 match. He said this award will help offset the \$500,000 so that there is no cost to the City of Carlsbad to put this project together.

0:18:39        **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve to accept a grant from the New Mexico Department of Finance for the Double Eagle Waterline Replacement project.

0:18:45        **VOTE**

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

0:18:57        **9. CONSIDER APPROVAL OF RESOLUTION 2023-54, A RESOLUTION AUTHORIZING FILING OF AN APPLICATION TO THE NEW**

**MEXICO DEPARTMENT OF TRANSPORTATION FOR FUNDING ASSISTANCE FOR CARLSBAD TRANSIT FOR FY 2024-2025**

**Mr. Moore** said this is an annual grant opportunity provided by the Federal Transit Administration. He said this grant provides 80% of our admin and 50% of operations for our public transit system. He said we traditionally ask for capital on top of those percentages. He said this year he is asking for a mobile payment system to accept credit cards, two new Arboc buses to replenish our aging fleet, and miscellaneous bus shelter equipment. He said this year he asking for \$708,000 in operation and \$253,000 in admin. He said it is less than the amount asked for last year because their new software allows them to run more efficiently. He said our match is 20% of admin, 50% operations, and 20% capital.

**Councilor Walterscheid** asked what condition the fleet is in. **Mr. Moore** said the transit system has been struggling with shipping and manufacturing. He said we have had buses that have been awarded but have yet to receive them so we have to keep the current fleet in a good state of repair.

0:21:35        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Resolution 2023-54, a Resolution authorizing filing of an application to the New Mexico Department of Transportation for Funding Assistance for Carlsbad Transit for FY 2024-2025.

0:21:41        **VOTE**

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

0:21:55        **10. CONSIDER APPROVAL OF RESOLUTION 2023-55, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT CAPITAL APPROPRIATION GRANT FOR THE PURCHASE AND EQUIPMENT OF AN AUTOMATED METER READING SYSTEM FOR THE WATER DEPARTMENT**

**Mr. Abell** said the City of Carlsbad applied for a grant through New Mexico Department of Environment (NMED) and was awarded a grant for \$500,000 to assist us in upgrading to an automated meter reading system. He said this will allow us to have real-time data and it will not require any new staffing. He said it will help us in Carlsbad and the La Huerta serving districts. He said this is capital outlay grant and does not require any matching funds.

**Councilor Walterscheid** asked if someone would receive a call if their meter was running constantly. **Mr. Abell** said we can set the system up to set alarms but normally we do not. He said the system is not developed enough to know any usage patterns.

**Councilor Rodriguez** asked if the data that is pulled would be directly entered in our MUNIS system for billing. **Mr. Abell** said yes, he is working with the Finance Department to make this a seamless transition.

**Councilor Carter** asked how close will this get us to being fully automated. **Mr. Abell** said this will get us to about 95% complete for automated meter readings.

0:25:59        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Resolution 2023-55, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Appropriation Grant for the purchase and equipment of an Automated Meter Reading System for the Water Department.

0:26:05        **VOTE**

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

0:26:19        **11. CONSIDER APPROVAL OF RESOLUTION 2023-56, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT CAPITAL GRANT FOR THE NATIONAL PARKS HIGHWAY SEWER SYSTEM IMPROVEMENTS AND CONSTRUCTION**

**Mr. Abell** said the City of Carlsbad applied for a grant and was awarded \$910,000 for the National Parks Highway sewer upgrade. He said this is the second round of grant funding for this project that we have applied for. He said this brings us to a total of approximately \$1.5 million in grants. He said the total estimated cost for the project is around \$6 million. **Mr. Abell** said this project will allow for future growth on the south end of Carlsbad and will allow areas that are currently served with septic tanks to be connected to a domestic sewer system. He said this is a capital outlay grant and does not require any matching funds.

0:27:30        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Resolution 2023-56, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Grant for the National Parks Highway Sewer System Improvements and Construction.

0:27:39        **VOTE**

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

0:27:52        **12. CONSIDER APPROVAL OF RESOLUTION 2023-57, A RESOLUTION AUTHORIZING THE ACCEPTANCE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT CAPITAL GRANT FOR THE**



**CONSTRUCTION AND EQUIPMENT OF A SECOND SEWER WET WELL FOR THE PRIMARY SEWER LIFT STATION**

**Mr. Abell** said the City of Carlsbad applied for this grant and was awarded \$1 million to help in funding the second Sewer Wet Well for the Primary Sewer Lift Station. He said this project is for the planning, design, constructing, and equipping of the secondary wet well. He said the total estimated cost for this project is around \$6 million. He said this will help with the emergency and maintenance problems that we currently have at the facility. He said the current facility has served the City very well however, we are starting to see some age. He said this is a capital outlay grant and it does not require any matching funds.

**Councilor Walterscheid** asked who applied for this grant. **Mr. Abell** said he has worked with Mrs. Barrios-Testa and other staff members to apply for these grants. **Councilor Walterscheid** said he commends everyone who worked on applying for these grants.

0:30:39        **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to approve of Resolution 2023-57, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Grant for the construction and equipment of a second Sewer Wet Well for the Primary Sewer Lift Station.

0:30:44        **VOTE**

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

0:31:01        **13. APPROVAL OF ORDINANCE 2023-17, AN ORDINANCE AUTHORIZING THE SECOND CORRECTION OF LEASE DESCRIPTION, AMENDMENT AND RATIFICATION OF AN OIL AND GAS LEASE WITH SPC RESOURCES LLC**

0:31:18        **A. Public Hearing**

**Mr. Lowe** said SPC Resources LLC approached the City of Carlsbad to correct an oil and gas lease agreement that was approved in 2017. He said this correction will add an additional 5.27 acres to the existing footprint for a total of 877 acres. He said in the last two months, the City of Carlsbad received royalty checks from SPC Resources LLC. He said one check was in the amount of \$198,000 and the second check in the amount of \$171,000.

**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.

0:32:36        **B. Approval of Ordinance**

0:32:39        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Ordinance 2023-17, an Ordinance authorizing the second correction of Lease Description, Amendment and Ratification of an Oil and Gas Lease with SPC Resources LLC.

0:32:49        **VOTE**

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

0:33:07        **14.    COUNCIL COMMITTEE REPORTS**

**Councilor Chavez** said he is currently attending the National Clean-Up Workshop in Washington, D.C. He said a big topic at the workshop is WIPP. He said a lot of sites across the nation depend on WIPP for permanent nuclear disposal.

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

0:35:55        **15.    ADJOURN**

0:35:56        **MOTION**

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

0:36:01        **VOTE**

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

0:36:15        **Adjourn**

There being no further business, the meeting was adjourned at 6:36 p.m.



  
Dale Janway, Mayor

  
Nadine Mireles, City Clerk