

**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 26, 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
	Allan Henriksen	IT Technician
	Melissa Salcido	Finance Director
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Coby Gentry	BPA Student
	Constance Williams	Senator Field Representative
	Therese Rodriguez	Citizen
	Caroline Banks	Citizen
	Daniel Banks	Citizen
	Sylvia Trujillo	Citizen
	Jacqueline B. Fields	Citizen
	Nathan McGee	Citizen
	Brian Worthington	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**

0:00:03 Invocation – Pledge of Allegiance

0:00:34 **Mayor Janway introduced Constance Williams with Senator Ben Ray Lujan's office. Ms. Williams said she is the field representative in Portales, NM. She said she is willing to do a constituent's services presentation to go into further detail about what she does. She said if there are any organizational meetings they would like her to speak at, she would be happy to attend.**

0:02:08 **1. APPROVAL OF AGENDA**

0:02:08 **Motion**

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

0:02:13 **Vote**

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

0:02:27 **2. CITY OF CARLSBAD FINANCIALS - AUGUST 2023**

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

0:03:57 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on September 12, 2023
- B. City Personnel Report
- C. Monthly Reports
 - 1) Community Development August 2023
 - 2) Municipal Court Department August 2023
 - 3) Municipal Services Department August 2023
 - 4) Transportation and Facilities Department August 2023

0:04:21 **Motion**

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

0:04:26 **Vote**

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

0:04:42 **4. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) OF FOOD (ICE CREAM) AND DRINKS (NON-ALCOHOLIC) WITHIN CITY STREETS AND PARKS THROUGHOUT THE CITY, FOR MUNCHIES STREET ICE CREAM TRUCK OWNER: ROSALVA MORALES**

Mr. Patterson said the applicant plans to take a mobile ice cream truck around town and within the parks to vend ice cream and related treats in various neighborhoods. He said per the application, the applicant plans to vend from 4:00 pm to 7:30 pm, Monday through Friday; and 11:00 am to 5:00 pm on Saturday and Sunday. Mr. Patterson said the Planning Department recommends approval of this request 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 the request grants permission to the applicant to vend food and drinks (non-alcoholic) within City streets from Wednesday, September 27, 2023, through Sunday, December 31, 2023. He said the applicant shall provide the City with proof of liability insurance naming the City as additional insured.

0:06:46 **Motion**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Temporary Use Application to allow for mobile sales (vending) of food (Ice Cream) and drinks (non-alcoholic) within City streets and parks throughout the City, for Munchies Street Ice Cream Truck Owner: Rosalva Morales.

0:06:53 **Vote**

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

0:07:08 **5. CONSIDER APPROVAL TO ACCEPT A GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION FOR RIVERWALK RECREATION CENTER IMPROVEMENTS**

Mrs. Barrios-Testa said this funding was requested through the legislature and it was intended to help with a phase of the HVAC improvement project at the Riverwalk Recreation Center. She said we are pleased to be receiving these funds now that the project is complete. She said the estimates have come in higher than what we originally anticipated. She said we will work towards securing other state funds to assist with additional funding that may be needed. She said in anticipation of the appropriation, the project is already budgeted and we will be ready to spend as soon as we go into the re-bid process.

Councilor Walterscheid asked if this is enough money to start the project but not complete it. Mrs. Barrios-Testa said we did receive a bid at the last Council meeting but that bid was rejected. She said to complete the project, it will cost \$3 million. Barrio-Testa said the City will have enough money to complete a significant phase.

0:09:07 **Motion**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve to Accept a Grant Agreement from the State of New Mexico Department of Finance and Administration for Riverwalk Recreation Center Improvements.

0:09:13 **Vote**

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

0:09:25 **6. CONSIDER APPROVAL OF RESOLUTION 2023-45, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURES, RUINS, RUBBISH, WRECKAGE, AND DEBRIS AT 209 W PECAN STREET OWNER: CAROLYN L BANKS**

Mrs. Madrid-Boyea said this is the same matter that was brought before City Council at the August 31, 2023 Special Meeting. She said Council members voted to give additional time and to bring the Agenda item back to tonight's meeting. **Mrs. Madrid-Boyea** said the homeowner has hired with a licensed contractor to have asbestos testing performed. She said the results have come back from this testing, and the homeowners intend to continue the clean-up and have the house demolished by the same contractor that has done the asbestos testing.

Councilor Walterscheid said he drove by the property earlier in the day and it looks like the owners have done a considerable amount of clean-up.

Carolyn Banks came to the podium and asked Council members if they have any questions regarding this issue. **Councilor Forrest** asked if her plan is to tear the house down. **Ms. Banks** said yes, they are planning to demolish it.

Councilor Walterscheid asked when they are planning to tear the house down. **Ms. Banks** said the contractor has to remove the linoleum out of the house before the demolition starts.

Councilor Rodriguez asked what are our options at this point. **Mrs. Madrid-Boyea** said what is before Council members is to adopt the proposed Resolution that had been presented at a previous meeting. She said Council members can either adopt, reject, or set certain conditions to the adoption.

Councilor Niemeier asked if they have contracted with somebody that the City uses for demolitions. **Ms. Banks** said she has not contracted with anyone to tear the house down, but to remediate the asbestos.

Daniel Banks said they had contracted with someone to tear the house down but that was before they knew there was asbestos. He said they have contracted and paid

Southwest Environmental to do the asbestos inspection. He said the results came back and there was asbestos in the linoleum, the kitchen flooring, and the bathroom. He said they contracted with the same people for remediation. **Mr. Banks** said a permit was needed and they were told it would take approximately 10 days to get the permit approved. He said the application was submitted recently and they should get the permit soon and start the remediation.

Mr. Banks said he is asking for additional time before the City hires their own contractors to demolish the house. **Mayor Janway** asked Mr. Banks if he is asking for 30 days or 60 days total. **Mr. Banks** said if the Resolution is rejected, that will give him another month to get all of the work done.

Councilor Niemeier asked if they can add conditions to extend another 30 days. **Mrs. Madrid-Boyea** said yes.

0:20:00 **Motion**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Resolution 2023-45, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structures, ruins, rubbish, wreckage, and debris at 209 W Pecan Street Owner: Carolyn L Banks with an additional 45 days.

0:21:08 **Vote**

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

0:22:36 **7. CONSIDER APPROVAL OF RESOLUTION 2023-47, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, NON-OPERABLE VEHICLES AND OCCUPIED RECREATIONAL VEHICLE AT 106 FARRIS STREET OWNER: SYLVIA A TRUJILLO**

Mrs. Madrid-Boyea said this was brought before Council members at the August 31, 2023 Special Meeting. She said Council members voted to give the property owners additional time to address the issues at the property.

Sylvia Trujillo came to the podium and showed pictures on the progress of the clean-up. **Councilor Walterscheid** said he drove by the property earlier in the day and it is in much better condition. **Ms. Trujillo** said she removed the trailer from the property on her own but is continuously looking for help. She said she is unable to find help and is unsure what to do.

Councilor Walterscheid said Ms. Trujillo has done a tremendous amount of clean-up. He said he thinks the property looks fine.

Councilor Chavez asked if it's possible to get the property re-inspected by Code Enforcement and the Fire Chief.

Mrs. Madrid-Boyea said Council members can make a motion that the property be re-inspected and table this item for a later date.

0:28:51 **Motion**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to put this item on hold for reinspection.

0:29:04 **Vote**

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

Mrs. Madrid-Boyea explained to Ms. Trujillo that no action will be taken today. She said Code Enforcement will come to her property sometime in the future to re-inspect it and prepare a new report to determine whether her property is in compliance with the Ordinances.

0:30:27 **8. CONSIDER APPROVAL OF RESOLUTION 2023-59, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, AND WEEDS AT 204 RUSSELL STREET OWNER: LISA TRAN**

Mrs. Madrid-Boyea said there appears to be an occupied structure on the property and a large amount of junk, trash, debris, a non-operable vehicle, animal feces, an unfenced swimming pool, and an RV in the front set back of the property. She said the Eddy County Assessor's Office lists Lisa Tran as owning or having an interest in the property and lists her address in Las Cruces, NM. She said Code Enforcement has been to the property and a Notice of Violation was mailed by certified mail to the owner on September 21, 2022. She said the property has been inspected by Code Enforcement and the Fire Chief and found the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends the property be cleaned and all trash and debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for Council consideration which would require the property owner to remove all ruins, rubbish, wreckage, debris, and weeds from the property within 30 days of service of the Resolution.

Councilor Walterscheid said he drove by the property and it looks like the owners are doing a considerable amount of clean-up.

Councilor Niemeier said she drove by the property as well and although she did see them cleaning up, it still looked cluttered.

0:33:03 **Motion**

The motion was made by Councilor Forrest and seconded by Councilor Niemeier to approve of Resolution 2023-59, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris, and weeds at 204 Russell Street Owner: Lisa Tran.

0:33:11 **Vote**

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

0:33:23 **9. CONSIDER APPROVAL OF RESOLUTION 2023-60, A RESOLUTION REQUIRING THE REMOVAL OF THE RUIN, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURES, RUINS, RUBBISH, WRECKAGE AND DEBRIS AT 2417 UTAH STREET OWNER: JACQUELINE B. FIELDS**

Mrs. Madrid-Boyea said there appears to be a dilapidated structure on the property, along with junk, trash, debris, and weeds. She said the Eddy County Assessor's Office lists Jacqueline B. Fields as owning or having an interest in the property. She said Code Enforcement has been to the property due to complaints since 2020, and there are no utilities on the property. She said a Notice of Violation was mailed by certified mail to the owner on February 21, 2020 and June 6, 2023 with no response from the owner. She said the property has been inspected by Code Enforcement, the Building Inspector, and the Fire Chief, and they found the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends the building be demolished, the property be cleaned and the debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for Council consideration which would require the property owner to remove all ruins, dilapidated structure, rubbish, wreckage, debris, and weeds from the property within 30 days of service of the Resolution.

Jacqueline B. Fields said she only received one letter and she has not lived at the property for ten years. **Councilor Walterscheid** asked what Ms. Fields' plans for this property are. **Ms. Fields** said she does not know.

Nathan McGee said this is the first Ms. Fields has heard of it. He asked if there is any funding to help people that are in these situations.

Mayor Janway said after the meeting they are welcome to talk to the City Administrator or the Planning Director.

Mr. McGee said they agree to demolish. He said Ms. Fields needs assistance and he is helping her as much as she can. He said it could be beneficial to create a program to help people that are in similar situations.

Councilor Walterscheid asked if thirty additional days is enough time. **Mr. McGee** said yes.

Councilor Anaya-Flores asked if they know for a fact that there is asbestos in the materials in the home. **Mr. McGee** said he does not know. **Councilor Anaya-Flores** asked if he needs to go through the process to find out. **Mr. McGee** said yes.

0:40:39 **Motion**

The motion was made by Councilor Walterscheid and seconded by Councilor Anaya-Flores to approve of Resolution 2023-60, a Resolution requiring the removal of the ruin, damaged or dilapidated buildings or structures, ruins, rubbish, wreckage and debris at 2417 Utah Street Owner: Jacqueline B. Fields with 30 additional days.

0:41:12 **Vote**

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

0:41:42 **10. CONSIDER APPROVAL OF RESOLUTION 2023-61, A RESOLUTION REQUIRING THE REMOVAL OF THE DEBRIS AT 601 N NINTH STREET OWNER: ELVA S. OLIVAS**

Mrs. Madrid-Boyea said this property appears to have an occupied dwelling and a large metal shop. She said the Eddy County Assessor's Office lists Elva S. Olivas as owning or having an interest in the property. She said the property has had multiple complaints regarding the open storage of junk, trash, and debris; including construction debris. She said Code Enforcement has been to the property and a Notice of Violation was placed on the property on September 7, 2023 and a prior verbal warning was given August 17, 2023. She said the property has been inspected by Code Enforcement and the Fire Chief, and they found the property remains out of compliance with applicable codes. She said the junk, trash, and debris remain on the property and the Fire Chief found that the property presents an extreme fire hazard for nearby residents, responding fire fighters, and emergency personnel. **Mrs. Madrid-Boyea** said a Resolution has been prepared for Council consideration which would require the property owner to remove all ruins, rubbish, wreckage, debris, and weeds from the property within 30 days of service of the Resolution.

0:43:55 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Niemeier to approve of Resolution 2023-61, a Resolution requiring the removal of the debris at 601 N Ninth Street Owner: Elva S. Olivas.

0:44:07 **Vote**

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

0:44:24 **11. CONSIDER APPROVAL OF RESOLUTION 2023-62, A RESOLUTION DETERMINING THE DELINQUENCY OF PAYMENT FOR WATER, SEWER, AND/OR GARBAGE SERVICE AS CERTIFIED BY THE CITY TREASURER**

Mrs. Salcido explained that it is a statutory requirement that the City file liens on unpaid garbage, water, and sewer utility bills each year. She explained that the total that the City will be filing liens on is \$162,091.70. She explained if Council approves the liens they will be filed with the County.

Councilor Walterscheid asked if the City cuts people off once they reach a certain amount of unpaid garbage, water, and sewer. **Mrs. Salcido** said yes, the owners have about a month to pay their bill and if no payment has been received by the following month, they will disconnect service.

Councilor Carter asked how a residential property gets to a \$7,400 bill. **Mrs. Salcido** said their bills starting in June of 2022 were over \$1,000 a month and they were making payments of about \$250. She said it's possible they have a leak and if someone has a leak they could get a significant water usage bill.

0:48:22 **Motion**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to approve of Resolution 2023-62, a Resolution determining the delinquency of payment for Water, Sewer, and/or Garbage service as certified by the City Treasurer.

Brian Worthington came to the podium and he said he has the property at 808 North Mesquite but it is not in his name yet. He said he found a squatter in his house and the water was turned on at this property during this time. He said he does not see how he is responsible for someone else that put their name on the water bill at his residence. He said he does not think he is liable for this because he did not authorize for anyone to be in the house.

Mrs. Madrid-Boyea said according to State statute, the owner is the one that is responsible to water service to the property unless the owner has filed a letter of no responsibility with the City. **Mr. Worthington** asked what does he need to do in order to resolve this issue. **Mrs. Madrid-Boyea** said the Council can decide on what they want to do, but the lien goes against the property and as the owner of the property it makes it the owners' responsibility to decide if they want to take care of the lien.

Mayor Janway suggests Mr. Worthington talk to Mrs. Salcido after the meeting to assist him on this issue.

Mrs. Madrid-Boyea said the Water Department offers payment plans.

Jim Waters came to the podium and said he owns properties in the Industrial Park and he had a renter move out but he had no reason to doubt that he did not pay the bills. He said he received the first letter in June 2023 and he received a second letter in July 2023. **Mr. Waters** said he understands water shut-offs were postponed due to the pandemic, but he said they still could have sent bills to homeowners. He said he was given a bill that was for over two years of service.

Councilor Forrest asked if there were late fees included in his total. **Mr. Waters** said he is not sure. He said the bill was an accumulation of several months of \$159.00 for the property. He said it is an unfair situation.

Mayor Janway suggests Mr. Waters talk to Mrs. Salcido after the meeting to assist him on this issue.

0:57:34 **Vote**

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

0:57:57 **12. COUNCIL COMMITTEE REPORTS**

Councilor Chavez said he recently returned from Washington, D.C. He said he attended the National Clean-Up Workshop which is founded by former Mayor Gary Perkowski. He said there were 800 attendees from around the United States. He said it humbling to see the conference get recognition when it started in Carlsbad.

0:59:37 **Mayor Janway** asked if anyone in the audience would like to address the Council. No one appeared.

Mayor Janway introduced the BPA intern, Coby Gentry. **Mr. Gentry** said he loves working with the City of Carlsbad and he is grateful for the opportunities Mayor Janway has given him.

1:00:12 **13. ADJOURN**

1:00:16 **Motion**

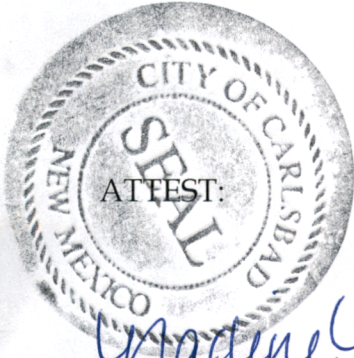
The motion was made by Councilor Anaya-Flores and seconded by Councilor Forrest to approve adjourn.

1:00:22 **Vote**

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

1:00:33 **Adjourn**

There being no further business, the meeting was adjourned at 7:00 p.m.



ATTEST:

Nadine Mireles

Nadine Mireles, City Clerk

Dale Jarway

Dale Jarway, Mayor