

**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 NOVEMBER 14, 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
	Charlie Garcia	Police Officer
	Ken Britt	Citizen
	Mason Dunnan	Citizen
	Sarah Carnero	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

0:00:38 **1. APPROVAL OF AGENDA**

0:00:40 Mayor Janway announced he would like to pull Agenda item 4, Consider Approval of Resolution 2023-70, a Resolution requiring the removal of the rubbish, trash, and debris at 118 S Fourth Street Owner: Alan C Fernandez.

0:00:42 **MOTION**

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

0:00:47 **VOTE**

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

0:01:04 **2. CONSIDER APPROVAL OF RESOLUTION 2023-69, A RESOLUTION CERTIFYING THE ANNUAL FIXED ASSET INVENTORY OF THE CITY OF CARLSBAD AS OF JUNE 30, 2023**

Mrs. Salcido explained this inventory is required by the New Mexico State Auditor, per the State Audit Rule, and NMSA 12-6-10 Annual Inventory of fixed assets costing \$5,000.00 or more. She is requesting approval of this resolution, certifying the Annual Fixed Asset review for Fiscal Year 2023.

0:01:57 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to approve of Resolution 2023-69, a Resolution certifying the Annual Fixed Asset Inventory of the City of Carlsbad as of June 30, 2023.

0:02:03 **VOTE**

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

0:02:17 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on October 24, 2023
- B. Minutes of the Special City Council Meeting held on November 1, 2023
- C. City Personnel Report
- D. Purchasing
 - 1) Consider Approval to Award Bid 2023-13 to J & B Pavelka Inc. for Air-tow Drop Deck Trailer for Facility Maintenance Department
 - 2) Consider Approval to Award Bid 2023-15 to Hamilton Roofing for the reroofing of the Carlsbad Public Library and Carlsbad Museum
- E. Contracts and Agreements
 - 1) Consider Approval of Mutual Aid Agreement between the City of Carlsbad, Carlsbad Fire Department, the County of Eddy and Eddy County Fire and Rescue

- F. Monthly Reports
 - 1) Community Development Department October 2023
 - 2) Human Resources Department October 2023
 - 3) Municipal Court Department October 2023
- G. Set the Date: December 12, 2023
 - 1) Ordinance rezoning part of "I" Industrial District to "C-2" Commercial 2 District for an approximately 1.46 acre property located at 609 South Canyon Street
 - 2) Ordinance rezoning part of "R-1" Residential 1 District to "C-1" Commercial 1 District for an approximately 0.94 acre property located at 2908 San Jose Blvd
 - 3) Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.30 acre property located at 2609 Prospect Avenue
 - 4) Ordinance establishing a Historic Preservation Overlay Zone

0:02:35 **Mayor Janway asked Chief Ahrens to briefly discuss Agenda item E1, Consider Approval of Mutual Aid Agreement between the City of Carlsbad, Carlsbad Fire Department, the County of Eddy and Eddy County Fire and Rescue. Chief Ahrens said this is a request to renew the automatic and mutual aid agreement with Eddy County Fire and Rescue. He said it was renewed last year, however they are requesting another renewal to reflect more full-time personnel being added, therefore it decreases the City's responsibility within the automatic mutual aid. He said the agreement allows to pull our resources and pool across jurisdictional boundaries.**

0:03:28 **Mayor Janway asked Chief Ahrens about the agreement with WIPP. Chief Ahrens said that agreement is at a stand-still and nothing has changed. He said he believes SIMCO is dealing with internal agreements.**

0:05:30 **MOTION**
 The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve Routine and Regular Business.

0:05:36 **VOTE**
 The vote was as follows: Yes - Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters, Carter; No - None; Absent - None; the motion carried.

0:05:50 **5. CONSIDER APPROVAL OF RESOLUTION 2023-71, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS AND DEBRIS AND SECURING ONE STRUCTURE AT 413 S ASH, 1004 W BRONSON AND 1006 W BRONSON OWNER: EVELYN H. WIECHERT C/O JEREMY AND TRACY BOLDUC**
Mrs. Madrid-Boyea said these three structures are on one lot. She said there are overgrown weeds and debris on the property and tree branches dumped in the alley. She said one structure at 1006 W Bronson is unoccupied and unsecured. **Mrs. Madrid-Boyea** said the Eddy County Assessor's office lists Evelyn Wiechert c/o Jeremy and Tracy Buldoc as owning or having an interest in the property. She said the property has

a structure at each one of the addresses but only two structures are occupied. She said the 1006 W Bronson structure has not been maintained, has broken windows, and needs to be secured. **Mrs. Madrid-Boyea** said a complaint was received on July 18, 2023. She said Code Enforcement has been to the property, a Notice of Violation was sent on September 7, 2023 which went unclaimed. She said the property has been inspected by the Code Enforcement officer and the Fire Chief, and they found that the property remains out of compliance with applicable codes and the damaged and unsecured structure, weed, and debris remain on the property. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel. **Mrs. Madrid-Boyea** said a Resolution has been prepared for review, which if adopted it would require the property owner to secure the ruined structure and remove the debris and weeds from the property within 30 days of service of the Resolution.

Councilor Walterscheid said the front of the property does not look any different from others.

0:10:12 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve of of Resolution 2023-71, a Resolution requiring the removal of the weeds and debris and securing one structure at 413 S Ash, 1004 W Bronson and 1006 W Bronson
Owner: Evelyn H. Wiechert c/o Jeremy and Tracy Bolduc.

0:10:19 **VOTE**

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

0:10:36 **6. CONSIDER APPROVAL OF RESOLUTION 2023-72, A RESOLUTION REQUIRING THE REMOVAL OF THE JUNK, TRASH, DEBRIS AND WEEDS AT 807 ALVARADO STREET OWNER: WESTERN COMMERCE BANK AND MARTINIANO AND FELISA PEREZ**

Mrs. Madrid-Boyea said there appears to be an occupied structure on the property along with junk, trash, debris, and excessive animal feces. **Mrs. Madrid-Boyea** said the Eddy County Assessor's office lists Western Commerce Bank and Martiniano and Felisa Perez as owning or having an interest in the property. She said Code Enforcement has been to the property and they have made contact with people at the property. She said a Notice of Violation was mailed April 24, 2023 and August 25, 2023. She said the property has been inspected by the Code Enforcement officer and the Fire Chief, and they found that 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 the weeds be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for review, which if adopted it would require the property owner to remove all ruins,

wreckage, junk, debris, and weeds from the property within 30 days of service of the Resolution.

0:13:44 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Niemeier to approve of Resolution 2023-72, a Resolution requiring the removal of the junk, trash, debris and weeds at 807 Alvarado Street Owner: Western Commerce Bank and Martiniano and Felisa Perez.

0:13:51 **VOTE**

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

0:14:09 **7. CONSIDER APPROVAL OF RESOLUTION 2023-73, A RESOLUTION REQUIRING THE REMOVAL OF THE JUNK, TRASH, DEBRIS AND GRAFFITI AT 812 ALVARADO STREET OWNER: NORA YANEZ**

Mrs. Madrid-Boyea said there appears to be an occupied structure on the property along with junk, trash, debris, and graffiti on the wall in the backyard. **Mrs. Madrid-Boyea** said the Eddy County Assessor's office lists Nora Yanez as owning or having an interest in the property. She said Code Enforcement has been to the property and they have made contact with people at the property. She said a Notice of Violation was mailed May 24, 2022 and August 15, 2022. She said a verbal warning was given on May 24, 2022, August 15, 2022 and August 21, 2023. She said the property has been inspected by Code Enforcement and the Fire Chief, and they found that 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 the debris and weeds be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for review, which if adopted it would require the property owner to remove all ruins, wreckage, junk, debris, and weeds from the property within 30 days of service of the Resolution.

0:17:05 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve of Resolution 2023-73, a Resolution requiring the removal of the junk, trash, debris and graffiti at 812 Alvarado Street Owner: Nora Yanez.

0:17:12 **VOTE**

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

0:17:26 **8. CONSIDER APPROVAL OF ORDINANCE 2023-24, AN ORDINANCE CREATING A HISTORIC PRESERVATION ADVISORY BOARD; PROVIDING THE MEMBERSHIP OF SAID BOARD; DEFINING ITS DUTIES AND**

RESPONSIBILITIES; AND REPEALING OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE

0:17:49 **A. Public Hearing**

Mr. Britt said this is an opportunity for the City of Carlsbad to take charge of its history by preserving buildings and other things that made Carlsbad what it is today. He said by creating this board, it will allow Carlsbad to decide its future. He said once we become a certified local government, this board will act as an advisory capacity to landowners that meet criteria for historic buildings and rehabilitation and renovation of those buildings. **Mr. Britt** said this board will provide the City of Carlsbad with many opportunities for a variety of grants at the State level and National Parks Service level.

Mr. Patterson said the City of Carlsbad, in its interest to preserve all prehistoric and historic ruins, sites, trails, primitive, historic roads, and buildings, has undertaken the task of becoming a Historic Preservation Certified Local Government (CLG). He said taking the step of becoming a CLG will make the City eligible for specially earmarked grants from the State Historic Preservation Office as well as the National Park Service and will make the City eligible to receive technical assistance and training to assist in the goal of pursuing the City's preservation goals and its plan for development. **Mr. Patterson** said part of this process is for the City to recognize local citizens that have demonstrated a positive interest, competence, or knowledge in the historical, architectural, and cultural traditions of the City of Carlsbad, or in their area of expertise can advise on future historic preservation landmarks, sites, and structures. He said the Mayor will appoint five members to constitute the Historic Preservation Advisory Board, with the City Council approving the appointees. **Mr. Patterson** said the five-member Board will serve in an advisory capacity to the City Council on matters of historic preservation as it pertains to the Historic Protection Overlay Zone District. He said this District will allow for the preservation, protection, and enhancement of archaeological and historical sites and objects within the City. **Mr. Patterson** said the Historic Preservation Advisory Board will meet on a regular basis that will be established at the initial Board meeting. He said this board will review all applications by local property owners that wish to be included in the Historic Protection Overlay Zone District, and then advise the City Council as to the appropriateness of those applications. He said the board will also advise the Mayor's office and the City Council regarding grant opportunities and funding avenues that promote historic preservation. **Mr. Patterson** said the board will also advise the Mayor's office and City Council regarding proposed demolitions or alterations to designated historic properties.

Councilor Chavez said the Agenda states that Ordinances that conflict with this Ordinance will be repealed. **Councilor Chavez** asked what Ordinances does **Mr. Patterson** plan on repealing. **Mr. Patterson** said he does not know for certain that there is any to be repealed. He said when the City adopts an Ordinance of this nature, this language is included in case there is pre-existing Ordinances that would be replaced.

0:22:55 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.

0:23:07 B. Approval of Ordinance

0:23:12 MOTION

The motion was made by Councilor Niemeier and seconded by Councilor Carter to approve of Ordinance 2023-24, an Ordinance creating a Historic Preservation Advisory Board; providing the membership of said Board; defining its duties and responsibilities; and repealing other Ordinances in conflict with this Ordinance.

0:24:10 VOTE

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

0:24:24 **9. CONSIDER APPROVAL OF ORDINANCE 2023-25, AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "I" INDUSTRIAL DISTRICT FOR AN APPROXIMATELY 80.00 ACRE PROPERTY LOCATED AT 3627 BOYD DRIVE APPLICANT: DAVID AND LAVERN MALEY**

Mr. Patterson said the properties to the north, south, and east are zoned "R-R" Rural Residential District and the properties to the west are outside of Carlsbad city limits, therefore this request would create a spot-zone. He said the applicant brought this request before the Planning and Zoning Commission at their special meeting on October 12, 2023, and the commission considered the item, and voted to recommend approval of this request with a vote of four in favor of approval, none against, and one absent.

0:24:46 A. Public Hearing

Councilor Walterscheid asked how this creates a spot-zone. Mr. Patterson said by looking at the zoning map and the zoning applied to the surrounding properties. He said if a request is for a zone-change that does not fit with the surrounding zonings, so it is not connected or adjacent to that type of zoning upon the request, we would classify that as a spot-zone. Councilor Walterscheid asked what is around the property. Mr. Patterson said the properties around it are undeveloped.

Councilor Forrest asked what the applicant plans on doing with the property. Mr. Patterson said he believes the plan is to place an industrial subdivision on the property.

0:27:17 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.

0:27:30 **B. Approval of Ordinance**

0:27:34 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve of Ordinance 2023-25, an Ordinance rezoning part of "C-2" Commercial 2 District to "I" Industrial District for an approximately 80.00 acre property located at 3627 Boyd Drive Applicant: David and Lavern Maley.

0:27:39 **VOTE**

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

0:27:52 **10. CONSIDER APPROVAL OF ORDINANCE 2023-26, AN ORDINANCE REZONING PART OF "C-1" COMMERCIAL 1 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.85 ACRE PROPERTY LOCATED AT 319 KIRCHER STREET APPLICANT: MELOUIADES RIVAS CARDENAS**

0:28:28 **A. Public Hearing**

Mr. Patterson said the properties to the north, south, & west are zoned "R-1" Residential 1 District and the properties to the east are zoned "C-1" Commercial 1 District and "R-1" Residential 1 District, therefore this request would create a spot-zone. He said the applicant brought this request before the Planning and Zoning Commission at their special meeting on October 12, 2023, and the commission considered the item, and voted to recommend approval of this request with a vote of four in favor of approval, none against, and one absent.

Councilor Walterscheid asked how does a property go from a "C-1" to a "C-2". He asked why the applicant was "C-2" since it is all residential around. **Mr. Patterson** said the current zoning is "C-1" and there are other "C-1" properties at the location that are adjacent to this property. He said he believes that the owner has a welding business and "C-1" does not allow for that use, therefore the property owner had to request a zone change or cease his activity.

Councilor Carter said he thought "C-2" was more restrictive as far as what you can do. **Mr. Patterson** said no, "C-1" is designed to have commercial activity that is within a residential neighborhood. He said "C-1" is a lower scale than what is allowed in "C-2".

Councilor Niemeier said she believes the business already exists. She asked how long the business has been there and if it is the same owner. **Mr. Patterson** said after review of the permitting information, the building that is currently there was permitted in 2017. He said he believes the activity began shortly after that. He said the City became aware and contacted the property owner to comply.

Councilor Niemeier said there was an item brought before Council where there was a property across the street from another property that wanted to have a food truck. She said we denied it because it did not fit into the neighborhood. She said this is a similar situation as an oil company wanting to do business in City limits without coming before City Council. **Mr. Patterson** said recommendations of City staff were presented to the Planning and Zoning Commission, however the Planning and Zoning Commission recommends approval.

Councilor Rodriguez said there are a lot of houses in this area. He said after reviewing the Planning and Zoning Commission minutes, he noticed there were no residents present during the meeting. **Councilor Rodriguez** asked if Mr. Patterson's office received any calls from anyone. **Mr. Patterson** said not that he is aware of.

Councilor Forrest asked if Chief Ahrens has been able to look at the property due to possible fire hazards with houses so close to the property. **Mr. Patterson** said he does not know that Chief Ahrens has been able to inspect the property. He said welding is limited to "C-2" or an industrial zoning because of fumes, the type of materials kept on site, traffic, and flammable and explosive materials.

Councilor Walterscheid said he would like to table this item until the next meeting so Council members can get more information.

0:35:05 **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.

0:35:24 **B. Approval of Ordinance**

0:35:25 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Forrest to table Ordinance 2023-26, an Ordinance rezoning part of "C-1" Commercial 1 District to "C-2" Commercial 2 District for an approximately 0.85 acre property located at 319 Kircher Street Applicant: Melquiades Rivas Cardenas, until the December 12, 2023 regular meeting.

0:36:14 **VOTE**

The vote was as follows: Yes - Forrest, Walterscheid, Chavez, Carter; No - Rodriguez, Niemeier, Anaya-Flores, Waters; Absent - None; There being a tie, Mayor Janway voted "Yes" and the motion carried.

0:37:41 **11. COUNCIL COMMITTEE REPORTS**

No reports.

0:37:48 **Mayor Janway** asked if anyone in the audience would like to address the Council.

0:37:58 **Mayor Janway** introduced **Mason Dunnan**. **Mr. Dunnan** said he is a Life Scout and he is inspiring to be an Eagle Scout.

Sarah Carnero, owner of Sarah's Jerky, asked if there is a possibility to consider to allow her to set up her trailer at the Bob Forrest Youth Sports Complex. **Mr. Lowe** said under the terms of Becky's contract, Becky Thompson has exclusive rights to all concession services at the Bob Forrest Youth Sports Complex, therefore no outside vending is allowed in this facility. **Ms. Carnero** asked when her contract expires. **Mr. Lowe** said he believes in one year. **Mayor Janway** said we cannot consider her vending until the present contract is up.

0:40:30 **12. ADJOURN**

0:40:31 **MOTION**

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

0:40:38 **VOTE**

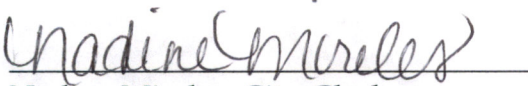
The vote was as follows: Yes - Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters, Carter; No - None; Absent - None; the motion carried.

0:40:51 **Adjourn**

There being no further business, the meeting was adjourned at 6:40 p.m.




Dale Janway, Mayor


Nadine Mireles, City Clerk