

**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 DECEMBER 12, 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
	Brent Griffith	IT Technician
	Sandy Gonzalez	Assistant Treasurer
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Collis Johnson	Municipal Judge
	Sarah Jones	Library Director
	Richard D. Lopez	Citizen
	Ken Britt	Citizen
	Jim Waters	Citizen
	Mary Garwood	Citizen
	Joel Barrett	Citizen
	Julie Cheatham	Citizen
	Raymond Peters	Citizen
	Bryan Navarrette	Citizen
	Sarah Carnero	Citizen
	Kat Davis	Citizen
	Tommy Folsom	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

0:00:41        **1. APPROVAL OF AGENDA**

0:00:41        **MOTION**

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

0:00:45        **VOTE**

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

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

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

0:02:32        **3. CONSIDER APPROVAL OF RESOLUTION 2023-74, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2023-24 FISCAL YEAR BUDGET**

**Mrs. Gonzalez** reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2024 Fiscal Year Budget highlighting the Lodgers' Tax Promotional Fund, the Capital Projects Fund, and the General Fund.

0:04:13        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Forrest to approve of Resolution 2023-74, a Resolution making certain budgetary adjustments to the 2023-24 Fiscal Year Budget.

0:04:18        **VOTE**

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

0:04:39        **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on November 14, 2023
- B. City Personnel Report
- C. Purchasing
  - 1) Consider Approval to Award Bid 2023-08 to Greer Construction for the HVAC Replacement Project at the Riverwalk Recreation Center

- 2) Consider Approval to Award RFP 2023-14 to Precision Fireworks for the July Fireworks Show at Lake Carlsbad
- D. Contracts and Agreements
  - 1) Consider Approval of Agreement between the City of Carlsbad Municipal Court and Perdue, Brandon, Fielder, Collins and Mott for Court Fines and Fees Collection Services
- E. Monthly Reports
  - 1) Human Resources Department November 2023
  - 2) Municipal Services Department October 2023
  - 3) Transportation and Facilities Department October 2023
  - 4) Utilities Department October 2023
- F. Board Appointments
  - 1) Halagueno Arts Park Advisory Board Appoint Julia Heaton, Appoint Carla Dungan, Appoint Therese Rodriguez, Appoint Judy Murray, Appoint Cindy Elkins, Appoint Wren Prather-Stroud, Appoint Linda Pruit
  - 2) Historic Preservation Advisory Board Appoint Larry Mitchell, Appoint Ken Britt, Appoint Larry Coalson, Appoint Mannie Bemis, Appoint David McIntosh
- G. Set the Date: January 9, 2024
  - 1) Ordinance rezoning part of "R-R" Rural Residential District to "R-2" Residential 2 District for an approximately 8.74 acre property legally described as Tract B, Albright Replat #3
  - 2) Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.14 acre property located at 602 Presidio Street
  - 3) Ordinance annexing a portion of land containing +/-67.72 acres more or less located North and South of Dona Ana Street
  - 4) Ordinance applying "R-R" Rural Residential District to an approximately 67.72 acre property located North and South of Dona Ana Street
  - 5) Ordinance rezoning part of "R-R" Rural Residential District to "C-2" Commercial 2 District for an approximately 1.5 acre property located at 4412 National Parks Highway

0:04:53        **Mayor Janway asked Mr. Lowe to briefly discuss Agenda item C2, Consider Approval to Award RFP 2023-14 to Precision Fireworks for the July Fireworks Show at Lake Carlsbad.**

**Mr. Lowe** said the City of Carlsbad received one proposal. He said Precision Fireworks has successfully produced the firework show in previous years. He said the City of Carlsbad recommends awarding the RFP to Precision Fireworks.

0:05:31        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to approve Routine and Regular Business.

0:05:38 VOTE

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

0:06:00 5. CONSIDER APPROVAL OF REQUEST FOR A CLUB NON-PROFIT LIQUOR LICENSE AND A DISTANCE WAIVER FROM DWIGHT LEE, PR. LUCAS MEMORIAL VFW POST 8703 LOCATED AT 1914 SAN JOSE BLVD

Mr. Lowe said this is a request for a liquor license and a distance waiver at the VFW Post. He said the property is zoned "C-2" and the sale of alcohol will only be sold to VFW members.

Councilor Chavez asked how far is the nearest school. Mr. Lowe said it is 92 feet from VFW Post. He said the school is Southeast New Mexico Community Action Corporation Head Start Program.

Councilor Rodriguez asked if there were any oppositions during the public hearing. Mr. Lowe said no.

0:07:00 MOTION

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve of request for a Club Non-Profit Liquor License and a Distance Waiver from Dwight Lee, PR. Lucas Memorial VFW Post 8703 located at 1914 San Jose Blvd.

0:07:06 VOTE

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

0:07:25 6. CONSIDER APPROVAL OF REQUEST FOR A RESTAURANT B - BEER, WINE AND SPIRITS LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY WITH PATIO SERVICE FROM EL DIAMANTE RESTAURANT LOCATED AT 106 W BONBRIGHT STREET

Mr. Lowe said this is a request for a liquor license at El Diamante Restaurant. He said the City of Carlsbad received the application on October 12, 2023 and publications were made on October 17, 2023 and October 29, 2023. Mr. Lowe said the property is zoned "C-1" and the hours of operation are Monday through Sunday, 10:00 am - 9:00 pm.

Councilor Walterscheid asked if this restaurant is located in a residential area or near any schools. Mr. Lowe said this is on the corner of Bonbright St. and Main St. He said there are no schools near.

0:08:36 MOTION

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve of request for a Restaurant B - Beer, Wine and Spirits Liquor License with on

Premises Consumption only with Patio Service from El Diamante Restaurant located at 106 W Bonbright Street.

0:08:41        **VOTE**

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

0:08:56        **7. CONSIDER APPROVAL OF REQUEST FOR A PIPELINE EASEMENT AND RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF CARLSBAD AND SPC RESOURCES, LLC**

Mr. Lowe said SPC is requesting a pipeline to cross City-owned property. He said this pipeline is located near the lower Tansill area and the proposed easement will be 70 feet wide with 50 feet being permanent and 20 feet being a temporary construction easement. He said the total length is 1,846 linear feet. Mr. Lowe said the City of Carlsbad will be compensated \$497 per rod. He said the City of Carlsbad is a royalty owner with SPC Resources, therefore we would receive additional royalties.

0:10:24        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve of request for a Pipeline Easement and Right-of-Way Agreement between the City of Carlsbad and SPC Resources, LLC.

0:10:29        **VOTE**

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

0:10:45        **8. CONSIDER APPROVAL OF SUBMISSION OF A NATIONAL LIBRARY OF MEDICINE HEALTH INFORMATION OUTREACH GRANT FOR THE CARLSBAD PUBLIC LIBRARY**

Ms. Jones said she would like to apply for this grant for \$25,000 to work with partnerships specifically with the Eddy County Health Information Council to reach populations to help spread information about their health and self-advocacy.

0:11:49        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to approve of submission of a National Library of Medicine Health Information Outreach Grant for the Carlsbad Public Library.

0:11:56        **VOTE**

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

0:12:08        **9.        CONSIDER APPROVAL TO ACCEPT FY22 STATE GRANT AGREEMENT WITH NEW MEXICO STATE LIBRARY FOR A PUBLIC LIBRARIES GRANT AGREEMENT FOR THE CARLSBAD PUBLIC LIBRARY**

Ms. Jones said this is an annual agreement for filling out an annual report on the Carlsbad Public Library and once qualified, a state grant would be received. She said there is no matching funds and the funds would be used for the public.

0:12:39        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Rodriguez to approve to accept FY22 State Grant agreement with New Mexico State Library for a Public Libraries Grant Agreement for the Carlsbad Public Library.

0:12:45        **VOTE**

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

0:12:58        **10.        CONSIDER APPROVAL TO ACCEPT A DEPARTMENT OF FINANCE AND ADMINISTRATION CAPITAL OUTLAY GRANT FOR THE RIVERWALK RECREATION CENTER HVAC PROJECT**

Mrs. Barrios-Testa said the Department of Finance opened an application process for projects that were funded in 2020 through 2022 that were experiencing delays because of overrun.

Councilor Rodriguez said Mrs. Barrios-Testa does an outstanding job at finding these funds to make sure we can move forward with each project.

0:14:12        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve to accept a Department of Finance and Administration Capital Outlay Grant for the Riverwalk Recreation Center HVAC project.

0:14:17        **VOTE**

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

0:14:33        **11.        CONSIDER APPROVAL TO ACCEPT A DEPARTMENT OF FINANCE REGIONAL RECREATION CENTERS AND QUALITY OF LIFE PROGRAM GRANT FOR THE RIVERWALK RECREATION CENTER HVAC PROJECT**

Mrs. Barrios-Testa said this grant will complete the rest of the \$3 million project of the HVAC at the Riverwalk Recreation Center.

Councilor Forrest said he recalls that the RRC was going to get re-painted. He asked if that project was completed. Mr. Lowe said the City is currently looking at the bids that were received and we are trying to get additional funding to get it re-painted.

Mrs. Barrios-Testa said if there is any left-over funding from the grants received for the RRC, they can use that towards any improvements.

0:15:54        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to approve to accept a Department of Finance Regional Recreation Centers and Quality of Life Program Grant for the Riverwalk Recreation Center HVAC project.

0:15:59        **VOTE**

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

0:16:13        **12. CONSIDER APPROVAL TO ACCEPT AN OUTDOOR RECREATION TRAILS GRANT FROM THE STATE OF NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT FOR THE LOWER TANSILL DAM BOATING AND RECREATION AREA**

Mrs. Barrios-Testa said the deadline for the first round of applications was August 31, 2023. She said this is a rolling grant but they did provide a deadline for the first round. She said we are fortunate to receive the highest award of \$499,927.45. Mrs. Barrios-Testa said we are required to have a one to one match. She said the City of Carlsbad has already budgeted \$500,000 in this fiscal year. She said we will be leveraging this amount and obtain these additional funds.

Councilor Walterscheid asked if this is for boat docks. Mrs. Barrios-Testa said yes, it will make improvements for ADA accessibility and make it a better experience in that area.

0:17:42        **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Anaya-Flores to approve to accept an Outdoor Recreation Trails Grant from the State of New Mexico Economic Development Department for the Lower Tansill Dam Boating and Recreation Area.

0:17:50        **VOTE**

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

0:18:01        **13. CONSIDER APPROVAL TO ACCEPT A 2022 NM AGING AND LONG-TERM SERVICES DEPARTMENT GRANT FOR RENOVATIONS OF THE ALEJANDRO RUIZ SENIOR CENTER**

**Mrs. Barrios-Testa** said this is an application that was submitted in May of 2021. She said this was intended to work on phase 3 of the Alejandro Ruiz Senior Center. She said this will allow for the City to expand the renovation area, add more restrooms, provide a fire sprinkler system, and a fire detection system for the facility.

0:19:00        **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Niemeier to approve to accept a 2022 NM Aging and Long-Term Services Department Grant for Renovations of the Alejandro Ruiz Senior Center.

0:19:11        **VOTE**

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

0:19:25        **14. CONSIDER APPROVAL TO ACCEPT A 2022 NM AGING AND LONG-TERM SERVICES DEPARTMENT GRANT TO PURCHASE AND EQUIP FOOD TRANSPORTATION VEHICLES FOR THE ALEJANDRO RUIZ SENIOR CENTER MEALS PROGRAM**

**Mrs. Barrios-Testa** said this is from an application that was submitted in 2021. She said this will help the Southeast New Mexico Community Action Agency that provides the meals program at Alejandro Ruiz Senior Center. She said this will provide a couple of vehicles that will transport the meals.

0:20:26        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve to accept a 2022 NM Aging and Long-Term Services Department Grant to purchase and equip Food Transportation Vehicles for the Alejandro Ruiz Senior Center Meals Program.

0:20:32        **VOTE**

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

0:20:46        **15. CONSIDER APPROVAL TO ACCEPT A DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES GRANT AWARD FOR SCHOOL RESOURCES OFFICERS FOR THE CARLSBAD POLICE DEPARTMENT**

**Mrs. Barrios-Testa** said the City of Carlsbad received notification of the award on November 2, 2023. She said this is a highly competitive grant program. She said the Department of Justice of Community Oriented Policing Services (COPS) Program will reimburse the City of Carlsbad up to \$625,000 for the grant funds which is 75% of entry level officer salary and benefits. **Mrs. Barrios-Testa** said this is a five-year commitment and there will be a MOU required with the Carlsbad Municipal Schools which is in the process of being drafted. **Chief Skinner** said this is a long-term commitment to our



schools and it is something that has been in the process for a long time. He said there are two SRO's that are contributed to the school. He said he believes SRO's are the most impactful in the elementary schools. He said if officers can be a positive influence at the elementary age, there may be better results in the middle schools and high schools.

**Councilor Forrest** asked if the long-term goal is to have officers at each school. **Chief Skinner** said yes, that is the overall goal, more officers would be provided at the high school, one for each middle school, and then rotating officers at each side of town. He said there would be an officer present at each school every day.

**Councilor Walterscheid** asked if there are enough officers to fulfill this goal. **Chief Skinner** said this grant might create an issue for the department where five additional positions will need to be hired but it is a high priority.

**Councilor Chavez** asked if the five positions will be backfilled. **Chief Skinner** said to put someone in a SRO position, there is specified training other than the additional training they will receive. He said the Carlsbad Police Department (CPD) does not anticipate putting brand new officers right out of the academy in the schools. He said these positions will most likely be filled with officers that already have experience.

0:25:13        **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Niemeier to approve to accept a Department of Justice Office of Community Oriented Policing Services Grant Award for School Resources Officers for the Carlsbad Police Department.

0:25:19        **VOTE**

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

0:25:32        **16. CONSIDER APPROVAL TO ACCEPT A DEPARTMENT OF TRANSPORTATION AND TRAFFIC SAFETY DIVISION GRANT FOR DWI ENFORCEMENT, OPERATION BUCKLE-UP AND CLICK IT, AND SELECTIVE TRAFFIC ENFORCEMENT PROGRAMS FOR THE CARLSBAD POLICE DEPARTMENT**

**Chief Skinner** said this is a grant that has been awarded and has been in place for decades. He said the New Mexico Department of Transportation has agreed to award \$56,336 for certain traffic initiatives. He said these grant decisions are made based on activity that the Carlsbad Police Department (CPD) have shown. He said CPD had some of the highest stat numbers. **Chief Skinner** said when he took over in 2018, the department was getting about \$18,000 a year and now we are up to \$56,000.

**Councilor Walterscheid** said with the advent of cannabis being legal, has the department figured out how to handle drivers under the influence. **Chief Skinner** said

this has been a problem even before the decision to make recreational use of cannabis legal. He said one of the major things are drug recognition experts (DRE) that are on staff and are specifically trained to recognize when someone is under the influence of other things besides alcohol.

**Councilor Rodriguez** asked if the department has to report back to the State on what the productivity has been. **Chief Skinner** said yes, since it is based on productivity, CPD has to report quarterly. He said this is a reimbursement for time worked so you don't necessarily get punished for unused monies, it just figures into what money will be awarded the next year based on your productivity.

0:29:06        **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to approve to accept a Department of Transportation and Traffic Safety Division Grant for DWI Enforcement, Operation Buckle-Up and Click It, and Selective Traffic Enforcement Programs for the Carlsbad Police Department.

0:29:12        **VOTE**

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

0:29:31        **17. CONSIDER APPROVAL TO ACCEPT 2024 NEW MEXICO FIRE PROTECTION GRANT FROM THE DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT FOR CARLSBAD FIRE DEPARTMENT FOR SELF-CONTAINED BREATHING APPARATUS (SCBA) EQUIPMENT**

**Chief Ahrens** said with Mrs. Barrios-Testa's help, the Carlsbad Fire Department applied for a grant with the New Mexico Department of Homeland Security through the fire protection funds to finish replacing the Self-Contained Breathing Apparatus (SCBA) Equipment. He said the SCBA's are a vital part in personal protective equipment when fighting fires. He said in 2018, the safety standard requirements for SCBA's were updated and at that time, the department had to start buying new packs with higher safety requirements. He said since then, the department has been buying 4-8 packs per year slowly replacing SCBA packs on their trucks. He added with this grant, the department will be able to buy the last 29 SCBA packs that are needed to finish the project.

**Councilor Rodriguez** asked what is done with the old packs. **Chief Ahrens** said they have to be made inoperable so they cannot be used by anyone else, so they typically disassemble them and dispose of them.

0:32:12        **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Anaya-Flores to approve to accept 2024 New Mexico Fire Protection Grant from the

Department of Homeland Security and Emergency Management for Carlsbad Fire Department for Self-Contained Breathing Apparatus (SCBA) Equipment.

0:32:23       **VOTE**

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

0:32:38       **18. CONSIDER APPROVAL TO REMOVE FROM 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**

0:32:59       **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Waters to remove from 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.

0:33:05       **VOTE**

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

0:33:18       **19. 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: MELQUIADES RIVAS CARDENAS**

0:33:44       **A. Public Hearing**

**Mr. Patterson** said the Planning Department brought this item before the Council for consideration at the November 14, 2023, meeting. He said at that meeting, the current use of the property, a welding business, was discussed at length. He said it was noted that the subject property is surrounded by residential properties, and the Council expressed concern over that type of use being in close proximity to residential properties. **Mr. Patterson** said the Council requested that the Planning Department and the Fire Chief visit the property and provide information regarding the scope and scale of the applicant's business. He said the Fire Chief, Ken Ahrens, and himself, visited the property on Tuesday, December 5, 2023. He said the applicant allowed the property and shop buildings to be walked and reviewed and it was evident that the type of equipment and materials being kept at the property indicated that the scale of welding work happening at the property was more intense than what the Planning Department would consider decorative welding. He said the Fire Chief indicated that there were some combustible gas containers that needed to be kept secured that were kept in open storage. He said there was an RV on the property that was hard plumbed into the

sewer, indicating that someone may be living in the RV, although the applicant denied this was the case. Mr. Patterson said after the in-person review and walkthrough, the Planning Department would consider this business to be an inappropriate use per the current zoning and could present a hazard to the surrounding residential neighborhood. He said the Fire Chief intends to submit a report for this property as well.

0:35:46        **Mayor Janway asked if anyone would like to speak regarding the Ordinance.**

Joel Barrett said this Ordinance brings up some concerns of his. He said there is disrespect and disregard for the original Ordinance of this governing body ordaining this property to be "C-1" and also for the residents close in proximity to this business. He said the size of the operation is more extensive than ornamental welding. He said with a more extensive operation comes more extensive traffic in an already high-traffic area. Mr. Barrett said there is a playground down the hill from this property. He said there is an RV plumbed into the water and any materials that could flow down the street could go into a residential yard. He said there is a process that needs to be sought after and approved before passing an Ordinance that changes zoning from "C-1" to "C-2." Mr. Barrett thanked Council members for their time and consideration.

0:38:15        **B.        Approval of Ordinance**

0:38:22        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Anaya-Flores to deny 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.

0:38:33        **VOTE**

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

0:38:52        **20.        CONSIDER APPROVAL OF ORDINANCE 2023-27, AN ORDINANCE AUTHORIZING THE GRANTING OF AN OIL AND GAS LEASE ON CERTAIN MINERAL INTEREST OWNED BY THE CITY OF CARLSBAD IN CERTAIN PORTIONS OF TOWNSHIP 22 SOUTH, RANGE 26 EAST, TO ALPHA ENERGY PARTNERS II, LLC FOR A PER ACRE LEASE BONUS AND A 1/4TH ROYALTY**

0:39:19        **A.        Public Hearing**

Mr. Lowe said Alpha Energy Partners II, LLC approached the City of Carlsbad requesting to lease 121 acres of the City's oil and gas mineral interest near Highway 62-180. He said the City of Carlsbad will receive a cash lease bonus of \$1.3 million and a

25% royalty for a three-year term. **Mr. Lowe** said the agreement has been reviewed and betted by our legal team and meets all legal requirements for the City of Carlsbad.

0:40:47 **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.

0:41:05 **B. Approval of Ordinance**

0:41:06 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Chavez to approve of Ordinance 2023-27, an Ordinance authorizing the granting of an Oil and Gas Lease on certain Mineral Interest owned by the City of Carlsbad in certain portions of Township 22 South, Range 26 East, to Alpha Energy Partners II, LLC for a per acre lease bonus and a 1/4th Royalty.

0:41:13 **VOTE**

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

0:41:26 **21. CONSIDER APPROVAL OF ORDINANCE 2023-28, AN 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 APPLICANT: HENRY MCDONALD**

0:41:52 **A. Public Hearing**

**Mr. Patterson** said the applicant has requested a Zone Change from "I" Industrial District to "C-2" Commercial 2 District for a property totaling approximately 1.46 acres, located at 609 S. Canyon St. He said the applicant plans to allow a retail store to locate at this property, and in order to finalize the real estate deal, the zoning needs to be changed to commercial. He said the properties to the north are zoned "C-1" Commercial 1 District, the properties to the south and east are zoned "I" Industrial District, and the properties to the west are zoned "C-2" Commercial 2 District, therefore this request would not create a spot-zone. **Mr. Patterson** said the applicant brought this request before the Planning and Zoning Commission at the November 6, 2023 meeting. He said the body considered the item and voted to recommend approval, with the vote of four in favor of approval, none against, and one absent.

**Councilor Walterscheid** asked what type of business does the applicant want the zone-change for. **Mr. Patterson** said it is general retail.

0:43:24 **Mayor Janway** asked if anyone would like to speak regarding the Ordinance.

**Julie Cheatham**, paralegal to Cass Tabor who represents Mr. McDonald, said she would like to inform the Council and Mayor that Mr. McDonald is looking at a lease to secure it for a Dollar Tree. She said it is imperative that it is zoned "C-2" to be able to have this store.

0:44:29        **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**

0:44:42        **B.        Approval of Ordinance**

0:44:43        **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Waters to approve of Ordinance 2023-28, an 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 Applicant: Henry McDonald.

0:44:50        **VOTE**

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

0:45:02        **22.        CONSIDER APPROVAL OF ORDINANCE 2023-29, AN 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 APPLICANT: JOSE ROCHA AND HANNIA CARRASCO**

0:45:30        **A.        Public Hearing**

**Mr. Patterson** said the applicant has submitted a request for Zone Change from "R-1" Residential 1 District to "C-2" Commercial 2 District for a parcel totaling approximately 0.30 acres, located at 2609 Prospect Ave. He said the properties to the north, south & east are zoned "R-1" Residential 1 District; the properties to the west are zoned "C-2" Commercial 2 District, therefore this request would not create a spot-zone. **Mr. Patterson** said the applicant brought this request before the Planning and Zoning Commission at the November 6, 2023 meeting; the body considered this item and voted to recommend denial with a vote of four in favor of denial, none against, and one absent.

**Councilor Walterscheid** said to the north, south and east, there are residential properties, and to the west it is "C-2". He asked how is this not considered a spot-zone. **Mr. Patterson** said it would not be considered a spot-zone because this property abuts property already zoned "C-2" therefore it would not be considered a spot-zone.

**Councilor Niemeier** asked what is being done with this property. **Mr. Patterson** said he does not believe the applicant has stated their plans. He said anything that is allowed in the "C-2" zoning would be allowed for the applicant to pursue.

0:48:08 **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.

0:48:27 **B. Approval of Ordinance**

0:48:28 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to uphold the decision by the Planning and Zoning Commission to deny Ordinance 2023-29, an 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 Applicant: Jose Rocha and Hannia Carrasco.

0:48:41 **VOTE**

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

0:48:59 **23. CONSIDER APPROVAL OF ORDINANCE 2023-30, AN 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 APPLICANT: RAYMOND PETERS**

0:49:24 **A. Public Hearing**

**Mr. Patterson** said the applicant has submitted a request for Zone Change from "R-1" Residential 1 District to "C-1" Commercial 1 District for the property located at 2908 San Jose Blvd. He said the properties to the north, south east & west are zoned "R-1" Residential 1 District, therefore this request would create a spot-zone. He said the applicant brought their request before the Planning and Zoning Commission at the November 6, 2023 meeting; the body considered the item and voted to recommend approval, with a vote of four in favor of approval, none against, and one absent.

**Councilor Walterscheid** asked what the applicant's plans are for this property. **Mr. Patterson** said the applicant stated that they are working with an outfit that wants to place a multiple-family housing operation.

**Councilor Rodriguez** asked if it were a multiple-family business, would it not be better served with an "R-R" zoning. **Mr. Patterson** said it would be better served as "R-2" but that is not what the applicant requested. He said it is possible they wanted more flexibility.

0:51:59           **Mayor Janway asked if anyone would like to speak regarding the Ordinance.**

**Raymond Peters** said they would be moving their units from the National Parks Highway location and placing them at the San Jose location. **Bryan Navarrette** said it is affordable lodging and it will be six units. **Councilor Niemeier** asked Mr. Peters why doesn't he build four houses on the property. **Mr. Peters** said he is going to work with people that own the units and they are helping with the process of getting started.

**Joel Barrett** said a revolving lodging man-camp is not ideal. He said due to the demographic around the area, there is a possibility more man-camps will be made and push out low poverty families surrounding the area.

**Sarah Carnero** said a man-camp is not ideal because oilfield companies do not do background checks and this can be an issue for surrounding residents.

0:55:39           **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.**

0:55:49           **B.     Approval of Ordinance**

0:55:51           **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Forrest to deny Ordinance 2023-30, an 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 Applicant: Raymond Peters.

0:56:00           **VOTE**

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

0:56:21           **24.    CONSIDER APPROVAL OF ORDINANCE 2023-31, AN ORDINANCE ESTABLISHING THE HISTORIC PRESERVATION OVERLAY ZONE DISTRICT AND ASSOCIATED REGULATIONS TO GOVERN THIS DISTRICT**

0:56:36           **A.     Public Hearing**

**Mr. Patterson** said the City of Carlsbad has, in its interest of protecting its archaeological and historical heritage and assets, decided to pursue becoming a Certified Local Government (CLG). He said this designation requires that the City adopt by ordinance a Historic Preservation Overlay Zone District that will designate areas of the City or singular properties or monuments that fit the City's definition of significant historical or archaeological classification. **Mr. Patterson** said combined with the adoption of the Historic Preservation Advisory Board, the Historic Preservation



Overlay Zone District will provide the City with the required mechanisms to locally oversee historic preservation and qualify for a variety of grant monies and resources for historic preservation work. He said the process of creating and adding properties or monuments to the Historic Preservation Overlay Zone District will be entirely voluntary on the property owners' part. He said the incentive for property owners to be incorporated into this district are the grant monies and resources that will become available once the district is in place and the City secures the Certified Local Government designation. **Mr. Patterson** said grants and resources are available at both the State level and the Federal level for preservation purposes.

**Councilor Forrest** said if a business falls into the Historic District can they choose whether they want to be a part of it. **Mr. Patterson** said if the City were to pursue an area that included multiple property owners, we would have to secure the approval of all or large percentage of those property owners in order to then pass the Ordinance. **Councilor Forrest** asked if renovations are limited to historic buildings. **Mr. Patterson** said yes, part of the historic preservation movement would be to try to establish what we consider to be historic or needed to be preserved. He said this Ordinance would stipulate the way a person can update or rehab their property. He said the Board that was put in place recently, would accept an application to look at how someone is proposing to rehab a property and then they would make a recommendation to this board as to whether or not it should be approved or changed.

**Councilor Niemeier** asked if that applies for private business building owners. **Mr. Patterson** said yes. **Mr. Patterson** said if a building is part of the historic district, there will be some oversight. He said the incentive of being part of this district would be that it opens the possibility to getting grant monies or other resources that go towards refurbishing a property by the rules set forth in the district.

**Councilor Rodriguez** asked if there is an overlay of ten buildings and three of those owners choose not to belong to the historic district, the remaining seven owners would overrule the three. **Mr. Patterson** said yes that is an option. He said he believes that you have to have a certain percentage of the property owners agree to the decision in order to establish a zone. He said he is unsure if that is the avenue the City will take. He said the City will probably pursue going property to property.

**Councilor Chavez** asked if he were to sell a property and then buy a property, is he automatically included in the historic district. **Mr. Patterson** said yes, if you were to purchase a property in that historic district.

1:02:24 **Mayor Janway** asked if anyone would like to speak regarding the Ordinance.

**Ken Britt** said if you own a new building in a historic district, it is not going to qualify as a historic building. He said this committee is going to work in an advisory capacity.

He said this committee will only offer advice and it is up to owner to decide whether or not to participate. **Mr. Britt** said this is a brand-new program and this Ordinance is integral to getting the city to become a certified local government. He said we are still in the process of development.

**Kat Davis** said MainStreet is an established district that is approved locally and at the state level. She said not everyone participates. She said this historic overlay would be similar. She said if someone did fall into this overlay and wanted to make improvements, it would open up access to tax credits and grants.

**Councilor Walterscheid** asked if a business that is in the historic area that does not want to participate would be okay. Ms. Davis said yes, this is an additional resource if you wish to avail of the advantages of being within that district.

1:07:55 **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

1:08:02 **B. Approval of Ordinance**

1:08:04 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Niemeier to approve of Ordinance 2023-31, an Ordinance establishing the Historic Preservation Overlay Zone District and associated regulations to govern this District.

1:08:16 **VOTE**

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

1:08:53 **25. COUNCIL COMMITTEE REPORTS**

**Councilor Chavez** said he recently went to the 22nd annual inter-governmental meeting in Minneapolis, Minnesota. He said nuclear waste clean-up is a form of state, local, tribal and pharaoh officials to discuss priorities and strategies for managing and storing defense nuclear waste. **Councilor Chavez** said it was a productive meeting and they went over workforce development. He said Carlsbad is not the only site that is suffering with workforce development.

**Councilor Niemeier** encouraged everyone to visit the downtown area to see the Christmas decorations and to take a ride on Christmas on the Pecos.

**Councilor Forrest** said this is the last City Council meeting of the year. He thanked Councilor Carter, Councilor Waters, and Mayor Janway for everything they have done for the community. He said good luck to Mayor Lopez and all of the new Councilmen.

1:12:14 Mayor Janway asked if anyone in the audience would like to address the Council.

Tommy Folsom came to the podium and said he would like to talk about Christmas on the Pecos. He said he has Belgian horses and carriages and he would like to do carriage rides along the Pecos. He said he was looking for a special permit to establish this business. Mrs. Madrid-Boyea said the City Council cannot take any action on anything unless it is on the Agenda and published 72 hours minimum in advance of the meeting. She said there may be other avenues besides bringing it to City Council. She suggested visiting the Chamber of Commerce.

1:14:46 26. ADJOURN

1:14:48 MOTION

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

1:14:57 VOTE

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

1:15:09 Adjourn

There being no further business, the meeting was adjourned at 7:15 p.m.



  
Richard D. Lopez, Mayor

  
Nadine Mireles, City Clerk