

LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY  
OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING  
ON JULY 28, 2009 AT 6:00 P.M.

Present:	Bob Forrest	Mayor
	Paul C. Aguilar	Councilor
	Wesley Carter	Councilor
	Brad Day	Councilor
	Jeff Diamond	Councilor
	Ned Z. Elkins	Councilor
	Sandra Nunley	Councilor
	Nick G. Salcido	Councilor

Absent: None

Also Present:	Eileen P. Riordan	City Attorney
	Amanda J. Asbury	City Clerk

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**

0:00:32            **Mayor Forrest announced that Mr. Burgess was out of town on vacation and that Eileen Riordan would be sitting in for him. He also announced that Nathan McDonald had resigned from the City Council.**

0:01:33            **1. APPROVAL OF AGENDA**

0:01:36            **Motion to approve Agenda**

The motion was made by Councilman Aguilar and seconded by Councilwoman Nunley to approve the July 28, 2009 Agenda.

0:01:42            **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:01:57            **2. BUDGET REVIEW AS OF JUNE 30, 2009**

0:02:48                    **Councilman Diamond explained that Gross Receipts Tax ended at 11.8 percent above what it had been the previous year**

0:04:06                    **Motion to table Budget Review**

The motion was made by Councilman Diamond and seconded by Councilman Carter to table the Budget Review as of June 30, 2009 until the next regular meeting to be held August 11, 2009.

0:04:10                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:04:28                    **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Regular City Council meeting held July 14, 2009
- B. City Personnel Report
- C. Check Register and Bills and Petty Cash
- D. Purchasing:
  - 1) Consider approval to purchase a Demonstration Plant for Extraction of Oil from Algae from SRS Company in the amount of \$625,000 as allowed in the Agreement between the City of Carlsbad and the Center of Excellence of Hazardous Materials Management (CEHMM)
- E. Contracts and Agreements:
  - 1) Consider approval of sale of one lot (Block 2, Lot 10, Carlsbad Airport Industrial Park, located on the corner of Rotary and Airway Drive) in the Airport Industrial Park to Precision Valve Services, LLC in the amount of \$6,000 per acre
  - 2) Consider approval of 40 Year Water Plan Update
  - 3) Consider approval of Revision to Grant Agreement No. 06-L-G1625 between the City of Carlsbad and the Department of Finance & Administration, Local Government Division to plan, design, construct, furnish and equip the Cave Karst Research Institute
  - 4) Consider approval of First Amendment to the Capital Cooperative Agreement Certification Project No. SP-GA-4266 (201) in the amount of \$130,000, removing the Canal Streetscape
  - 5) Consider approval of Agreement between the City of Carlsbad and the Carlsbad Community Anti-Drug / Gang Coalition, Inc. for services to reduce Substance Abuse and Gang Activity
  - 6) Consider approval of Memorandum of Agreement between the City of Carlsbad and the NM Department of Transportation authorizing participation in the 49 U.S.C. 5317 program to exceed the ADA requirements for public transportation
  - 7) Consider approval of Agreement between the City of Carlsbad and Carlsbad Community Development Corporation for the donation of residential building lot (712 & 714 W. McKay) in accordance with Affordable Housing Program Ordinance No. 2006-05

- 8) Consider approval of Agreement between the City of Carlsbad and NM Department of Arts for Art Services Contract in the amount of \$6,412 for public art programs in 2010
- F. Miscellaneous Requests:
- 1) Consider approval of request from Pastor David Munoz with Building for Christ Christian Ministries for use of the Beach Bandshell on Saturday, August 8, 2009 from 12:00 p.m. until 8:00 p.m. for Church Activities
  - 2) Consider approval of request from Sunset Church of Christ for the use of the Beach Bandshell on Sunday, August 30, 2009 from 5:00 p.m. to 8:30 p.m. for Sunday Singing and Ice Cream Social
- G. Overnight Travel:
- 1) NMML in Albuquerque, NM on September 2, 3, and 4, 2009-Councilman Wes Carter
  - 2) NMML in Albuquerque, NM on September 2, 3, and 4, 2009-Councilman Paul Aguilar
  - 3) NMML in Albuquerque, NM on September 2, 3, and 4, 2009-Councilman Nick Salcido
- H. City of Carlsbad Department Monthly Reports:
- 1) Community Development Department Report for June 2009
  - 2) Fire Department Report for June 2009
  - 3) Police Department Report for May 2009
  - 4) Police Department Report for June 2009
  - 5) Transportation and Facilities Department Report for June 2009

0:04:37

**Motion to approve Routine and Regular Business**

The motion was made by Councilman Diamond and seconded by Councilman Aguilar to approve the Routine and Regular Business with the exception of item D. 1 which was pulled for further discussion.

0:05:03

**Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:05:18

**D. 1 Consider approval to purchase a demonstration plant for extraction of oil from algae from SRS Company in the amount of \$625,000 as allowed in the agreement between the City of Carlsbad and the Center of Excellence of Hazardous Materials Management (CEHMM)**

**Councilman Diamond** commended the Center of Excellence and their staff.

0:06:05

**Motion by Councilman Diamond**

The motion was made by Councilman Diamond and seconded by Councilman Elkins that the City of Carlsbad require CEHMM to use the facility to manufacture and market the algae oil product within the City of Carlsbad so that it consistent with what was understood to be the original grant to fund this project and their operation.

0:06:35                    **Greg Brown and Doug Lynn, Center of Excellence of Hazardous Materials Management**

**Mr. Brown** expressed gratitude to the City of Carlsbad for the funding for the project. He explained that SRS Company has been the only company that was able to extract the oil from the algae. He explained the process involved with extracting the oil from the algae. **Mr. Lynn** expressed gratitude to the City for being the pass-through on the project. He explained that in order for them to do what they said they were going to do for the State, SRS Company will not allow them to deploy the extraction technology within the City Limits. He explained what they were obligated to do for the State which was build a fully vertically integrated bio refinery. He explained why the extraction technology must be deployed at the ponds near Atoka. He explained that they could very easily market the oil in town once it has been converted to a fuel.

0:15:10                    **Discussion regarding citing Carlsbad as the location of the bio fuels plant**

0:19:19                    **Discussion regarding the motion made by Councilman Diamond**  
**Councilman Day** explained that the motion needed to be restated because it called for a requirement that according to Mr. Lynn would be impossible to meet. **Councilman Diamond** explained that the purpose of his motion was to treat the cite the manufacturing and marketing as being Carlsbad so that they could claim any statutory right they had to impose a tax on production and sales once the product is marketed.

**Councilman Elkins** explained that the he would like for the motion to state that CEHMM would make every effort to market their oil to a fuel capability within the City of Carlsbad. **Mr. Lynn** stated they had that commitment to the City of Carlsbad.

**Councilman Diamond** accepted Councilman Elkins recommendation.

0:21:47                    **Restatement of the motion**

The motion was made by Councilman Diamond and seconded by Councilman Elkins that the City of Carlsbad require the Center of Excellence of Hazardous Materials Management (CEHMM) to make every reasonable effort to cite its production, distribution and marketing of its finished product within the City of Carlsbad.

0:22:18                    **Mr. Lynn explained that the bi-products of the bio fuel may be worth more than the fuel and prove to be more beneficial to the community**

0:23:10                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:23:27                    **4. SET A DATE TO CONSIDER AN ORDINANCE  
CREATING A VETERANS' MEMORIAL BOARD (AUGUST 25, 2009)**

0:23:41                    **Motion to set date to consider Ordinance**

The motion was made by Councilman Diamond and seconded by Councilman Elikns to approve setting a date to consider an Ordinance creating a Veterans' Memorial Board (August 25, 2009)

0:23:46                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:23:59                    **5. CONSIDER REQUEST FROM YVONNE FRANCO FOR A  
SPECIAL LICENSE TO ALLOW FOR MOBILE SALES OUT OF AN ICE CREAM  
TRUCK ON CITY RIGHT-OF-WAY BY FRANCO'S ICE CREAM SERVICE**

**Ms. Yvonne Franco** explained that she wanted to run a mobile ice cream truck around Carlsbad in the evenings.

0:24:58                    **Motion to approve Special License**

The motion was made by Councilman Diamond and seconded by Councilman Salcido to approve the request from Yvonne Franco for a Special License to allow for mobile sales out of an ice cream truck on City right-of-way by Franco's Ice Cream Service subject to the Special Use Permit conditions.

0:25:17                    **Councilman Day and Ms. Franco**

**Councilman Day** stated that there was not a list of conditions in the packet but there were two recommendations which were that the applicant did not disturb the peace with a loudspeaker or other disruptive noise. He stated he had never seen an ice cream truck that did not make some noise. He stated he did not agree with that recommendation. He explained that the other recommendation is that it limits sales from 9:00 a.m. to 7:00 p.m. He asked Ms. Franco if she would be able to comply with those recommendations. **Ms. Franco** stated that she didn't think the music on the truck was going to be too loud and 7:00 p.m. was a decent time to stop working.

0:26:44                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

0:27:27                    **6. PRESENTATION BY CARLSBAD COMMUNITY  
DEVELOPMENT CORPORATION (CCDC) ANNUAL REPORT**

**Mr. Joe Epstein** of the Carlsbad Community Development Corporation gave the annual report for the CCDC highlighting:

- The Mission of the Carlsbad Community Development Corporation
- First home build - 2409 Mountain View

- Self Sufficiency goal reached
- Second home build - 2512 W. Wyoming
- CTVTP Enrollment
- Leveraged funds June 07-09
- Construction trades expansion accomplishments
- Acknowledgements and recognitions

0:38:24                    **Councilman Diamond and Mr. Epstein explained that this is the model program in the State of New Mexico**

0:38:56                    **Councilman Elkins and Mr. Epstein discuss the apprenticeship program**

0:41:15                    **Mayor Forrest thanked Mr. Epstein, Lorraine Allen-Munoz and Councilman Diamond for all of the hard work they have put toward developing affordable housing in the community**

0:41:49                    **7. PRESENTATION BY CARLSBAD DEPARTMENT OF DEVELOPMENT ANNUAL REPORT**

**Mr. John Waters**, Carlsbad Department of Development gave their annual report highlighting:

- Statistics demonstrating the contacts that have been made in person, by phone and on the road
- National fuel cycle summit being held in Carlsbad
- CDOD involvement with housing projects

0:51:27                    **8. REQUEST FROM MR. TOM BENAVIDEZ FOR AN EXTENSION OF TIME ON PREVIOUSLY CONDEMNED PROPERTY LOCATED AT 1202 W. MERMOD STREET (RESOLUTION NO. 2009-01)**

**Ms. Riordan** gave a brief overview of the actions taken by Council and Mr. Benavidez regarding the property located at 1202 W. Mermod. She explained that at the last meeting Council told Mr. Benavidez that he need not appear in person at the present meeting, that he could submit a letter. She explained that he had done so and requested a 60 day time extension due to depleted funds. She explained the concerns of the staff regarding this property which included overgrown weeds, the structure not being secure and debris on the ground.

0:54:10                    **Motion made by Councilman Diamond**

The motion was made by Councilman Diamond that Mr. Benavidez be required to secure the structure and remove the debris from the property by August 25, 2009 and report back to Council at that time. The motion died due to lack of a second.

0:54:59                    **Discussion regarding what will be required of Mr. Benavidez and the amount of time he should be granted to satisfy the requirements**

0:58:50                   **Motion to approve request for time extension**

The motion was made by Councilman Elkins and seconded by Councilwoman Nunley that the request from Mr. Tom Benavidez that a 60 day extension of time on previously condemned property located at 1202 W. Mermod Street (Resolution No. 2009-01) be granted, and in that time the building be secured, the weeds mowed, all of the debris removed from the property and that Mr. Benavidez report back to Council in 60 days.

1:02:25                   **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:02:39                   **9. REQUEST FROM MR. DARRYL BROUGHTON FOR AN EXTENSION OF TIME ON PREVIOUSLY CONDEMNED PROPERTY LOCATED AT 409 W. LAREDO STREET (RESOLUTION NO. 2009-17)**

**Ms. Riordan** gave a brief overview of the property located at 409 W. Laredo. She explained Mr. Broughton obtained ownership of the property and expressed interest in cleaning up the property. She explained that Mr. Broughton had begun clean up on the property. **Mr. Broughton** explained that he was interested in the home located at 409 W. Laredo had been occupied by himself and members of his family throughout the years. He explained that he had cleaned up the property some. He explained the upgrades he was currently working on to bring the structure up to code. He explained that he would like a 60 day time extension to continue working on the property.

1:07:33                   **Motion to approve request from Darryl Broughton for an extension of time**

The motion was made by Councilman Diamond and seconded by Councilman Salcido to grant Mr. Darryl Broughton until August 25, 2009 to remove the weeds and debris from the property, report back to Council with a plan for rehabilitation of the structure including how it would be done and how long it would take to execute the plan at the previously condemned property located at 409 W. Laredo Street (Resolution No. 2009-17)

1:08:42                   **Mr. Broughton explained that he felt that he could comply with what was stated in the motion. He stated that he would like for the City to clean up the alley, if possible.**

1:10:02                   **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:10:18                   **10. CONSIDER RESOLUTION NO. 2009-24, RATIFYING AGREEMENT WITH THE SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT/COG FOR FY 2009-2010 MEMBERSHIP**

1:10:30                   **Motion to approve Resolution No. 2009-24**

The motion was made by Councilman Diamond and seconded by Councilwoman Nunley to approve Resolution No. 2009-24, ratifying agreement with the Southeastern New Mexico Economic Development District/COG for FY 2009-2010 membership.

1:10:50                   **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:11:05                   **RESOLUTION NO. 2009-25, DECLARING CERTAIN CITY PROPERTY OBSOLETE AND UNUSABLE**

1:11:14                   **Motion to approve Resolution No. 2009-25**

The motion was made by Councilman Elkins and seconded by Councilman Aguilar to approve Resolution No. 2009-25, declaring certain City property obsolete and unusable.

1:11:20                   **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:11:34                   **12. CONSIDER RESOLUTION NO. 2009-26, MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE FY 2008-2009 BUDGET**

**Councilman Diamond** made a motion to table this item until the next meeting due to lack of documentation. **Ms. Harris** explained that they had the documentation.

**Councilman Diamond** withdrew his motion.

**Ms. Harris** reviewed the budget adjustments highlighting:

- Increase in the transfers out of the General Fund Increases in Personnel Expense
- Transfer out of the Water Fund
- Increase in the Operating Fund and the Personnel Fund within the Water Fund
- Increase Personnel Expense in the RSVP Fund
- Increase in the transfer in from the General Fund into the Street Improvement Fund
- Street projects
- Increased funds for the Erosion Control Project
- Transfer of funds from the Water and Sewer Department into the Debt Service account to pay the NMFA loan
- Addition of new fund 2009 Water and Sewer Bond acquisition fund due to the bond that was executed this year
- Transfer into the CDBG Fund from the General Fund
- Federal Projects

- WIPP Fund 2006-2008
- WIPP Fund 2005-2006

1:18:51                    **Councilman Diamond expressed concerns regarding approving the budget adjustments and the Fiscal Year Budget without having the documents**

1:19:30                    **Motion to approve Resolution No. 2009-26**

The motion was made by Councilman Aguilar and seconded by Councilwoman Nunley to approve Resolution No. 2009-26 making certain budgetary adjustments to the FY 2008-2009 budget.

1:19:43                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:20:15                    **13. CONSIDER RESOLUTION NO. 2009-27, ADOPTING THE FY 2009-2010 BUDGET**

**Councilman Diamond** stated that we have a wonderful budget and as far as he knew the budget was approved by the Department of Finance and Administration. **Ms. Harris** explained that the interim budget was approved and what Council had before them for consideration was the final budget. She gave an overview of the budgetary process and reviewed items that were included in the final budget instead of the interim.

1:22:37                    **Councilman Elkins asked for a vote of confidence from the Budget and Salary Committee regarding the Budget**

**Councilman Day** explained the discussion that took place regarding implementing a longevity plan versus a merit based program. He explained that the decision was made to implement a longevity based plan this year. **Councilman Diamond** explained that he thought we had a very sound budget and the changes that were made between the interim and the final were reasonable and accurately reflect the facts. He stated he agrees with the changes that were made.

1:28:44                    **Motion to approve Resolution No. 2009-27**

The motion was made by Councilman Diamond and seconded by Councilman Elkins to approve Resolution No. 2009-27, adopting the FY 2009-2010 budget.

1:30:11                    **Vote**

The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:30:26                    **14.    CONSIDER RESOLUTION NO. 2009-28, APPROVING AND ACCEPTING COOPERATIVE AGREEMENT WITH THE NEW MEXICO STATE DEPARTMENT OF TRANSPORTATION (NMDOT) FOR LEA STREET ROAD IMPROVEMENTS IN THE AMOUNT OF \$43,537.00**

1:30:43                    **Motion to approve Resolution No. 2009-28**  
The motion was made by Councilwoman Nunley and seconded by Councilman Day to approve Resolution No. 2009-28, approving and accepting Cooperative Agreement with the New Mexico State Department of Transportation (NMDOT) for Lea Street Road Improvements in the amount of \$43,537.00.

1:30:47                    **Vote**  
The vote was as follows: Yes - Salcido, Aguilar, Carter, Day, Nunley, Diamond, Elkins; No - None; Absent - None. The motion carried.

1:31:04                    **15.    COUNCIL COMMITTEE REPORTS**  
None to report.

1:31:58                    **Adjourn**

There being no further business, the meeting was adjourned at 7:30 p.m.

\_\_\_\_/s/ Bob Forrest\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_/s/ Amanda J. Asbury\_\_\_\_\_  
City Clerk