

**LINKED MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL BUILDING
ON SEPTEMBER 22, 2009 AT 6:00 P.M.**

Present:

Paul C. Aguilar	Councilor
Wesley Carter	Councilor
Brad Day	Councilor
Jeff Diamond	Councilor
Jim Grantner	Councilor
Sandra Nunley	Councilor
Nick G. Salcido	Councilor

Absent:

Bob Forrest	Mayor
Ned Z. Elkins	Councilor

Also Present:

Eileen P. Riordan	City Attorney
Monica D. Harris	Finance Director
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**

0:00:01 **Invocation - Pledge of Allegiance**

0:00:14 **Councilman Day announced he would be acting Mayor because Mayor Forrest and Councilman Elkins were in Washington D.C. at a WIPP Congressional meeting. He stated that Mr. Burgess was absent because he had a death in his family and that Councilman Diamond was on his way and would be at the meeting shortly**

0:00:44 **1. APPROVAL OF AGENDA**

0:00:47 **Motion to approve Agenda**

The motion was made by Councilman Aguilar and seconded by Councilman Carter to approve the September 22, 2009 Agenda.

0:01:00 **Vote**

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

0:01:13 **2. PROCLAMATION DECLARING OCTOBER 7, 2009
"WALK AND ROLL TO SCHOOL DAY"**

Ms. Janie Lynn expressed her appreciation to the City for its participation in the Walk and Roll to School Day. **Ms. Lorraine Allen-Munoz** explained that this was the second year for this event and it is a part of the Safe Routes to School program. She gave a brief explanation of the program.

0:02:52 **3. BUDGET REVIEW AS OF AUGUST 31, 2009**

Ms. Harris reviewed the revenues and expenditures as of August 31, 2009 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

Councilman Diamond arrived during the Budget Review.

0:07:27 **Motion to approve Budget Review**

The motion was made by Councilman Carter and seconded by Councilman Salcido to approve the Budget Review as of August 31, 2009.

0:07:33 **Vote**

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

0:07:49 **4. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of Regular City Council meeting held September 8, 2009
- B. City Personnel Report
- C. Check Register & Bills and Petty Cash
- D. Purchasing Matters:
 - 1) Executive-Consider rejecting RFP 2009-09, Auctioneer Services and approve soliciting new proposals for Auctioneer Services
- E. Contracts and Agreements:
 - 1) Consider approval of Resolution No. 2009-37, Accepting and approving project No. SAP 09-3414-GF from the New Mexico Environment Department and designating grantee representative and signatory authority to plan, design, construct a solid waste transfer station in Carlsbad
- F. Miscellaneous Requests:
 - 1) Consider cancellation of City Council meetings scheduled for November 24, 2009, and December 22, 2009
 - 2) Consider request from Carlsbad Radio for use of the Beach Band Shell and surrounding area for the Chili Festival on Saturday, June 5, 2010

- 3) Consider request from San Jose Catholic Church for use of San Jose Plaza on Saturday, October 10, 2009 from 12:00 to 2:00 p.m.
- G. Overnight Travel:
- 1) Mayor Bob Forrest to attend the Re-Energize America Conference in Las Cruces, NM on August 31 through September 1, 2009
 - 2) Mayor Bob Forrest to attend the 2009 Domenici Public Policy Conference in Las Cruces, NM on September 16 through 17, 2009
 - 3) Mayor Bob Forrest to attend the WIPP Congressional Meeting in Washington, DC on September 21 through September 23, 2009
- H. City of Carlsbad Department Monthly Reports:
- 1) Community Development Department Report for August 2009
 - 2) Fire Department Report for August 2009
 - 3) Police Department Report for August 2009
 - 4) Transportation Department Report for August 2009
 - 5) Utilities Department Report for August 2009
- I. Set dates:
- 1) Set date to consider approval of an Ordinance rezoning part of "R" Rural Residence District to "C" Residence District for 15.48+/- acres (commonly described as being at the northwest corner of San Jose Boulevard and Wood Avenue extended, part of Tract two of Old Rose Farm) and Amending Sections 56-38 and 56-34 of the Carlsbad City Code **(October 27, 2009)**
 - 2) Set date to consider approval of an Ordinance authorizing the deeding to Tessengerlo Kerley Services, Inc. of approximately 21.00 acres of real property in the Carlsbad Airport Industrial Park Unit 5, Replat #3, Parcel 6 **(October 13, 2009)**

0:07:57 **Councilman Day stated that item F. 2 had been requested to be pulled**

0:08:11 **Motion to approve Routine and Regular Business**
 The motion was made by Councilman Diamond and seconded by Councilman Grantner to approve the Routine and Regular Business with the exception of item F. 2 which was pulled for further discussion.

0:08:15 **Vote**
 The vote was as follows: Yes - Nunley, Aguilar, Carter, Day, Diamond, Grantner; No - None; Absent - Elkins. The motion carried.

0:08:29 **F. 2. Consider request from Carlsbad Radio for use of the Beach Bandshell and surrounding area for the Chili Festival on Saturday, June 5, 2010**
Mr. Jerry Flores, Carlsbad Radio explained that they have been hosting the Chili Festival for 16 years and the only thing that would be different this year is that a company has approached them about having helicopter rides. He stated that they had a certificate of insurance that would cover both the radio station and the City.

Discussion was held regarding:

- The site where the helicopter would land and take off
- Restricted safety area
- Concerns regarding congestion of the area with regard to parking
- Noise complaints generated from the helicopter

0:13:20 **Motion to table**

The motion was made by Councilman Diamond and seconded by Councilman Carter to approve the date of the Chili Festival and to table the request for helicopter rides until Council has been given a complete report from the City Administrator with regard to safety.

0:13:47 **Discussion regarding having a different launch site for the helicopter**

0:14:28 **Vote**

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

0:15:08 **5. CONSIDER APPROVAL OF ORDINANCE NO. 2009-15, AUTHORIZING THE SALE OF APPROXIMATELY 41.17 ACRES OF REAL PROPERTY IN THE CARLSBAD AIRPORT INDUSTRIAL PARK UNIT 5, TO EDDY COUNTY**

A. Public Hearing

Councilman Day asked if anyone would like to speak regarding this issue. No one appeared and Councilman Day declared the protest hearing closed and reconvened the Council in regular session.

0:15:41 **B. Consider Ordinance**

0:15:44 **Ms. Riordan explained that this land would be used for the rehabilitation center and the process required by the State in order to sell the land**

0:16:11 **Motion to approve Ordinance**

The motion was made by Councilman Diamond and seconded by Councilwoman Nunley to approve Ordinance No. 2009-15, authorizing the sale of approximately 41.17 acres of real property in the Carlsbad Airport Industrial Park Unit 5, to Eddy County.

0:16:20 **Vote**

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

0:16:34 **6. CONSIDER APPROVAL OF RESOLUTION NO. 2009-38, ADOPTING AN INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP)**

Mr. Beasley explained the resulting top five priority projects after calculating the tally sheets that were distributed to Council. He explained that those projects would be submitted to the State for funding.

0:18:38 **Motion to approve Resolution 2009-38**

The motion was made by Councilman Aguilar and seconded by Councilman Carter to approve Resolution No. 2009-38, adopting an Infrastructure Capital Improvements Plan (ICIP)

0:18:47 **Vote**

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

0:19:02 **7. CONSIDER MATTERS RELATING TO DELINQUENT WATER, SEWER AND GARBAGE ASSESSMENTS**

- A. PROTEST HEARINGS**
- B. RESOLUTION NO. 2009-39 DETERMINING THE DELINQUENCY OF PAYMENT FOR WATER SERVICE**
- C. RESOLUTION NO. 2009-40 DETERMINING THE DELINQUENCY OF PAYMENT FOR SEWER SERVICE**
- D. RESOLUTION NO. 2009-41 DETERMINING THE DELINQUENCY OF PAYMENT FOR GARBAGE SERVICE**

0:19:28 **Ms. Harris**

Ms. Harris explained that this is the annual process that takes place every year for the accounts that have been closed out and still have a balance owing. She explained the legal requirements of the process.

0:20:21 **Mr. Richard Callicoat**

Mr. Callicoat explained that he received a letter stating that he had an unpaid balance. He explained that the bill was for a rental property that he owns and not only did the renter leave an unpaid water bill he also failed to pay the rent and other utilities as well. He explained that he spent a lot of time in Lubbock with his ailing wife and when he returned home he found that he had a delinquent notice and a cut-off notice. He explained that his tenant had four months of delinquent water bills to his two months and he inquired as to why.

0:22:46 **Discussion regarding the time frame between the notice and the actual disconnect for non-payment and protection for owners of rental property**

0:27:22

Issues regarding the VFW facility

Mr. Matt Byers stated he was there in the place of John Caraway. He gave a brief history of the problems with the water usage at the facility. **Ms. Harris** gave a brief overview of the actions taken regarding this account with an ending result of the meter being totally operational and that the excessive water usage was from a broken sprinkler. She explained that the City does not give credit for water wasted due to a leak. **Mr. Byers** explained why he believed that the bill was a result of a malfunctioning meter. He explained why the bill should be reduced. **Councilman Diamond** explained some of the other legal issues surrounding this property. He explained that the findings of the Public Works Department should not be overruled.

Discussion was held regarding calculating water usage and vandalism of the sprinkler system.

0:36:14

Motion to approve Resolution Nos. 2009-39, 40, 41

The motion was made by Councilman Diamond and seconded by Councilman Aguilar to approve Resolution No. 2009-39 determining the delinquency of payment for water service, Resolution No. 2009-40 determining the delinquency of payment for sewer service and Resolution No. 2009-41 determining the delinquency of payment for garbage service.

0:37:17

Vote

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

0:37:30

8. CONSIDER APPROVAL OF RESOLUTION NO. 2009-42, MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE FY 2009-2010 BUDGET (1ST QUARTER)

Ms. Harris explained that the budget adjustments for the most part related to new revenues received; therefore, some of the revenues and expenditures had to be increased. She explained that the City also received slightly less revenue on some of the grants and there was a grant that was not received at all and had to be adjusted.

0:38:31

Motion to approve Resolution No. 2009-42

The motion was made by Councilman Grantner and seconded by Councilwoman Nunley to approve Resolution No. 2009-42, making certain budgetary adjustments to the FY 2009-2010 budget (1st quarter)

0:38:39

Vote

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

0:38:53

9. COUNCIL COMMITTEE REPORTS

None to report.

0:39:10

Adjourn

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

____/s/Bob Forrest_____
Mayor

ATTEST:

____Annette Barrick_____
Deputy City Clerk