

City of Elko)
County of Elko)
State of Nevada)

SS April 13, 2010

The City Council of the City of Elko, State of Nevada met for a special meeting beginning at 6:00 p.m., Tuesday, April 13, 2010.

This meeting was called to order by Mayor Michael J. Franzoia.

NOTE: The order of the Agenda has been changed to reflect the order business was conducted.

ROLL CALL

Mayor Present: Michael J. Franzoia

Council Present: Councilman Jim Conner
Councilman Jay Elquist
Councilman Chris Johnson
Councilman John Rice

City Staff Present: Curtis Calder, City Manager
Delmo Andreozzi, Assistant City Manager
Don Zumwalt, Police Chief
Shanell Owen, City Clerk
Dawn Stout, Administrative Services Director
Eric Howes, Parks & Recreation Director
James Wiley, Parks Superintendent
Rick Hofheins, Airport Security Manager/Assistant Director
Mike Hecht, Deputy Chief/Fire Marshal
Fritz Sawyer, WRF Superintendent
Mike Haddenham, WRF Assistant Superintendent
Brian Mickels, Golf Course Superintendent
Darren Skelton, Public Works Superintendent
Ted Schnoor, Building Official
Dawn Leyva, Recreation Services Manager
Scott Wilkinson, Development Manager
Jessica Johnson, Human Resources Manager
Tony Ferguson, Sr. Engineering Technician
Ed Wynes, City Planner
Jeremy Draper, Civil Engineer
Tony Ferguson, Sr. Engineering Technician
Lorraine Martinez, Accounting Supervisor
Linda Buffington, Recording Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES **March 16, 2010 – Special Session Budget Workshop**
March 23, 2010 – Regular Session Council Meeting
March 23, 2010 – Special Session Budget Workshop

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve the minutes as submitted.**

Motion passed unanimously.

READING OF A PROCLAMATION RECOGNIZING ARBOR DAY

I. FISCAL YEAR 2010/2011 TENTATIVE BUDGET

- A. Review and possible approval of the Fiscal Year 2010/2011 Tentative Budget, inclusive of all funds, and matters related thereto. **ACTION ITEM**

Administrative Services Director Stout presented the tentative budget and advised the presentation represents all changes as previously directed by the council; see Exhibit ‘A’.

John Carpenter questioned why budget approval was being addressed first when later on the agenda there is public hearing related to the proposed fee increases.

Mayor Franzoia advised this is only the tentative budget.

Mr. Carpenter believed the council should be aware of what people think about the fee increases before approving the budget. Mr. Carpenter then questioned borrowing money from the sewer fund for litigation at the airport. Does the city have a letter from the proper authorities saying it was legal to loan money from an enterprise fund without a stable revenue source; if so he would like a copy of the letter.

Ms. Stout advised by state statute the city may make an inter-fund loan; there is no authority at the Department of Taxation that has to approve that. The only requirement is that it does have to be paid back within a twelve month period; the council can choose to charge interest on that or not.

Mr. Carpenter requested a copy of the state statute. Mr. Carpenter then questioned whether a 2% franchise fee on sewer and water is part of the budget to be approved.

Ms. Stout verified those numbers are included in the tentative budget.

Mr. Carpenter requested copies of whatever document gives the city authority to charge a franchise fee on a utility the taxpayers own.

Ms. Stout advised NRS 704 addresses franchise fees and addresses municipalities charging franchise fees basically to their own municipal department. Other municipalities do the same thing; Carson City has a 1% franchise fee they charge their users for both water and sewer. Mr. Carpenter believed this is a tax increase and the city shouldn't try to cover up as franchise fee.

Mayor Franzoia advised he was opposed to the budget as presented based on comments he made at the last meeting.

Councilman Johnson indicated he would also vote against the budget as presented; he is opposed to the franchise fee concept and the amount of transfers in.

Councilman Elquist provided a point of perspective; we live in a low tax area. As far as property tax there are three counties lower than Elko County and thirteen counties higher. In regards to our sales tax; there is no county in Nevada lower, four counties have the same and twelve are higher. Councilman Elquist believed it was important people understand that our revenue source intermittently makes us a conservative city. We do have some fee increases that are being proposed; some up to 20% or higher but overall they are far less than a percent of increase of our total revenue. We have decreases in all of our salaries and benefits in addition to the positions we haven't filled and we've cut services and supplies way back. It is all limited by what we can take in and there aren't a lot of places in the state you can move to find less of a burden. Councilman Elquist stated he approves the budget. He supports franchise fees; they are appropriate and justifiable. We will do the best we can with the dollars we bring in.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve the fiscal year 2010/2011 tentative budget; inclusive of all funds and matters related thereto and subject to the actual fees increases to be discussed later in the agenda.**

**Motion passed 3 to 2.
Mayor Franzoia voted against.
Councilman Johnson voted against.**

II. APPROPRIATIONS

- B. Review, consideration, and possible action to select Wood Rodgers, Inc. to provide professional engineering services related to a Regional Road Repair Plan, and matters related thereto. ACTION ITEM

At the November 24, 2009 Council meeting, Staff was authorized to solicit Statement of Qualifications (SOQ's) to provide professional engineering services related to a Regional Road Repair Plan. The deadline for submitting SOQ's was January 19, 2010; fifteen (15) SOQ's were received. Members of the selection committee reviewed the SOQ's and invited the five (5) highest scoring firms to participate in a formal oral interview process. Based upon the review process, the selection committee is forwarding a recommendation to the Council to select Wood Rodgers, Inc. to provide professional engineering services related to a

Regional Road Repair Plan, and direct Staff to negotiate a professional services agreement to be brought back to Council for review and possible approval. DA

Assistant City Manager Andreozzi indicated the selection committee consisted of three staff members and one council member. Fifteen firms submitted SOQ's which were ranked by the committee; the top five were invited for an oral interview. Ranking for the top five was based on 30% from the SOQ and 70% for the oral interview. The highest ranking firm based on that process was Wood Rogers, Inc.

City Attorney Goicoechea advised the agenda item as written only allows the selection of Wood Rogers, Inc. If any member of the council is inclined to select one of the other firms this item should be brought back at the next meeting.

Councilman Conner expressed support of keeping money for this project within the area if at all possible; we need to look out for businesses in our community.

Councilman Rice indicated he received communications from a number of citizens in regards to awarding this to an out-of-area contractor. Councilman Rice knew the process staff goes through was thorough but believed there should be process to weigh local contractors.

Mr. Andreozzi stated the process was detailed and thorough; everyone was treated equal and fair. NRS outlines the terms of selecting an engineer but it is very brief. The selection committee did not have the flexibility to do it any other way. This is a recommendation from the committee and council has more prerogatives. This SOQ process is a formalized and standardized process that has been used by the City of Elko for a number of years.

Mayor Franzoia questioned when council gave approval to go through this process.

Mr. Andreozzi advised staff was authorized to solicit SOQ's at the November 24, 2009 Council Meeting.

Mayor Franzoia advised the process was perfect and the selection committee had no discretion; the council does have that. Obviously when this was authorized back in November the economy was different. Mayor Franzoia appreciated the fact staff only advertised locally and also placed the information on our website in an attempt to keep it local. Mayor Franzoia stated his personal preference, with established qualifiers, is to keep it local.

Mr. Goicoechea read from the NRS Statute "*the selection of a professional engineer must be made on the basis of the competence and qualifications of the engineer*". It doesn't say you have to select who you think is best qualified and most competent; it is based upon their competence and qualifications. Mr. Goicoechea advised as written there is leeway for the council.

Mayor Franzoia believed as written it gives the council better opportunity to maintain it locally for the economic values as well as the fact a local engineer would know the system, the players, the community and they are based here. Mayor Franzoia stated those are all benefits and strengths to the political process of selecting someone local.

Mr. Andreozzi advised Mike Wilhelm representing Wood Rogers was present at tonight's meeting.

Mr. Wilhelm acknowledged and understood the comments made by various council members. Mr. Wilhelm believed the interpretation of the NRS cited was met by the committee whereas they wanted to find the most qualified firm for the job. Mr. Wilhelm believed they did so; Wood Rogers had the highest score on both the written portion and the oral. Mr. Wilhelm indicated of the top five firms all are based out of Reno or other cities with Summit Engineering being the only one that also has an office locally. Regarding local preference they can't compete because they don't have an office in Elko. They have adequate manpower, this is well within their capabilities and they have done several projects like this as noted by the committee and they have the ability of making it happen as though they were local. In terms of getting a quality product for a fair price you wouldn't be making a mistake by not picking a local firm; they are capable of providing that level of service.

Mayor Franzoia requested verification that Reno puts a preference on locals.

Mr. Wilhelm was unable to provide the answer but stated local preference was not indicated in the SOQ released they responded to.

Mayor Franzoia commented since it was only advertised locally staff likely believed only locals would respond. Had that been different or the economy was sinking back in November there probably would have been a qualifier on that. Historically when the city has had down turns we try to take care of the locals, spread the wealth around and rotate it.

Councilman Elquist questioned how this needed to be handled based on comments by legal counsel.

Mr. Goicoechea advised the council could direct staff to reword the item and bring it back on a future agenda.

Councilman Elquist commented there is room for improvement in how we do the SOQ's. Wood Rogers was the most qualified based on the criteria we provided, but a criteria not included was local preference.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to take no action and direct staff to bring the matter back on the next agenda so the council can have broader consideration of qualified candidates.**

Motion passed unanimously.

- C. Review, consideration, and possible approval of an engagement letter with the Law Firm of Swendseid & Stern to serve as bond counsel for the proposed \$10,500,000 General Obligation Bonds the City of Elko intends to issue for the 2010 Idaho Street Rehabilitation Project, and matters related thereto. **ACTION ITEM**

Council approved the City bonding for the 2010 Idaho Street Rehabilitation Project at their March 9, 2010 meeting. The City is required to retain bond counsel for the bonding process. Enclosed in the agenda packet is an engagement letter from Swendseid and Stern for the required services. Expected costs associated with retaining bond counsel ranges from \$60,000 to \$70,000, and does not include the required financial services expertise associated with the bond issue. DS

**** A motion was made by Councilman Elquist, seconded by Councilman Johnson to approve an engagement letter with the Law Firm of Swendseid & Stern to serve as bond counsel for the proposed \$10,500,000 General Obligation Bonds the City of Elko intends to issue for the 2010 Idaho Street Rehabilitation Project.**

Motion passed unanimously.

III. NEW BUSINESS

- A. Review and approval of pending Special Events, and other matters related thereto. **ACTION ITEM**

This item has been added to the agenda in order to consider any application for Special Events received by the Clerks Office. Staff will report on any application on file. SO

1. Review and possible approval of a request from the Downtown Business Association to close a portion of the downtown corridor between 5th and 6th Streets in conjunction with a Farmer's Market to be held on July 10, August 14, September 11, and October 9th from 10:00 a.m. to 3:00 p.m., and matters related thereto. **ACTION ITEM**

The DBA is requesting this event to be held on the same days as the Wine Walk but at different times and would require a different closure. The actual time of the closures will be from 9:00 a.m. to 4:00 p.m. each day the market is held. SO

Amber Overholser, Market Manager, was present to answer questions.

Mayor Franzoia questioned the location against 5th Street; is that wise.

Ms. Overholser identified the location and intent; it will not be out in the street. Ms. Overholser advised they will address any concerns the council has.

Councilman Rice thanked Ms. Overholser for all her work; this is a great project.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to approve the request from the Downtown Business Association to close a portion of the**

downtown corridor between 5th and 6th Streets in conjunction with a Farmer's Market to be held on July 10, August 14, September 11, and October 9th from 10:00 a.m. to 3:00 p.m.

**** Councilman Rice amended the motion; the actual times for the closures are 9:00 a.m. to 4:00 p.m., Councilman Conner's second stood.**

Motion passed unanimously.

- B. Review, consideration, and possible approval of a an Agreement between TJ and Teri Agenbroad and the City of Elko to operate a food and beverage concession business at the Elko Regional Airport, and matters related thereto. **ACTION ITEM**

TJ and Teri Agenbroad are requesting to operate the food and beverage concession at the Elko Regional Airport. Enclosed is an Agreement detailing terms and conditions that has been signed by TJ and Teri Agenbroad. TM

City Manager Calder advised this is similar to other food concessions we have had at the airport.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve an Agreement between TJ and Teri Agenbroad and the City of Elko to operate a food and beverage concession business at the Elko Regional Airport.**

Motion passed unanimously.

- C. Review, consideration, and possible acceptance of a Deed of Dedication from Kelly and Jeanie Balok, for Right-of-Way on the southern half of Tamarack Drive extending from the existing Royal Crest Drive to the proposed Cattle Drive, and matters related thereto. **ACTION ITEM**

The City of Elko is seeking Right-of-Way on the southern half of Tamarack Drive from the existing Royal Crest Drive to the proposed Cattle Drive. Development of this portion on Tamarack Drive will provide traffic circulation once Cattle Drive is developed. SAW

Civil Engineer Draper identified the location in questioned through the use of Pictometry.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to accept a Deed of Dedication from Kelly and Jeanie Balok, for Right-of-Way on the southern half of Tamarack Drive.**

**** Councilman Conner amended the motion to clarify for accept a Deed of Dedication from Kelly and Jeanie Balok, for Right-of-Way on the southern half of Tamarack Drive extending from the existing Royal Crest Drive to the proposed Cattle Drive, Councilman Johnson's second stood.**

Motion passed unanimously.

- D. Review, consideration, and possible acceptance of a letter of resignation from Wade Finlinson from the Parks & Recreation Advisory Board, and matters related thereto. **ACTION ITEM**

Mr. Wade Finlinson has submitted a letter of resignation from the Parks and Recreation Advisory Board. Staff is also requesting authorization to advertise the vacancy on the board. EDH

**** A motion was made by Mayor Franzoia, seconded by Councilman Conner to accept a letter of resignation from Wade Finlinson from the Parks & Recreation Advisory Board.**

Motion passed unanimously.

IV. RESOLUTIONS AND ORDINANCES

- A. First Reading of Ordinance #712, an Ordinance amending Title 8, Chapter 11, Section 2 of the Elko City Code entitled “Public Events” amending glass containers; and amending Title 8, Chapter 11, Section 6 entitled “Alcoholic Beverages, requiring a permit for alcoholic beverages; and amending Title 8, Chapter 11, Section 7 entitled “Fees and Charges for Park and Park Equipment Use” amending the fee structure and to provide other matters appropriately related thereto. **ACTION ITEM**

Parks and Recreation Director Howes noted there are three parts to this item; 1) prohibiting glass containers in park, 2) permit for alcohol consumption in park and 3) fees and charges for park equipment use and he would address each one separately.

Mr. Howes indicated prohibiting glass containers in the park is primarily a safety concern that has been mentioned in the past. Based on council direction at the previous meeting staff has done research regarding the proposed alcohol permit issue. Seven communities within the state were contacted related to this issue; Boulder City and Winnemucca do not do the permit option; Las Vegas, Henderson, Reno, Sparks and Fallon all do. Those who do the permit all do it for similar reasons related to alcohol consumption and unruly behavior as a result. Mr. Howes noted although Boulder City does not do a permit they do however have a Public Intoxication Ordinance which they believe serves the same purpose; City Staff believes that is another viable option to consider. Winnemucca has the same issues we are discussing but have not determined how to address the issue and are interested to see what we decide to do.

Mr. Howes advised the Recreation Advisory Board supports the permit option 100%.

Councilman Conner liked the public intoxication code; we shouldn't outlaw it completely for law abiding citizens. Mr. Conner also supported no glass containers in the park.

Mayor Franzoia stated everything presented was good except the issue of alcoholic beverages. As written, there are no alcoholic beverages allowed in the park area without a permit; permits can be obtained in conjunction with a park reservation approved by the Parks and Recreation

Director. Mayor Franzoia believed it was very specific; his interpretation was that he could not get an alcohol permit unless he has a park reservation; that is a big problem.

Mr. Howes advised that is the same process used by other cities that require permits. Mayor Franzoia believed it meant he could not go to the park on a whim without having a permit. Mayor Franzoia believed the wording is not clear.

Mr. Howes advised the current reservation system is set up so if you want to have a space in the park in the summertime; you reserve it. Mr. Howes advised a permit has to be tied to something or we charge a fee for that permit.

Mayor Franzoia still believed the wording was unclear; an alcohol permit requires a park reservation even if you don't want to reserve a space.

Mr. Howes advised as it is written if you want to consume alcohol within the park you need to reserve a space.

Mayor Franzoia requested clarification; can he go sit on the grass under a tree and have an old fashioned picnic with no table.

Mr. Howes advised if he wanted alcohol he could not.

Councilman Rice questioned whether the advisory board would support a public intoxication ordinance.

Mr. Howes indicated the advisory board has not had time to discuss that.

Councilman Elquist asked what our vision for the parks is; do we want drinking. If we pass a public intoxication ordinance what element do we not want in the park? Public intoxication; is that enough? Do we want kegs tapped in our parks and groups of people drinking, having a good time but not getting drunk; do we consider that acceptable? Councilman Elquist believed the police department would use discretion either way.

Mayor Franzoia stated the language is confusing and needs modified. The language also says the permit/reservation has to be approved by the Parks and Recreation Director; so on a weekend he could not get a permit.

Mr. Howes advised that was incorrect; there is staff available on weekends; staff can add language to clarify that.

Yvette Waters requested further clarification; what happens if she goes to park with her family, one of them opens a beer but they don't have permit. Ms. Waters agreed with Councilman Elquist; we need a vision for our parks. Ms. Waters believed permits for park use were only required for large groups and that isn't what she is hearing now.

Mayor Franzoia indicated that was his concern also.

Mr. Howes clarified there is no requirement currently that you have to reserve a space in the park. If you can find an open space on a weekend you can use it. It is not a permit for park space it is a park reservation. If you want to make sure a particular space is available that is what the current park reservation form is for; it applies to all size groups.

Ms. Waters believed the Mayor is saying something else; if you decided you want to have a picnic at the park, regardless if it is under a tree or at a table you have to have some type of permit. Ms. Waters commented if the focus is a specific target population you are trying to eliminate you need to regroup and focus on who you are going to be affecting.

Mayor Franzoia expressed appreciation for Ms. Waters's comments and stated we are penalizing the law-abiding public to target those that aren't. Mayor Franzoia believed a public intoxication ordinance was the best solution.

Police Chief Zumwalt stated his vision for our parks is they are clean and safe so no one will be bothered or hassled. Chief Zumwalt believed we need an open container law and public intoxication law; it would help throughout the community. There are people who don't go to the park because they don't want to have to deal with those individuals that use the park as another place to drink and become unruly. Chief Zumwalt indicated it was his personal preference the parks not be a place to drink.

City Manager Calder commented communities have struggled with this. If you are addressing transients in the park they are usually not intoxicated or unruly; they are loitering and being a nuisance to the public. As communities have struggled with this and tried to be fair to everyone, without violating anyone's civil rights, communities have come up with ideas like the alcohol permit to try and address that. Another approach taken by Reno along the river pathway to eliminate transients was to state they cannot sleep there during the day and if caught they were issued a citation. That required enforcement; patrol etc. so there is a cost to that. There is also a cost on the side of prosecution if we decide to go with a permit. Mr. Calder stated everything is a balance; we aren't going to find a perfect solution to this problem. This is probably one of the better solutions implemented by other communities.

Terry Hritz, Recreation Advisory Board member defended their recommendation.

Ms. Waters stated she had no issue with a permits; she is concerned with giving up more and more of our freedom because of others.

Gil Hernandez was opposed to the permit fee option as written. Mr. Hernandez agreed glass containers should not be allowed in the parks. Mr. Hernandez supported a public intoxication code.

Mr. Howes clarified there is no fee for the permit.

Mayor Franzoia stated the responsible person is getting the headache; we need to target the appropriate people.

Councilman Rice believed a public intoxication ordinance doesn't give the police what they need to make the park a pleasant place for everyone.

Councilman Elquist was interested in other cities solutions; maybe we can broaden the non-alcoholic area.

Councilman Johnson questioned if we can change the verbiage at first reading and move to second.

City Manager Calder verified that could be done; as long as you don't change entire intent. Mr. Calder noted if the council is considering a public intoxication ordinance that would be a separate ordinance; we would want input from the police department on that as we have nothing similar in place at this time and it would impact community events.

**** A motion was made by Councilman Johnson, seconded by Councilman Conner to amend Ordinance #712, for Second Reading; keep section 8-11-6 as written, not proposed, and include all other changes to the remaining sections.**

Motion passed unanimously.

After the motion and before a vote was taken Councilman Elquist requested staff look at options as to how we define a designated area before this comes back for second reading.

Mr. Howes advised he has requested ordinances from the cities he spoke with but hasn't received them at this time.

- B. Review, consideration, and possible approval of Resolution #7-10, a Resolution amending the Residential Metered Sewer User Fees pursuant to Elko City Code Title 9, Chapter 5, Section 31, and matters related thereto. **ACTION ITEM**

In response to customer complaints related to high sewer bills due to seasonal irrigation usage, Council directed Staff to bring back a revised rate for Council consideration during the budget process. Attached is Resolution #7-10; the proposed new residential metered rate structure. RL

Administrative Services Director Stout advised there have been complaints due to heavy irrigation in the summer. The sewer rates are tied to water consumption so staff's recommendation was to charge the sewer rate on metered customers at 100% up to the capped rate. The metered rate for the sewer portion of a customer's bill would not be higher than a flat rate customer's bill. This applies to residential only; there is no change to the commercial side.

Councilman Johnson questioned whether an apartment complex would be under commercial.

Ms. Stout advised they are considered multi-family so they would be residential.

City Manager Calder indicated another reason for looking at this is newer homes are required to meter upon construction but older homes are not. As the code and resolutions are currently

written it provides a disincentive for people to convert to meter usage. We are trying to create an incentive for those homes that are not metered to convert to a meter.

Councilman Johnson was concerned if this is approved apartment complexes will see an increase in their sewer.

Ms. Stout advised they would not see an increase because it is capped at the flat rate.

Councilman Johnson acknowledged there is potential for some people to save but the city should be careful with the multi-resident. Councilman Johnson requested more data before making a decision.

City Manager Calder advised most of the research was done by Mark Chilton and he no longer lives locally. He provided research and data based on his home and apartments; with his data we can show, even places with small apartments; the built in in-equity in the existing system.

**** A motion was made by Councilman Johnson, seconded by Councilman Elquist to table this item.**

Motion passed unanimously.

V. PETITIONS, APPEALS AND COMMUNICATIONS

- A. Review and consideration of a request from the Elko Snow Bowl regarding a possible donation of \$5,000, and matters related thereto. **ACTION ITEM**

A letter from Mr. Charles Chester, Chairman of the Elko Snow Bowl Board, has been enclosed in the agenda packet for review. CC

City Manager Calder indicated staff recommends up to a \$5,000 contribution; contingent upon a match from Elko County.

Charles Chester thanked the city for all their past help and explained the reasoning behind the current request.

Councilman Rice noted he has always supported the Sno Bowl in the past; but the city is struggling. Once a building is established how will the ongoing maintenance be funded?

Mr. Chester advised the family will pay their own utilities; any maintenance would be the responsibility of the Sno Bowl.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to provide a one-time matching donation of up to \$5,000 contingent upon Elko County providing a similar donation.**

**Motion passed 4 to 0.
Councilman Johnson abstained.**

VI. 6:00 P.M. PUBLIC HEARINGS

A. Public comment period. ACTION WILL NOT BE TAKEN

This agenda item is to provide time for the general public to address the City Council regarding items of concern. Action cannot be taken at this time, but a matter can be set on the agenda for a future meeting, as appropriate.

There was no public comment at this time.

B. Review, consideration, and possible action to conditionally approval Resolution and Order of Vacation No. 2-10 to consider the possible vacation of a portion of the Idaho Street right-of-way located on the south side of Idaho Street across from the Main City Park consisting of an area approximately 60.00 square feet adjacent to a parcel owned by Gerald R. Molyneux and Gwen Molyneux (APN 001-590-022) filed by the City of Elko and processed as Vacation No. 2-09, and matters related thereto. ACTION ITEM

The City Council accepted the petition for the subject vacation at their meeting of November 24, 2009, with direction to Staff to continue with the vacation process by referring the matter to the Planning Commission. The Planning Commission considered this item at their meeting of January 5, 2010, and took action to forward a recommendation of conditional approval to the City Council including a list of findings in support of their recommendation. The Redevelopment Agency considered this item at their meeting of January 26, 2010, and took action to support the Planning Commission's recommendation of conditional approval to Council. EW

Mayor Franzoia requested clarification of the condition.

Development Manager Wilkinson explained a special condition is to get an easement recorded over the existing water line; Mr. Molyneux has executed that document.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to conditionally approval Resolution and Order of Vacation No. 2-10 to consider the possible vacation of a portion of the Idaho Street right-of-way located on the south side of Idaho Street across from the Main City Park consisting of an area approximately 60.00 square feet adjacent to a parcel owned by Gerald R. Molyneux and Gwen Molyneux (APN 001-590-022) filed by the City of Elko and processed as Vacation No. 2-09.**

Motion passed unanimously.

C. Public hearing and possible approval of the 2010 Motorcycle Jamboree Special Event to be held June 17 through June 20, 2010 including the following requests:

1. Closure of the downtown corridor from 3rd Street to 6th Street between Commercial and Railroad Street for the duration of the event. The closure request includes the corridors along with the crossroads.
2. Closure of the downtown corridor from 6th Street to 8th Street between Commercial and Railroad Street for the concert on Saturday, June 20th. The closure request includes the corridors along with the crossroads.

Other matters may be discussed as related thereto. **ACTION ITEM**

Due to the number of citizens and businesses this event affects, a public hearing is being conducted to give affected citizens and businesses the opportunity to voice their concerns and answer any questions. All affected businesses and citizens were notified of this hearing. The event is the same as last year. SO

Ken Wellington, Public Safety Chairman, Elko Motorcycle Jamboree, identified two small changes; 1) closure by Diana's will no longer be in the alley, it will be moved back out to Idaho Street on 4th Street and 2) the committee would like the music to go until midnight on the two stages.

Mayor Franzoia called for public comment on this item; there was none.

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to approve approval of the 2010 Motorcycle Jamboree Special Event to be held June 17 through June 20, 2010 including the following requests:**

3. **Closure of the downtown corridor from 3rd Street to 6th Street between Commercial and Railroad Street for the duration of the event. The closure request includes the corridors along with the crossroads.**
4. **Closure of the downtown corridor from 6th Street to 8th Street between Commercial and Railroad Street for the concert on Saturday, June 20th. The closure request includes the corridors along with the crossroads.**

Motion passed unanimously.

- D. Review and consideration of submitted data and/or arguments as to whether the proposed resolution establishing building valuations and amending building permit fees will impose a direct and significant burden upon a business or directly restrict the formation, operation, or expansion of a business, and matters related thereto. **ACTION ITEM**

Pursuant to NRS 237.080, the City of Elko notified trade associations or owners and officers of businesses which may be affected by the proposed resolution. Responses were due to the City by 5:00 pm on Monday, April 5, 2010 and will be

provided to the City Council prior to the City Council meeting. After making a determination regarding the proposed rule, Staff will prepare a business impact statement which will be considered during a subsequent public hearing. SO

City Manager Calder outlined the results included in the packet and explained the Business Impact Statement Process. We had two responses out of 1,960 sent out. One response recommended we contact the Tax Commission regarding the proposal to make sure they were okay with it; staff has done that.

Administrative Services Director Stout advised she spoke with the Department of Taxation to explain we are not changing our rates, we are changing our methodology for the evaluation. They said it looked okay; Ms. Stout indicated she requested they forward it on to department supervisor and she is waiting to hear back.

Building Official Schnoor estimated this at a 16%-18% increase across the board.

Mayor Franzoia called for public comment; there was none at this time.

Councilman Elquist questioned the direction council was to take at this point.

City Manager Calder advised based on the two responses there were no data or arguments received particular to this. The council could determine that a rebuttable presumption is created per statute and although we can receive additional information during this meeting or subsequent meetings now would be the time for the council to direct staff to prepare the actual Business Impact Statement. The actual process involves a publication in the newspaper for a future public hearing that will spell out the proposed resolution. We are not required to re-mail two thousand proposed rules but we will be required to do the publication and bring that back at a subsequent meeting with the resolution for possible adoption. There is at least one more public hearing for the public to make comment before it is actually enacted.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice after considering the submitted data and arguments establishing the building valuations and amending the building permit fees will not impose a direct and significant burden business or directly restrict the formation, operation or expansion of a business and direct staff to prepare a business impact statement.**

Motion passed unanimously.

- E. Review and consideration of submitted data and/or arguments as to whether the proposed increase in various fees including auctions, business licenses, brothel licenses, liquor licenses, gaming licenses, temporary merchant licenses, peddlers/solicitors licenses, special event fees, traveling show fees, parades, engineering geographic information systems (GIS) data in electronic format fees, and engineering map services fees will impose a direct and significant burden upon a business or directly restrict the formation, operation, or expansion of a business, and matters related thereto. **ACTION ITEM**

Pursuant to NRS 237.080, the City of Elko notified trade associations or owners and officers of businesses which may be affected by various increased fees. Responses were due to the City by 5:00 pm on Monday, April 5, 2010 and will be provided to the City Council prior to the City Council meeting. After making a determination regarding the proposed rule, Staff will prepare a business impact statement which will be considered during a subsequent public hearing. SO

City Manager Calder noted included in the packet is a cover memo that summarizes the responses received. Out of 1,960 mailed we received eleven responses; two in favor and nine opposed. Since the memo was produced Assistant City Manager Andreozzi received one response regarding the GIS data and map design services. Although it was beyond the deadline for receiving the written response it was accepted as a verbal response and it was from a design professional that was opposed to the charge for the GIS data and map design services.

Mr. Calder noted this would follow the Business Impact Statement Process outlined previously but since arguments were received council needs to make a determination if those rules will 1) impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. If you determine that it does that you must and shall consider the methods to reduce the impact of the proposed rule; including either simplifying the proposed rule, establishing different standards of compliance for a business and modifying a fee or fine set forth in the rule so that businesses authorized to pay a lower fee or fine. That is the first step, when you get past that step you take public comment then you direct staff to create a business impact statement based upon all that input and direction from the council.

City Manager Calder indicated this is more complicated than the previous item and recommended following the draft resolution; look at them fee by fee and give the public a chance to comment on those particular fees. After hearing public comment there may be some modification to this proposed draft resolution; once you declare what is going to be in the business impact statement that will be the modified resolution that is published.

Mayor Franzoia identified the individual items on the resolution for the public's awareness and advised each one would be addressed separately.

Business License Fees:

Lori Vavak, Double Dice RV, indicated this fee would impact three of her businesses. Ms. Vavak believed the city should separate what would negatively impact the locals from those who come into town; charge those coming into town more.

John Carpenter opposed the fee increase; when you take money out of someone's pocket it hurts them.

Marv Churchfield, Owner, Double Dice RV Park opposed the fee increase.

Yvette Waters believed the fee increase was a hidden tax.

Councilman Elquist advised this is not a hidden tax; it is trying to not subsidizing areas.

Mike Lattin stated the majority of the people present tonight have a different attitude toward government than people on the council. We are looking for reduction; not more services. Mr. Lattin believed the council, to do what the taxpayer wants, has to reduce the budget for the city. Let's spend within our means and spend for what we really need.

Apartments, hotel, motel, boarding houses and/or lodging houses, mobile home parks, and trailer courts:

John Carpenter questioned whether RV Parks were included.

Mayor Franzoia stated they were not.

City Clerk Owen researched the question and verified RV Parks would be included under this item.

Solicitors, peddlers, temporary merchants:

There was no public comment.

Special Events:

A member of the audience questioned if there was set percentage all the fees were going to be raised.

Mayor Franzoia advised there is an estimate of what the increase will generate; overall it is estimated at approximately \$100,000.

City Manager Calder clarified for this resolution there is a proposed 20% increase to the following fees; auctions, business, liquor, brothel, gaming, temporary merchant, peddler, solicitor, special event and traveling shows.

Auction, auctioneer license:

There was no public comment.

Banks, Savings and Loan Associations and other banking business licenses and regulations:

There was no public comment.

Traveling shows:

There was no public comment.

Utility Companies:

There was no public comment.

Child Care:

John Carpenter believed raising fees for this category is misdirected; people have a hard enough time finding someone to care for their children while they work.

Mayor Franzoia advised there was no fee associated with this.

City Clerk Owen clarified the categories; the child care group homes requires only that a home occupation be filed; that is a \$25.00 filing fee; the child care family home requires a regular business license and the child care facility also requires the regular business license.

Mayor Franzoia questioned if there is no fee associated with it why was it included.

Ms. Owen advised it would be raised based on the fee associated with a regular business license.

Mr. Carpenter understood what was said but still believed it was wrong.

Brothel:

There was no public comment.

Temporary Sexually Oriented Business:

There was no public comment.

Principal Sexually Oriented Business:

There was no public comment.

Parades:

Police Chief Zumwalt explained each parade cost the city approximately \$1,000. Last year there were fourteen which is about 35% of the department's total overtime budget. He is not opposed to parades but we need to have fewer; there is a tremendous cost associated with them.

Gil Hernandez stated the council was elected to represent the public; if they are asking for lower figures you need to listen and maybe at the same time cut back on services if necessary. He didn't mind being compared to other communities but wanted people to remember we do live in Elko, we are unique and don't need to be like other cities. Mr. Hernandez noted the proposed fees will not balance the budget. The city is going to have to come up with larger measures that include laying off a few people. Mr. Hernandez advised he was a member of the VFW and they are a non-profit organization; all fees they charge are used to get revenue back into the community; the parades are typically a kickoff for some event. Mr. Hernandez believed an option to cut costs would be to ask for more volunteers to help out with the parades. Mr.

Hernandez believed there were other avenues such as a scaled increase to cut the cost and hoped the council would take everything into consideration.

Les Brown, Director for POW Association and VFW member spoke in opposition of the fee increase to \$500. Mr. Brown did express support of a scaled increase.

Reed Mosley believed if the parade organizer charged a fee for each entry i.e. \$25.00 it would help cover the parade fee and not impact the organization.

Councilman Elquist noted many communities do just that; it's a good concept.

Mr. Mosley advised he was a Shriner and they usually participate in some of the parades; they weren't opposed to paying a fee for participating.

Marv Churchfield opposed a fee increase to \$500.

Fred Beitia, organizer for the Basque/4th of July Parade opposed the fee increase and also the concept of charging an entry fee to participate. Mr. Beitia indicated there would be no parade if the fee increased to \$500; they acknowledge the fee needs to increase but not so drastically.

Liquor License –

Gil Hernandez indicated the VFW does the fair and 4th of July concessions and hoped the council would consider non-profit organizations when considering this fee increase. Mr. Hernandez advised most of the money they take in during these events goes back to the community in youth programs or supporting other people in need; they also support city events. Mr. Hernandez also had concerns with the comment "police discretion".

Gaming

There was no public comment.

GIS

There was no public comment.

Mayor Franzoia referred the matter back to the council for discussion.

Mayor Franzoia noted there are five fees included that will affect him personally. Mayor Franzoia stated there is never a good time to raise fees; the economy is struggling, and we should look at those that are practical. Mayor Franzoia stated he had empathy with what has been discussed and he was not a proponent of raising fees; especially when the economy is down and there is no sign of coming out of it soon. Mayor Franzoia stated we can use the stabilization fund to balance the budget; that is what it is for. Mayor Franzoia liked the idea of targeting those coming into the community, a structured parade fee and the use of volunteers.

Councilman Rice agreed with Councilman Elquist; we are trying to reduce how much the city is subsidizing the private sector with these fees. He didn't see the business license increase as being a burden. It was Councilman Rice's opinion the only fee that needed discussion was the parade fee in terms of the amount; the cost to the city is substantial and we need to offset that somewhat. Councilman Rice believed we have a good plan that does the least amount of damage to the businesses and to the services the public receives from the community.

Councilman Conner addressed the parade fee and special events; we are trying to bring people in to town for these events, we don't want to run them off with high fees. Councilman Conner supported all the parades in town and indicated he was one of the organizers of the Nevada Day Parade and has been personally since 1988. Councilman Conner was opposed to charging a fee to enter a parade. As a parade organizer he believed a fee of \$150 was reasonable; that is a 200% increase; parades are expensive and we need to do our part. Councilman Conner believed the special event fee should stay the same; you have non-profit organizations putting these events on and it does bring people to town.

Councilman Johnson advised since the budget process started he has wanted to spend more time on working on the budget to change operations or find every type of solution that could happen so the solution wouldn't be rate increases. Increases are the path the majority of this council has chosen to take; it is unsure what their final opinion will be. There are some aspects i.e. building permits that the taxpayer should not be subsidizing. GIS is another. If you want the service you should pay for it; those kinds of things are acceptable. An increase across the line, as far as business license fees, is not acceptable. Councilman Johnson stated the economy is in the tank; raising revenues that don't make sense, as far as a direct impact, is not fair to the public. Transferring of franchise fees to a water and sewer fund is not fair to the public. Councilman Johnson believed everyone had not done enough on the budget. Through the use of transferred funds we will get through this coming year; next year is going to be very tough. Some solutions he would present, if he had enough support from council, would fill the chambers with citizens because it will affect how people live within Elko. The City of Elko has to change operations; we are not properly funding streets. The city seems to always go down this path when it gets in trouble and not fund that portion of what the city services should be; it is not fair to the public. This city needs to change its operations, it needs to do business different and if the economy remains flat, business will change in this city; the toughest decisions are yet to come. We depleted last year's budget by \$1.6 million; we had opportunities to save money so this budget impact wouldn't be as much and we still didn't do enough in this budget to get it going. Councilman Johnson stated he didn't want to go down that path unless he felt he had a majority of support; it will be pure toughness to get through it but that is the direction we are headed.

Councilman Johnson indicated if the other fees are a drain on the general fund they should be looked at; but across the board is not fair.

Councilman Elquist responded to Councilman Johnson's statements. There is another side to the argument; you have a responsibility, generalities are easy to say; what are the facts. We have gone through this process, looked at the responsibility of the streets, public safety, of all jobs the public expects. What kind of community do we want to live in; do we let some of the streets go because we can't afford them or do we increase rates and bring in more money. If we do cut,

what do we cut? What is the solution? Councilman Elquist stated he took exception to Councilman Johnson's statements and advised he talked about creating a vision and where we want to go as a community; it was Councilman Johnson who said wait; we are going to disrupt the budget process; staff doesn't have time, wait until after the budget process.

Councilman Johnson responded to Councilman Elquist's comments. If you feel that transfer of funds and franchise fees is the solution he respects that opinion. Councilman Johnson identified areas he believed the city has over balanced on. The swimming pool at \$375,000 a year; the city needs to look at that and maybe only have the pool open in the summer. The airport is so out of whack for the ratio that needs to happen. Councilman Johnson noted he voted against the master plan and he voted against the recreation center feasibility study to save money in last year's budget; he didn't get any support; it was always a 4 to 1 vote. There was no sense going down this path and disrupting all the city employees if he didn't feel there was enough support. The indicators he got from last year's budget on the master plan said that everyone else felt these things were important and that was the track they were going; he respected that. He is here to say "here is my opinion and some of my ideas". Councilman Johnson stated he recognized the majority of the council; he doesn't agree with them but he is with them; he doesn't want to be an adversary to any councilman. Councilman Johnson believed items he mentioned need to happen; inequities at the animal shelter are another.

Councilman Elquist believed he and Councilman Johnson probably have more in common than not. To balance that comment he indicated there are services out there that government does a good job with; paved streets have a return on your investment. Councilman Elquist believed it was irresponsible to neglect fee increases.

Councilman Johnson stated it is not over until the last budget is done. As far as the parade issue, perhaps the city needs to limit the number of parades each year.

City Manager Calder once again reviewed the process for council's understanding as they move forward.

**** A motion was made by Councilman Conner, seconded by Mayor Franzoia finding the proposed parade permit fee increase would impose a direct and significant economic burden upon a business or directly restrict the formation, operation, or expansion of a business.**

Motion passed unanimously.

**** A motion was made by Councilman Conner, seconded by Mayor Franzoia to modify the parade fee set forth in the rule so that a business is authorized to pay a lower fee; that amount to be \$150.00.**

**Motion passed 4 to 1.
Councilman Johnson voted against.**

After the motion and before a vote was taken Mayor Franzoia questioned if this can be reduced or modified at a later date due to circumstances; can that be done without an impact statement.

City Manager Calder advised if the resolution is approved at \$150.00 and someone asks for a waiver staff does not have the authority to grant a waiver.

Mayor Franzoia clarified he was referring to something such as a memorial or funeral; it isn't a typical parade.

Councilman Conner believed that was something the city might want to waive the fee on.

Councilman Rice believed \$150 is not enough if we are going to be granting waivers. He would not support this if that is the intent; he would support a graduated system or a fee structure.

Councilman Conner stated the organizations are not putting on a parade to make money; they are providing a service. Councilman Conner believed the city should provide security service for parades. \$150 was more than generous on the part of the parade organizers; as a parade organizer we are trying to come to the table and be reasonable.

Councilman Johnson believed the solution was to keep the fee the same and limit the number of parades per year. We have to make the tough decisions; we can't please everyone.

Mayor Franzoia indicated that solution had merit and we may have to look at it in the future.

**** A motion was made by Mayor Franzoia, seconded by Councilman Rice that Engineering Geographic Information System also known as GIS data in electronic format fees and engineering map service fees will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.**

Motion passed unanimously.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist that auctions, temporary merchant license, peddler/solicitor license and traveling show fees will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.**

**Motion passed 4 to 1.
Councilman Johnson voted against.**

City Clerk Owen advised for regular business licenses comments were received for brothel, liquor and gaming licenses indicating a lot of the fees can affect a business three, four or five times depending on the business. Ms. Owen advised the business license fees are grossly low compared to other cities in Nevada; three other fees are low compared to other cities but not as much as business licenses; those three are brothel, liquor license fees and gaming. Ms. Owen indicated one option was to leave those alone and increase the regular business license fees.

Ms. Owen continued and advised the cost was \$5,500 for the mailing and notification for these fees. We haven't increased business license fees in close to thirty years.

Councilman Elquist strongly believed the fees are more than fair. There becomes a point where you aren't doing your job and you are leaving more of a burden on the next generation by not

running your business right. What is responsible and what are we passing on; these are questions we need to ask.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice that the data submitted and arguments made for the balance of the fee increases do not impose a direct and significant economic burden upon a business or directly restrict the formation, operation, or expansion of a business.**

**Motion passed 3 to 2.
Mayor Franzoia voted against.
Councilman Johnson voted against.**

IV. RESOLUTIONS AND ORDINANCES

- C. Review, consideration and possible adoption of Resolution #8-10, a Resolution increasing and restating park and park equipment use fees collected by the City of Elko, and matters related thereto. **ACTION ITEM**

Parks and Recreation Director Howes clarified currently the fees are based on a one-time fee for the event; if you have an event you pay one fee regardless if the event is one, two or three days and you have exclusive use of that area. Staff is proposing a “daily” fee; if you reserve a space for two days then you pay for two days; not the event. Mr. Howes also advised currently there is a distinction between public and private events; public events are free of charge and private events are charged; Staff’s recommendation is that all events are treated the same.

Mayor Franzoia questioned how private events are charged; they would have to be fenced off and that isn’t something he has seen.

Mr. Howes advised they reserve a certain area; staff sets up the tables etc. for that event and they have exclusive use of that area. Examples of that would be the mine picnics; they pay us to set everything up. Public events pay no fee but the set up is the same.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to adopt Resolution #8-10, a Resolution increasing and restating park and park equipment use fees collected by the City of Elko.**

Motion passed unanimously.

Following the motion and before a vote was taken Councilman Conner questioned if we currently charge for a community event i.e. parade, or other public events that are on public land, for the use of stages etc.

Mr. Howes verified we do but there is a difference; if it is not on park property it is a special event and it is handled through the special event process. The fees are the same for the equipment i.e. stages, tables etc. regardless of the process.

Councilman Conner requested verification this would include the events that need the stages for parades for public events.

Mr. Howes stated if they want to use the stages they will be charged for them.

- D. Review, consideration and possible adoption of Resolution #9-10, a Resolution increasing and restating cemetery fees collected by the City of Elko, and matters related thereto. **ACTION ITEM**

Parks and Recreation Director Howes advised he spoke with Reed Moseley regarding the fees for the Masonic Lodge and he has some concerns. Everything on the south side of Cedar Street is owned by the Masons and Oddfellows and they pay this fee on an annual basis for us to maintain that for them. Staff is being very conservative in our estimate of what it costs to take care of that section; over a six-month period, during the growing season, we estimate the cost at \$8,448. for labor alone and does not include equipment. Mr. Howes advised raising fee to \$2,500 for each organization still does not cover the total expense for maintenance of that area. Both organizations are concerned they may not be able to pay.

A member of the Oddfellows indicated he just heard about this today and he would like the opportunity to discuss with city staff what this will mean to their organization before a decision is made.

Reed Mosley representing the Masonic Lodge advised they would like to negotiate less of an increase; this is a 100% increase and the impact would be tremendous. Mr. Reed requested this item be tabled until the next council meeting.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to adopt Resolution #9-10, a Resolution increasing and restating cemetery fees collected by the City of Elko with the amendment that the Masons/Oddfellows maintenance fee that is presented at \$2,500 remain at \$1,250 until further discussion and negotiations has been done and brought back to the council for further review.**

Motion passed unanimously.

Under further discussion Councilman Elquist questioned who owns the land.

Mr. Moseley advised they own the land.

II. APPROPRIATIONS

- A. Review and possible approval of Warrants. **ACTION ITEM**

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to approve the warrants as submitted.**

Motion passed unanimously.

VII. REPORTS

- A. Mayor and City Council

1. Councilman Johnson commented his vote is 33% of a decision on a 3 to 2 vote. Each councilman has a voice. The council functions as a majority and he recognizes that.
- B. City Manager –
1. Special ECEDA Meeting April 15, 2010 1:00 pm – 5:00 pm
 2. 1% wage reduction worked into budget, all groups in agreement fire/police associations are considering.
- C. Police Chief
1. Jamboree motion will need clarification.
- D. City Clerk
1. CDBG Status Report – Ruby Vista Curb, Gutter and Sidewalk Project was not funded through the CDBG Program. We can resubmit next year or select another project.
- E. Administrative Services Director
1. Recognition of City Employee Ms. Debbie Myers, Accounts Payable Clerk. New well brought online last year and recognized the city was being charged an incorrect rate for the pumping charge. Ms. Myers worked diligently with NV Energy to make sure rate was reduced to same rate we are charged for all other wells. City received a credit for \$11,300.00.
- F. Parks and Recreation Director
1. Parks Department 4/10 schedule is showing positive results at this time.
- G. Development Coordinator
1. Landfill expansion permit out for public comment.
- H. Civil Engineer
1. Thanked Council for input on Idaho St. engineering selection.

ADJOURNMENT

There being no further business, Mayor Michael J. Franzoia adjourned the meeting.

Mayor Michael J. Franzoia

Shanell Owen, City Clerk