

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

SS October 13, 2009

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, October 13, 2009.

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 Chris Johnson
Councilman John Rice

Council Absent: Councilman Jay Elquist

City Staff Present: Curtis Calder, City Manager
Delmo Andreozzi, Assistant City Manager
Shanell Owen, City Clerk
Alan Kightlinger, Fire Chief
Don Zumwalt, Police Chief
Dawn Stout, Administrative Services Director
Trent Moyers, Airport Director
Ryan Limberg, Utilities Director
Dennis Strickland, Public Works Director
Mike Hess, Landfill Superintendent
Ted Schnoor, Building Official
Ed Wynes, City Planner
Linda Buffington, Recording Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES September 23, 2009 Special Session
September 22, 2009 Regular Session
September 10, 2009 Special Session

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

Motion passed unanimously.

READING OF A PROCLAMATION RECOGNIZING LIONS CLUB "WHITE CANE DAY"

I. PERSONNEL

A. Recognition of employee promotions:

- (1) Mike Hess, Landfill Superintendent
- (2) Will Lehmann, Police Captain
- (3) Tyler Trouten, Police Lieutenant

INFORMATION ONLY – ACTION WILL NOT BE TAKEN

- ### B. Recognition of Shanell Owen, City Clerk, for achieving the Master Municipal Clerk (MMC) designation through the International Institute of Municipal Clerks, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

II. APPROPRIATIONS

- ### B. Review and possible award of a custodial services contract at the Elko Regional Airport to R.H. Services, and matters related thereto. **ACTION ITEM**

Bids for a contract to provide airport janitorial services were opened on September 21, 2009. Bids were received from 7 vendors and R.H. Services was the lowest bidder at \$1,985.00 per month. TM

Airport Director Moyers indicated this is an approximate savings of \$7,000 per year compared to the previous contract. A background check will be done once everything is approved. We anticipate a start date of November 1st.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to award a contract for custodial services at the Elko Regional Airport to R. H. Services in the amount of \$1,985.00 per month contingent upon the passing a DHS required background security check.**

Motion passed unanimously.

- ### C. Review, consideration, and possible final acceptance of the FY 2009 RIB Scarification Project at the Water Reclamation Facility, and matters related thereto. **ACTION ITEM**

This project was awarded to Canyon Construction in the amount of \$57,148.40. There was one change order in the amount of \$7,172.40 to remove an additional 4,782 cubic yards of material from RIB 1A and place it along the toe of RIB 1B dike for additional support and reinforcement. Staff is pleased with the work and is recommending final acceptance. RL

Mayor Franzoia questioned if the additional cost was still based on the cubic yard removal cost; and was it still within the budget.

Utilities Director Limberg indicated the answer was yes to both questions and noted the project was approximately \$20,000 under budget.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to approve final acceptance of the FY 2009 RIB Scarification Project at the Water Reclamation Facility.**

Motion passed unanimously.

- D. Review, consideration, and possible approval to purchase one (1) fully equipped SUV designated for the K-9 unit for the Elko Police Department through the Nevada State Purchasing program, and matters related thereto. **ACTION ITEM**

As a political subdivision of the State of Nevada the City of Elko is able to utilize the State of Nevada Purchasing Division for equipment and fleet acquisition. This acquisition is from the seizure funds the City has acquired from asset forfeitures.
DZ

Police Chief Zumwalt indicated this purchase will come from seizure funds through forfeiture and not the general budget.

Mayor Franzoia questioned if this fits into the normal vehicle rotation.

Chief Zumwalt verified it would.

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve the purchase one (1) fully equipped SUV designated for the K-9 unit for the Elko Police Department through the Nevada State Purchasing program.**

Motion passed unanimously.

- E. Review, consideration, and possible approval to purchase two (2) fully equipped patrol cars and one (1) SUV designated for the Narcotics Task Force through the Nevada State Purchasing program, and matters related thereto. **ACTION ITEM**

As a political subdivision of the State of Nevada the City of Elko is able to utilize the State of Nevada Purchasing Division for equipment and fleet acquisition. This acquisition has been included in the FY 2009/2010 budget. DZ

Police Chief Zumwalt noted this is the normal vehicle rotation.

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve the purchase of two (2) fully equipped patrol cars and one (1) SUV designated for the Narcotics Task Force through the Nevada State Purchasing program.**

Motion passed unanimously.

Under further discussion Mayor Franzoia questioned if the units came fully equipped.

Chief Zumwalt stated we will reuse equipment from the older cars when possible i.e. radios, antennas, light bars and radar units that are not outdated. The units we are purchasing come fully equipped.

- F. Review, consideration, and possible award of the Railroad Street Curb, Gutter, and Sidewalk Capital Construction Project, and matters related thereto. **ACTION ITEM**

The deadline for submitting bids was 3:00 pm, local time, on Tuesday, October 6, 2009. A bid tab is provided in the Agenda Packet. DS

Mayor Franzoia indicated three bids were received; bids ranged from \$74,172.50 to the low bid of \$63,736.84 from Canyon Construction.

Public Works Director Strickland noted the original concern with this project was a drainage issue at the Folklife Center; over the past couple of years they have worked to alleviate that and that hasn't been too successful. There is also an issue with the ingress/egress for the parking lot at Roy's Market; the owner has expressed interest in getting some improvements in that area.

Mr. Strickland advised the original estimate of \$55,000 was based on a basic straight-forward curb and gutter with the standard return and standard curb and gutter that he and the previous staff engineer set up and designed; they actually believed it could be done for around \$50,000. During discussion of this project it was brought to our attention this was in the RDA area and they had a plan we needed to adhere to and there were aesthetics that needed to be incorporated into this project. Staff incorporated those additional components into the design which then brought the project in at \$63,000 instead of our target of \$55,000. We did have some additional costs down there due to the design criteria for the RDA. Staff is very pleased with the bids received. Funding can come from the Capital Construction Fund if the Council so chooses and not have the additional costs borne by the RDA.

Mayor Franzoia questioned if there was participation from the property owner also.

Mr. Strickland noted the owner of Roy's Market has approached Staff and would like to partner with us in some respect. If the project came in over budget he would like to address the rest of his frontage on 6th street as well so there are a couple of opportunities to work within.

Mayor Franzoia questioned the number of ingress' on Railroad Street.

Mr. Strickland advised there will be three; one for loading/unloading only and the remaining two would be for ingress/egress for the actual parking.

Councilman Rice believed the Council as well as the community was aware there are some costs associated with the redevelopment process and are fully supportive.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to award a contract for the Railroad Street Curb, Gutter, and Sidewalk Capital Construction Project to Canyon Construction in the amount of \$63,736.84.**

Motion passed unanimously.

III. SUBDIVISIONS

- A. Review, consideration, and possible action to approve a modification of Final Plat No. 9-07 Golden Hills Estates Unit 2 filed by Sierra Blue Development and Holding, for the phasing of the approved subdivision into three phases for 22 residential lots and matters related thereto located generally north of the intersection of Mittry Avenue and Chris Avenue along the unimproved Mittry Avenue corridor, and matters related thereto. **ACTION ITEM**

The City Council conditionally approved the original Final Plat at its regular meeting of January 22, 2008, by recommendation of the Planning Commission at their meeting of January 2, 2008. The Planning Commission conditionally approved the modification for phasing at their regular meeting of October 6, 2009, and forwarded a recommendation of conditional approval to City Council. EW

City Planner Wynes noted there are eight conditions imposed on this portion of the project; they are asking to break it into three phases for bonding purposes.

Rex Sorenson, owner/developer referred to item one of the Planning Commission Report from October 6, 2009 which states all improvements should be done in Phase 1; they want to clarify that it pertains to the first four lots in phase one.

Development Manager Wilkinson indicated that condition applied to widening Mittry Avenue with regard to the intersection of Chris Avenue; there was no other discussion on the other public improvements associated with the four lots.

Mayor Franzoia then noted it should read “those improvements related to the intersection widening”.

Mr. Wilkinson clarified it should read “all the public improvements associated with Phase 1 including the road widening on Mittry Avenue”.

Mayor Franzoia questioned the widening there; it already has curb, gutter and sidewalk.

Mr. Wilkinson advised at the Planning Commission stage there was a lot of discussion on traffic calming because of the layout of that intersection. In addition, on Mittry Avenue you have people backing from their driveways into the roadway. Mr. Wilkinson noted Mittry Avenue will eventually go up to Copper and will function as a collector. With the zoning you will have residential development adjacent to all those roadways and with that additional traffic and the backing that we get onto Mittry and the development of the left-turn lane from Mittry onto Chris Avenue Staff felt they needed to widen that road there to accomplish that safely.

Mayor Franzoia questioned Mr. Sorenson if there were any other concerns.

Mr. Sorenson referred to condition #2 pertaining to the water line and wanted to clarify that that is as per phase. Using a plat map to identify the area Mr. Sorenson indicated they will extend the water line to Phase 1 approximately twenty feet beyond the asphalt.

Mr. Wilkinson stated City Code requires utilities be extended to the end of the parcel; which includes all three phases. The sewer is already in place so the condition is for the water line. Mr. Wilkinson noted there is water available on the other side of the property that they don't own and water is stubbed into the streets on the subdivision around the southwest side. It would require Council approval for them to vary from the code; Staff's recommendation was they extend the water.

Mayor Franzoia was not opposed to a waiver.

Mr. Wilkinson commented in this situation there would be no concern if the property behind them wanted to develop; water is available to that property from different sources.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to approve a modification of Final Plat No. 9-07 Golden Hills Estates Unit 2 filed by Sierra Blue Development and Holding, for the phasing of the approved subdivision into three phases for 22 residential lots and matters related thereto located generally north of the intersection of Mittry Avenue and Chris Avenue along the unimproved Mittry Avenue corridor with the clarification on item #1 that all the required public improvements on Phase 1 are to include the widening of Mittry Avenue and Chris Avenue as well as the item #2 condition that the water main on Mittry Avenue is extended just past the first phase of development.**

Motion passed unanimously.

IV. UNFINISHED BUSINESS

- A. Review, consideration, and possible approval of a revised "Cooperative Agreement for Ambulance Support Services" between Elko County and the City of Elko, and matters related thereto. **ACTION ITEM**

A previous agreement was approved by the City Council on August 25, 2009. On September 2, 2009, the Elko County Board of Commissioners approved the agreement contingent upon various minor revisions being discussed during future negotiation sessions.

On October 1, 2009, the parties reached final agreement, thereby removing Appendix A and adopting Chapter 7 of the Central Dispatch Administrative Authority Operations Manual. AK

Fire Chief Kightlinger reviewed the process to date and identified the changes before Council tonight. Appendix 'A' has been removed and they added #5 on page one which states "City desires that the County continue to provide City the services of the County ambulance service as the primary provider within its incorporated borders", on page two under "Now therefore" Appendix 'A' was dropped, #1 was added as; "The Operating Procedure" which states "Central Dispatch Administrative Authority Standard Operating Procedure #7 will dictate the dispatch of emergency medical service units".

Chief Kightlinger advised the ambulance permit was received from the State of Nevada on October 1st and they have transported twelve patients to date.

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve the revised “Cooperative Agreement for Ambulance Support Services” between Elko County and the City of Elko.**

Motion passed unanimously.

V. 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

There were no special events.

- B. Review, consideration, and possible approval of a request from Elko Heat Company to cut a street that has been repaved within the last five years; as City policy states that a road that is repaved or reconstructed will not be cut for a five year period, and matters related thereto. **ACTION ITEM**

The above request pertains to the section of Silver Street that was repaved in October of 2006. Final acceptance of the project was on November 14, 2006 so the road would not be eligible to be cut other than in the event of an emergency repair until November 14, 2011. The letter in your packet further describes the request. DS

Jim Meeks, Elko Heat, explained the reason for this request. They want to continue repairing their line to the east of 5th Street; if they can get the cut permit now, when the City starts redoing the streets they won't have to do it. Mr. Meeks indicated they would not cut through 5th Street and will push the line underneath it. Once across 5th Street there is a City manhole between the Stumble Inn and NV Energy property line; if they can use that manhole they will not need to cut there but if not they will need to cut about an 8' x 10' square hole and pour a vault so they will never have to cut into the street again. That line that has been pushed east under 5th Street will go down 50' past 6th Street, cut a 4' x 8' trench and push another line west and cap that off; that is the end of the line and the only way they can get back.

Public Works Director Strickland brought it to the Council's attention the applicant's letter states they will stand behind this cut, if approved, with a five-year period. If we had any type of compaction issue in there it would be apparent within that five-year period.

Mayor Franzoia questioned whether there were any compaction issues when digging a vault, if you cut and excavate it appropriately.

Mr. Strickland indicated we would only have an integrity issue around the perimeter of the vault. The big driver of making sure you have a repair that is going to hold up is the compaction.

Mayor Franzoia commented this goes against our policy but has been allowed for emergencies. We have a system in place that has been there for twenty-five years or more and we are seeing failures.

Robert Schmidlein acknowledged the line is deteriorating from the inside out; the old asbestos pipe has been contributing to a lot of the breaks. New HDPE pipe has been used to repair the breaks; due to a lot of shrinkage and swell factors restraints are placed on the HDPE pipe inside the vaults to keep it from growing from the expansion/contraction. Regarding the vault they have been trying to do is “neat-line dig” as much as possible so as not to disturb any additional area not needed and backfilling with lean concrete around the exterior. They then take the existing line as a sleeve line and penetrate into the vaults so that will contain all of the piping.

Mr. Schmidlein stated if they are able to complete this portion of the upgrade everything that is east of 3rd Street will all be upgraded throughout the entire downtown area. The only portion remaining would be the main line heading down West Main over to the main well.

Mr. Strickland indicated Staff was comfortable with the warranty being offered. With winter not far off they would however like to see the work done when the hot plant is up and running to avoid any type of temporary patch.

Mr. Schmidlein questioned if weather cut the project short would they be able to finish the work in the spring when the paving season starts.

Mr. Strickland again expressed dissatisfaction with a temporary patch.

Mr. Schmidlein stated it would be their responsibility to maintain it throughout the winter as well.

Mr. Strickland advised his concern was based on the fact this work is in the travel lane of a main plow route. It is commendable they are willing to maintain it but are they going to be available if there is an issue.

Mayor Franzoia was confident of their ability to maintain it.

Councilman Rice was concerned over a temporary patch through the winter; can we work out a response time if the event something goes wrong.

Mr. Strickland indicated one problem with a temporary patch is that unless there is a large pile of temporary coal mix for the winter many times there isn't any product available. The City buys a product out of Salt Lake City we use for our temporary patching in the winter. Mr. Strickland believed the hot plant would tentatively stay open until November 15th. If the applicant wanted to purchase additional coal mix to keep in the event they weren't able to get a permanent patch put back in.

Mr. Schmidlein stated they will purchase whatever amount of coal mix needed to satisfy the City.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to approve a request from Elko Heat Company to cut a street that has been repaved within the last five years; with the provision they warranty the work for five years. In the event they need to put a temporary patch on they will maintain the patch with the appropriate material and to include a 24 hour response time to repair any failure of the temporary patch.**

Motion passed unanimously.

- D. Consideration of Parcel Map No. 10-09, filed by High Desert Engineering on behalf of Andrew C. Knudsen and Shannon Knudsen for the division of approximately 13 acres into 4 parcels. The Parcel Map contains various offers of dedication for rights-of-way and it is for this reason that the map was referred to the Planning Commission and subsequently to the City Council, and matters related thereto. **ACTION ITEM**

The Planning Commission considered this item at their meeting of October 6, 2009, and took action to forward a recommendation of conditional approval to the City Council. EW

Mr. Knudsen thanked City Staff for all their assistance through the process.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to conditionally approve Parcel Map No. 10-09, filed by High Desert Engineering on behalf of Andrew C. Knudsen and Shannon Knudsen for the division of approximately 13 acres into 4 parcels.**

Motion passed unanimously.

VI. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible adoption of Resolution No. 24-09, a resolution establishing ambulance service fees for the Fire Department pursuant to Title 6, Chapter 5, Section 3, and other matters related thereto. **ACTION ITEM**

Per Council direction at the August 25, 2009 meeting, this resolution sets the fees to be charged by the City of Elko for services provided by Fire Department personnel when ambulance transportation and medical services are provided to the public. DS

Administrative Services Director Stout informed the Council this resolution combined everything related to fire department service fees.

Ms. Stout addressed ambulance billing fees. Staff was originally directed to have a flat fee for the transport; in checking into the billing and with Medi-Care for the various items you can bill for, they allow a certain amount for transportation and that's it; everything on top of that used in that transport you can bill separately. If we billed for a flat fee for transport fee that would be all we could bill for; we would not be able to bill for any of the materials and services we provide in the ambulance. This resolution incorporates the fees for those various services that could be provided during a transport so we can get reimbursement for those on top of the transport.

In checking with the various insurance companies as well as Medicare and Medicaid will only pay a certain number on the transport but then they do allow for mileage and various items used in the transport and is why the resolution is in the version before Council tonight. We also added extraction; we can charge for that fee if we do in fact transport them. Currently we do extractions as part of our emergency services but we don't charge for it.

Ms. Stout continued and advised she has been speaking with a third party billing agent for ambulance services; she hopes to have an agreement for review at the next council meeting. They were very helpful in providing information for tonight's meeting. Ms. Stout also spoke with the Carlin ambulance service and the individual that does their billing as well on what we can and cannot bill for and how it is handled. Ms. Stout commented the third party billing company she has spoken with is a large company; they bill large cities anywhere from Chicago, San Francisco, L.S. down to very small communities of only one hundred runs per year. Their average fee is approximately 5% and that is on the amount collected not on what is billed, it is very competitive.

Ms. Stout noted in speaking with the third-party billing agent she was advised Medicare does allow up to \$10.00 per mile on the mileage; obviously that helps to cover the cost of replacing the ambulance as such time it does need replaced. That is something to consider even though we have put no charge for runs within the city we do have a minimal charge for runs outside the city.

Councilman Conner questioned if this was comparable to what the county does.

Ms. Stout was not aware of what the county charged.

Mayor Franzoia stated it would not be the same as the county now has ALS (advanced life support) and the city is intermediate.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to adopt Resolution No. 24-09, a resolution establishing ambulance service fees for the Fire Department pursuant to Title 6, Chapter 5, Section 3.**

Motion passed unanimously.

Under further discussion Chief Kightlinger clarified the extrication fee can be applied to any extrication; not just if we transport.

V. NEW BUSINESS

- C. Consideration and possible appointment of Mr. Zachary C. Woodbury to the California National Historic Trail Interpretive Center Advisory Board, and matters related thereto. **ACTION ITEM**

The California National Historic Trail Interpretive Center Advisory Board currently has one (1) vacancy. A letter of interest from Mr. Woodbury has been included in the agenda packet for review. CC

**** A motion was made by Mayor Franzoia, seconded by Councilman Conner to appoint Mr. Zachary C. Woodbury to the California National Historic Trail Interpretive Center Advisory Board.**

Motion passed unanimously.

VI. RESOLUTIONS AND ORDINANCES

- B. Review, consideration, and possible adoption of a Resolution No. 25-09, a resolution to increase automobile parking fees at the Elko Regional Airport, and other matters related thereto. **ACTION ITEM**

Per Council direction at the September 22, 2009 meeting, this resolution amends the automobile parking fees at the Elko Regional Airport from \$6.00 to \$7.00 per day effective January 1, 2010. DS

**** A motion was made by Councilman Rice, seconded by Councilman Conner to adopt Resolution No. 25-09, a resolution to increase automobile parking fees at the Elko Regional Airport for \$6.00 to \$7.00 per day effective January 1, 2010.**

Motion passed unanimously.

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Consideration of an appeal from Mr. Alejandro I. Perez to defer the construction of required building improvements at 248 River Street, and matters related thereto. **ACTION ITEM**

A letter from Mr. Perez has been included in the agenda packet for review. TS

Alejandro Perez informed the Council he purchased the building and was unaware he would need to install parking, access ramp and bathroom facilities for handicap access. He is requesting a deferral until such time he has sufficient funds to complete the work.

Mayor Franzoia requested clarification of the property location.

Utilities Director Limberg indicated it was the old bakery located behind the Star.

Mayor Franzoia commented the "Grandfather Clause" doesn't apply; it is not a bakery.

Building Official Schnoor comment Mr. Perez did attend a development meeting which was helpful to everyone. Staff found out the conditions of the structure which had been vacant for some time and there has been a change of use and occupancy. It was discussed at that meeting the necessity of him to do a few updates. Through the use of Pictometry it was determined it would not be a problem for him to place a handicap parking space on the paved portion in front of his building, he would have to cut onto a sidewalk to get a ramp up to the front door. He does have two restrooms within the building; one needs to be extended so it can be handicap accessible. Those are the only issues the Building Department had for him to be able to open up and move forward with his business. Mr. Perez has come back several times with options on

being able to do certain things; Staff is not opposed to them, the only major issue at this time is the accessibility into the building and striping the parking lot.

Mayor Franzoia questioned if it was possible for Mr. Perez to obtain a bond for the needed funds; get security and protect the city's interest. That in lieu of having the cash to do it today and the city grants the extension/waiver with conditions; the city needs to have something in place in return.

Mr. Schnoor comment the city could condition the waiver but when it comes time to enforce the action what do we have to go through to do that.

Mayor Franzoia advised if the city grants the waiver and the owner doesn't produce then the city has set a precedent. How do you avoid that precedent; if you had a bond that would more than compensate the cost of the improvements we could hold that as leverage until the he completes the work and if he doesn't do it in a timely manner we have something to go back and say we will get it done on your behalf; that is a condition. We have done it for public improvements but never private improvements on properties.

Mr. Schnoor believed that was possible.

Assistant City Manager Andreozzi suggested a condition could be that if he doesn't comply within a certain time period the city would not renew his business license until such time the work is completed.

Councilman Rice questioned Mr. Perez when he thought he could accomplish the improvements.

Mr. Perez stated one year.

City Clerk Owen was unsure of the expiration on Mr. Perez's current business license; this would simply be a change of address and would continue with the existing renewal date. It would be simpler for the Council to approve the waiver for six months or one year.

Mayor Franzoia indicated he was trying to set a standard that when these requests come in we cover all bases and they don't get away with anything; you need to have leverage. Mayor Franzoia questioned if the law allowed revoking the license because the improvements were not completed.

Ms. Owen advised City Code says a business license can be revoked due to non-compliance of City and State laws.

Mr. Wilkinson advised it was unlikely Mr. Perez would be able to obtain a bond for that small amount.

Councilman Rice believed there were a number of options; would a 30-day waiver allow Mr. Perez time to work with Staff as they considered the options and arrive at a schedule.

Building Official Schnoor advised they want to work with the individuals as much as possible and there is always the intent of the code you have to address. Given a time frame based upon

revocation of this business license there are temporary things that can be done. You can have assistance for physically impaired individuals i.e. a temporary ramp that can be slid out onto the curb so the individual can get into your business would be one solution until you can make it permanent. The restroom is a bit different; it is not large enough but as. As long as we can work around a couple of temporary things for a short period of time and then before the specified time a permanent solution is put into place then we are still addressing the intent of the code.

Councilman Rice questioned if a waiver was granted for nine months would staff be able to work with Mr. Perez on temporary solutions.

Mr. Schnoor verified staff could work with Mr. Perez; see what he has in place for temporary facilities. Mr. Schnoor noted there are inexpensive, temporary quick fixes that meet the intent i.e. handicap accessible Porta-potty, moveable ramps, a sign that says you will give assistance to anyone in need.

Councilman Rice was not supportive of a Porta-potty.

Mr. Schnoor advised Mr. Perez is dealing with mercantile retail occupancy; the code specifically states that when you have a retail business you do not have to provide restroom facilities for the customers. On the other side of that it says you cannot discriminate against your employees; the code states that you have to provide accessibility and you have to give any conditions that are necessary for a handicap employee; it is a catch 22.

Utilities Director Limberg questioned whether the city opens itself up to any liability by approving this waiver/extension. Mr. Limberg suggested setting two-month bench marks so staff doesn't wait a year to find out nothing has happened.

Mayor Franzoia believed there was no liability to the city and longer bench marks were necessary to perform the work but you don't want to let it get out of control.

Councilman Rice requested clarification on the issues.

Mr. Schnoor advised the issues were 1) designated handicap parking 2) access ramp into the building and 3) access isle to handicap accessible restroom.

Councilman Rice suggested three month bench marks; at 90 days Mr. Perez needs to have a designated handicap parking space, at 120 days he needs to have access to a handicap accessible restroom and finally at 190 days he will need to show the ramp access; they are progressively more expensive. Councilman Rice then questioned if the Council had the authority, if the bench marks are not shown at each interval, to revoke the business license.

City Clerk Owen recommended if Mr. Perez did not meet the criteria set by the council City Staff would automatically bring it back before the council for possible revocation of the license.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to grant a waiver to Mr. Perez to defer construction of required building improvements at 248 River Street; those improvements specifically being a designated handicap parking space, a handicap accessible restroom and a handicap ramp access to the facility. The first**

improvement being the handicap parking space to be made within three months, the second improvement, the handicap restroom, being made within six months and the third improvement, handicap ramp access, being made within nine months. If any of those benchmarks are not met at any time Mr. Perez will be required to appear before the Council again and the Council will consider revocation of the business license. Temporary measures should be put in place in the meantime; City Staff will provide guidance as to what is appropriate.

Mr. Schnoor advised the restroom would be the most expensive and recommended changing the requirement order for that to the very end to allow Mr. Perez sufficient time to acquire the funds.

**** Councilman Rice amended the motion, Councilman Conner seconded the amendment; the second improvement, handicap ramp access to be completed within six months and the third improvement, handicap accessible restroom to be completed within nine months.**

**Motion passed 3 to 1.
Councilman Johnson voted against.**

- B. Review, consideration, and possible action to accept a petition for annexation of property to the City, filed by Dennis and Carla Gilligan, processed as Annexation No. 4-09, including approximately 1.068 acres of property located generally at the southwest corner of Sagecrest Drive and Jennings Way, and matters related thereto. **ACTION ITEM**

Applicant will be requesting RS (Residential Suburban) zoning upon annexation. This property is to the north of property recently annexed into the city
EW

Councilman Conner questioned if this was the vacant area adjacent to the house.

City Planner Wynes verified it was.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to accept a petition for annexation of property to the City, filed by Dennis and Carla Gilligan, processed as Annexation No. 4-09, including approximately 1.068 acres of property located generally at the southwest corner of Sagecrest Drive and Jennings Way.**

Motion passed unanimously.

Under further discussion Councilman Rice indicated with annexations the concern had been expressed regarding density; is it possible for a property this size to be split into smaller lots.

Mr. Wynes indicated it would be RS zoning; the applicant intends to split the property in half.

Development Manager Wilkinson commented that was their requested zoning; the Planning Commission and City Council can consider other zones they feel might be more appropriate to support growth in the city also.

Assistant City Manager Andreozzi noted the RS zoning allows them to have less of a standard; the difference between RS and R zoning would be the requirement for curb, gutter and sidewalk. In that particular area there is a lot of RS Zoning.

Councilman Rice indicated he had no problem with the request as it is.

Utilities Director Limberg expressed support of the request it makes sense. There is a water and sewer line in front of this property on both sides; typically on these annexations he recommends the water rights transfer as well in the amount adequate to serve the parcel. This property is in the county so they have a two-acre foot water right associated with that parcel; the city would not get that but when they annex in that water right would revert back to the state so it is available for future use.

II. APPROPRIATIONS

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

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

Motion passed unanimously.

IX. REPORTS

- A. Mayor and City Council
 - 1. Councilman Conner – Thank Staff for clearance for CADV balloon release
 - 2. Councilman Rice – Thank Police Department for escorting Boys & Girls Club Tour d’ Elko
- B. City Manager
 - 1. Nevada League of Cities meeting in Henderson attendees – City Manager, Assistant City Manager, Mayor, Administrative Services Director & City Clerk
 - 2. BLM hosting meeting with Southern NV Conservancy – Thursday, October 15th from 12:00 - 4:00
- C. Assistant City Manager
 - 1. Agreement – American Recovery Act Stimulus Funds at next meeting
 - 2. Update Southside Tennis Court Project
 - 3. Visit Boulder City re: RDA
- D. Public Works
 - 1. Leaf collection begins Monday, October 19th
 - 2. NDOT – Grant for \$130,000 for traffic signal upgrades, relocate signal pole @ 5th & Silver St. and 3 new traffic controllers - \$13,000 is our portion
- E. Airport Director
 - 1. Plane crash @ airport – no injuries, damage to equipment including FAA
- F. City Clerk

- 1. Digital recording system
- G. City Planner
 - 1. RDAC Thursday 10/15 @ 5:30
- H. Administrative Services Director
 - 1. NV Energy rates reduced effective 11/1 – savings of approximately \$80,000

VIII. 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. Public hearing pursuant to Section 147(f) of the Internal Revenue Code for the purpose of considering the proposed issuance by the City of Elko, Nevada general obligation (limited tax) airport bonds (additionally secured by pledged revenues), in one series or more, and matters related thereto. **NON-ACTION ITEM**

This is a required public hearing pursuant to Section 147(f) of the Internal Revenue Code to give the public time to comment on the bond refunding. DS

Mayor Franzoia advised this was posted on September 29th in the Elko Daily Free Press for public hearing.

Mayor Franzoia called for public comment and there was none.

Mayor Franzoia closed the public hearing.

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

Mayor Michael J. Franzoia

Shanell Owen, City Clerk