

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

SS November 10, 2009

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, November 10, 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: Mayor Michael J. Franzoia

Council Present: Councilman Jim Conner arrived @ 5:19 p.m.
Councilman Jay Elquist
Councilman Chris Johnson
Councilman John Rice

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
Ryan Limberg, Utilities Director
Dennis Strickland, Public Works Director
Eric Howes, Parks & Recreation Director
Scott Wilkinson, Development Manager
Lorraine Martinez, Accounting Supervisor
Jessica Johnson, Human Resources Manager
Ted Schnoor, Building Official
Ed Wynes, City Planner
Jeremy Draper, Civil Engineer
Linda Buffington, Recording Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES October 27, 2009

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve the minutes of October 27, 2009 as submitted.**

**Motion passed 3 to 0.
Mayor Franzoia abstained.**

READING OF A PROCLAMATION RECOGNIZING GIRL SCOUT TROOP NUMBER 395

I. PERSONNEL

- A. Review, consideration, and possible action to implement a temporary hiring freeze, and matters related thereto. **ACTION ITEM**

Due to a downturn in consolidated tax receipts, Staff is advising that the City Council implement a temporary hiring freeze. The proposed hiring freeze would not affect the Police Records Technician position currently being processed.

During the proposed hiring freeze, current or future vacancies could only be filled by specific action of the City Council. CC

City Manager Calder advised Sales Tax for the month of August was down 13.7%; added with July it is a 10% reduction for the current fiscal year. At this point we are approximately \$112,000 under budget because of that. If we stay at this trend we would still need to save an estimated \$200,000 to hit our target for our ending fund balance. Even with the current vacancies, if it were to continue on a 10% trend decline we would have to find some monies but it would be manageable at this point because we have a lot of the fiscal year to work with.

Mayor Franzoia commented it was feasible we could see additional vacancies due to retirements or other issues that occur in a fiscal year.

City Manager Calder agreed there was the potential for more vacancies; this would also impact seasonal vacancies. Right now most seasonals are gone; once we get into spring and into the budget and have a better idea of where we are at with the budget for the year we can make a decision on what positions, if any, need to be filled; those would be brought before the Council for specific action.

Mayor Franzoia questioned if 10% was reasonable for what we have seen.

Administrative Services Director Stout believed overall it was a reasonable number; she does watch it. We went up significantly over the last three or four years; we spent those monies on one-time purchases, being capital expenditures for capital construction projects i.e. 5th Street. We didn't put them into personnel for that very reason; Staff anticipated this would happen. 10% is a good number, we'll watch it and if things tend to get worse we would make additional adjustments at that time.

Councilman Elquist expressed his concerns in regard to a hiring freeze; you don't know if employees are going to leave or if one department might become more adversely impacted than another or that it could create the need for an outside service that could cost the budget more dollars. Is any department inordinately impacted by the positions that are vacant?

City Manager Calder responded currently it impacts the police department; they have had vacancies for several months. There was some internal shuffling within the police department and we are at the point now where all the promotions have taken place which opened up the

entry-level patrol positions which we anticipated starting recruitment for. Given the complexity of those recruitments it typically takes several months before you are in a position to hire someone. Staff would have liked to get that process started but seeing the trend in sales tax and knowing we couldn't fund those positions if we continue on a 10% decline it would be better to freeze those positions and wait until we see what happens economically; that is why it is worded a "temporary hiring freeze". If we got into a bind and the police chief indicated he needed one or two of those positions he could come before the council to make his case. Ideally, when we get into the budget process we will have more information on what is happening with our revenues for this fiscal year. We will have some tough budgeting for our next fiscal year if it comes in tight. There are other positions that are impacted; a position in engineering we do not intend to fill and of course the seasonal positions we rely heavily on; at this time they would have to come before the council for authorization to fill those as well.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve a temporary hiring freeze as presented.**

Motion passed unanimously.

II. APPROPRIATIONS

B. Review, consideration, and possible final acceptance of the Well 43 Water Main Extension Project, and matters related thereto. **ACTION ITEM**

Peavine Construction has completed this project. There were zero change orders on the project. AM

Utilities Director Limberg advised the pipeline has been in the ground for some time; Staff is waiting for the reseeding to take place. Staff recommends approval of final acceptance.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to accept final completion of the Well 43 Water Main Extension Project in the amount of \$274,274.**

Motion passed unanimously.

C. Review, consideration, and possible final acceptance of the Well 43 Pump/Motor Installation Project, and matters related thereto. **ACTION ITEM**

The project has been completed. There were zero change orders for this project. AM

Utilities Director Limberg stated the pump and motor is working well and pumping 3,000 gpm; this is our biggest well.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve final acceptance of the Well 43 Pump/Motor Installation Project in the amount of \$178,000.**

Motion passed unanimously.

- D. Review, consideration, and possible final acceptance of the Well 43 Well House Construction Project, and matters related thereto. **ACTION ITEM**

The project has been completed. There were 3 change orders for this project totaling \$29,598.50. AM

Utilities Director Limberg advised total project cost was \$539,159.82. The original bid price was \$488,245.82.

- ** A motion was made by Councilman Johnson, seconded by Councilman Rice to approve final acceptance of the Well 43 Well House Construction Project.**

Motion passed unanimously.

- E. Consideration and possible authorization for Staff to solicit bids for Emergency Equipment Rental Rates, and matters related thereto. **ACTION ITEM**

This item is to “pre-qualify” contractors, and identify available resources to know what equipment is available for routine maintenance and emergency work. The prices will be on a per hour basis with operator, unless the equipment does not require an operator. DWS

Public Works Director Strickland advised this is to identify the resources we have available and helps Staff expedite the process if and when we may need them.

- ** A motion was made by Councilman Elquist, seconded by Councilman Rice authorizing Staff to solicit bids for Emergency Equipment Rental Rates.**

Motion passed unanimously.

- F. Consideration and possible approval of a fee proposal to appraise 30 improved and vacant Union Pacific Railroad leased parcels totaling approximately 67.25 acres, and matters related thereto. **ACTION ITEM**

The City of Elko is interested in acquiring approximately 67.25 acres of right-of-way and property currently owned by Union Pacific Railroad, located generally between Third and Silver Streets as well as between Manzanita Drive and Twelfth Street. An appraisal is the first step of the property acquisition process.

The fee proposal will not exceed \$12,500. Union Pacific Railroad has agreed to pay half of the cost, to a maximum of \$6,250. CC

City Manager Calder indicated discussion on this dates back to 1995; as early as 1999 the City Council had taken some action to pursue this. However there are a number of legal issues and ultimately some congressional action would be involved before the City of Elko would ever see actual title to the property. What has changed in the last ten or fifteen years is Union Pacific’s desire to relinquish the property; they don’t want to give it to us but do want to give it to us for a good price. Union Pacific has come up with a value Staff believes is too high; they are willing to

participate in an appraisal with an appraiser of our choosing, pay half the costs to see what the fair market value is just to start the basis of negotiation. Assuming we get the appraisal in the timeline listed in this proposal it would be the end of January; both parties could then sit down and try to come up with a number that would be amendable to both and start the process of the City's acquisition of the right-of-way. Once the City acquires the right-of-way we will also assume the leases; the leases will generate revenue that would help ultimately offset the cost of the purchase of the right-of-way. Through our congressmen and/or senators we would then have to get some legislation at the federal level that would allow the property to actually be transferred to the City of Elko so we would have clear title. At that time the city could decide if they want to sell, keep, redevelop or develop it.

With the aide of Pictometry Mayor Franzoia identified the area in question.

City Manager Calder indicated the property is divided into thirty improved and vacant parcels; about half are on the west end by Silver Street and between 3rd Street. We are also looking at property between 12th Street and Manzanita on the Silver Street Corridor. It would be ideal, from a planning perspective, to have about seventy acres of property right in the heart of your city that you could master plan and develop over time. All of that property lies within the redevelopment project area so that opens other possibilities as well.

City Manager Calder provided some history on the issue. This all started because of the tenants that were currently tenants of the Union Pacific Railroad actually wanted to purchase their property due to the fact their leases are pretty restrictive. But because it was Central Pacific Railway property and ultimately became Union Pacific property they cannot ever sell it to a private party; they can only sell to a municipality or some other governing body. Even with that all they can relinquish is the right-of-way and the city would be required to go before congress, have a bill sponsored, where we would actually obtain clear title to the property. Mr. Calder believed this was a great opportunity and Union Pacific is willing to negotiate; for both parties sake it is a good idea to find out what the fair market value is of the parcels.

Mayor Franzoia commented great progress has been made in the past two years. The cost of the appraisal, for the area we are looking at and the diversity that is included, is extremely reasonable and a good tool for the city to have.

Councilman Johnson questioned how the city would purchase the property.

City Manager Calder indicated, depending on the price, there are a couple of ways; first we would need to acquire the right-of-way. To obtain clear title we would have to go the congressional process and there are no guarantees you will have it; but once you acquire the right-of-way you would assume the leases. The lease revenue is approximately \$350,000 a year; and could be used as a funding source to finance the purchase of the right-of-way. A second available funding source would be through the redevelopment agency; one of their primary missions is to acquire property and that is what tax increment can be used for. Mr. Calder noted it would take some time to get through the legislative process but this was done fairly recently in Reno. Reno acquired one hundred-twenty acres within the heart of their city as a side project to the Re-track Trench Project; but it was similar in scope. Staff has spoken with Congressman Heller's Office and they are waiting on direction from us.

Councilman Johnson questioned why we wouldn't obtain the right-of way first; before the appraisal.

City Manager Calder advised it was because the price Union Pacific stated they would like for the right-of-way is too expensive in Staff's opinion. Also, there could be environmental issues that need to be taken into consideration and other factors. In addition it wouldn't be good public policy to purchase right-of-way or property without getting an appraisal.

Councilman Johnson clarified he was referring to the congressional side.

City Manager Calder stated they cannot even process it unless we have the right-of-way.

Councilman Johnson questioned the dollar amount; what is the interim financing.

City Manager Calder stated there would be no lump sum payment from the General Fund. We would look at financing it over time; probably some medium term financing utilizing the revenues from the leases as well as possible contributions from the tax increment in the redevelopment area. Union Pacific believes the value to be about six million dollars; they are willing to negotiate that down; maybe as low as half of that. Staff believes the value is perhaps lower than that. If we have revenues coming in at \$350,000 a year from the leases and have additional monies from the RDA that is well within reach in a medium term financing situation.

Mayor Franzoia indicated Union Pacific's numbers were prior to the economic collapse; they are skewed at this point.

Councilman Johnson questioned if you don't think you could pencil it for more than what dollars work for the City of Elko is there really a need for an appraisal.

Mayor Franzoia advised it can't be acquired by anyone else. No matter how we acquire it you can always resell it at the same time you acquire it through a congressional grant; sell it back to private enterprises and that would pay it off. That entire area has been under utilized due to the cost of doing anything there because the current tenants don't have any rights to purchase the property. That would get it out of the original land grant that was done when the Transcontinental Railroad was built. Then do the same as they did when Project Lifesaver came in; the government acquired the land from the railroads, turned around and gave it back to the city and the city gave the existing tenants first option to buy the land. Mayor Franzoia indicated that would be a third funding source; a double escrow.

Councilman Elquist believed this is one of the most important issues he has seen before the Council; the opportunity to get that land away from the railroad with its restrictive leases. There is no incentive for anyone to invest any money down there; all the buildings and infrastructure through the heart of our city is depreciated and deferred maintenance. If we are one of the only entities that can acquire that, and they are willing to work with us, we should find a way to acquire it and then we can turn it back into private property's hands; then there is a pride of ownership, there is investment. Councilman Elquist expressed his strong support; every effort should be made to make it happen. Councilman Elquist believed if it did, over time, you would see the whole area become a nice part of town instead of rundown.

Mayor Franzoia advised there is no incentive for the current tenants; they are on month-to-month basis. The current agreement says the railroad can cancel the lease with only sixty days notice; in addition they can tell them they have to tear down the building.

Councilman Rice believed the timing is perfect with the establishment of the redevelopment district.

Mayor Franzoia stated it was prudent upon government, if they are the only ones that can acquire it, to go through the process to find out its true value. The appraisal cost is reasonable.

Councilman Johnson expressed his support of the project; but maybe the city can save money. The property is not worth anything unless the city wants to buy it; if the city can't afford more than "x" amount, then it isn't worth any more than that. They can only sell to the City of Elko. If the appraisal comes back and says it is half and the city says we can't afford it. It's only worth what the city is willing to buy it for; unless the appraisal is part of the process to meet some requirement to go through it. In this case maybe the city doesn't need to spend money on the appraisal; look at the numbers and see what works for the city and make an offer and go.

City Manager Calder stated it was his fear; from a public policy perspective, he could come up with a number he thought was reasonable but that number might be higher than what the fair market value is; you aren't going to know that unless you get it appraised. The appraiser that submitted a proposal has done a lot of work in Elko, a lot of work for the City of Elko and will give a fair appraisal; he is very familiar with the values her in Elko. Mr. Calder indicated he would be comfortable with a number brought back by the appraiser; that will get us to the negotiating table and then we can really talk to Union Pacific and say this is what the fair market is. They may be willing to sell it for less than fair market value. Their current values are based on a real estate person in Omaha, Nebraska who has never been to Elko. Mr. Calder believed it was prudent public policy to find out what the fair market value is before we have serious negotiations. Mr. Calder indicated Union Pacific is very willing to unload this property; they need to get something for it but they are going to give us a good deal.

Mayor Franzoia acknowledged Councilman Johnson's statement; they only have one buyer. But in all discussions with Union Pacific they seem quite receptive of different methodologies to make something work; which is the key.

Councilman Elquist commented it was important to note some of the buildings are condemned and there are costs associated with getting them to their market value.

City Manager Calder indicated this process could identify some environmental issues we are not aware of. We would want to know that on the front end as it would have an affect on the property value. As we are nearing an update of our master plan that is an excellent opportunity once the master plan process is being updated of having someone take a hard look at that and see how it factors in to not only the long-term development of the city and the infrastructure in the core of the city but also how the linkage between that area, the redevelopment area and just the long-term planning aspect; that is something we would really want the consultant to focus on so we can come up with a strategy over time. If it is going to take us five or six years to pay off the loan to purchase it before we are in a position to start selling off lots or maybe we sell off lots as soon as we acquire title; that is all part of a long-term strategy, it is not something that can

happen in the course of a year or two; especially when you factor in the legislative aspect which could take a year or two in and of itself.

Mayor Franzoia indicated knowing the timeline of a legislative action you could still have a conditional approval of a purchase based on if the value comes in at this level we would be paying at today's value not when legislation gets passed years later. Mayor Franzoia stated this is a great opportunity and believed the price was going to be very good.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve a fee proposal to appraise thirty improved and vacant Union Pacific Railroad lease parcels totaling approximately 67.25 acres in the amount of \$6,250.**

**** Councilman Rice amended the motion to include "for the city's portion not to exceed", Councilman Elquist's second stood.**

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

There were no special events at this time.

- B. Review, consideration, and possible action to accept a petition for the vacation of a portion of the alley between Railroad Street and Idaho Street between 10th Street and 11th Street consisting of an area approximately 20 feet in depth by 300 feet in length filed by Stephen Romero on behalf of Vaughn Industrial Park and processed as Vacation No. 1-09, and matters related thereto. **ACTION ITEM**

Mayor Franzoia questioned if utilities went through that area.

City Planner Wynes verified there were. They will have to be worked out and a determination made how we will make them available; the applicant is aware of that.

Councilman Johnson requested clarification; this is actually going from a vacation to an easement.

City Planner Wynes verified it will either be a partial or full easement; access to the utilities will be the key.

**** A motion was made by Councilman Johnson, seconded by Councilman Rice to accept a petition for the vacation of a portion of the alley between Railroad Street and Idaho Street between 10th Street and 11th Street consisting of an area approximately 20 feet in depth by 300 feet in length filed by Stephen Romero on behalf of Vaughn Industrial Park and processed as Vacation No. 1-09.**

Motion passed unanimously.

- C. Review, consideration, and possible approval of a request from Elko Veterinary Clinic to connect their parcel of land currently located in the County to City water service, and matters related thereto. **ACTION ITEM**

On September 11, 1984 City Council approved a request from A.A. Cuthbertson to connect his property to City water. This action did not take place for several years. As a result, in 1988 Mr. Cuthbertson returned to City Council and requested a water tap. The prior approval was honored, the request was granted, and the water tap was made. To Staff's knowledge, no water service agreement was ever drafted which defined specific terms and conditions. The current parcel of land requesting water service is a part of the land that was owned by Mr. Cuthbertson at the time of his request for water service in 1984 and 1988. The Elko Veterinary Clinic desires City water service, but prefers not to annex at this time due to potential time delays and other factors. RL

Utilities Director Limberg introduced Alan Cuthbertson and Mike Perchetti of the Elko Vet Clinic.

Mr. Limberg indicated although Staff was unable to locate a formal document defining the terms and conditions of water service for property outside the city limits they have included in the agenda packet are the meeting minutes from September 11, 1984 as well as 1988 when the matter was first discussed.

Mayor Franzoia believed at that time there were no standards developed for extending water service outside the city; agreements were put in there that reflected water meters or rate increases because they were outside the city limits.

Councilman Elquist requested clarification on the issue.

Mr. Limberg indicated the water service was approved in 1984; they didn't tie in until 1988 when Dr. Cuthbertson came before the council again requesting a water tap. In 1988 the city did the water tap to the existing building there. Since that time this property has been parceled into three parcels from the original one; now they would like water service to the adjoining parcel.

It was Councilman Elquist's opinion the city met the original obligations from 1984 and 1988. We expect other county parcels asking for water to meet the conditions we set forth and expect for anyone that wants city water service; we shouldn't stray from that.

Mr. Limberg believed the big question is; was the agreement for the property or was it for one water tap; it is difficult for Staff to determine based on the minutes.

Mayor Franzoia believed the tap was honored. The original parcel is now three parcels so this is a separate issue. What is the intent; are they going to construct on the property and if so what; is it going to be subdivided. It creates a problem for the city.

Mr. Limberg advised the intent is to build a new vet clinic which explains the request for water service. Their main concern is potential time delays that may occur.

Councilman Rice questioned if the lot with the current facility was in the city and was informed it was not.

Councilman Elquist commented there have been instances where the annexation process has been started in a parallel path. We were able to work through time delays but still meet the intent of the city's code.

Assistant City Manager Andreozzi advised the distinct difference here is there could be development standards that may or may not be the same as far as the city and county are concerned. Mr. Andreozzi believed a building permit has not been issued at this time.

Mayor Franzoia questioned if the property stays in the county how the public improvements would be addressed by the state.

Assistant City Manager Andreozzi advised the state defers their requirements to the local jurisdiction if there is a requirement for a sidewalk.

Development Manager Wilkinson referred to the Beverly Circle request for water outside the city; the council looked at policy and determined the preference was to have that property annexed into the city rather than extend water service. That is the reason the building permit had been issued; they intended to drill a well and have a septic system.

Mr. Andreozzi questioned if the parcel in questions has frontage on Lamoille Highway.

Civil Engineer Draper verified it does.

Mayor Franzoia commented Lamoille Highway may not require any improvements.

Mr. Andreozzi stated they may want to control the access; the state will determine that.

Mr. Wilkinson advised if they pull a building permit with the city our code will require curb, gutter and sidewalk on Lamoille Highway. There are few circumstances where we could defer that administratively and likely would not apply to this property.

Mayor Franzoia noted there is considerable gap between the edge of the highway and the property line for any type of pedestrian purposes.

Mr. Wilkinson verified that was correct; it wouldn't be criteria defined in the code but it could be a consideration by the council to defer the requirement in the event the highway was ever widened to its full right-of-way width.

Councilman Rice supported further study on how we want to put pedestrian right-of-ways along busy roads such as this.

Mayor Franzoia noted requests for water services to unimproved properties are increasing. It makes more sense to have that within the city because you get the immediate benefit of the value of the improvements and the consistency of the development standards.

Councilman Rice questioned the time frame for the parallel annexation process.

Mr. Limberg and Mr. Andreozzi advised approximately four months for a standard annexation process

Councilman Rice questioned whether the installation of tap delayed it. Is Staff open to any expedited process?

Mr. Limberg indicated the agreement was contingent upon them annexing in; they needed the tap to get the county building permit. Upon completion of the county building permit they annexed in.

Mayor Franzoia pointed out the difference between the previous annexation and this one is that this one is commercial; the standards are different.

Mike Perchetti stated they would be open to any thoughts or ideas if they can maintain the current tap for the new parcel where they plan to construct the new clinic. They would then annex the parcel with the old building into city so they have more time and it wouldn't delay construction. The new building would continue on the same tap they have that is servicing the barn on the new property where the clinic will be and the old building.

Mr. Wilkinson advised we have agreements signed by people saying they agree to annex at the request of the city; if they refuse to move forward the city would have to institute a forced annexation to accomplish that. Mr. Wilkinson believed a legal opinion might be needed.

Mayor Franzoia questioned if there was water to the barn now.

Mr. Perchetti verified there was.

Mr. Limberg clarified the existing tap is at the end of the parcel. Typically there is one service per parcel. Mr. Limberg indicated there could be a size issue with the line currently feeding the barn and facilities; a review of the Uniform Plumbing Code will determine how many fixtures can be fed off of a service of a certain size.

Mayor Franzoia questioned if the line to the barn was sufficient for the new building.

Mr. Perchetti stated it was not. The existing tap would go to the new building and they would need a new tap off the main to the new construction; there would still be one tap in the county. If they annex the old building property and allowed for that for the new building they would still have only one piece of property out of the three that were in the county that had water and sewer through the city.

Mayor Franzoia advised the legal issue is a building on a separate parcel that has city water.

Mr. Wilkinson believed another consideration was the parcel in question would meet the 15% boundary criteria.

Mayor Franzoia advised you cross the street for the 15%. Mayor Franzoia questioned if the city does nothing what issue does this create; you have two parcels in the county with city water.

Mr. Limberg noted they are not asking for water service, it is already there. They are asking for new tap to the parcel where city water is already feeding.

Mr. Andreozzi noted the complication is multiple parcels. At a minimum you should require having individual services because the other utilities are going to have individual services.

Councilman Conner arrived @ 5:19 p.m.

Mayor Franzoia stated we have parcels within the city that are this way; there is a glitch.

Councilman Elquist preferred working towards cleaning things up; not making them worse. Why not annex both parcels and have city services on both.

Mayor Franzoia questioned the applicants if annexation was a problem or where they receptive.

Mr. Perchetti advised they are at a point in the county permitting process where they intend to get the foundation permit and pour the foundation footings before winter. Mr. Perchetti indicated they are open to annexation.

Mayor Franzoia expressed support of the request, if the applicant was receptive to annexation at a later date; the process can continue through the county.

Councilman Johnson questioned the procedure on Mountain City Highway; this is very similar.

Mr. Limberg advised Staff drafted a water/sewer service agreement for a customer outside city limits; it included their tap fees which were at the county rate, the water rate until such time as annexation. They annexed six months after that. The council approved the water service as long as their annexation was being processed. Both processes were happening at same time so they were able to move forward.

Councilman Johnson was supportive of what city did previously. In the past couple of years council has taken a hard stand on providing water service outside city limits and we want to make sure anyone that asks gets the same deal. Mr. Johnson encouraged the applicant to move forward with the county, keep the building permit process moving forward, and file with the city for annexation.

Mr. Limberg advised, if so directed and using the Beverly Circle annexation as the model he would draft a will serve letter for the property as well as for the water/sewer agreement.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice authorizing water service to the parcel closest to the existing veterinary office which includes small corrals and a barns on the corner of Lamoille Highway and Colt Drive and**

that we model the agreement, knowing that they have a building permit in place, modeling it to the water service agreement with the property owner on Beverly Circle so they can move forward and the annexation will be done in parallel so they can go forward with the construction with the Will Serve Letter from the City of Elko and direct staff to draft that agreement.

Motion passed unanimously.

Under further discussion Mayor Franzoia indicated the other property could be considered for annexation at the same time if the applicant so desired and directed them to work with staff.

- D. Review, discussion, and possible approval of the 2009/2010 Snow and Ice Control Policy, and matters related thereto. **ACTION ITEM**

The City of Elko Street Department annually reviews and updates the Snow and Ice Control Policy and develops a pamphlet, which is made available to the public. This policy identifies the priorities and procedures relating to snow and ice control for city streets.

The Golf and Park Departments are also an essential part of the City of Elko's snow removal efforts. They clear snow and control ice on city owned sidewalks and pathways, and may also be utilized to provide assistance to the Street Department as needed. DWS

Public Works Director Strickland advised there were no changes to the policy.

Councilman Elquist supported a public information campaign also; it always seems to be an issue.

Mr. Strickland indicated the only area lacking is having identified snow routes where we have no parking.

Councilman Rice suggested the snow plow route be included on our web site.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve the 2009/2010 Snow and Ice Control Policy.**

Motion passed unanimously.

Under further discussion Councilman Johnson questioned if the policy was only available at City Hall.

Mr. Strickland indicated it was on our website as well and various departments.

- E. Discussion of possible strategies to fund the repair of Idaho Street and other Regional roads, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Idaho Street from 5th Street to City limits will be the main point of the discussion, other segments of regional roads such as 12th street from Lamoille Highway to

Idaho and a section of West Idaho Street will also be discussed. Possible funding options will also be presented. DWS

Public Works Director Strickland provided an overhead presentation of the proposed street work and estimated costs; see Exhibit 'A'.

Mr. Strickland addressed the funding issues; we have approximately \$12 million worth of projects. If the council elected to move forward with the bond issue the Ad Valorem Funds would generate the bonding capacity of \$3 million, our RTC apportionment would generate the bonding capacity of \$6 million for a total of \$9 million. Mr. Strickland advised there is a large contingency built into this; over \$1 million with just the portion of Idaho Street being considered. Engineering costs are included in the estimates. Mr. Strickland believed projects of this size can typically come in \$1 to \$2 million under budget. If we could have two major projects within the City of Elko we could see a tremendous benefit to the taxpayer.

Administrative Services Director Stout advised when reviewing financing sources for the various projects Staff looked at both the RTC monies, which that bond was retired and the City's 1989 street bond which was retired as well. In speaking with financial counsel we talked about various bonding options for this. The 1989 street bond has about 7.5 cents which would generate approximately \$250,000 to \$300,000 in revenues to pay the bonds each year. Staff spoke with financial counsel on how to structure those bonds for a better rate. The RTC funds would be a county issue and we would need to meet with them to get their approval.

Mr. Strickland indicated to give us flexibility Staff was looking at doing a base bid; possibly from 5th to 30th or maybe 5th to Union Pacific. We could look at the other segments as additive alternates to see where things shake out.

Mayor Franzoia noted by eliminating 12th Street from consideration the financing we currently have would take care of Idaho Street completely. 12th Street could be a bond issue vote for the public at the next election.

Mr. Strickland commented if the current economic situation holds and we can keep allocating that money into the Capital Construction Fund that might be a way to address 12th Street in a couple of years; in the meantime we could do preventive maintenance measures there.

Mr. Strickland continued and indicated Staff was seeking direction.

Councilman Elquist asked if the excess right-of-ways along Idaho Street; specifically across the Main Park, have to be aligned before we move forward; is there going to be an issue there.

Mr. Strickland commented that segment was taken before an NDOT board earlier this year to try and get funding. We have the design completed from 14th Street out; that cost was included in the numbers presented tonight. We have a tremendous right-of-way along Idaho Street and we will be able to do what we need to do within our right-of-way; then we can decide how to address the excess at a later time.

Assistant City Manager Andreozzi indicated Staff envisioned at some point in time, when they had a design or some type of funding to have public meetings with the property owners along there; there are some access issues. We wanted to make sure we reserved sufficient right-of-way

to construct it and have some flexibility; then we can understand what right-of-way is truly excess.

Councilman Elquist liked the strategy of getting the core of Idaho Street completed; do the others as add alternates.

Mayor Franzoia questioned if design work was needed or has it been done.

Mr. Strickland stated the design work has not been done; it is estimated at \$1 million and is included in the numbers presented. If this is the direction council wants to go Staff will bring something back at the next meeting that more clearly depicts what our course of action will be.

Mayor Franzoia questioned if there were enough funds for the design work.

Ms. Stout believed there should be funds available in the Capital Construction Fund; it depends on how much we anticipate that design work to cost. We would need an estimate and then look at the fund. There are additional revenues going into that fund due to the additional five cents from the debt service rate we just retired.

Mr. Strickland indicated with a project of this size Staff would look at soliciting statements of qualifications; try to get an engineering firm that is very familiar with this type of work.

Mr. Strickland continued; Staff is looking for direction from council.

Mayor Franzoia and the council members expressed support of the project.

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. Final public hearing and prioritization of project(s) to submit for funding by the 2010 Community Development Block Grant (CDBG) Program, and matters related thereto. ACTION ITEM

The City may submit one grant for this funding cycle. During the public hearing, the City will receive comments from citizens pertaining to the proposed projects. The City will then prioritize the proposed projects. SO

City Clerk Owen advised at the previous council meeting the council heard proposed projects for the CDBG funding. The only project proposed was the Ruby Vista Curb, Gutter and Sidewalk Project proposed by City Staff. If the city is awarded the grant the city's financial responsibility would be approximately \$53,000; that would include the patch-back, design and we would have some in-kind services i.e. grant administration, contract management and QA/QC. If the council

supports this project after hearing public comments the action would be to direct Staff to apply for the CDBG Grant. Included in the packet is the presentation from the last meeting that outlines the project.

There was no public comment on this issue.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice authorizing City Staff to submit the Ruby Vista Curb, Gutter and Sidewalk Project to CDBG for the 2010 Grant Cycle.**

Motion passed unanimously.

- C. Second reading, public hearing and possible adoption of Ordinance No. 709, an ordinance providing for the issuance of registered, negotiable, general obligation (limited tax) airport refunding bonds (additionally secured by pledged revenues), Series 2009A and Series 2009B; and matters related thereto. **ACTION ITEM**

A copy of Ordinance No. 709 has been included in the agenda packet for review.
DS

Mayor Franzoia called for public comment on this issue and there was none.

Administrative Services Director Stout advised the bond sale is set for November 11, 2009.

Councilman Elquist questioned if the rates are holding.

Ms. Stout verified they were and the advertisement went out for the bond sale. Financial counsel indicates they are getting requests for information.

City Clerk Owen advised corrections were made to the ordinance as far as dates etc.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to adopt Ordinance No. 709, an ordinance providing for the issuance of registered, negotiable, general obligation (limited tax) airport refunding bonds (additionally secured by pledged revenues), Series 2009A and Series 2009B.**

Motion passed unanimously.

V. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Chief of Police issuing a 30-day temporary retail wine and beer liquor license and issue a regular retail wine and beer liquor license to Bryant Peterson dba Pizza Hut located at 2200 Idaho Street, Elko, NV 89801, and matters related thereto. **ACTION ITEM**

Police Chief Zumwalt advised this is not a new franchise; it is under new ownership. Staff recommends approval.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to ratify the 30-day temporary retail wine and beer liquor license and issue a regular retail**

wine and beer liquor license to Bryant Peterson dba Pizza Hut located at 2200 Idaho Street, Elko, NV 89801.

Motion passed unanimously.

- B. Consideration of an appeal from Ms. Anna Romero regarding the revocation of her bartender work card, and matters related thereto. **ACTION ITEM**

A letter from Ms. Anna Romero has been enclosed in the agenda packet for review. CC

Ms. Romero was present to explain her appeal and stated she was requesting four-month waiver. The work card was revoked due to a discrepancy on dates from her last felony conviction. Ms. Romero indicated she was unaware there was a three-year waiting period from your last felony conviction before you could apply for a work card.

Mayor Franzoia questioned where Ms. Romero worked.

Ms. Romero advised she was employed at Sue's Fantasy Club.

Chief Zumwalt read into the record a letter from Ms. Romero's employer "*My name is Ganice Rabb; I am the house manager of Sue's Fantasy Club. I am writing on behalf of Anna Romero, who until October 27, 2009 was employed as a bartender at Sues'. Ms. Romero was honest about her felony convictions when she applied for her employment. I have kept Ms. Romero as an employee in a different capacity pending an outcome of her appeal. Ms. Romero is an intracal part of our staff and I would like to see her restored to the position of a bartender. I appreciate your time and consideration concerning this matter Ganice Rabb.*"

Chief Zumwalt reviewed key points in Chapter Five of City Code which addresses Bar Employees and Work Permits for the council. A portion of that chapter states "*the Chief of Police may deny any application made by an applicant who does not meet the requirements of the chapter or who has failed to disclose, misstate or otherwise mislead the Chief of Police in respect to any facts or statement contained within the application.*"

Chief Zumwalt indicated a work permit is granted when someone applies then the department conducts the background check; take fingerprints and send them off. Chief Zumwalt stated the background report he received back shows a disposition date of November 26, 2007 where Ms. Romero pled guilty to two felonies. Chief Zumwalt advised the issue was those felonies were not listed on her application and there were two felonies within a three-year period.

Discussion between Ms. Romero, Chief Zumwalt and the council continued on this matter to better understand all circumstances surrounding the issue and the application process.

Chief Zumwalt advised the application says "have you ever been arrested" and "for the purpose of this application all arrests and convictions must be included." On the application Ms. Romero listed a crime and conviction in 1997, a crime and conviction in 2001, a crime and conviction in 2002 and a crime in October of 2006.

Councilman Elquist appreciated Chief Zumwalt's position in following the policy; however it appears there is some flexibility. Councilman Elquist was concerned with denying someone a living if it is close and someone wants to put them to work; this doesn't appear to be a high risk.

Chief Zumwalt referred to another area of city code pertaining to the appeal "*the City Council may by unanimous vote, upon good evidence of good moral character and rehabilitation of the applicant, waive any of the disqualifications stated in Section 5-11-2 of this chapter. And condition or restrict any such waiver having the due consideration for proper protection of the public health, safety, morals and good order of the city*".

Councilman Elquist questioned how long Ms. Romero has been out of jail and had there been any more problems.

Ms. Romero stated she has been home nearly one year. Ms. Romero indicated she was struggling to change her life and every time something good starts to happen she gets slapped in the face. It is not easy for an ex-felon; she served her time and is trying to make changes.

Mayor Franzoia stated the issue tonight is what the application says and what report shows.

Ms. Romero advised she interpreted the dates differently than the record showed and also believed some incidents went together; not separately.

Chief Zumwalt stated he did not have the detailed arrest record; the criminal history record shows the disposition in November 2007 for a probation violation and another for a possession charge which was probably part of the probation violation. Chief Zumwalt stated his recommendation is based on the fact they were not listed on the application.

Councilman Elquist commented based on the appeal process and the number of issues Ms. Romero has had if she is sincere about getting her life together; a three-year sabbatical from bartending might be a good idea. Any place that would want to reform or help Ms. Romero get away from that pattern of behavior would probably tell her not to be in that environment. This may be a blessing in disguise.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to deny an appeal from Ms. Anna Romero regarding the revocation of her bartender work card based on the policies as described by Police Chief Zumwalt.**

Motion passed unanimously.

IV. RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance No. 710, an Ordinance expanding the corporate boundaries of the City of Elko by annexing approximately 1.068 acres of property located generally at the southwest corner of Sagecrest Drive and Jennings Way filed by Dennis and Carla Gilligan and processed as Annexation No. 4-09 and to direct Staff to set the matter for public hearing, second reading and possible adoption, and matters related thereto. **ACTION ITEM**

The petition for annexation was accepted by the City Council on October 13, 2009, and referred the matter to the Planning Commission. The Planning Commission considered this item at their regular meeting of November 3, 2009, and took action to forward a recommendation of approval to the City Council.
EW

City Planner Wynes advised there are two conditions; they would connect to city sewer and water, and the other is they would access the property off Sagecrest.

Mayor Franzoia questioned on a corner lot do you limit how close they get to the corner with that access.

Mr. Wynes verified there is a distance.

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to set for Second Reading and possible adoption Ordinance No. 710, an Ordinance expanding the corporate boundaries of the City of Elko by annexing approximately 1.068 acres of property located generally at the southwest corner of Sagecrest Drive and Jennings Way filed by Dennis and Carla Gilligan and processed as Annexation No. 4-09.**

Motion passed unanimously.

III. NEW BUSINESS

- F. Review, consideration, and possible approval of an agreement for ambulance billing services with ADPI Intermedix, and other matters related thereto.
ACTION ITEM

Resolution No. 24-09, a resolution establishing fees to be charged for ambulance services, was approved at the October 13, 2009 Council meeting. We have been working with ADPI Intermedix to obtain a third party billing agent for the City. Enclosed in the packet is a copy of the agreement with ADPI for your review.

Administrative Services Director Stout stated no agreement was included in the packet; this was more complicated than anticipated. Because we have no history it is difficult for ADPI to determine what our fees would be. Staff went through an extensive financial analysis based on different scenarios; based on the estimated sixty transports per year the fees would be approximately 9.5% of total collected. Our potential billings would be approximately \$30,000, potential collections approximately \$20,000 so that fee is estimated at \$1,800. We needed to work through some of those issues so we didn't get an agreement in place.

Ms. Stout indicated at this point Staff is requesting the item be tabled until the next meeting.

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

Motion passed unanimously.

II. APPROPRIATIONS

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

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

Motion passed unanimously.

VII. REPORTS

- A. Mayor and City Council
 - 1. Councilman Conner thanked Staff for help with Nevada Day Parade
 - 2. Councilman Rice thanked Councilman Conner for his efforts with the Nevada Day Parade
- B. City Manager
 - 1. CA Trails Advisory Meeting 11/12 @ 7:30 a.m.
 - 2. Kimley-Horn final inspection on Phase 2 ramps at airport on 11/13/09
 - 3. City Manager & Administrative Services Director will attend airport bond auction on 11/18
- C. Utilities Director – Emergency water line repairs, Canyon Construction \$27,320.49 September/October; College Court - \$2,141.28, 10th & Railroad - \$7,646.04, 1844 Ruby Vista - \$3,752.21, 1800 Ruby Vista - \$412.95, 2074 Sawyer - \$544.89, 1977 Griswold - \$544.89, 2255 Clearwater - \$6,425.70 and Morning Breeze - \$5,852.53
- D. Public Works
 - 1. Salt Dome completed at a cost of \$26,000 vs. \$43,000
- E. Fire Chief
 - 1. Ambulance update
- F. Police Chief
 - 1. Veteran's Day Parade
 - 2. Request changes to parade route
 - 3. Three officers at graduate post on 11/13/09
- G. Civil Engineer
 - 1. Elko County preliminary flood maps completed
- H. City Clerk
 - 1. Snow plow route is on website

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

Mayor Michael J. Franzoia

Shanell Owen, City Clerk