

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

SS January 26, 2016

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, January 26, 2016.

This meeting was called to order by Mayor Chris Johnson.

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

ROLL CALL

Mayor Present: Chris J. Johnson

Council Present: Councilman John Rice
Councilwoman Mandy Simons
Councilman Robert Schmidlein
Councilman Reece Keener

City Staff Present: Curtis Calder, City Manager
Scott Wilkinson, Assistant City Manager
Ryan Limberg, Utilities Director
Shanell Owen, City Clerk
Dawn Stout, Administrative Services Director
Jonnye Jund, Accounting Manager
Aubree Anderson, Human Resources Manager
Ben Reed Jr., Police Chief
Ben Mangeng, Information Systems Manager
Jeremy Draper, Development Manager
Matt Griego, Fire Chief
Bob Thibault, Civil Engineer
James Wiley, Parks and Rec Director
Dennis Strickland, Public Works Director
Dave Stanton, City Attorney
Lauren Landa, Deputy City Attorney
Ted Schnoor, Building Official
Diann Byington, Recording Secretary

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

There were no public comments.

APPROVAL OF MINUTES: January 12, 2016 Regular Session

The minutes were approved by general consent.

I. APPROPRIATIONS

- C. Review, consideration, and possible approval to authorize Staff to solicit bids for the Cedar Street Reconstruction Project, and matters related thereto. **FOR POSSIBLE ACTION**

This item has been approved and budgeted for in the 2015/16/17 Fiscal Year Budgets, Capital Construction Fund. DS

Dennis Strickland, Public Works Director, explained the engineer, Lana Carter, was present to answer questions. We will get the final set of drawings on the 11th.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to authorize staff to solicit bids for the Cedar Street Reconstruction Project.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible authorization for Staff to award the Elko Senior Citizens Center Energy Savings Retrofit Project, and matters related thereto. **FOR POSSIBLE ACTION**

Council authorized bidding this project during the November 24, 2015 meeting. The City received 3 bids on January 15, 2016. Staff recommends awarding the project to the low bidder, YESCO, LLC, in the amount of \$42,423.11. This is a CDBG Project that the City of Elko is sponsoring for the Senior Citizens Center. SO

Shanell Owen, City Clerk, explained we received three bids. The low bidder was YESCO. City staff recommended awarding to the low bidder. All bids were within budget. The budgeted amount was \$50,000.

**** A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to award the bid to YESCO, LLC in the amount of \$42,423.11.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible approval of a Wireline Crossing Agreement between Union Pacific Railroad Company and the City of Elko, including the payment of a one-time License Fee of \$6,900, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed Wireline Crossing Agreement has been included in the agenda packet for review. This agreement is necessary for the installation, maintenance, and operation of City-owned fiber optic line across the 14th Street Union Pacific Railroad R-O-W. This Agreement will facilitate the fiber optic connectivity between the new Police Station and other City-owned facilities. CC

Curtis Calder, City Manager, explained the agreement is in the packet. It has taken quite a bit of time to procure through Union Pacific Railroad. This is budgeted through the Information Technology department. This isn't part of the Police Department Project budget. He recommended approval.

Councilman Keener asked if we have paid these fees before.

Mr. Calder answered yes. It is a one-time fee without an annual fee.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to approve the Wireline Crossing Agreement between Union Pacific Railroad Company and the City of Elko, including the payment of a one-time license fee of \$6,900.**

The motion passed unanimously. (5-0)

- F. Acceptance of a \$5,000 grant from the Humane Society of the United States (HSUS) for the purpose of decommissioning the City of Elko Animal Shelter's Carbon Monoxide Euthanasia machine, and matters related thereto. **FOR POSSIBLE ACTION**

On November 10, 2015, the City Council authorized Staff to apply for a Humane Society of the United States (HSUS) grant, for the purpose of decommissioning the City of Elko Animal Shelter's Carbon Monoxide Euthanasia machine. The grant was received in December, 2015. CC

Mr. Calder explained this is in accordance with our grant policy. This will formalize the acceptance of the check.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to accept the \$5,000 grant from the Humane Society of the United States.**

The motion passed unanimously. (5-0)

II. NEW BUSINESS

- A. Review, consideration, and possible authorization for the Arts and Culture Advisory Board to participate in the City of Elko's Centennial Celebration, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko Arts and Culture Advisory Board has forwarded a recommendation to the City Council to complete a sponsored community wide public art project. JD

Catherine Wines, Arts and Culture Advisory Board (ACAB), wanted to ask council to consider the next project they want to work on in celebration of the centennial. She explained the art movement of sculptures in towns. These are typically called icons. Businesses will sponsor icons and they put them on display. She has contacted a company that makes these icons and explained the costs associated with the project.

Mayor Johnson asked if they wanted authorization to move forward with the project. Are we to the point where there is a dollar amount the city needs to consider, or are you just presenting the idea to us tonight and you will gather more information and report back?

Ms. Wines answered they would like permission to get the mold cast. We would like to get going on this because the centennial is coming up quickly. She thought there was still money in the budget that they can use.

Jeremy Draper, Development Manager, said they will have to look at their budget to see what is available. They would like authorization to get this started with the project and maybe contact businesses to get letters of interest.

Scott Wilkinson, Assistant City Manager, said he checked the budget. There isn't enough for a minimum casting which he thought was \$3,800. Staff does have a recommendation to try to put together a project before we make any expenditures. Seek some sponsorship before we commit.

Ms. Wines said the estimate she was given today was between \$3,500 and \$3,800. They could send a picture of the boot to the company and they can design the mold. We don't have to hire an artist.

Councilman Rice said he would be comfortable expending those dollars but the recommended motion is fine. He was confident there were going to be plenty of sponsors.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to direct members of the Arts and Culture Advisory Board to seek sponsorships from a minimum of 10 businesses and develop a plan to present to Council for possible approval and then to move forward.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible acceptance of a Deed of Dedication for the realignment of Errecart Boulevard across a portion of land owned by the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

At the April 14, 2015 Council meeting, a preferred alignment for the extension of Errecart Boulevard was selected. A Deed of Dedication has been prepared for right of way across a City owned parcel, 001-770-003. JD

Mr. Draper explained he wanted to have this tabled. They don't have the deed of dedication from Mr. Stanton yet.

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to table the item.**

The motion passed unanimously. (5-0)

- C. Review and possible approval of a Golf Professional Agreement between the City of Elko, Nevada and Bradley John Martin, DBA Martin Creek Holdings, LLC, and matters related thereto. **FOR POSSIBLE ACTION**

The Golf Professional Agreement between the City of Elko, Nevada and Bradley John Martin, DBA Martin Creek Holdings, LLC expired on December 31, 2015. The proposed four (4) year Agreement includes a two (2) year extension option. Other substantive changes include clarified accounting procedures, increased concession fees paid to the City, increased payments to the Golf Professional, and reassigned janitorial responsibilities. A copy of the proposed agreement in redline format has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained the agreement in the packet has had a revision. There is a new copy on the dais. The only change was on pg. 10. We have had multiple discussions with the Golf Pro and he is in agreement with all of the revisions. It is a fair agreement (Exhibit "A").

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to approve the Golf Professional Agreement between the City of Elko and Bradley John Martin, dba Martin Creek Holdings, LLC, effective January 1, 2016.**

The motion passed unanimously. (5-0)

- F. Review, consideration, and possible approval of a List of Appraisers recommended by the City Manager for purposes of conducting appraisals during the 2016 calendar year, and matters related thereto. **FOR POSSIBLE ACTION**

The City is considering adoption of an amendment to City code Title 8, Chapter 1 referenced as Ordinance 800. Section 8-1-1 of the proposed ordinance requires the City Manager or designee to compile and to submit a list of appraisers qualified to conduct business in the City of Elko to the City Council on or about January 1st of each year. The Planning Department has developed a list of qualified appraisers interested in conducting business with the City of Elko and the City Manager has approved the list. SAW

Scott Wilkinson, Assistant City Manager, said he recommended a conditional approval; the condition being the passing of Ordinance 800.

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Appraiser List as recommended by the Planning Department to the City Manager conditioned on passage of Ordinance No. 800.**

The motion passed unanimously. (5-0)

- G. Review, consideration, and possible approval of the Storefront Improvement Program implementation process, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko accepted a Community Development Block Grant (CDBG) in cooperation with the Governor's Office of Economic Development (GOED) to facilitate a storefront improvement program and is responsible for the administration of the grant through an agreement with the RDA. The grant application included a storefront improvement program that requires clarification and direction to Staff for implementation. An outline showing the implementation process is included in the packet. SAW

Mr. Wilkinson explained we are preparing to roll-out this program. We have identified some places where we need clarification from council. One of the more important issues is identifying qualified applicants. He consulted with Mr. Stanton. He has a memo dated January 20th that he wanted council to read over (Exhibit "B"). Our attorney has recommended a slight change to item 5. He offered to go over each one with council. On item 5 Mr. Stanton is recommending that we insert some language. We are preparing to advertise the program for a 30-day period.

Councilman Keener asked on number 3, it says preference will be given to projects that are \$2000 or less. Do you realistically think that some of the projects will be so simple?

Mr. Wilkinson said there is a threshold of \$2000. At that threshold you have to pay Davis/Bacon wages. Our whole intent is to combine all the projects into one project and go out to bid one time. If we have projects that are under that \$2000 threshold and combine them with other larger projects, those costs will increase. You could have someone apply for a paint job on their façade. We want to discourage that so we can administer the program more efficiently.

Councilwoman Simons asked if item 1 was a condition of the grant or our condition.

Mr. Wilkinson answered those conditions were written into the storefront program. The storefront program was written by staff. There would be some businesses that would be excluded from applying.

Councilman Keener said that was a concern of his. The businesses that would be excluded are the businesses that would benefit the most from this program.

Mr. Wilkinson said the minimum square footage excludes one of the casinos down there too. Basically all the bars don't allow minors and are not eligible.

Mayor Johnson asked if the City of Elko could lessen the requirements.

Mr. Wilkinson answered they have talked to the state about how much flexibility we have to implement the program. He felt we could adjust some of the requirements.

Councilman Keener wanted to strike number 1.c.

Eva Owsian, Spotted Tailgate Designs, asked if the Map House would be considered eligible.

Mr. Wilkinson asked Mr. Draper to look it up. The Map House is outside the Central Business District.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the Store Front Improvement Program implementation process with two revisions: Remove items 1.a. and 1.c. in the ineligibility list and add the suggested language in 5. To change it to read, "Recommendation – Require applicant to place a deposit with the city, in the amount of the applicant's proportionate share..."**

The motion passed unanimously. (5-0)

III. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible approval of Resolution No. 06-16, Resolution and Order providing for the Elko City General Election to be held November 8, 2016, and matters related thereto. **FOR POSSIBLE ACTION**

The Elko City Council will have two Councilmember positions available for the election to be held November 8, 2016. This City election shall be governed by and conducted in accordance with the Elko City Charter, Title 1 Chapter 5 of the Elko City Code and all applicable laws of Nevada. SO

Shanell Owen, City Clerk, explained this Resolution begins our election process for the year. Filing for office occurs on March 7 and ends 5:00 pm, Friday, March 18. The City Clerk's Office will work with the County Clerk's Office on the election. The election will be held November 8.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to adopt Resolution No. 6-16.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible approval of Resolution No. 07-16, a resolution placing an additional two-year moratorium on the issuance of business licenses for medical marijuana establishments, and matters related thereto. **FOR POSSIBLE ACTION**

On March 25, 2014, the City Council adopted a resolution placing a two-year moratorium on the issuance of business licenses for medical marijuana establishments. Staff is recommending an additional two-year moratorium. City Council tabled this item on January 12, 2016. SO

Ms. Owen explained included in the packet was supplemental information provided by Chief Reed. Possible actions that council can take tonight are to approve, disapprove or table the resolution. You can also take no action on the resolution and give staff further direction. Just before the meeting a letter was received from Cathy McAdoo of PACE Coalition. It was given to council (Exhibit "C")

Mayor Johnson read the letter from PACE Coalition into the record.

Chief Reed spoke in opposition to allowing Medical Marijuana Establishments. He is sworn to uphold the law and recommending this would be against Federal law. Several of the documents he gave to council had to do with the experience in Colorado and what they are seeing. The big document is full of facts and figures. It was produced by Rocky Mountain High Intensity Drug Trafficking area. They cover four states and they are federally funded. He recommended adoption of the resolution. The other document is from the White House Office of Drug Control Policy. The White House is saying that they continue to oppose legalization of marijuana and other illegal drugs. The approach runs counter to public health approach to drug policy. They explain how the science isn't really there yet. He also included the City Attorney's memo dated February 5, 2014. It is two years old but he felt it was still right on point and well written. Elko County has prohibited Medical Marijuana Establishments (MME's) by ordinance. The State initiative that will be on the fall ballot talks about recreation use and it could change the policy at the state level. His recommendation was to adopt the resolution for a two year moratorium.

Councilwoman Simons asked if the Federal Law is supreme, correct.

Dave Stanton, City Attorney, answered yes.

Councilwoman Simons said we all took an oath to uphold the United States Constitution. This is illegal. If the federal government made it legal this would be a different conversation.

Mr. Stanton said this is not a simple legal issue. Federal law is still the enforceable law. The administration at the federal level has made the decision not to enforce it.

Amy Griego, 1805 Ruby View Drive, is in the process of getting a medical marijuana card. It will be really hard to go all the way to Reno to get what she needs since she is on disability. Marijuana is not lethal and you cannot overdose on it. It can really help people. She struggles. Marijuana helps her a lot. It would help her if she could get it legally and safely.

Tiffany Huffman, 505 Copper Street, Executive Assistant to Ron Abbott, said as of December 2015 there were 13,561 medical marijuana card holders in Nevada. About 2000 of those are in the rural counties. There are 842 pending applications. The majority of the card holders' condition listed was severe pain. Their ages were 55-64 years old. State legislation has imposed a 2% excise tax on all medical marijuana sales. That is in addition to any city or county tax. It also states that 75% of that tax is to go directly to the schools. 25% goes back to the state. She handed out a copy of the 2014 Medical Marijuana Establishment application which is 45 pages long (Exhibit "D"). The state expects this application to be returned in a binder along with a CD of information and a \$5,000 non-refundable application fee. The applicant needs to have at least \$250,000 in liquid assets that can be converted in 30 days. There needs to be an FBI background check on every officer, board member that is listed on the application and once your business is open you have to do that on every employee. She went over other requirements of the application. There is a need for a dispensary in Elko.

Eva Owsian, 336 Osino, Unit 11, said the benefits of medical marijuana are out there. We should put patients before politics. 55% of drug overdose deaths were related to prescription medications. She has a medical issue that causes a lot of pain. She chooses not to take the

prescription pain pills because of the side effects it has. Eventually she will be using medical marijuana. She isn't a doctor but she feels medical marijuana can replace some of the prescription medications out there. It would allow people to get off pain killers. It would remove a lot of these pills from the streets. We do have a drug problem here. A new business is always a benefit here no matter what the business is. Those that need medical marijuana can get it. She would prefer her tax dollars stay here. We don't want to get this illegally.

Ryan Nyman, 466 Gypsum Drive, said he is a medical marijuana card holder. He went through the expensive process of getting the card. Unless there is someone here with a solid business plan for such a business he will not be in agreement to have an MME in town.

Mark Gibson, 550 S. 12th Street Apt. 36, said we have many people here that are medical marijuana card holders, or have at some point smoked marijuana. Elko city limits could only hold one dispensary.

Josh White, 8758 Mountain City Hwy, owner of Cannabis Consulting Group LLC, said he wanted to remove the word ban from the moratorium and replace it with postponement. He would also like to remove the word moral from the document all together. City and County leaders that promote 24 hour prostitution, 24 hour gambling and 24 hour alcohol consumption 365 days a year does not have the moral compass to compare and hold for judgement a medical necessity such as medical marijuana from the good, legal, law abiding, hardworking medical marijuana patients from this county. He wanted the council to appoint an Elko County Medical Marijuana Advisory Board that will consist of qualified, competent individuals who will diligently seek out those levels of county and city agencies to establish, oversee and create guidelines to better our city with this inevitable industry. The upcoming legislation for cannabis is for recreational use and has little to nothing regarding medical marijuana. Medical marijuana has already passed legislation and was signed by our governor. It is not wise for community leaders to be behind two acknowledgments of an industry. He hopes to own an MME in Elko County. His hopes are for a better, more educated community.

Pam Moore, 2114 Colonial Drive, claimed she has never smoked pot. She has a friend that has stage 4 cancer. She cannot drive to Reno to get medical marijuana. She doesn't have long to live. It is legal to have a medical marijuana card. It should be legal to get a prescription for marijuana in this town.

Jackie Melton, 1364 Arroyo Seco Circle, introduced her daughter Ashley who is a medical marijuana card holder and has severe autism. This is a situation for disabilities. You are most likely to be disabled if you have a medical marijuana card. If you are disabled you are poor and you might not have a car. Right now her daughter is flailing around because they have not been able to go to Reno. It would cost about \$1,000 a month to get what she needs.

Dale Andrus, 418 Commercial, said he doesn't use marijuana. Has anyone been to a legal dispensary in the state? You don't really know how they operate. From seed to sale they track everything they do. It is a business opportunity for someone in Elko. The only ones that benefit from this moratorium are the street dealers. He hoped council knows that this dispensary doesn't have anything to do with bringing in more illegal drugs to the city. He asked council to give this some consideration.

Kent Aveson, 647 Spruce Road, said a year ago he doubted there were any benefits to medical marijuana. A friend of his had colon cancer. The friend did his research and decided to get his medical marijuana card. He began his own three month treatment using hemp and marijuana oils and then he went back to the doctors. He was cancer free. After doing some of his own research on the subject, he is now a believer in the medical benefits of marijuana. We know very little about it because we haven't been able to do enough research. We already have too many residents that have to leave Elko County in order to get medical treatment. Continuing this moratorium will make another group of citizens that will have to leave the county to get the medical treatment that they should be able to get right here in Elko. Please consider what the people need.

Ron Abbott, Elko County Medical Marijuana Patients' Association, thanked everyone that showed up in support and spoke tonight. At the bottom of the card is a website where you can learn so much. He is a medical marijuana patient himself with stage 3 COPD. He quit taking his prescribed meds 8 months ago. There is no cure for COPD. The side effects of his prescribed medication was too much for him to tolerate. That is why he became a medical marijuana patient. He is a retired Ph.D. level therapist. He worked many years as a drug counselor. For every study, fact or figure that Chief Reed can come up with he can come up with 10,000 more as a researcher. We are here to open a dialog with the residents of the City of Elko and Elko County. We don't want to create any type of civil disobedience. He referred to the Vision of the Elko City Council, "...a non-intrusive, efficient city government providing excellence service to the public through dialog, dedication and innovation." He is willing to help anyone that has any questions about medical marijuana. He is a former law enforcement officer in California, Nevada and the United States Department of Justice. He used to put people in jail for possession of marijuana. In California it was a felony. Back then there was no medical marijuana. He asked council to consider the people and their needs here in the City of Elko.

Tara White, 8758 Perry Way, co-owner of Cannabis Consulting Group, explained the process people go through to get a medical marijuana card.

Mayor Johnson called for other public comments without a response.

Councilman Rice said two years ago we didn't have the information needed in order to manage an MME. He hasn't had a single correspondence from anyone that recommended extending the ban. Medical marijuana passed by the voters. A lot of the things we have heard tonight suggested that there hasn't been any research. There has been research but there hasn't been enough larger scale studies. When we established the moratorium we wanted to know more about the need in the community. Tonight we heard that there is a need in the city. He is pro-marijuana.

Councilman Schmidlein asked how many card holders are in the city of Elko.

Mr. Abbott said that is confidential information and is given to law enforcement. There are roughly 2000 rural county card holders in the state.

Councilman Schmidlein asked if these drugs could be transported.

Ms. Huffman answered there is one dispensary in Reno that does transport for \$300. They are the only ones allowed. It has to be a licensed facility to do the transport. They only come once a week on Tuesdays.

Councilman Keener asked, if there is a \$300 fee, and they are filling prescriptions for 10 people, is the fee split?

Ms. Huffman answered that depends.

Ms. Melton said that gets charged per person.

Councilman Keener said council is not here to pass judgement about whether or not, marijuana is right or wrong. He does not support a medical marijuana dispensary in our community. He felt marijuana use will increase.

Councilman Schmidlein said he doesn't feel Elko is ready for a dispensary. He has seen the effects of marijuana use. He makes trips to Colorado and it is amazing what is going on in that state. He is not in a position to sacrifice a percentage of tax increment at the moment.

Mayor Johnson said he is still in the position to keep the moratorium in place.

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to approve Resolution No. 7-16, a resolution placing an additional two-year moratorium on the issuance of business licenses for medical marijuana establishments.**

The motion passed. (4-1 Councilman Rice voted no.)

V. 6:00 P.M. PUBLIC HEARINGS

- A. Second reading, public hearing, and possible adoption of Ordinance No. 800, an ordinance amending Title 8, Chapter 1 of the Elko City Code entitled "SALE, EXCHANGE, OR LEASE OF CITY REAL PROPERTY" and repealing Title 8, Chapter 1, Article A of the Elko City Code, entitled "APPRAISER REQUIREMENTS FOR SALE OR LEASE OF REAL PROPERTY" which ordinance is entitled "PROCESS FOR USING APPRAISERS, NOTICING, AND RESOLUTION REQUIREMENTS FOR SALE, LEASE, OR EXCHANGE OF CITY-OWNED PROPERTY, " such changes removing residency requirements and clarifying existing provisions to comply with Nevada Revised Statutes and any amendments thereto, and matters related thereto. **FOR POSSIBLE ACTION**

The proposed amendment addresses portions of the existing code conflicting with current Nevada Revised Statutes. SAW

Mayor Johnson called for public comment without a response.

**** A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to conduct second reading, public hearing and adopt Ordinance No. 800.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible action to adopt Resolution No. 02-16, a resolution and order vacating the alley right-of-way located between 2nd and 3rd Streets, and Commercial Street and Ormaza Way, consisting of an area approximately 135 feet in width by 20 feet in depth abutting APNs 001-333-001, 001-333-004, and 001-333-005, which is located within the City of Elko, Nevada, to the abutting property owner Ormaza Series, LLC, a Nevada limited liability company, filed and processed as Vacation No. 7-15, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted a petition for the subject vacation at a regular meeting on November 24, 2015, and directed Staff to continue with the vacation process by referring the matter to the Planning Commission. The Planning Commission considered the vacation at its regular meeting of January 5, 2016, and took action to forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 7-15 subject to conditions which are included in the resolution. JD

Jeremy Draper, Development Manager, explained this was presented to Planning Commission. They forwarded this back to us with some conditions. There are some city utilities and non-city utilities in this alleyway. We request an easement be recorded over the width of the alley for that length that is being vacated so the utilities still have access to each of the parcels. The applicant has agreed to do that. He recommended approval.

Mayor Johnson called for public comment without a response.

Councilman Schmidlein asked SatView requested a denial. Are they okay with the easement?

Mr. Draper answered yes. He reached out to them and they did not respond to his request.

**** A motion was made by Councilman Keener, seconded by Councilwoman Simons, to adopt Resolution No. 2-16.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible action to adopt Resolution No. 03-16, a resolution and order vacating a portion of STP Road right-of-way approximately 1,075 feet in width by 60 feet in depth abutting APN 001-670-003, which is located within the City of Elko, Nevada, to the abutting property owner the City of Elko, Nevada, filed and processed as Vacation No. 8-15, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted a petition for the subject vacation at a regular meeting on December 8, 2015, and directed Staff to continue with the vacation process by referring the matter to the Planning Commission. The Planning Commission

considered the vacation at its regular meeting of January 5, 2016, and took action to forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 8-15 subject to conditions which are included in the resolution. JD

Mr. Draper explained they are vacating the roadway that acts as a driveway to the WRF.

Mayor Johnson called for public comment without a response.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to adopt Resolution No. 3-16.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible action to adopt Resolution No. 04-16, a resolution and order vacating the Open Space and Public Purposes Easement located generally on the southeasterly side of APN 001-610-104 consisting of an area approximately 100 feet in width by 847 feet in depth, such parcel being located generally west of Barrington Avenue and Midland Drive, which is located within the City of Elko, Nevada, to the abutting property owner the City of Elko, Nevada, filed and processed as Vacation No. 9-15, and matters related thereto.

FOR POSSIBLE ACTION

City Council accepted a petition for the subject vacation at a regular meeting on December 8, 2015, and directed Staff to continue with the vacation process by referring the matter to the Planning Commission. The Planning Commission considered the vacation at its regular meeting of January 5, 2016, and took action to forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 9-15 subject to conditions which are included in the resolution. JD

Mr. Draper explained there is a 100 ft. public use easement. There is a letter from NV Energy. They do have a line in there. We are not vacating a utility easement. Their utility is located in an existing utility easement. They had no concern with this vacation. Since this went to Planning Commission there is a citizen present to speak to this. He reached out to Ferron Konakis regarding the easement and why it was created. The reasons as Mr. Konakis remembers is the long length of Midland Drive and Barrington Ave., the Fire Department and Charles Williams (the Public Works Director at that time) were concerned about both streets dead-ending and they felt the streets should not be dead-ended. This easement was placed on Parcel No. 2 to possibly connect the subject streets in the future. The actual use of that easement was for fire purposes and access purposes for these two streets in the subdivision. He recommended approval.

Dana Sands, 3192 Midland Drive, spoke in opposition to the resolution. When they moved into their home, one of the factors considered was the open space next to her home. This came to light because the home above hers is built over the line on city property. The boundary line needs to be adjusted for that. The Planning that she consulted about this advised her that after the vacation is approved all of the property vacated will be put up for bid and sold by the city. After the property boundaries are adjusted for the vacated property adjacent to the home on

Barrington, the remainder of the available lot, as shown on the map that was provided to her by the City Planning Department (Exhibit "E"), the remaining lot is 57' wide in a residence where we have large homes and large lots. The only house that could be built on that lot would be a very small house that would bring down the property values in our neighborhood. The current Resolution only benefits one homeowner and will result in lowering property values. She requested that only the property affected by the need to correct the boundary be vacated and the balance of the property to be vacated remain open space.

Councilwoman Simons asked to see where the property line needs to be adjusted.

Mr. Draper indicated on the overhead screen where the property is located.

Scott Wilkinson, Assistant City Manager, added the layout of Spruce Road is consistent with the Master Plan. We have always envisioned an alignment/extension of Spruce Road that continues north and connects with Jennings Way. This has been a low priority for city staff to spend a lot of time engineering the exact alignment of the roadway. The issue with the property owner and the encroachment precipitated us taking a hard look at where the alignment for Spruce Road would go. Our Civil Engineer spent quite a bit of time taking a look at that. The consideration tonight is not to dispose of the property. That is an entirely different matter for consideration at a different date. We don't want a right-of-way recorded on top of an easement. This vacation does not obligate City Council to dispose of property.

Councilman Keener asked why Midland doesn't tie into Spruce Road.

Mr. Wilkinson answered it was due to topography. The vacation is more of a housekeeping issue. Council already took action on the right-of-way alignment.

Curtis Calder, City Manager, pointed out there are other properties in that area that have encroachments. There may be other properties that would be interested in line adjustments.

Danielle Yroz, 3148 Midland Drive, said she concurred with Dana Sands. The whole neighborhood has large lots and it is spacious. It is a nice neighborhood and we would like to keep it that way.

Alvin Wright, 3186 Midland Drive, said he is concerned about the smaller lot that could end up next to them. We bought the lots with good faith that was what the lots were. It is odd that City Council turn their backs on the neighborhood and put in a small lot and tell us to live with it. That is what happens with most big cities and we end up with a mess.

Mr. Draper reminded that we are vacating the easement and not creating a lot. That could happen later.

Ms. Yroz said she read this on the agenda the other day. She wasn't notified of this happening. Informing the neighborhood is critical.

Scott explained there are different notifications for different procedures. This did not require that kind of notification.

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to adopt Resolution No. 4-16.**

The motion passed unanimously. (5-0)

Ms. Yroz asked what it means to the homeowners with this passage.

Mr. Wilkinson answered not much will change. The easement will go away. There is no change that will happen other than the homeowner that requested acquiring additional property. That homeowner could have requested additional property without the road alignment.

Ms. Yroz asked about parcels that are west of the residences at the end of Barrington and Midland. Is that for the future?

Mr. Wilkinson answered we are not creating small parcels with this action. We didn't create small parcels with the road alignments.

Ms. Yroz thought the map that Ms. Sands had showed a smaller parcel.

Mr. Draper answered in a legal sense it is not a smaller parcel. When the road goes in that is a proposed smaller sized parcel that could be used for residential purposes. At this point it is still part of this 50 acre parcel.

Ms. Yroz asked if this goes through in the future the homeowners will be notified. (Yes)

Ms. Sands said she understood the area within the easement that is being vacated is going up for sale.

Mr. Draper answered that property is being requested by the neighbor. An appraisal will be requested and the council will decide what size of property that they want to dispose of. That is when that will go up for auction.

Ms. Sands requested that it be on record that she was noticed of this action maybe four days ago and she didn't feel that was enough time and it was not appropriate.

- E. Review, consideration, and possible action to adopt Resolution No. 05-16, a resolution of the Elko City Council adopting a change in zoning district boundaries from C (General Commercial) to RO (Residential Office) involving approximately 0.121 acres of property located generally on the northerly side of Court Street, approximately 80 feet west of 4th Street, filed by Daniel Norfleet and processed as Rezone No. 15-15, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on January 5, 2016, and took action to forward a recommendation to City Council to adopt a resolution which conditionally approves Rezone No. 15-15 subject to the condition that a variance for the front yard setback is required. The Planning Commission approved the variance the same night. JD

Councilman Schmidlein disclosed his wife has a business next door to this area but he doesn't have a pecuniary interest and will participate in the agenda item.

Councilman Rice disclosed he lives nearby.

**** A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to adopt Resolution No. 5-16.**

The motion passed unanimously. (5-0)

IV. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible approval of a request from Eric Lattin for the City of Elko to provide water service to assessor parcels 006-09F-094 & 006-09F-026 located on Sundance Drive, and matters related thereto. **FOR POSSIBLE ACTION**

On January 13, 2016, Staff received a request from Eric Lattin for the City of Elko to provide water service to two parcels on Sundance Drive. The development is expected to be 8 parcels. Mr. Lattin is not willing to annex into the City of Elko to obtain service. RL

Councilman Schmidlein disclosed he has a business relationship in a private capacity with the trust that the applicant has an interest in. For that reason, in order to prevent the appearance of an impropriety he decided to abstain from voting on this issue. He left the room.

Ryan Limberg, Utilities Director, explained there was backup information in the packet. In 2008, City Council approved the City of Elko Water and Sewer Policy for customers outside city limits. That policy states that water/sewer service outside the city limits shall be authorized by the City Council only in situations in which a clear benefit to the city and its residents can be demonstrated. It lists benefits. That is one of our guiding documents when considering these types of requests. In 2009 there was an application by Claridge and Evans for water and sewer for approx. 100 acres. That party wanted to annex into the city. They also offered water rights to the city equal to the needs of their development. Planning Commission recommended denial. In 2010 there was a water service request from Eric Lattin for three lots located on Sundance Drive. That was approved by City Council in 2010. That agreement was never executed upon to date so he wasn't sure if that was a valid agreement or not. We had an annexation filed in 2012 by Jordanelle Mortgage. The Planning Commission forwarded a denial to City Council. He went over more requests that have been denied.

Eric Lattin, 1158 Dotta Drive, wondered if there were any specific questions.

Councilman Rice thought in the next ten years this area will be in the middle of the city. Why aren't you interested in annexing?

Mr. Lattin answered they just are not interested.

Councilman Rice said his concern was providing water and setting a precedence for a pocket inside the city. One thing that council has been working for is to prevent the little islands from

existing in the city. He supports the efforts but he would be more comfortable if this was part of the city. He isn't interested in providing water to a county island within the city.

Mr. Lattin said you can't force us to annex. Many people prefer the county benefits. We are offering the same as when the other three lots were approved. He will personally build a house on it the second he gets water out there. Drilling wells is not a benefit. If I can pay you 50% more you guys are getting money. The main line is right there. He doesn't understand why they can't approve this.

Scott Wilkinson, Assistant City Manager, said in 2010 we had not been able to put together the development report and provide the necessary information to the council where they could make fully informed decisions. We did that in 2012. There is already a county island out there. We don't view this as logical at this time. This area would place a burden on the city if we annex this into the city. He doesn't believe this petition satisfies any of the conditions.

Mr. Lattin said the policy was written in 2008 prior to the council decision in 2010. What has changed? The policy hasn't changed.

Mr. Wilkinson answered the policy and the findings of the City Council in 2010 were not based on the information presented in a development report that was adopted by the City Council in 2012.

Mr. Lattin said we are not asking for assistance. We just want to tie into the water infrastructure.

Mr. Wilkinson said we get no benefit in providing water service to county development.

Mr. Lattin thought there was a decision in 2010. We were going to provide 50% over the regular rates.

Mr. Limberg said there is a water main on the Sundance side of the parcel. There is another one on the El Armuth side. There is frontage on both parcels. We do charge 50% more on those residents. On the prior agreement from 2010, there were some stipulations in there that the owner would apply for annexation at the time annexation is feasible and complete it within 120 days unless an extension of time is granted by the Elko City Council.

Mr. Wilkinson said those types of conditions in the agreement would have satisfied the 5 benefits outlined in our policy.

Councilman Rice asked if someone were to approach us to annex that area then we have the resources and the means to provide water and sewer?

Mr. Wilkinson answered they are working on an update to the development report. In that report we had identified property that had potential for annexation. We had to scale that back substantially. Even with the scaled back acreage we were still showing that over time we would be running a deficit of 100's of acre feet. We have sufficient water rights to supply what is already in the city.

Councilman Rice asked if that parcel was identified as potential for annexation.

Mr. Wilkinson answered no it was specifically excluded because of the residential use and potential for high water usage.

Councilman Rice thanked Mr. Lattin for what he has brought to the council. He is becoming concerned about what responsibilities the city is taking on county properties adjacent to city boundaries. We ought to be cautious with these things.

Mayor Johnson said he thought the property should be annexed into the city so they get the water. Nothing is perfect. When parcels want city water service they should become part of the city.

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to deny the request from Eric Lattin for the City of Elko to provide water service to assessor parcels 006-09F-094 and 006-09F-026 located on Sundance Drive.**

The motion passed. (4-0 Councilman Schmidlein abstained.)

- B. Review, consideration, and possible action on Curb, Gutter, and Sidewalk Waiver No. 1-16, filed by the Joshua Tree Shelter, which requests the requirement for public improvements to be waived along the 12th Street frontage and approximately 2/3 of the westerly frontage of Sharps Access abutting APN 001-630-069, and matters related thereto. **FOR POSSIBLE ACTION**

City Code section 2-13-3 requires public improvements at the time a parcel is developed or subdivided. This includes curb, gutter and sidewalk. The property frontage in question abuts the underside of the 12th Street Bridge, and the ramp exiting the 12th Street Bridge on Sharps Access. The applicant is requesting a waiver of ± 750 lineal feet of curb, gutter, and sidewalk stating that it is impractical to install since there is no room and no direct access to those portions of frontage. JD

Jeremy Draper, Development Manager, said the applicant requested this be tabled.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to table the item.**

The motion passed unanimously. (5-0)

III. RESOLUTIONS AND ORDINANCES (Cont.)

- C. Review, consideration, and possible approval of Resolution No. 08-16, donating the Animal Shelter's Carbon Monoxide Euthanasia machine to the National Museum of Animals & Society, and matters related thereto. **FOR POSSIBLE ACTION**

On November 10, 2015, the City Council authorized Staff to apply for a Humane Society of the United States (HSUS) grant, for the purpose of decommissioning the City of Elko Animal Shelter's Carbon Monoxide Euthanasia machine. The

grant was received in December, 2015 and Animal Shelter Staff received additional euthanasia training from the State of Nevada on January 15, 2016. As such, the City of Elko has effectively decommissioned the Carbon Monoxide Euthanasia machine.

The National Museum of Animals & Society has expressed an interest in acquiring the Carbon Monoxide Euthanasia machine for the purpose of an exhibit. The Museum is willing to pay all shipping costs. A copy of Resolution No. 08-16 has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained the museum has requested the machine. We were going to scrap it. They think this will be a good exhibit. His only concern is that we do not want recognition for it. We don't want City of Elko mentioned at all. We want this to be anonymous.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to adopt Resolution No. 8-16.**

The motion passed unanimously. (5-0)

II. NEW BUSINESS (Cont.)

- D. Discussion regarding the short and long-term vision of the City of Elko, including administrative & technical services, transportation, water/sewer infrastructure, public safety, parks & recreation, public works, Elko Regional Airport, and matters related thereto. **ACTION WILL NOT BE TAKEN – INFORMATION ONLY**

Mr. Calder explained last year we had a similar item. We had a special council meeting for this where we spent hours on these two items. We felt it would be good to address this. If council wants more detailed discussion on this we can set a special meeting.

Councilman Keener wanted this to be a special meeting because they need more discussion.

Mayor Johnson said we need to be looking five or ten years out. He was also in favor in scheduling a special meeting.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to table this item and Item E. and direct staff to agenda a special meeting and make it an action item.**

The motion passed unanimously. (5-0)

After the motion and before the vote, Council discussed what date we can set for the special meeting. Planning Commission is set for February 2 at 6:30. It was decided that the meeting will be set for February 2 at 4:00 pm.

Council voted on the motion.

- E. Discussion regarding short and long-term budget priorities, and matters related thereto. **ACTION WILL NOT BE TAKEN – INFORMATION ONLY**

This item was tabled with Item D.

I. APPROPRIATIONS (Cont.)

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the warrants.**

The motion passed unanimously. (5-0)

- B. Review and possible approval of Chester Plumbing and Heating Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Chester Plumbing and Heating Warrants.**

The motion passed. (4-0 Mayor Johnson abstained.)

VI. REPORTS

- A. Mayor and City Council
Councilman Rice appreciated the discussion today regarding medical marijuana.
- B. City Manager – **Population Estimate Appeal**
Curtis Calder reported on the population estimate appeal. They will be ruling on that within 10 days. We may need to appeal that decision before the tax commission. Regarding the second meeting of February, the consensus seemed to be the Wednesday after.
- C. Assistant City Manager
- D. Utilities Director
Ryan Limberg reported on the mandatory pre-bid meeting for Exit 298, in which 18 bidders showed up.
- E. Public Works
- F. Airport Director
- G. City Attorney
- H. Fire Chief
Chief Griego passed out a copy of his January newsletter (Exhibit "F"). The agreement was finally signed with Elko County Fire and is in full force.
- I. Police Chief
Chief Reed thanked the council that attended the annual award program. They swore in two more reserve officers for a total of three. He thanked council that attended that as well. We just started our Police Chaplaincy program with two pastors being sworn in.
- J. City Clerk
- K. City Planner

- L. Development Manager-**P.D. Building Project**
Jeremy Draper reported on the progress of the new Police Station.
- M. Administrative Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

There were no public comments.

There being no further business, Mayor Johnson adjourned the meeting.

Mayor Chris Johnson

Shanell Owen, City Clerk