

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

SS March 25, 2014

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, March 25, 2014.

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.**

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  
Dawn Stout, Administrative Services Director  
Shanell Owen, City Clerk  
Ryan Limberg, Utilities Director  
Dennis Strickland, Public Works Director  
Fritz Sawyer, WRF Superintendent  
Mike Haddenham, WRF Assistant Superintendent  
Rick Hofheins, Airport Security Manager/Assistant Director  
Lorraine Martinez, Accounting Supervisor  
Matt Griego, Fire Chief  
James Wiley, Parks and Recreation Director  
Doug Gailey, Human Resources Manager  
Ben Mangeng, Information Systems Manager  
Rick Magness, City Planner  
Ted Schnoor, Building Official  
Ben Reed Jr., Police Chief  
Rich Genseal, Police Lieutenant  
Ty Trouten, Police Lieutenant  
Robert Spencer, Electrical/Facilities Superintendent  
Dave Stanton, City Attorney  
Diann Byington, Recording Secretary

## **ROLL CALL**

## **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**

Les Brown, POW Association, advised May 17 they will be hosting the Armed Forces Parade and invited everyone to join in. The theme is women veterans. They are looking for a WWII female veteran to be the Grand Marshal.

**APPROVAL OF MINUTES:**      March 11, 2014      **Regular Session**  
   March 11, 2014      **Special Session Budget Workshop**

Councilwoman Simons disclosed she won't vote on the budget session because she was absent a portion of the time.

*The minutes were approved by general consent.*

### I. PRESENTATIONS

- A. Proclamation recognizing Parkinson's Awareness Month and April 11<sup>th</sup> as Parkinson's Awareness Day.

Mayor Johnson read the proclamation and presented a copy of the proclamation to some representatives.

- B. Public Works "2013 Year in Review" Presentation.

Dennis Strickland, Public Works Director, gave a presentation (Exhibit "A").

### III. APPROPRIATIONS

- C. Review, consideration, and possible approval of payment to the Buzzetti Ranch for loss of grazing rights, and matters related thereto. **FOR POSSIBLE ACTION**

In 2011 and 2012, the City of Elko obtained approximately 800 acres of land from the Bureau of Land Management (BLM) through the Recreation and Public Purposes Act for the purpose of expanding the treated effluent (reuse) disposal site. This property is located on Bullion Road approximately 2 miles from the City limits and is adjacent to the City's active percolation ponds and storage reservoirs. As a result of the City acquiring this property, grazing is no longer a permitted activity by Federal statute and accordingly BLM reduced the Animal Unit Months (AUM's) that Buzzetti's could run due to the loss of land and grazing. Buzzetti's have requested payment from the City for this loss of grazing.

43 CFR 4120.3-6 (c) states, “Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease.”

Fencing and seeding are examples of public improvements and the Buzzetti’s have been compensated for the public improvements in accordance with 43 CFR.

According to the October 8, 2013 meeting Minutes, City Attorney David Stanton believes a valid takings claim does not exist requiring payment by the City to the Buzzetti’s for loss of grazing. Although the City Attorney believes the City would likely prevail if the Buzzetti’s were to take their takings claim to court, this is nonetheless a disputed claim, thus qualifying as a public purpose. For that reason, the Council is within its authority to expend funds to settle this claim in exchange for a release. RL

Ryan Limberg, Utilities Director, explained over a year ago we started this process. They were looking for about \$90,000 as reasonable compensation. Additional meetings ensued and council directed staff to continue to negotiate and see if the city had some land that could replace the lost grazing. The city looked and we had about 800 acres in the Kittridge Canyon area. It wasn’t a workable solution for the Buzzetti’s and their ranch plan. Buzzetti and Wine submitted another dollar figure of around \$30,000 based on an appraisal done by Hardung and Associates.

Attorney Robert Wines, representing the Buzzetti’s, said they got the appraisal from Hardung and Associates. Every aspect was looked at to reach the valuations. The Buzzetti’s were running cattle where the city wants to run the sewer plant expansion. Since the city took that property, the city took away the Buzzetti’s ability to graze a certain number of cattle. This appraisal shows the impact of the reduction of those grazing units on the overall Buzzetti operation.

Mayor Johnson is in support to make payment to the Buzzetti’s. He felt the information was fair and true to both parties.

Councilman Rice asked about BLM grazing document language found on page 841; it says “...the permittee or lessee shall receive from the *United States* reasonable compensation.”

Attorney Wines said he believed what happened here is that the US Government assigned the obligation to take care of this back to the city for taking the property.

Dave Stanton, City Attorney, said his position is that the Buzzetti’s argument is between the BLM and the Buzzetti’s. The BLM took the grazing rights away and devoted it to a public purpose. He doesn’t believe the city is exposed to a liability.

Councilwoman Simons agreed with Mr. Stanton. We gained something and they lost something. Legally we don't have to but in the interest of what is right we need to step up and take care of this.

Councilman Rice worried about precedence setting. Are there any other situations out there that can have this result?

Mr. Limberg responded that would be the case in this scenario. We have plans for the development of that property and we haven't started construction on those plans. In this example we are planning for the future.

Councilman Schmidlein agreed because the city gained 800 acres. \$30,000 is a far cry of an expense for us to pass out. We can go to court and argue this out. With the future expansion of the RIB's out there we have gained substantial ground out there. When we met the first time regarding this, we recommended to the Buzzetti's to come back with an alternative. He felt the report was thorough.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve a payment of \$30,000 to the Buzzetti Ranch as a result of our acquisition of land upon which they formally had grazing rights in exchange for a release.**

*The motion passed unanimously. (5-0)*

- D. Review, consideration, and possible authorization for Staff to begin negotiating a Professional Service Agreement with a design team for the design of the Silver Street CDBG Project, and matters related thereto. **FOR POSSIBLE ACTION**

At the January 14, 2014 Council meeting, council authorized Staff to solicit for Statements of Qualifications (SOQ's) for the design of the Silver Street CDBG Project. A review committee evaluated the SOQ's and recommends the design firm of Eastern Sierra Engineering for the project. JD

Dennis Strickland, Public Works Director, explained this was a CDBG requirement for this project. Mr. Draper provided information in the packet. The ranking shows how the SOQ's turned out. He recommended Eastern Sierra Engineering.

**\*\* A motion was made by Councilman Keener, seconded by Councilwoman Simons, to authorize staff to begin negotiating with a Professional Services Agreement with Eastern Sierra Engineering and bring back to council for finalization.**

*The motion passed unanimously. (5-0)*

After the motion and before the vote, Councilman Schmidlein asked since you can't take dollars into consideration, would we be jeopardizing any future CDBG grants if we try to overrule the recommendation, is that correct.

Mr. Strickland answered it would be a slippery slope if we went against the grain of what CDBG asked us to do. One way to look at it is he doesn't see Eastern coming before us with some ridiculous contractual amount. The statute provides, that is not how we are supposed to be moving forward. We could lose that funding in the future.

Councilman Schmidlein asked if this is required to be within the State of Nevada or could this be across the US.

Mr. Strickland said it is a federal program but NRS provides for certain things that have to happen to design in Nevada.

**Council voted on the motion.**

#### **IV. NEW BUSINESS**

- G. Review, discussion, and possible approval of a contract of purchase and sale between the City of Elko and Parrado Partners, L.P. & Gloria E. Capps, as Trustee of the Gloria E. Capps Revocable Trust of 1989, as Amended January 25, 2011, for the right, title, and interest in 3.066 acres of property, commonly known as a portion of Elko Assessor's Parcel Number 001-630-060, further described as Parcel 1 of a conditionally approved Parcel Map for Parrado Partners, LP & Gloria E. Capps, as Trustee of the Gloria E. Capps Revocable Trust of 1989, as Amended January 25, 2011, for the purchase price of \$315,000, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed contract of purchase and sale and related appendices have been included in the agenda packet for review. The 3.066 acre parcel is the proposed site for the Police Department Facility Project. CC

Curtis Calder, City Manager, explained the entire Purchase Agreement is included in the packet. The contract does require if approved a \$15,000 deposit which would have to be made in the next three days. That is the only financial transaction that will be made until closing. Mr. Capps was present in the audience.

Mike Lattin, 3250 W. Idaho Street, asked about the termination dates and a cancellation clause if the CAPPs group didn't respond. He is petitioning for an election to approve these bonds. In the event if the election says the city cannot issue these bonds is there a cancellation clause on the part of the city?

Mr. Stanton answered there isn't and the city is obligated to pay the money. If the city wants to include that in the document now is the time to do that.

Mr. Lattin felt it would be inappropriate for the city to purchase this land if the public turned down the request to bond.

John Carpenter said the purchase of this land is a bad deal for the taxpayers. He submitted his plan to move this to the airport property. Taking into consideration the land is already owned by the city you will save over \$900,000. It is not a good deal for the taxpayers. His plan would also save the 2.5 cent gas tax and leave it in the Street Department. He has talked to a lot of people and there is no question they will get the 350 signatures. Then you have to go to an election and you guys can argue whether or not a bond is a good thing or not. You should consider his proposal. He looked through the contamination report and all they did was walk out on the land there. That land is real close to the Railroad and there are all kinds of contamination. There should have been some drilling done so we could know what is really there. With his proposal the city will save \$2.5 million.

Councilwoman Simons asked Mr. Stanton if she could ask Mr. Carpenter about his proposed plan and the savings under this agenda item. Mr. Stanton said it was fair to bring up these other issues.

Councilwoman Simons said she would love to save money and offered to let them change her mind about the issue. She asked about savings that would be specific to the airport site. That site could be leased and may cancel out the purchase savings.

Mr. Carpenter noted first the savings would be \$315,000 on the purchase price. There is a savings of \$250,000 on the construction of that street.

Councilwoman Simons noted that he didn't include any of the street work that would need to be done over at the airport.

Mr. Carpenter said he left \$603,400 for site development and that should take care of any streets that would be necessary. The streets are already there and if you want to put in a short sidewalk up to the dispatch center sidewalk you can do that. Then you have to consider the interest.

Councilwoman Simons asked if he got that \$603,000 by eliminating the solar panels and cutting back on some things within the scope.

Mr. Carpenter answered they eliminated the solar panels off the estimated costs of the Police Station itself.

Councilwoman Simons asked how they got to the \$603,000.

Mr. Carpenter answered the architect's site development figure was \$653,400. We feel that we can get a savings of \$50,000 on the parking spaces. There is over 90 parking spaces recommended by the architect and the Police Department only has 45 employees that are not there all the time. Where they are at now there are a few cars that are impounded and we have an impound lot that wouldn't be paved.

Councilwoman Simons felt that savings would be able to be applied to either site.

Mr. Carpenter agreed.

Councilwoman Simons asked if he didn't feel that there needed to be an access that is gate controlled. We have to have two ingress/egress and one is controlled by a security gate that the public couldn't access.

Mr. Carpenter didn't feel they needed to accesses there. He didn't know why they should.

Councilwoman Simons asked Mr. Calder if he knew if by law or some regulation if emergency buildings are required to have to accesses.

Mr. Calder answered that was something the Development Department was looking at. Typically there are two accesses in or out. This is a relatively new location that has been proposed. The first Airport location was next to the terminal building. This is in an existing hangar development area and not the National Guard area. This is the last site on the airport where you can add aviation hangars. Any development on the airport requires it to be included on the airport layout plan. This would be a non-aeronautical use so the FAA has to approve it.

Councilman Rice added that the land isn't just free. The land would have to be paid for. That would chip away at the savings.

Councilwoman Simons said we were going to try to say there was an aeronautical use when it was right next to the terminal because they have to inspect the flights. But if it is not next to the terminal can we still argue that?

Mr. Calder corrected her statement. We were going to have to say that was a non-aeronautical use and it would fall under a lease scenario. We would have to start with an appraisal but the FAA will charge something. The FAA could discount it but they will charge something for sure. It would not be free.

Mr. Carpenter said you already have an appraisal on the property right next to the dispatch center. The dispatch center is not paying hardly any kind of a lease. If you do have to pay it we figured it would be about \$14,000 a year. When the Airport Enterprise Fund was approved this evening you are already paying \$300,000 out of General Fund to the Airport. This other situation would be to take it out of one pocket and put it in the other. The payment would be a wash. Maybe the FAA might discount it because it could be to their advantage to have the building there.

Councilwoman Simons further noted the purchase price is unique to this property and also the road. What else is unique to the airport property?

Mr. Carpenter said you would have to consider the interest costs. According to the financial experts it will cost to pay this bond off over the 20 year period 5.5%, it will cost approximately \$5 million. \$3 million is the money you will be getting. You take \$3 from \$5 and that leaves \$2 million in interest. If you break it down; for every \$500,000 that you borrow you will have to spend about \$333,000 in interest. You would save about \$330,000 in interest. That would bring the total savings going from the Silver Street site to the Airport site of a little over \$900,000.

Councilwoman Simons pointed out that she would like not to bond but it would be our best interests to go ahead and bond this project. What is their objection, the site or the bond issue? She doesn't see the savings he is talking about and only sees about \$500,000 they could be saving.

Mr. Carpenter said his objection is to both. He doesn't think the citizens should buy more land for this. The city is already subsidizing the airport \$300,000 out of the General Fund. You pay that to the airport anyway.

Councilman Rice said you noted we would save \$2.5 million but now you say \$900,000. What has changed?

Mr. Carpenter made his point again about the interest savings and adjusting the contingency.

Councilman Keener asked about the lease payment if the FAA approved a site at the airport. We don't know what the cost may be if it is in fact allowed. That lease would be a 50 year lease.

Mr. Calder answered that you would want to lease it for as long as you could. On airports there is a requirement you cannot have a lease over 50 years. You would be taking general fund money and paying the Airport Fund for that lease. He was skeptical if the FAA would allow the property for non-aeronautical purpose. We would have to modify our layout plan to include the Police Department and the FAA would have to approve it.

Mr. Carpenter said most everything else you have asked the FAA for they have given you. They approved the dispatch center. There hasn't been a new hangar built out there for many years.

Councilwoman Simons noted we are desperate for new hangars. People are asking and we don't have them.

Mr. Carpenter said what your airport plan shows now is building them down below the terminal building. You might have to put in a road. If you had not spent all that money you got from the settlement you could have used that to build that road down there and build a jillion hangars down there. If the demand was there they would have been built on this property years ago.

Kimberly Owen, 1289 Park View, commented on the Purchase Agreement; on #2 for the deposit there isn't language about it being refundable; #10 on the title insurance it is customary for the seller to pay for the CLTA title policy and if the city wishes to have extended ATLA and the city would pay for that and in here the city is paying for all the coverage, #11 and phase one and the CLOMR doesn't say it is contingent on the city accepting the phase one and the CLOMR; also phase one you should put in language to indemnify the buyer even after the close of escrow if any issues ever came up; section 12 on the improvements you have a pretty good out if you don't like how the improvements are built; and, it is typical to have a financing contingency in a contract and you may want to put these in as well.



Mr. Stanton said a refundable deposit could be included in the escrow instructions. It may be a good idea to have it in the contract. Title insurance could be done either way and he can make that change. Terms of the CLOMR contingency could be done now because it is here. In terms of improvements we have to approve the improvements or it won't close. We can add language that this is contingent on the bonding if that is what you want.

Councilman Rice asked if we were to make a motion the motion could include those conditions. Mr. Stanton answered sure because at this point this is a draft document.

Councilman Keener is ready to move forward with the CAPPs site. There are many benefits associated with the E. Silver location. We can talk about this at every single meeting for the next two years and someone will always bring up a new plan. He is sorry there is a group that is trying to torpedo this and we may need to bite the bullet and go with the short-term financing which will be a higher monthly cost. He felt that we have had long enough to look at the E. Silver location and we know what some of the opportunities are there such as bringing in geothermal to the building. It will also be a nice anchor for development out that way and it might be one of the big objections that the main proponent of the airport plan has because it will provide a competitor that he has not had before. It has been brought up that the airport availability is in question and wouldn't be a shame to go eight months to find out that it won't be approved by the FAA. A lot of the plans that the group has brought up are transferable to any location. All along the way this group has put in so much fear, uncertainty and doubt. They have done everything they can to cloud the issue. They have tried to take staff members and hustle them into falling along with their plan. They said the E. Silver location would not be able to get the CLOMR certification but that came through. They said the overhead power lines would cost \$150,000 to relocate and the last he heard because of the elevation changes it will probably be in the \$10,000 range. He is more concerned about getting this decision right than he was the results of Election Day.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve a Contract of Purchase and Sale between the City of Elko and Parrado Partners, L.P. & Gloria E. Capps, as Trustee of the Gloria E. Capps Revocable Trust of 1989, as Amended January 25, 2011, for the right, title and interest in 3.066 acres of property commonly known at a portion of Elko Assessor's Parcel No. 001-630-060 further described as parcel 1 of a conditionally approved parcel map for Parrado Partners, L.P. and Gloria E. Capps for the purchase price of \$315,000 and that the agreement will be amended in accordance with the comments that were provided that our attorney commented on, including an addition to the language in paragraph two saying, "...and which deposit shall be returned to buyer in the event the sale fails to close."**

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

After the motion, before the second and before the vote, Mr. Stanton said that made it clear the \$15,000 deposit was refundable in the event it fails to close.

Councilman Rice didn't want to include language about the bond. Mr. Lattin and Mr. Carpenter can do what they wish but he doesn't want to be held hostage by them.

Councilman Keener seconded the motion.

Councilman Schmidlein said he has opposing issues with this. When this was originally selected there were people in the audience that disagreed with it penciling out correctly. Mr. Carpenter has brought up some valid points. There is potential as to some savings at the airport site.

**Council voted on the motion.**

### **III. APPROPRIATIONS (Cont.)**

- H. Review, consideration, and possible award of a contract for the Main City Park Tennis Court Reconstruction Project, and matters related thereto. **FOR POSSIBLE ACTION**

At the November 12, 2013 Council meeting, Staff was authorized to solicit for bids for the reconstruction of the Tennis Courts in the Main City Park. At the February 11, 2014 meeting all bids were rejected and council authorized staff to rebid the project. The bids were opened on Friday March 21, 2014. A bid tab will be provided for Council to review. JD

James Wiley, Parks and Recreation Director, explained if you refer to the bid tabulation sheet you can see that all three bids came in under budget. The low bid was Malibu Pacific however, after review that bid was deemed non-responsive due to a technical matter of them not listing on the contractor list. After reviewing bids staff recommended awarding to Dianda Construction including base bid and bid alternates 1, 3, 4 & 5 for the amount of \$482,896. We have a representative from Ormaza Construction and Byron Smith who put the bid documents together.

Mr. Stanton said he did become aware of some issue with the bid documents earlier today. He had not had a chance to review all of the bid documents and all of the specifications. If there are errors in the bid documents and as a result of that the contractor's bid on this project without really understanding what they are bidding on, creating some disparity in the bids and they cannot be fairly compared to one another. There is some issue about giving a responsive bid on this. One solution would be that you can still put this out for re-bid.

Councilman Schmidlein said it is hard to recommend awarding this since legal counsel has not had a chance to review this. He recommended tabling this.

Councilman Keener asked about Dianda's bid for a drinking fountain. Why is their bid \$1?

Mr. Wiley answered that he assumed that they buried that cost somewhere in the base bid.

Councilman Schmidlein said that is considered unbalanced bidding.

Dennis Strickland, Public Works Director, said you see this from time to time that bidders use to obscure bidding. The same thing took place on the NDOT project that they are working on right now. There was a potential protest item that Q&D looked at contesting. NDOT made the award anyway but they had some crazy numbers in their plant mix submittals.

Mr. Wiley said that was typical in the last bid for this project. There was quite a bit of variance. He assumed that is how they adjust their hard costs.

Councilman Rice asked if this was indeed unbalanced. He understood about burying costs but questioned if this was really unbalanced.

Mr. Stanton said he didn't know and thought it would be more expedient to table this so he could review the documents or rebid this?

Councilman Keener said if this isn't submitted it will cause more delays. Will we miss the construction season?

Mr. Wiley said he thought this could still get done in this season. Staff recommended award with the terms of a 5 day protest period. The problem with the bid, specific with Ormaza, there was a miscalculation with the quantities and for that purpose they were deemed unresponsive (Exhibit "B"). That can be argued.

Councilman Rice thought if we gave Mr. Stanton two weeks to review this it would take less time than going out to rebid. How long does the whole bidding process take?

Mr. Stanton said that would depend on what the opinion is.

Mr. Wiley answered the bid process is 30 days.

Mayor Johnson felt the City Attorney should be comfortable with this and provide an opinion. It could be that we can award this after some research.

Mr. Wiley added there is a preferential bidder that needs to be considered.

Brandon with Ormaza Construction, 225 Silver Street, said if their bid was responsive they would be considered the low bidder under NRS. Unbalancing bids is a violation of NRS 408.343.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to table the item.**

*The motion passed unanimously. (5-0)*

Councilman Rice asked if staff direction will include a review of Ormaza's plea in regards to the revisions they made.

Mr. Stanton said he would just do it.

#### IV. NEW BUSINESS (Cont.)

- C. Review, discussion, and possible authorization to sell Elko Regional Airport Passenger Loading Bridge (Dewbridge Model A33 [2000]), and matters related thereto. **FOR POSSIBLE ACTION**

In cooperation with Ameribridge, Inc. Elko Regional Airport submitted a bid to sell our passenger loading bridge to East Texas Regional Airport, in Longview, TX. Our bid of \$75,000 was the apparent low bidder and the airport would like to sell the passenger loading bridge to East Texas Regional Airport for use by that airport. All proceeds from the sale of the passenger loading bridge would be allocated to the Elko Regional Airport Enterprise Fund for use by the airport only.

The passenger loading bridge was purchase under AIP grant #3-32-005-22 (2000). The passenger loading bridge has been mothballed since 2006 when Casino Express Airlines, a locally based charter airline, exited the Elko market permanently. The forecast for passenger enplanements and fleet mix never materialized. The passenger loading bridge has had hardly any use since being installed. The Hobbs meter only reads 100 hours of operation in over 14 years of time. The current airline operating from Elko Regional Airport does not want to utilize the passenger loading bridge on their Embraer 120 turboprop aircraft. The airport does not expect to attract the type of jet service that would benefit from using a passenger loading bridge during the next 15 year forecast period.

The unused passenger loading bridge has been depreciating, aging and is a maintenance burden for the airport. The airport has also requested the FAA release the Federal obligations to allow the sale of the passenger loading bridge.  
MG

Rick Hofheins, Assistant Airport Director, explained some history on the bridge.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to allow the sale of the unused piece of equipment to East Texas Regional Airport upon FAA approval to release the Federal obligations in the amount of \$75,000 FOB Elko.**

*The motion passed unanimously. (5-0)*

#### II. PERSONNEL

- A. Review, consideration, and possible adoption of proposed social networking policy, and matters related thereto. **FOR POSSIBLE ACTION**

Currently, the City does not have a policy to address social networking. The proposed policy covers issues related to social networking that is authorized as

well as personal blogs and social networking sites. The proposed policy was reviewed by Pool/PACT and is recommended for approval. DG

Doug Gailey, Human Resources Manager, explained this is a new policy that we do not have that we want to get into place.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the Social Networking Policy as presented.**

*The motion passed unanimously. (5-0)*

### **III. APPROPRIATIONS (Cont.)**

- E. Review, consideration, and possible ratification of Staff's action to enter into a contract with Road and Highway Builders, LLC to install a three inch conduit from Mountain City Highway to Third Street as part of the Mountain City Highway and Idaho Street Enhancement Project, and matters related thereto.  
**FOR POSSIBLE ACTION**

The Mountain City Highway and Idaho Street enhancement project has provided an opportunity for the City of Elko to participate in the project by allowing us to get some much needed infrastructure in the right of way for future connectivity of City departments. The City will be placing a 3" conduit which will be used for fiber optic cabling to be placed at a later date to be used for connecting various City departments as well as traffic signals for remote access. A copy of the proposal is included in the agenda packet for Council review. BM

Ben Mangeng, Information Services Manager, explained we spend about \$70,000 over that annually on site to site and broadband connectivity. We are working on installation of much needed fiber optic across town to remove about \$60,000 of that. It will provide private and secure networking but will also increase our current site to site speed by at least 100 times per site.

Councilman Keener asked if this is just for the utility infrastructure only; the conduit only.

Mr. Mangeng answered yes, the conduit and pole boxes.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to ratify staff's action to enter into a contract with Road and Highway Builders, LLC to install a three inch conduit for the City of Elko as part of the Mountain City Highway and the Idaho Street Enhancement Project not to exceed \$42,450.00 to be paid for from the Ad Valorem Capital Projects Fund.**

*The motion passed unanimously. (5-0)*

After the motion and before the vote, Dennis Strickland, Public Works Director, said there may be an opportunity to negotiate a better price with Road and Highway Builders.

Councilman Schmidlein agreed it is a high price for this installation.

**Council voted on the motion.**

- F. Review, consideration, and possible authorization for Staff to solicit bids for the Public Works Department for Plantmix Bituminous Pavement Materials to be used for the Fiscal Year 2014 Construction Season, and matters related thereto. **FOR POSSIBLE ACTION**

This is an annual bid request for Plantmix Bituminous Pavement Materials based upon a unit price per ton amount. The materials are primarily used by the Public Works Department on streets, but the material may also be used by other departments as needed. DWS

Dennis Strickland, Public Works Director, explained this is an annual item that they bring to council.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to authorize staff to solicit bids for Plantmix Pavement Materials to be used for 2014 construction season.**

*The motion passed unanimously. (5-0)*

- G. Review, consideration, and possible approval of a Water and Sewer Oversize Reimbursement Agreement and reimbursement to Brookwood Development, LLC in the amount of \$106,065.07, and matters related thereto. **FOR POSSIBLE ACTION**

The City requested water and sewer main oversizing on the Brookwood Phase II/III project in accordance with City Code sections 9-1-35 and 9-5-33. The Developer is requesting reimbursement for the oversize expenses incurred. The Agreement is provided in the Council packet for your review. RL

Ryan Limberg, Utilities Director, said no one was here for this item.

Mayor Johnson disclosed a conflict of interest in a private capacity in that Brookwood Estates, Howard Schmidt specifically, and his parents' family trust are in negotiations to buy a parcel of his parents' property. He views this as not being a clear conflict of interest and he will be voting on the matter and his vote will not be influenced any differently than a reasonable person.

Mr. Limberg explained the agreement is in the packet. The work has been completed and there is a breakdown of the costs in the packet. In city code it describes these oversize agreements.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve reimbursement per City Code.**

*The motion passed unanimously. (5-0)*

- I. Review of the proposals received and possible sale of the City of Elko's 1981 International Fire Engine, and matters related thereto. **FOR POSSIBLE ACTION**

The Council previously authorized Staff to advertise for sale by sealed bid and/or public auction to the highest bidder the City of Elko's 1981 International Fire Engine with the minimum price being set at \$10,000. Bids were solicited with the closing date set for March 4, 2014 at 3:00 p.m. MG

Matt Griego, Fire Chief, explained we did put this out to solicit bids for this truck. We only had one bidder on this truck. Pershing County, Nevada, put in a bid for the minimum amount.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to award the bid and sale of a 1981 International Fire Truck to Pershing County, Nevada, in the amount of \$10,000.**

*The motion passed unanimously. (5-0)*

## **BREAK**

## **VI. PETITIONS, APPEALS, AND COMMUNICATIONS**

- B. Review and possible approval of a request from the Elko Lion's Club to accommodate a carnival on City owned property, located in front of the Elko Central Dispatch Center to be held May 7 thru May 12, 2014. The Elko Lion's Club is also requesting authorization from the Council to allow carnival staff to stay overnight on site with their equipment. In addition, the Elko Lion's Club would like the Council to consider granting permission to use the property annually subject to the availability of the land, and matters related thereto. **FOR POSSIBLE ACTION**

Rick Hofheins, Assistant Airport Director, explained that piece of property is currently being used by an NDOT contractor as a lay-down yard. Mark Gibbs told them they could use it contingent upon anything else coming up.

Curtis Calder, City Manager, said this property is also in negotiation with Meridian Pacific for a lease and we are close to finalizing the lease. Once the lease is signed the city would not have the authority to approve this. Any approval should be contingent upon any tenant approving this in May. There could be a conflict with NDOT using some of the available parking. The property is in question but keep in mind if we have a lease with Meridian Pacific they would have to sign off on it if the lease is signed before the May 7 date.

Paul Gardner, 1200 Mountain View Drive, representing the Lion's Club, said if the airport site is unavailable they would understand. If it is not available he may ask for some leniency for using the city park. They would gladly buy a bond for any damage in the park. It would be nice if they could find someplace else.

Councilman Rice thought go ahead with that site even with the unknowns.

Kimberly Owen, NAI Alliance, 225 Silver Street, added the lease is close to being signed. She didn't think Meridian would have an issue with this year.

Mr. Calder suggested making this contingent upon Road and Highway Builders' and NDOT's approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the request from the Elko Lion's Club to accommodate the carnival on city owned property located in front of Central Dispatch to be held May 7 through May 12, contingent upon receiving required insurance and completed travelling show permit from the carnival owner and also contingent upon a conversation with NDOT and their contractors in regards to staging which will take place tomorrow; also noting that Meridian Pacific has agreed to accommodate the carnival at that time as well.**

*The motion passed unanimously. (5-0)*

- A. Ratification of the Police Chief issuing a 30-day temporary retail beer/wine liquor license and issue a regular retail beer/wine liquor license to Robert Leonhardt, dba Chicago Dogs, located at 2525 Mountain City Highway #105A, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Reed explained this is routine with no issues. They serve beer with their hotdogs and related items.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to ratify a 30-day temporary retail beer and wine liquor license and issue a regular retail beer and wine liquor license to Robert Leonhardt, dba Chicago Dogs, located at 2525 Mountain City Highway #105A, Elko, Nevada.**

*The motion passed unanimously. (5-0)*

## **V. RESOLUTIONS AND ORDINANCES**

- A. Review, consideration, and possible approval of Resolution No. 16-14, and matters related thereto. **FOR POSSIBLE ACTION**

At the City Council meeting of March 11, 2014, Council took no action on a proposed ordinance to prohibit, via the zoning code, medical marijuana establishments, as defined by NRS Chapter 453A. After discussion, Council directed staff to further research the issue and return to Council with a proposed "Moratorium" on the issuance of business licenses for medical marijuana establishments. A resolution describing such a moratorium was drafted by David Stanton, City Attorney. BR



Chief Reed explained we had an in-depth discussion on this subject. After no action was taken, Mr. Stanton drafted language on a moratorium on the issuance of business licenses. This would buy you time to see what other communities do and how the federal government acts on this.

Councilman Rice appreciated the efforts and concerns/comments he has gotten from people in the community. He had an opportunity to speak to Mr. Stanton while he was drafting this and he felt it does what they want it to do.

John Carpenter said he thinks this is a watered down situation. You should have gone with the ordinance and the zoning deal. The way this is written you can pass a motion and get rid of it. It should be in an ordinance where you have to have hearings on it. The law passed by the legislature allows for the outlawing of these establishments in communities. There can only be one in the county. Who knows the deal on the federal government but they are allowing states to legalize it. What you were doing last time made more sense than a moratorium. If you have a card you can grow up to 12 plants. Do the strongest measure that you can. This is too weak.

Councilman Rice thought it was good to note that the ballot measure passed 60 to 40 in Elko County; 60% of the community said to go forward.

Chief Reed said this is agendized with the County Planning Commission prohibiting this. If the Planning Commission moves that forward then it goes in front of the County Commissioners. He heard Carlin is looking to prohibit it and Wells is looking at the same thing.

Councilman Schmidlein asked if you do have a medical card does that give you the right to have marijuana growing in your house. What does it allow? We can't stop the cards in Elko County.

Chief Reed said the cards are here. He can't quote what they are allowed verbatim. They are allowed small amounts and can grow some on their lands. It is for personal use.

Mr. Stanton said he doesn't remember the amounts allowed.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve Resolution No. 16-14, a resolution placing a two year moratorium on the issuance of business licenses for medical marijuana establishments.**

*The motion passed unanimously. (5-0)*

After the motion and before the vote, Chris McLeod, 462 MVR, asked are you voting to not vote?

Councilman Keener explained if we put an ordinance in place and the public determined at some point down the road that they wanted to have medical marijuana establishments in Elko it would be very difficult to undo that, however, by putting a moratorium in we are saying that we are going to watch what is going on around the rest of the state and see how they are dealing with it

and in two years' time we will come back and look at it and see what the mood in the community is on it.

Mr. McLeod said he felt the community spoke 60/40 in favor of having adults do this. We have pharmacies. It seems to be a natural extension of what an adult is allowed to do. Let the adults decide what they want to do. He never had to take a student to the ER for marijuana over the years.

Councilman Rice pointed out that pharmacies cannot dispense marijuana.

Councilman Schmidlein said 75% of all employers in the city/Spring Creek mining areas; they all require drug testing. This will take care of itself. It is valid to do a moratorium. This is a no-brainer. We don't want to introduce any more drugs into the Elko area. This is needed.

Councilwoman Simons concurred with Mr. Carpenter and wished this could be stronger, but we did spend hours discussing this and maybe after two years we can come back and say this is what is being done and now we can take a stand.

Councilman Rice said his desire was to keep the door open because there is a legitimate need that doesn't require cultivating it yourself.

Mayor Johnson said it is important for the record for folks to know where you stand on this. There are other communities that are doing the same moratorium process.

Sharon Hughes, 287 Oak, if someone had a card could they grow their own marijuana legally.

Mayor Johnson answered yes. There are limitations as to how much they can grow.

**Council voted on the motion.**

#### **IV. NEW BUSINESS (Cont.)**

- A. Review, consideration, and possible approval to enter into a Corporative Local Public Agency (LPA) Agreement between NDOT and the City of Elko for improvements along Ruby Vista Drive, Golf Course Road and Flagview Drive, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko was successful in obtaining a Transportation Alternative Program (TAP) grant from NDOT for the installation of curb, gutter and sidewalk along Ruby Vista Drive from Skyline Drive to Ruby View Drive, along Golf Course Road from Ruby Vista Drive to Cedar Street and on Flagview Drive from Golf Course Road to Country Club Drive creating a safe route to Flagview Intermediate School. NDOT will fund up to \$567,500 for this project with City providing a 5% match of \$29,868 for a total project cost of \$597,368. The LPA Agreement has been provided in the council packet for review. JD

Dennis Strickland, Public Works Director, explained council has been through these agreements before and he has never had any issue with these in the past.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve an LPA agreement between NDOT and the City of Elko for the proposed Flagview Sidewalk Project.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration, and possible approval to enter into a Corporative Local Public Agency (LPA) Agreement between NDOT and the City of Elko for improvements along West Jennings Way, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko was successful in obtaining a Transportation Alternative Program (TAP) grant from NDOT for the installation of curb, gutter and sidewalk along West Jennings Way from Bluffs Ave to Sagecrest Drive creating a safe route to Adobe Middle School. NDOT will fund up to \$332,500 for this project with City providing a 5% match of \$17,500 for a total project cost of \$350,000. The LPA Agreement has been provided in the council packet for review. JD

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve an LPA agreement between NDOT and the City of Elko for the proposed W. Jennings Way Sidewalk Project.**

*The motion passed unanimously. (5-0)*

- D. Review, discussion, and possible approval of an amendment to the Younger Agency Master Marketing Agreement to include managing a public WIFI service in the unsecured areas of the airport terminal, and matters related thereto. **FOR POSSIBLE ACTION**

Public WIFI access has become ubiquitous at airports across the United States. Similar airports such as St George Municipal Airport, UT, Idaho Falls Regional Airport, ID, and Sun Valley Airport, ID all provide free public WIFI access to its patrons. To provide competitive services to our community we request Council expand our airport marketing services contract with the Younger Agency to include WIFI. Free public WIFI service will be made available to the traveling public in the main terminal building through advertising made when logging onto the WIFI service. Providing the WIFI service will provide an annual revenue stream for the airport of \$2,375. All costs for providing the free public WIFI service will be funded through WIFI advertising streams. The WIFI infrastructure will be owned and operated by the City of Elko Information Technology Department. Internet service and contract management will be performed by the Younger Agency. Younger has already obtained a WIFI advertising Sponsor in Elko and is ready to start WIFI upon acquiescence of the City Council. MG

Rick Hofheins, Assistant Airport Director, explained this is pretty simple and win-win for us.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to adopt the Younger Agency contract amendment to include providing public Wi-Fi service in the Elko Airport Terminal.**

*The motion passed unanimously. (5-0)*

- E. Review, consideration, and possible authorization for Staff to apply with FEMA for entry into the Community Rating System (CRS) program, and matters related thereto. **FOR POSSIBLE ACTION**

The CRS is a program implemented by FEMA to encourage floodplain mitigation in communities. By participating in the CRS program residents of the community will be eligible for a discount in their flood insurance. JD

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to table the discussion on the Community Rating System (CRS) implementation until the first April meeting on April 8, 2014.**

*The motion passed unanimously. (5-0)*

- F. Review and possible approval to advertise a request for proposals to operate the Food/Beverage Concession area at the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

Per NRS 332.148, the airport would like to advertise to the public for proposals to operate the Food & Beverage Concession in the airport terminal. The current contract with Come and Get It Kettle Korn, LLC was cancelled because of contract non-compliance following the contractual provisions granted to the Airport under the contract. Any new contract will be negotiated with the successful bidder and brought before Council for final approval. MG

Rick Hofheins, Assistant Airport Director, offered to answer questions.

Councilman Keener said he looked at the information in the packet the bottom line is there are not enough people going through the airport to justify this. He wanted to adjust the payment fee schedules. There are less than 3000 passengers through there per month. He thought they needed to do more to encourage someone to be a vendor there. We want them to be successful. He would be in favor of no fees until after \$10,000 in revenue.

Curtis Calder, City Manager, said they would have to check with the FAA on that. They have requirements to charge rents.

Mr. Hofheins noted we are following FAA guidelines. We do also offer up a carrot (so to speak) because we don't see that dollar amount per month. We let that vendor do all the machine vending and that creates some incentive. The traffic isn't there.

Councilman Keener asked if there had been any interests or in the last 90 days, have you been approached by anyone.

Mr. Hofheins answered a retired couple did approach them.

Councilwoman Simons asked if they reduced these percentages would they still be in compliance.

Mr. Calder wasn't sure if they would be in compliance with the FAA. When the Flying Fish was out there they made a lot of money with low overhead. Some folks that have approached recently had ideas of catering outside of that location. If someone were able to implement a model like that we would be making a little bit of money.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to direct staff to solicit bids and negotiate a contract following a conversation with the FAA where it will be discovered what the minimum percentage fee shall be at those thresholds of \$5,000 and \$10,000 as listed in Section 4.1.**

*The motion passed unanimously. (5-0)*

### **III. APPROPRIATIONS (Cont.)**

#### **A. Review and possible approval of Warrants. FOR POSSIBLE ACTION**

Councilman Schmidlein asked about one of the line items under general fund that had to do with the annual Fire Science Academy waterline payment.

Mr. Calder answered back when the Fire Science Academy was closed due to the contamination of their ground water wells; the only way they could reopen was to install a municipal water line from Carlin. There was a co-op between the City of Elko, Elko County and the City of Carlin to bond for that infrastructure to be extended. That was one of the things that when the National Guard took over the facility that bond is still being paid on. We have to make an annual payment based upon a couple of factors; one of which is how many connections did Carlin get attached to that line. There might be one service that was attached within the last year and that might have reduced our costs for this year. That bond was a 30 year bond and we will be paying on that for another 20 years.

Councilwoman Simons had a question about one for the airport; Simplex Grinnel. Is that part of the security system?

Mr. Hofheins answered it was for hardware that was delivered for the new security system.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the warrants.**

*The motion passed unanimously. (5-0)*

- B. Review and possible approval of Print ‘N Copy Warrants. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Print ‘N Copy warrants.**

*The motion passed. (4-0 Councilman Keener abstained.)*

## **VII. REPORTS**

- A. Mayor and City Council  
*Council Keener reported Newmont Mining is in the process of getting the Long Canyon Mine going and the BLM is seeking comments. It would be prudent to have a resolution in support of the mine site. This one is located in Elko County. Curtis Calder said we are a cooperating agency and will be submitting our comments anyway.*  
*Mayor Johnson reported on the Mayor’s Meeting and a presentation on margin tax. (Included in the packet)*
- B. City Manager  
*Curtis Calder reported on the Environmental Impact Study (EIS) for Long Canyon. Tomorrow at 6:30 pm there will be a special meeting for the California Trail Advisory Board as part of the California Trail Rendezvous Event.*
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works  
*Ryan Limberg reported they were out to bid on the Manzanita Paving Project and the prebid meeting is Friday at 1:00pm.*
- F. Airport Director  
*Rick Hofheins reported Skyfair will be the third week in September.*
- G. City Attorney  
*Dave Stanton reported he will attend the meeting tomorrow night.*
- H. Fire Chief
- I. Police Chief  
*Chief Reed thanked everyone for their support on the purchase of the Silver Street property. He and his lieutenants toured the National Guard facility in consideration of having SWAT and other training there.*
- J. City Clerk  
*Shanell Owen submitted a revised memo from John Schmidt regarding the homeless issue (Exhibit “C”). She will be traveling to Carson City with Susan from FISH to present the CDBG proposal for the refrigerated truck.*
- K. City Planner
- L. Development Manager
- 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**

Chris McLeod, 462 MVR asked what the SWAT usage of the Fire Science Academy would cost.

Chief Reed answered they have no cost estimates at all since discussions just began and the first meeting was just last week.

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

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Mayor Chris Johnson

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Shanell Owen, City Clerk