

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

SS April 23, 2013

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, April 23, 2013.

This meeting was called to order by Mayor Chris J. 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  
Councilman Rich Perry  
Councilwoman Mandy Simons  
Councilman Robert Schmidlein

City Staff Present: Curtis Calder, City Manager  
Delmo Andreozzi, Assistant City Manager  
Shanell Owen, City Clerk  
Matt Griego, Fire Chief  
Josh Carson, Fire Marshal  
Mike Hecht, Deputy Fire Chief/Fire Marshal  
Ryan Limberg, Utilities Director  
Mike Hess, Landfill Superintendent  
Dennis Strickland, Public Works Director  
Scott Wilkinson, Development Manager  
Dawn Stout – Administrative Services Director  
Doug Gailey, Human Resources Manager  
James Wiley, Parks and Recreation Director  
Joe Carr, Parks Superintendent  
Rick Magness, City Planner  
Jeremy Draper, Civil Engineer  
Ted Schnoor, Building Official  
Don Zumwalt, Police Chief  
Will Lehmann, Police Captain  
John Hamilton, Corporal Advanced  
Dave Stanton, City Attorney  
Lorraine Martinez, Accounting Supervisor  
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**

Audrey White, 1585 Lamoille Highway, said so many things have happened in the last few weeks. We are not as big as Boston but we are just as important. She asked for a commitment from each Council Member to prioritize the construction of a proper Police Department building.

**I. PRESENTATIONS**

- E. Elko County Monthly Update: County Commissioner Glen Guttry  
**NON-ACTION ITEM – INFORMATION ONLY**

Glen Guttry reported we have a bill at the legislature to fund the Ruby Mountain Cloud Seeding Program. He thinks it is money well spent. The county is working on the sage grouse pilot program. It will be a good program and other ranchers want to come on board. The Fire Protection District is still a work in progress. We are at the point of hiring an administrator to set the Fire District up. The jail expansion isn't favorable with the citizens yet but it isn't really a choice anymore. There is a formal request from the Sheriff Office for the expansion. UNR President Mark Johnson was here and had an idea to combine the Cooperative Extension and the Experimental Station and the School of Agriculture together. He has been all over the state with mixed reactions.

**APPROVAL OF MINUTES**                      April 9, 2013  
**FOR POSSIBLE ACTION**

*The minutes were approved by general consent.*

**I. PRESENTATIONS (Cont.)**

- A. Reading of a Proclamation recognizing Municipal Clerks Week as May 5-11, 2013.

Mayor Johnson read the Proclamation. He gave Shanell Owen, City Clerk, a copy of the Proclamation.

- B. Reading of a Proclamation recognizing National Arbor Day.

Mayor Johnson read the Proclamation. He gave Joe Carr, Parks Superintendent, a copy of the Proclamation.

Joe Carr, Parks Superintendent, explained Elko's involvement with Tree City USA. We are on our 6<sup>th</sup> year with Tree City USA.

C. Reading of a Proclamation recognizing April 26<sup>th</sup> as Classical Music Day.

Mayor Johnson read the Proclamation. He gave Jovahna Anderson, Miss Elko County 2013, a copy of the Proclamation.

Jovahna Anderson, Miss Elko County 2013, thanked the city for recognizing April 26<sup>th</sup> as Classical Music Day. As a classical musician she thought the voice is one of the most gorgeous instruments out there.

D. Presentation and update by the National Weather Service regarding StormReady Communities. **NON-ACTION ITEM – INFORMATION ONLY**

Michael Fitzsimmons and Delyne Kirkham, National Weather Service, explained starting back in November they introduced the Storm Ready program to the City Council. We moved forward with the Parks and Recreation Department and he was pleased to mention that they have been able to get the Parks and Recreation Department as a Storm Ready Supporter. This means they have committed to make the City of Elko and the Parks Department a very safe place for our residents and the people that come to visit. Mr. Fitzsimmons presented James Wiley, Parks and Recreation Director, certificates and signs. They thanked Mr. Wiley for his commitment.

Mr. Fitzsimmons said he has the privilege of running the outreach team at the office. He can't do it without the staff all helping out. One most helpful individual was Ms. Delyne Kirkham. Ms. Kirkham has worked on this project since November of last year. Her dedication and support to help the residents of the City of Elko is above and beyond. He wanted to recognize her with a certificate of appreciation for all the work she has done.

## II. PERSONNEL

A. Review and possible approval of an "Agreement Regarding Retirement and General Release of Claims" between the City of Elko and Police Chief Don Zumwalt, including the City's purchase of one (1) year of PERS service credit on behalf of Chief Zumwalt and an effective retirement date of October 31, 2013, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed Agreement has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained there has been one addition to the agreement that was placed on the desks. It speaks to the letter of recommendation included. We also have Dave Stanton present for any questions.

Councilman Schmidlein asked for further explanation on the proposed one year buy out.

Mr. Calder said one reason we are proposing the buyout because there has been an ongoing management organizational study going on since November. It has presented an opportunity to make some changes. With this opportunity with the Chief at the place where he is with his career (nearing 25 years into his career) and this allows him to stay involved until October 31. We will be starting to implement the changes from the study. There is also the acquisition and/or building of the new Police Department and also a search for a successor for the position. We would like to keep him on as long as possible. October 31 seems logical because it will take us that long to get a successor in place. We think it benefits both parties.

Councilman Schmidlein asked with an early buyout does this become a bonus farewell.

Mr. Calder answered not in that respect. We have done buyouts based on a case by case basis. They always have to come before Council. There are various reasons why people may or may not be bought out. There is a benefit with having Chief Zumwalt stay on. As an incentive to stay on we are proposing the buyout and we mutually agreed upon this.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the Agreement regarding Retirement and General Release of all Claims with Chief Zumwalt.**

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

After the motion and before the vote, Councilwoman Simons said she was grateful that we have had somebody so caring involved in the Police Department. She hopes he recognizes the good he has done for the community.

Mayor Johnson said he looks forward to working with him another 6 months. Chief Zumwalt is very professional.

Councilman Rice agreed with what everyone has said. Your last day will be the day of the Nevada Day Parade.

John Carpenter asked what kind of a precedent does this set. He doesn't remember the city buying people out. Is this something that is routine or special?

Mr. Calder answered the city did have a policy in years past that hasn't been utilized in many years. The policy would allow a maximum of one year service buyout. We talked about those options with the Chief. He chose a basic one year buyout. It is on a case by case basis. A couple of these have come up in the last five years or so that were not approved. He doesn't feel it sets precedence.

Council voted on the motion.

Chief Zumwalt read a letter he prepared.

*I have been employed with the City of Elko Police Department for 22 years. It was been his distinct honor to serve as a patrolman, patrol supervisor, lieutenant and finally the last 4 ½ years as your Chief of Police. I am announcing my retirement from law enforcement effective October 31, 2013. Words cannot describe what a law enforcement career includes. I have always done my absolute best to serve the citizens of this community. When I was appointed Chief of Police I used words like “humbled” and “honored.” Today I use those same words. I have been humbled by the opportunity the city has given me. I have been honored to serve. I am looking forward to turning the page and changing chapters in my life. I am looking forward to seeing what God has in store for me in my retirement years. I anxiously await that next step. The Elko Police Department is staffed with wonderful, professional hard working people who want to make a difference in this community. Law Enforcement is a difficult business but the staff of the Elko Police Department is up to the task and they will work hard and are ready for that next step. I am confident that the Elko City Council will find a solid, professional Chief of Police to help lead them, teach them and support them as they go forward in their service. It has been a pleasure serving with many of you and I wish all of you the best of luck and may God bless. Thank you.*

- B. Authorization to Staff to begin the external recruitment and selection process for the position of Police Chief, and matters related thereto. **FOR POSSIBLE ACTION**

If item II. (A) is approved, Staff is requesting authorization to begin the external recruitment and selection process. As the Police Chief is an Appointed Official, the City Council will be directly involved in the process. CC

Mr. Calder explained this is similar to the process utilized with the Fire Chief when Chief Kightlinger retired. Council appointed two people to work closely with staff to help sort through applications and bring those through an interview process before the council. Before we can get to that stage we need to advertise and revise the job description. Since we went through the Salary and Compensation Study and Classification Study those jobs have been reevaluated. The council will be involved throughout the process. There will be an actual recruitment plan and strategy. There are two stages, recruitment and the selection. It will take time and energy.

Councilwoman Simons asked will council receive a list of where you will advertise for the position.

Mr. Calder answered they would propose a plan of where we would like to advertise and where we think it makes logical sense. City Council can add to or subtract from that list too. We will base our final recruitment plan on whatever the council agrees upon.

John Carpenter said according to the agenda this is just an external search. Isn't someone in the Police Department qualified for this?

Mr. Calder said external means we recruit outside the city but internal applicants can still apply. The Council could direct staff to just recruit internally but staff would like to cast the net as far as possible.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to authorize staff to initiate the external recruitment and selection process for the position of Police Chief and direct staff to report back with a draft job announcement and recruiting plan at a subsequent meeting.**

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

### **III. APPROPRIATIONS**

- B. Review, consideration, and possible approval for the Elko Police Department to apply for a grant from The US Department of Justice Bulletproof Vest Partnership Grant for Fiscal Year 2013, in the amount of \$3,861.00, and matters related thereto. **FOR POSSIBLE ACTION**

The Bulletproof Vest Partnership provides half match grant money for bulletproof vests for law enforcement officers. The Elko Police Department has applied and received grant money from this organization for over ten years. This grant if received would provide half of the money needed for nine bulletproof vests. These nine vests will need to be replaced within the next fiscal year. DZ

Chief Zumwalt explained according to their policy they need permission from council to apply for this grant. It is a half match. The vests have a shelf life and they need to be replaced.

Councilwoman Simons asked was our \$3,800.00 put in the budget for this year. (yes)

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to direct the Elko Police Department staff to apply for the Bulletproof Vest Partnership Grant in the amount of \$3,861.00.**

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

- C. Review, consideration, and possible award of the Main City Park Parking Lot Reconstruction Project, and matter related thereto. **FOR POSSIBLE ACTION**

At the March 12, 2013 Council meeting, Staff was authorized by Council to Solicit bids for the reconstruction of the parking lot located in the Main City Park; bids were received and opened on Friday, April 19, 2013. Staff will be providing a recommendation at the meeting. JD

Jeremy Draper, Civil Engineer, recommended awarding the bid to the low bidder, A&K Earthmovers for base bid plus all four alternates for \$427,427.22. He thanked Public Works for their work and saving the City a lot of money.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to award a contract to A&K Earthmovers for the reconstruction of the Main City Park Parking Lot pending a final contract to be entered no sooner than after the passing of a 5 day bid protest period in the total amount including alternates 1 through 4 of \$427,427.22.**

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

- D. Review, consideration, and possible award of the Cemetery Fence Replacement Project, and matter related thereto. **FOR POSSIBLE ACTION**

At the March 26, 2013 Council meeting, Staff was authorized by Council to Solicit bids for the replacement of the fence around the City Cemetery; bids were received and opened on Friday, April 19, 2013. Staff will be providing a recommendation at the meeting. JD

Mr. Draper explained this was a rebid. He recommended award of base bid plus alternate number two to Glacier Construction in the amount of \$48,912.50.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to award a contract to Glacier Construction Company for the Cemetery Fence Replacement Project pending a final contract to be entered no sooner than after the passing of a 5 day bid protest period for a total cost of \$48,912.50 which includes alternate number two.**

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

#### **IV. UNFINISHED BUSINESS**

- A. Review and possible approval of a request by the POW/MIA – VFW Post 2350 for a change to the starting time of the Armed Forces Day Parade to be held on May 18, 2013 to begin at 1:00 p.m. and end at 2:00 p.m., and matters related thereto. **FOR POSSIBLE ACTION**

The applicant would like to change the time due to the Great Basin College graduation ceremony schedule. SO

Les Brown, director of POW Association, explained that after the last council meeting they went to the County Commissioners' meeting and asked for their support. During that meeting they found a time conflict with Great Basin College graduating at the Convention Center. He felt there might be some vehicle nightmares there. They petitioned Chief Zumwalt for a time change and he had to check into it to make sure there would be staff for it. He finally got the Chief's approval for the time change.

Mayor Johnson asked for a reminder of the time.

Mr. Brown answered they were looking to start it at 11:00 am and ending at noon. Noon would about the time Great Basin College would be ending their graduation ceremonies.

Mayor Johnson noted it would be a change from 11:00 am to 1:00 pm.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to change the starting time of the Armed Forces Day Parade which has already been approved by the council to be held on May 18, 2013 from 11:00 to 1:00 pm to 2:00 pm in the afternoon.**

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

## **V. NEW BUSINESS**

- A. Review and possible nomination of student applications for the Nevada League of Cities & Municipalities Scholarship Program, and matters related thereto. **FOR POSSIBLE ACTION**

The Nevada League of Cities sponsors a Nevada Youth Scholarship Program to recognize public/community service and to encourage Nevada's young people to become involved in benefiting their communities.

The Council may forward three scholarship applications to the "award" committee for consideration. SO

Shanell Owen, City Clerk, explained we received four applicants requesting the scholarship. This will only be a recommendation to the Nevada League of Cities Committee. They will make their own selection based on the same criteria we are looking at.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to recommend the following three candidates for the Nevada League of Cities & Municipalities Scholarship: Anvi Bhakta, Navpreet Samra and Logan Zeiszler.**

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

After the motion and the vote, Councilman Rice said all four applications were terrific. He was most impressed with the amount of community service all of these students were engaged in.

- B. Review, consideration, and possible direction to Staff to initiate the Business Impact Statement process, if deemed necessary by the City Attorney, for the adoption of new building and fire codes, and matters related thereto. **FOR POSSIBLE ACTION**

Every three years the International Code Council (ICC), International Association of Plumbing and Mechanical Officials (IAPMO), and the National Electrical Code (NEC) as published by the National Fire Protection Association (NFPA), model code organizations, revise or update their codes to allow for and incorporate new materials, technologies, products and to correct issues that have been a problem or found to be a danger in the past. TS

Ted Schnoor, Building Official, explained the 2012 codes are now published and almost all of the jurisdictions in the State of Nevada are in the process of adopting the new codes. He wanted to see if council wanted them to begin the adoption process of the new codes. A business impact statement may or may not need to be presented on the adoption of the building codes. That will be determined at a later date by the City Attorney.

Councilwoman Simons asked is the county updating to these new codes.

Mr. Schnoor answered they are in the process. It will be a larger jump for them because they are skipping 2 code cycles. International codes come out every three years.

Mayor Johnson asked when you see plans for projects, you see them revising the code and submitting plans with the latest codes.

Mr. Schnoor answered most designers prefer us to enforce the most current codes. That is what their programs are set at and that is what the new materials are approved for. We get a lot of support from designers to keep up with the current codes. Along with this, even though the agenda item says the first item to be looked at is the business impact statement it also included whether or not you have an appetite to move forward with the adoption of the 2012 code cycle.

Councilman Schmidtlein asked is there any drastic changes.

Mr. Schnoor answered in this cycle and every other cycle they address the structural aspect a little bit more without any major changes. Most of the changes he has seen is redoing some wording and clarifying some things in past codes.

Councilman Perry said you are not anticipating many changes. It is a big undertaking for city staff. He wants to see where the county ends up with their codes and then come back with this accordingly.

Councilman Rice said he gathered that the contractors want to be on the most updated codes. They are accustomed to working with different codes. There was appetite for being as current as possible. We don't want to get behind the ball. Starting this process will give them the opportunity to hear from some of these design professionals.

Mr. Schnoor said almost all of the Northern Nevada jurisdictions attended a meeting in Winnemucca. They wanted to get Northern Nevada on the same page. It is his understanding that they are going to make every effort to move forward with these codes.

Mike Hecht, Deputy Fire Chief/Fire Marshal, said Ingersoll is moving to 2012. The State Fire Marshal's office has already adopted the 2012 codes. They do have an agreement in place with them on some of their stuff. That is why we are looking at staying current with the state. Lander County is also looking to adopt 2012.

Councilman Schmidlein said from the building standpoint it would be great if everybody in Northern Nevada be on the same page. You hear on the street about complying with the city and the county and how hard it is to be complaint with everyone.

Mr. Schnoor said each jurisdiction has their own local requirements that they try to amend into the codes.

Councilman Perry said a business impact statement is a major undertaking. It will raise costs for the builders. It would be good for the city to be on the trailing end of this rather than the leading end. We don't have to do this. Why change the building codes. Let's wait to see what the other counties will do.

Councilwoman Simons asked is there a way to see if a business impact would be required. If not then maybe the changes are not as expensive. We don't want to burden these builders. It would be wise to have us on a level playing field.

Matt Griego, Fire Chief, said we are trying to stay current with the most up to date fire codes so we are able to maintain the low fire losses that we have had. Having these buildings to the current code would help keep the department from having to grow and gain more employees.

Mr. Calder said staff can direct the City Attorney to review the changes without council action. He can make a determination whether business impact statements would be required or not.

Mayor Johnson said last time we did a code adoption there were some concerns of the structural requirements that changed. He doesn't remember the city doing a business impact statement for other code changes. The last code change impacted the structural codes.

Mr. Schnoor said as far as the business impact statement, this is the first time they have been required to implement it. It is nearly impossible to determine a cost because it is so wide spread in so many different things.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to direct staff to talk to counsel as to whether or not this will warrant a business impact statement.**

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

- C. Review, consideration, and possible action to approve Revocable Permit No. 2-13, filed by Performance Athletic Club, LLC, to occupy a portion of the Sagecrest Drive right-of-way, located generally on the southeast corner of Sagecrest Drive and El Armuth Drive, to accommodate the construction and use of a parking lot approximately 400 feet in width by 40 feet in depth, and matters related thereto.  
**FOR POSSIBLE ACTION**

The Planning Commission considered the subject revocable permit request on March 5, 2013, and took action to forward a recommendation of conditional approval to Council. RM

Rick Magness, City Planner, explained this project has been in front of us regarding parking. It has been accepted. We are looking at the revocable permit. The Planning Commission is forwarding this for consideration.

Councilwoman Simons asked if this was just for during construction.

Mr. Magness answered it is to occupy the space so that when the construction is completed it is in the legally defined area.

Councilman Schmidlein said he is under the assumption that whichever road runs east to west, if it expands to the west the parking lot would have be removed for roadway improvements.

Scott Wilkinson, Development Manager, said when staff reviewed this permit application we are confident we will not widen the road but it is a revocable permit. If it was necessary we could revoke the permit and widen the road.

Councilman Schmidlein said he also read about utilities; if someone needs to put something in to they will have the right-of-way to put some utility through the parking lot and the owners understand that.

Mr. Wilkinson said it is still a right-of-way for a couple of purposes.

Nitin Bhakta, Summit Engineering, said the parking lot is across the street from the existing Performance Athletic Club gymnasium. It is on the south side of Sagecrest.

Councilman Rice said he is concerned that it be adequately marked for pedestrian crossing and that it might be a condition that the applicant covers the cost.

Mr. Bhakta said that has been addressed. It will also have lighting and curb, gutter and sidewalk.

Councilman Schmidlein asked are we going to restrict street parking.

Mr. Bhakta answered yes. The city has indicated that they would like to have signage and the curb painted red.

Ryan Limberg indicated where the parking would be using the overhead projector. He explained the parking is located on Sagecrest and not on Mountain City Highway.

Dennis Strickland, Public Works Director, said the applicant will be responsible for maintenance of the crosswalk.

Mr. Wilkinson said this parking area that is no different than any parking downtown. It has been designed in accordance to safety requirements.

John Carpenter asked what improvements will be required.

Mr. Bhakta answered 400 feet of linear curb, gutter, sidewalk and roughly 23,000 sq. ft. of asphalt surface for the parking lot.

Mr. Wilkinson said the applicant is proposing a screen wall between the residential area and the parking.

Mr. Bhakta said we are going to have a 6 ft. perimeter wall. It will be similar to what Ormaza has done as a screen wall so the neighbors aren't looking at headlights.

Mr. Carpenter said he just wanted to make sure you are treating everyone the same. Are they going to pay anything for parking?

Mr. Andreozzi answered this is right-of-way property. They are responsible for the improvements. It is like a lease agreement.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to conditionally approve the Revocable Permit No. 2-13 subject to execution of a standard license agreement between the applicant and the City of Elko.**

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

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

- B. Review and possible approval of a request from the Rotary Club of Elko to accommodate a carnival on City owned property, located in front of the Elko Central Dispatch Center to be held August 23 thru August 25, 2013, including permission for carnival staff to stay overnight on site with their equipment, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the request letter has been included in the agenda packet for review.  
CC

Councilman Perry disclosed that he is a Rotary member and President. He abstained from the item but would sit and listen to the matter.

Mayor Johnson and Councilman Rice both disclosed they were Rotary members. Councilman Perry decided not to abstain due to his Rotary membership because there are three members of council in the Rotary Club and there would not be a conflict.

Mr. Calder explained if approved it should be contingent upon a lease not being in affect and/or a lack of space due to BLM and NDF fire operations. That time of year is when there could be significant fire operations and a lot of folks out at the Dispatch Center. If there was a lease in affect it would require the approval of the leasee in order to occupancy the space.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the request from the Rotary Club of Elko to accommodate a carnival on city owned property located in front of the Elko Central Dispatch Center to be held August 23-25, 2013 including permission for carnival staff to stay overnight on the site with their equipment and contingent upon a lease not being in effect and/or a lack of space due to BLM or NDF fire operations.**

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

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

- E. Review and discussion of two (2) mining-related bills pending before the Nevada Legislature, specifically Senate Joint Resolution 15 and Senate Bill 400, with possible direction to Staff to draft position statements for consideration by the Legislature, and matters related thereto. **FOR POSSIBLE ACTION**

Copies of SJR 15 and SB 400 have been included in the agenda packet for review.  
CC

Mr. Calder explained Tim Crowley with the Nevada Mining Association was available to phone in if council had any questions for him. He and Councilwoman Simons were in Carson City last Friday and were guests of the Rural Caucus. We also had lunch with Tim Crowley. He talked about the Nevada Mining Association's position on it. In the packet are the copies of two pieces of legislation. Before we issue any type of a position statement we want full council understanding of the issue and can direct staff accordingly.

Councilman Schmidlein asked all the reserves that they have in the ground, this is where they want to implement the tax.

Mr. Calder answered he thought it is complex because SJR15 seeks to create a ballot measure for the voters to change the constitution. SB400 and another piece of legislation (SB401 that was rolled into SB400) deals with some of the details of that transition. According to Tim Crowley and the Nevada Mining Association, one of the things that have come up in his analysis of it that there could be a reduction in revenue to the state if SJR15 was approved and the other legislation that would deal with the vacuum of not having the constitutional protection wasn't already in place. There are a lot of unknowns. It is a major deal to take this on a ballot issue. It has to pass the vote of the people to see if they want to remove those protections with regards to net proceeds for mining. What is going to replace net proceeds?

Councilman Rice said if it went into a referendum it would pass. That is the danger. Whatever position we take we never know what fills the vacuum. We struggle with the burden of the growth in our community as a result of mining being done in adjacent counties. We are struggling to make sure we can keep our roads together to accommodate the traffic as a result of the great jobs that are available in the mining industry. He wants options that are going to be good for the region. He isn't sure what that is.

Councilman Perry said the distribution with the net proceeds is lopsided. Two counties are housing all the people and two counties are getting all the money. That is not what it was set up to do. Net proceeds tax was set up as a mechanism to derive Ad Valorem taxes of federal mining claims. The county that gets the money is where the ore was mined and not where it was processed. There is nothing in legislature that is trying to address that. What is at risk right now? Anything that is mined out of the ground is taxed at a rate of 5% of the net profit after operating costs are removed. That 5% is roughly split half and half between the state and the counties. SJR15 is intended to eliminate that completely as a tax system. There will be no net proceeds of mines. What the taxing mechanism would be is anyone's guess. Having been in this industry for many years you will end up with less tax dollars in the end. The net impact of that is loss of good jobs. Why get rid of this if we have had it for 150 years? This could hurt us here in Elko County and have a major impact on the financial liability of some of these industries that are the major payrolls here.

Mary Korpi with Newmont Mining agreed with what Councilman Perry said. Mining as a whole has to do long term planning. Part of that is to have some sense of certainty with what you do have control over. In the last week or so we have seen the volatility of the price of gold. How can you operate as efficiently and as safely as possible when you don't have control over gold prices? The net proceeds tax has benefited the industry because it is a known. It has benefited local governments because there is a guarantee some of those taxes do come back to the local community. It benefits the state because they get a portion of it too. Taking that out of the formula creates uncertainty and adds that risk level. When you start looking at mining projects that can take 15 years from the start of a drill in the ground to the first ounce of gold out the door it can change that future outlook. There are a lot of questions to what has been proposed. Rural counties need to ask is do you think that Las Vegas will want to give back part of what they have already taken away? How will that be taxed? She encouraged the city to ask the questions and have a voice.

Councilwoman Simons said if we write an opinion to argue that the validity of the taxes is going to be lost. The opinion of the people from the south is mining will continue to mine and they are just raking in the money. We need to argue this is poorly written legislation. This is not going to accomplish anyone's goal. It will hurt everyone in the end.

Councilman Rice said he believes that mining has been paying a substantial amount of taxes for a very long time and the state has distributed it poorly. It is unfortunate this hasn't been dealt with before this. We have all these tax revenues in the state that have been poorly distributed.

Councilman Perry said we need a position paper and some talking points. He proposed that he, Councilwoman Simons and Curtis Calder get together and try to affect the outcome with a strategy of contacting legislatures and possibly even testifying at the assembly hearing.

Councilman Rice thought between the three of them that they have the information to draft something.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to direct Councilman Perry and Councilwoman Simons to draft a letter to the Legislature concerning Senate Joint Resolution 15 and Senate Bill 400.**

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

After the motion and before the vote, John Carpenter said this is a complicated issue. The constitution amendment has not been in for that long. It provides that a \$5 ad valorem tax can be levied upon the net proceeds of the mines. The danger of this is if this passes then it takes everything out of the constitution. Then you go back to the situation that the constitution says everything needs to be taxed equally. If this one passes then the state can't get any money out of the net proceeds. We need to make a strong statement. No one from the gold counties was present to make a statement in the hearing. We need to stand up for what we believe is right. The way the constitution is set up you can't get anything through unless you have the voice of the people. You have to make a strong presence down there.

Councilman Rice noted people in the rural counties are carrying twice the individual burden of those in urban counties in taxes.

Mr. Carpenter said gold was up a couple of weeks ago. We are going pretty well out here. You need to make a strong statement. If this goes through it could be a disaster.

Dale Andrus said there are 1000's of people that support the mines. Caterpillar is a good example of one of the mine supporting businesses. When the mines start cutting back then the supporting companies have to cut back too. The people that get hurt are the individual businesses around here and their employees.

Council voted on the motion.

## **VIII. 6:00 P.M. PUBLIC HEARINGS**

- A. Review, consideration, and possible action to conditionally approve Preliminary Plat No. 17-12, filed by Braemar Construction, LLC, for the development of a subdivision entitled The Pointe at Ruby View Townhomes involving the proposed division of approximately 3.91 acres of property into 30 lots and a common area for residential development within an R (Single Family and Multiple Family Residential) Zoning District, the property is located generally on the southwest corner of Khoury Lane and E. Jennings Way (APN 001-562-018), and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered this preliminary plat on September 4, 2012, and took action to forward a recommendation of conditional approval to Council.  
SW

Scott Wilkinson, Development Manager, explained the proposed subdivision is located at the intersection of Khoury Lane and Jennings Way by The Pointe subdivision. This is ten lots for a

townhome type subdivision. The Planning Commission conditionally approved this. This requires a conditional use permit because it is considered a multi-family development. The conditional use permit was approved by the Planning Commission. It took so long because the developer needed to get CC&R's together. This preliminary plat includes some yard areas.

Councilman Perry asked why it needed a conditional use permit.

Mr. Wilkinson answered townhomes are considered multi-family development and a conditional use permit is required in that district. It is zoned R.

Councilman Schmidlein asked will this directly buffer with the hotel that is out there.

Mr. Wilkinson answered there is a considerable elevation difference. One of the conditions for a screen wall would be on the west side of the property which would be the line between single family homes and the multi-family development.

Councilman Schmidlein thought it would be a good buffer because you are going from a hotel to multi-family and then you are getting into the residential neighborhood portion.

Mr. Wilkinson thought it was a good land transaction between single family into the commercial area on Jennings and Ruby Vista.

Councilman Schmidlein said he counted 16 spaces in the parking lot. He is under the assumption they will have garages. Are you going to deny on-street parking because Khoury Lane is not a full blown roadway?

Mr. Wilkinson answered that each unit will have parking and this will be additional parking. Khoury Lane is developed to a residential standard. On street parking is prohibited in our code. Any plan that is submitted has to provide the required off-street parking. They are doing that with the subdivision.

Councilman Rice said the only problem he foresees is if someone has a party. We are trying to keep crew trucks off the street.

Mr. Wilkinson said in most subdivisions we don't paint the curbing red. If it becomes problematic then we try to deal with that later on.

Councilman Schmidlein asked are you going to have to penetrate the streets up there or are the stub outs adequate. He wasn't sure what size water line it will take for that property. There are probably only ¾ inch services going there.

Mr. Wilkinson answered we put a larger tap in. He doesn't remember if we had to upgrade that.

Ryan Limberg, Utilities Director, said the last set of prints showed one major water service to the whole area. He wasn't sure if that was a 6 inch stub or an 8 inch stub. That stub currently exists there.

Mr. Wilkinson said we had several stubs into that because it was supposed to be multi-family. We have sewer stubbed into the property.

Councilman Rice asked if the common areas will have a HOA that will maintain it.

Mr. Wilkinson answered there is. The developer had to complete CC&R's for the subdivision. They were presented to the city but they are not of record yet.

Councilman Schmidlein asked if this will be a complete development from start to finish. Are they going to come in and put in 6 units and then build two more and so on? Will this be phased?

Mr. Wilkinson answered there was no phasing on the preliminary plat. His expectation would be that it is constructed at one time.

Bob Thibault, Summit Engineering, said there are sufficient utility stubs to the property. When we built Khoury Lane we planned on a development like this on that large lot. We will not have to disturb Khoury Lane. We don't have any plans to phase this project.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to conditionally approve Preliminary Plat No. 17-12 for The Pointe at Ruby View Townhomes Subdivision subject to the conditions as recommended by the Planning Commission as updated by staff.**

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

- B. Public hearing and possible approval of the 2013 Motorcycle Jamboree Special Event to be held June 13 through June 16, 2013 including the following requests:
1. Closure of the downtown corridor from 3<sup>rd</sup> Street to 6<sup>th</sup> Street between Commercial and Railroad Street for the duration of the event. The closure request includes the corridors along with the crossroads.
  2. Closure of the downtown corridor between 6<sup>th</sup> Street and 7<sup>th</sup> Street to allow for event set-up with access to parking for businesses during the evenings of Thursday and Friday. It will remain closed Saturday for the concert.

Other matters may be discussed as related thereto. **FOR POSSIBLE ACTION**

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

Shanell Owen, City Clerk, explained if it is the desire of council to approve the event, there were a couple of things missing in the agenda packet. One item is the \$2 million liability insurance. The other item is the closure maps. If this is approved it needs to be conditioned on that.

Councilman Rice said 5<sup>th</sup> street has been closed from Idaho to Silver in the past. Is that reflected in this request?

Paul Connors, Elko Motorcycle Jamboree President, said 5<sup>th</sup> Street is a state highway and we coordinate that closure with the state. The whole downtown corridor is closed. We don't close 3<sup>rd</sup> Street.

Councilman Rice said when he hears the corridor he thinks between Railroad and Commercial but you are talking Idaho to Silver.

Mr. Connors said this is the same plan used the last several years.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to approve the 2013 Motorcycle Jamboree Special Event to be held June 13-16, 2013 including the following requests: 1) closure of the downtown corridor from 3<sup>rd</sup> Street to 6<sup>th</sup> Street between Commercial and Railroad Street for the duration of the event. The closure request included the corridors along with the cross roads; and, 2) closure of the downtown corridor between 6<sup>th</sup> Street and 7<sup>th</sup> Street to allow for event set up with access to parking for businesses during the events of Thursday and Friday. They will remain closed Saturday for the concert. The approval is contingent upon the Motorcycle Jamboree Committee providing a \$2 million insurance proof of liability to the city and closure maps to the city.**

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

After the motion, before the second and before the vote, Councilman Rice asked doesn't 4<sup>th</sup> Street between Idaho and Railroad get cordoned off as well.

Mr. Connors answered yes. It is closed from 3<sup>rd</sup> to 6<sup>th</sup>.

Councilman Rice noted it says from Commercial to Railroad.

Dennis Strickland, Public Works Director, said there are a couple of those closures that are left open to circulation (Roys market as an example).

Mr. Connors said they were in the process of securing their liability insurance.

Councilman Perry said in past years you have borrowed golf carts from the golf course.

Joe Mickey, Elko Motorcycle Jamboree, said we will need to put in the request for the golf carts.

Mayor Johnson asked to be reminded what we did last year.

Mr. Mickey said we rented 5 golf carts for \$1 and provided proper insurance.

Councilman Perry asked if he should include that in the motion. He amended the motion, “**3) to also allow the city to rent 5 of the older golf carts from the golf course for \$1 to be carried under the same insurance policy.**”

Councilman Rice thought it was not properly agenda'd to do that. He wants to hear from the golf course manager about the policy for renting out our equipment.

Mayor Johnson said since the city has ownership of the carts that it is better that we take a look at that. That might stretch tonight's agenda to consider the golf cart portion.

Councilman Perry removed his amendment to the motion.

Councilwoman Simons seconded the motion.

Council voted on the motion.

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

- D. Review and possible approval of a License and Concessionaire Agreement between the City of Elko, and Alejandro Perez, Senor Taco. Mr. Perez would like to utilize the Main City Park space for his mobile food truck, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Perez has a current Elko City Business License and has a mobile food truck. He would like to utilize park space No. 2 (shown on map in application) every month, Monday through Sunday from 8:00 a.m. to 10:00 p.m. SO

Shanell Owen explained this was a request that came in as we were getting the agenda finalized and inadvertently forgot to do the concession agreement. It is a standard concession agreement. You can possibly make the motion approved contingent upon the execution of that standard concession agreement. In the last meeting there was a similar request and we included language that you requested that had to do with sanitation services. We would include that in this agreement.

Mayor Johnson asked that a map of the area be displayed on the overhead projector.

Councilman Perry asked if there could be up to five vendors that lease those spots. (yes) That is their spot. No one else can put their taco truck there. (yes) The shaved ice business is in another spot?

Ms. Owen answered it is another spot. She needs electricity so she sets up right on the street but technically she has space no. 6.

Councilman Perry asked if all vendors were treated the same in respect to how much the city lease fee is. (yes)

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve a License and Concessionaire Agreement between the City of Elko and Alejandro Perez of Senior Taco for space no. 2 in the Main City Park for a mobile food truck contingent upon receiving the required liability insurance and the executed concessionaire agreement.**

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

## **VI. RESOLUTIONS AND ORDINANCES**

- A. Review, consideration, and possible approval of Resolution No. 03-13 creating a Public Utility, Drainage and Access Easement for public purposes, and matters related thereto. **FOR POSSIBLE ACTION**

Resolution No. 03-13 creates an easement for property located on the north side of West Idaho Street on City of Elko Airport property. JD

Delmo Andreozzi, Assistant City Manager, explained this is a housekeeping item. We used to have a service road that ran and served the properties back there. The city had a fence relocation project. At that time the access road had to be re-routed. This is to establish this easement to access to these parcels.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Perry, to approve Resolution No. 3-13 creating a Public Utility, Drainage and Access Easement for public purposes.**

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

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

- A. Review, consideration, and possible action to ratify the Chief of Police issuing a 30-day temporary packaged liquor license, and issue a regular packaged liquor license to Albertson's #155, located at 2582 Idaho Street, Elko, Nevada, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Zumwalt explained this was tabled two weeks ago. We now have the proper management, paperwork and background done. He recommended approval.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to ratify the 30-day temporary liquor license and issue a regular packaged liquor license to Albertson's store #155.**

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

### III. APPROPRIATIONS (Cont.)

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

Councilman Rice asked about a charge for some toxicology that came through the County Jail to Washoe County.

Chief Zumwalt said it for Washoe County. We spend a lot of money doing toxicology at Washoe County Crime Lab.

Dawn Stout, Administrative Services Director, said it is our typical business. We have a yearly contract with them. We also have additional things that we have to send to them.

Councilman Perry asked Washoe County is our forensics lab because we don't have one here. (yes)

Councilwoman Simons asked about the payment to Younger Agency, fees paid city by Barrick.

Ms. Stout answered that is the advertising company that manages the advertisement of the Elko Airport. They are supposed to pay them directly however, they paid the city. We took the check because it was made payable to us. We issued a check to Younger and they will turn around and issue us a check for our portion of it.

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

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

### IX. REPORTS

#### A. Mayor and City Council

*Councilwoman Simons reported attending the first ever Local Government Day at the legislature. She attended with it with Curtis Calder and they met with several people.*

*Councilman Rice reported Friday they had an informal discussion in regards to the complaints with the three bars. The discussions are still ongoing.*

*Mayor Johnson reported on the opening of the National Guard Center. He also welcomed the State Leadership Conference in Elko last weekend.*

#### B. City Manager – Legislative Update

*Curtis gave a legislative update. He will put in mailboxes an updated version of what he presented today. We are starting to see a lot of bills that we were watching and tracking, falling off the radar. Some that fall off are ones that we were supportive of. He met with the Rural Caucus on Friday and was invited by Senator Goicoechea to be a guest on the floor. He and Dawn Stout will be attending the insurance pool meetings next Thursday and Friday in Sparks.*

- C. Assistant City Manager  
*Delmo Andreozzi reported on the Take Pride Event scheduled for this Saturday. As of last Friday we had 850 people pre-registered. We have been working on developing a memorial garden in the Main City Park with a rock that will have some etching saying "We Thank All Our Service Men and Woman." We will have a public unveiling on Take Pride Day at 1:30pm and the VFW will post the colors and the Elko High School Band will play some selections. We have had workshops trying to negotiate the homeless issue. They are getting closer to having something to present to council.*
- D. Utilities Director  
*Ryan Limberg reported on the WRF project. He will be bringing back a presentation at the May 14<sup>th</sup> meeting so council can see what is going on out there.*
- E. Public Works
- F. Airport Director
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner  
*Rick Magness gave a reminder they have their combined RDA and RAC on the 30<sup>th</sup> at the Convention Center.*
- L. Development Manager
- M. Administrative Services Director
- N. Parks and Recreation Director  
*James Wiley reported Arbor Day is Friday and is kind of joined up with Clean-Up Green-Up Day. There will be tree planting projects in the parks. We are trying for an educational opportunity with the youth.*

## 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**

John Rasche, Elko Daily Free Press, said Sharron Angle was a guest speaker at the Elko County Republican Committee this weekend. He wrote a story up and she gave some responses as to whether or not she would run for Senate. Since then the USA Today and Huffington Post have taken his little story and sensationalized it saying her campaign is official. If it does end up happening we can claim that she said it first in Elko.

Councilman Perry said he got a call from his middle daughter last week. She is a senior at MIT and was locked up in her dorm room for about a day and a half during the commotion. His hope is that nothing like that happens in this city. This is why Mrs. White asked for commitments

from everyone. He wants to see a new Police Department building so we may provide them with new quarters and move them out of the church.

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