

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

SS May 27, 2014

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, May 27, 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  
Delmo Andreozzi, Assistant City Manager  
Dawn Stout, Administrative Services Director  
Shanell Owen, City Clerk  
Ryan Limberg, Utilities Director  
Dennis Strickland, Public Works Director  
Rick Magness, City Planner  
Scott Wilkinson, Development Manager  
Matt Griego, Fire Chief  
James Wiley, Parks and Recreation Director  
Doug Gailey, Human Resources Manager  
Ted Schnoor, Building Official  
Ben Reed Jr., Police Chief  
Jeremy Draper, Civil Engineer  
David 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**

*There were no public comments.*

## I. PERSONNEL

- A. Review, consideration, and possible approval of the revised position description for the Accounting Manager, and matters related thereto. **FOR POSSIBLE ACTION**

The position description for the Accounting Manager has been updated and reformatted as recommended by POOL/PACT. DG

Doug Gailey, HR Manager, explained Lorraine Martinez, Accounting Supervisor, has announced her retirement in October. We looked at this position so we could go out to recruit for it. We changed the name to better fit in with our structure and we updated what the position actually does.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to approve the position description as presented for the Accounting Manager position, effective May 27, 2014.**

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

## II. APPROPRIATIONS

- B. Review, consideration, and possible award of a Vacuum Truck Dump Station, and matters related thereto. **FOR POSSIBLE ACTION**

Council previously authorized Staff to solicit bids for this project. Bids were received on May 23, 2014 and a Bid Tally Sheet will be provided. This capital project is necessary for the City Water/Sewer Department employees to have a location to dump the City vacuum truck and not damage the internal working components of the Water Reclamation Facility. RL

Ryan Limberg, Utilities Director, explained they received five bids. The second lowest bidder is Mach 4. They are protesting the lowest bid which is Acha Construction (Exhibit "B"). We opened these bids last Friday. On Friday a representative from Acha came into the office here at 2:45 pm and went into the Planning Department office and asked about a bid opening. They were told the bid openings take place in Council Chambers. That is where that representative went. That person had her bid with her but she was informed that the bid opening would be here otherwise city staff would have told that person that they needed to turn their bid into the clerk's office. That person had ample time but there was some confusion on the instructions there. He announced the bid opening and asked Shanell Owen the number of bids received. She informed him there were four bids and at that time the Acha representative came up and handed him their bid. Mr. Pedro Ormaza commented at that time that no late bids. He looked at his watch and his watch said 2:59 pm and the bid opening was 3:00 pm. He later checked his watch and found it was about 60 to 90 seconds off. In our instructions to bidders which are in our contract says that bids will be received at the City Clerk's office 1751 College Ave., Elko, Nevada. Bids will be opened in the conference room at the city offices. Also as part of the protest he received, Ms. Owen mentioned that if there was a party that was unhappy or had a concern to submit to us as soon as possible. The protest went to him however our bid documents also state that the protest

must be submitted in writing to city legal counsel, David Stanton. The city or legal counsel for the city would conduct an investigation into the protest. City Council will issue its discretionary decision on the protest at a regularly noticed meeting. Angela Miller from Mach 4 Construction is present in the audience if anyone had any questions.

Councilman Rice wanted to hear from Dave Stanton on this. The bid paperwork did say that the paperwork needed to be received at the City Clerk's Office and that is the policy.

Councilwoman Simons said the bids shall be turned into the Clerk's Office and the protest should be turned into the legal counsel.

Councilman Rice said we have policies in place and the instructions are clear. The bid probably should not have been accepted in the meeting. It needed to be delivered to the Clerk's Office. There should not be a protest because the bid should not have been accepted.

Councilman Keener asked if all the other packets were delivered to the Clerk's Office. (yes)

Councilman Schmidtlein asked Ms. Owen if when bid packages are received are they stamped received.

Shanell Owen, City Clerk, answered they are marked with the date and the time received.

Councilman Schmidtlein didn't feel the bid should have been accepted.

Ms. Owen noted she had spoken to Angela Miller and instructed her to give her a letter if she had a concern so they could get that right away. In the bid protest it does say that the protest can be received or shall be received five days after the bid award. The bid award hasn't happened yet. It would be happening right now.

Councilman Keener agreed and thought it is unfortunate because they did not follow the instructions.

Dave Stanton, City Attorney, agreed that City Council can insist on strict compliance. A sealed bid received even a minute late will be presumed unresponsive. The bid protest should be received by whomever the city designates within five days of the award. That notice of bid protest should be submitted to his office.

Councilman Rice determined that the Acha bid was unresponsive. He didn't feel they needed to make a motion on that. Mach 4 is the low bidder.

Mr. Limberg noted Mach 4 is the low bidder at \$82,000 and change. This project was originally budgeted for \$60,000. That is what they got estimates for. It is over our budgeted amount but the sewer fund is strong and has the funding there to pay the additional \$20,000 if council wished to do so.

Councilman Rice also noted the Mach 4 bid is considerably lower than the other remaining bids. Are we going to get change ordered?

Angela Miller, Mach 4 Construction, said she can't promise that until they get into the job further. She hoped not. All the bids are relatively close.

Mr. Limberg said there had been a mandatory pre-bid meeting. Everything should have been clear.

Councilman Rice asked why we were \$20,000 under on our end.

Mr. Limberg thought it may be due to the excavation of subgrade material and removal of material.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve an award, a bid to Mach 4 Construction in the amount of \$82,659 for a Vacuum Truck Dump Station.**

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

- C. Review, consideration, and possible authorization for Staff to solicit bids for the Public Works Department Preventive Maintenance Project 2014, to apply Micro Slurry Seal to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

Micro Slurry Seal is a preventive maintenance treatment which will be applied to approximately 25,413 l.f. of selected city streets that were identified and adopted as part of the City of Elko Street Inventory. This work will be completed after July 1, 2014. DS

Dennis Strickland, Public Works Director, explained this is the standard annual project for preventative maintenance.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to authorize staff to solicit bids for the Public Works Department Street Maintenance Project for 2014.**

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

- D. Review, consideration, and possible authorization for the Arts and Culture Advisory Board to utilize the remaining Fiscal Year 2013/2014 budgeted funds to enter into a Professional Services Agreement for the design of the Sesquicentennial Sagebrush Sculpture and Time Capsule, and matters related thereto. **FOR POSSIBLE ACTION**

The Arts and Culture Advisory Board had \$7,500.00 budgeted in the 2013/2014 Fiscal Budget. At the April 23, 2014 special meeting of the Arts and Culture Advisory Board, action was taken requesting authorization to utilize the unencumbered line item to enter into a Professional Services Agreement with a local architect for the Sesquicentennial Sagebrush Sculpture, and Time Capsule to commemorate the Sesquicentennial of the State of Nevada. JD

Catherine Wines, Chairman of the Arts and Culture Advisory Board, wasn't sure if this has to be in this order but if you don't approve something later on the agenda this is a moot point.

Jeremy Draper, Civil Engineer, said this project was submitted as part of the final budget last week. We are asking to get a jumpstart on the design work because we would like to get the project completed by the end of September so that it can be dedicated with the sesquicentennial celebrations that are ongoing in the State of Nevada. With this we did request the \$25,000. The project location has been selected and it will be a subsequent item in the agenda. The Arts and Culture Advisory Board came up with the idea of the sagebrush which will be made out of recycled t-posts and will be on top of a time capsule that will be reopened in 50 years. That is the main focus of the project; the sagebrush and the time capsule. We would like some decorative concrete. The Arts and Culture Advisory Board came up with another idea that is on a larger scale and the budget for that one will be around \$50,000. We would have to scale it back. We want to get a jumpstart on this and try to meet the deadline of September and hire a local architect to finalize the design.

Ms. Wines said she would not be the architect.

Councilman Schmidlein asked who they are looking to hire.

Ms. Wines didn't know.

Councilman Schmidlein said he isn't knocking down art because he can see the focus of art. Many county commissioners are not in support of this. He felt dumping this kind of money into this concept he is not in favor of it. We built the 9-11 Monument off donations. He felt that statue out there is worth quite a bit of money and was done with donations.

Councilman Keener asked about the estimated cost of the original design.

Mr. Draper answered it was about \$25,000.

Councilwoman Simons thought it was a great project. Arts and Culture has money set aside for this. She agreed that the County Commission are hesitant to give money to one city because then they worry that every city would come and ask. She would be shocked if they got any money from the county for this. She thought maybe we could do a cheaper design with a smaller box and then try to get donations.

Councilman Rice agreed that this is a good project. They have a line item and this is an excellent use of it. Every year we have no problem giving money to Mr. Ellison for fireworks to blow it off in 45 minutes. He would be interested in a permanent structure. This is in recognition to our sesquicentennial celebration. It is an important milestone in our community.

Ms. Wines appreciates everyone's insight and comments. The Arts and Culture Advisory Board is not a non-profit. They are an advisory board to the council. She felt they tapped the construction industry with the memorial outside. Asking for money year after year is going to be hard to do. She is nervous of getting in the habit whenever they want to do anything to go raise the money for it. She didn't feel that is the role of an advisory board.

Councilman Rice said we are looking at committing \$7,400. He understood the difficulty in raising the funds. We are committing to this knowing, as a council that we will need to fill the gap.

Dale White, Elko, said he served four years in the USAF finance department. He felt that the council is following an example of the federal government where they come down to the end of the budget year and spend that money. You have to spend it or we won't get it next year. That is where our tax dollars have gone everywhere. There are areas of this city that are in dire need. The road department needs additional funds to do the slurry job. A project like this should be donations.

Mr. Draper noted that the \$7,500 is not above and beyond the \$25,000 they requested for next fiscal year for this project. The project total does not exceed that \$25,000.

Don Newman, Elko Convention Visitors Authority, this sculpture would sit right in the middle of where we place Cashman Equipment during the Mining Expo. Could it shift to the grass area in the park or across the street but not in the middle of where we set up tents? Location is his concern. As far as funding this project, the long forgotten Rec Board funds that are in the Recreation Fund that the city has, there is a balance of monies in there that are for this. It is paid for by tourism. That might be a place where you can look for additional funding. He also agreed that maybe the city should seek donations to off-set some of the costs for this.

Councilwoman Simons asked Mr. Calder about the Recreation Board Funds have to be used for advertising, right?

Curtis Calder, City Manager, answered Elko County Recreation Board funds have to be used for that. Our Recreation Fund is separate from that and there are certain events and organizations that receive those funds as a matter of our budget process.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to designate the available fund of the Arts and Culture Advisory Board, not to exceed \$7,500, towards the Sesquicentennial Sagebrush Sculpture and Time Capsule Project as recommended by the Arts and Culture Advisory Board. The motion is to designate the dollars and not to approve one design over another or the site selection.**

*The motion was withdrawn.*

After the motion and before the withdrawal, Councilwoman Simons asked Mr. White's concern about if you don't use it you won't get it again, is that how this fund works?

Mr. Calder answered this particular fund for Arts and Culture, each budget year as we go through the budget process, they make a request based upon what types of projects they envision occurring in the upcoming fiscal year. It is on a case by case basis and based on an annual review by the City Council. It is not automatic.

Dawn Stout, Administrative Services Director, said this is part of the general fund. This specific line item is in the City Manager's budget. Each year they can request money. The prior year

they had requested \$15,000 which they did not expend. This fiscal year the budget is \$7,500 and some of it has been spent but there is about \$7,400 left in the budget.

Councilman Keener said it doesn't sound like everyone is on board for funding the remainder of this. If we put out the money that is being asked for here for a Professional Services Agreement with no promise of what will happen in the future, are we potentially frittering this money away?

Mr. Draper answered yes. We are trying to get donations for this project. It took 6 months to get donations for the trade center project and we already had the design. We don't have a design for this project. He wasn't sure we would be able to get everything done to unveil this in October.

Charlie Myers, 560 Bullion, wanted to hear the financing again.

Mr. Draper explained that we have requested \$25,000 for the project. His suggestion to council is that if we expend that \$7,500 by the end of this fiscal year we will take that off the \$25,000 that we have.

Mr. Myers said he still didn't understand what they were trying to do.

Ms. Stout said what happens is that we plan on doing something in a specific year; Arts and Culture had asked for \$7,500 this year with nothing specific in mind. They had that in this year and then they came up with this project and that is what they would like to use the monies for. We didn't know when the project was going to go or when it would begin. We estimated the total cost of the project at \$25,000 not knowing if it would take place this year or next year. That is why we put the whole amount in next year not knowing if we would be able to expend the \$7,500 allocated in this year.

Mr. Myers noted there is \$7,500 in the budget this year and \$25,000 for next year.

Ms. Stout restated the total cost for the project is not to exceed \$25,000. If we do spend the \$7,500 we would not expend that out of the \$25,000 in next year's budget.

Councilman Keener said we need to figure out how much we want to spend before we move forward with the professional services agreement. How can they plan without knowing what council is willing to pay for on it? At this point he would vote no. He would be in favor of tabling this item.

Councilman Rice agreed. We shouldn't plan for something we aren't going to execute. He would like to table it too.

James Wiley, Parks and Recreation Director, said there is another item on the agenda about the location. This decision has an impact on the tennis court project. We need to decide if we are going to put the artwork there or not.

Councilman Rice withdrew his original motion.

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

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

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

- D. Review, consideration, and possible authorization for the Arts and Culture Board to place a Sesquicentennial Sagebrush Sculpture and Time Capsule, in the Main City Park, and matters related thereto. **FOR POSSIBLE ACTION**

The Arts and Culture Board is commissioning a piece of art named the Sesquicentennial Sagebrush Sculpture and Time Capsule to celebrate the State of Nevada's sesquicentennial and would like to place the piece in the Main City Park. The piece will include a Time Capsule to be opened in 50 years for the State of Nevada's Bicentennial. The location will be near the tennis courts on the corner of Chris Sherrin Way and College Avenue. JD

Mr. Draper explained this is going at the corner of Chris Sherrin Way and College Avenue. We did present this to the Parks and Recreation Board. They did approve this location. The biggest thing we have is what size will we do this. We have two designs right now. One would take a small portion about 50' x 50' total. The other one is 90' x 90' site. As Mr. Newman pointed out, this is where he sets up some larger equipment for the Mine Expo. This area is scheduled to be landscaped and seeded as part of the Tennis Court Project. The biggest hold up we have right now with the Tennis Court Project is with the irrigation design around the Sesquicentennial Sagebrush Sculpture.

Councilman Schmidlein said we only approved two tennis courts. Where tennis court #3 is at, what if we put the Sagebrush there?

Mr. Draper explained the tennis courts themselves will have a 15 foot gap with landscaping. You will have the two courts spaced wider than they are right now. The remainder to the northwest will be landscaped. It is possible to put it back if you would like.

Councilman Rice also sits on the ECDA. He is in favor of a smaller footprint. This is a vending area for the mining expo and the car show too. He is in favor for that corner but in a design that will have a much smaller footprint.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to authorize a placement of a Sesquicentennial Sagebrush Sculpture and Time Capsule in the Main City Park on the corner of Chris Sherrin Way and College Avenue, not to exceed 50' x 50' and instruct staff and the advisory board to work together on a design that can accommodate that space.**

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

After the motion and before the second and the vote, Councilwoman Simons asked if it would be easier if they gave them a square footage to stay within rather than 50' x 50'?

Mr. Draper said they would be able to keep it within the 50' x 50'.

Councilman Keener seconded the motion.

Before the vote, Councilman Schmidlein asked about alternative sites.

Mr. Draper discussed the other suggested sites.

Mr. Wiley said in order for us to go out and bid for the tennis courts they will have to do some minor redesign on the landscaping to fit the artwork. He felt it was doable and that they could come in within the budget for the tennis courts. He didn't want to put in an irrigation system designed for open turf and then plop a piece of artwork in.

Councilman Keener asked if this was the committee's preferred location.

Ms. Wines answered it is because of the visibility of it.

Mr. Newman noted that parking is a premium around this neighborhood. Perhaps that dirt area could be utilized as parking space that could also serve as a four-day as exhibit space and car show utilization.

**Council voted on the motion.**

Councilwoman Simons wondered if we decide we aren't going to use that \$25,000 towards this project and they come up with another wonderful project next year, are we not allowed to give it to them. What happens to that \$25,000?

Ms. Stout answered that any money not used in the General Fund in any given year rolls into the ending fund balance and becomes usable in the following year. The money is specific to this project but council does have the latitude to redirect those funds to another project.

Councilman Keener thanked the committee members for their time and thought that went into this.

- E. Review, consideration, and possible authorization for the Arts and Culture Advisory Board to request \$10,000 from Elko County for the completion of the Sesquicentennial Sagebrush Sculpture and Time Capsule, and matters related thereto. **FOR POSSIBLE ACTION**

The Arts and Culture Advisory Board at their April 23, 2014 special meeting took action to request funds from Elko County for the completion of the Sesquicentennial Sagebrush Sculpture and Time Capsule, a project commemorating the Sesquicentennial of the State of Nevada. JD

Councilman Rice felt we should not go to the county yet.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to table this item.**

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

## **II. APPROPRIATIONS (Cont.)**

- E. Review, consideration, and possible authorization for the transfer of ownership of Elko Police Department's Canine *Django* to Detective Michael Marshowsky in exchange for the adoption fee of \$75.00, and matters related thereto. **FOR POSSIBLE ACTION**

Elko Police Dog *Django* is an 11 year old Belgian Malinois who is in need of retirement. It is in the best interest of the City of Elko to transfer ownership of a highly trained Police Dog to its current handler. Detective Michael Marshowsky desires to purchase *Django*. *Django's* selling price was determined by using the amount set for dog adoptions at the City of Elko Animal Shelter. BR

Ben Reed Jr., Police Chief, explained the police dogs are owned by the city and *Django* is getting old. It is time to retire him. The best option for them is to transfer ownership to the handler. The dog is under his care and direction. He is seeking permission to transfer surplus property with a reasonable fee.

Councilman Schmidlein asked would it be inappropriate if we waive this fee or reduce it to \$1. It is like the officer taking care of his own child. This dog is a part of Mike Marshowsky's life even though this is a police force K9. This is not setting precedence.

Dave Stanton, City Attorney, said we can't waive a fee.

Councilman Keener suggested they all chip in money and cover it.

Chief Reed said the Police Department management are trying to chip in for it too. He asked Mr. Stanton if they will still meet the intent of the code if they adjust the amount as opposed to free.

Mr. Stanton said this is considered personal property under the law. Legally it cannot be donated. In terms of reducing the purchase price, that can be done as long as it doesn't constitute a donation.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to authorize the Elko Police Department to transfer ownership of Canine *Django* to Detective Michael Marshowsky in exchange for an adoption fee of \$75.**

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

## **III. UNFINISHED BUSINESS**

- A. Review, consideration, and possible acceptance of a recommendation from the Golf Course Financial Advisory Committee to recognize former Ruby View Golf

Pro Rick Longhurst, as “Golf-Pro Emeritus” for Ruby View Golf Course, and matters related thereto. **FOR POSSIBLE ACTION**

During a series of recent GCFAC meetings the committee took action to forward a recommendation to the City Council to issue a life-long golf pass to Rick Longhurst for contributions made to Ruby View Golf Course. After a legal review and consideration by the Council on May 13, 2014, the matter was directed back to the GCFAC and Staff to explore a different option for the recognition of Mr. Longhurst. The committee met with Staff on May, 19 2014, and recommends honoring Mr. Longhurst with the title of “Golf-Pro Emeritus” for Ruby View Golf Course. JW

James Wiley, Parks and Recreation Director, explained they did look at minutes from a previous meeting that our attorney was at. An honorary title such as this was stated that it would be appropriate. Will Moschetti was present in the audience representing the committee.

**\*\* A motion was made by Councilman Keener, seconded by Councilwoman Simons, to accept the recommendation from the Golf Course Financial Advisory Committee with the recognition of the former golf pro, Rick Longhurst, bestowing upon him Golf Pro Emeritus for the Ruby View Golf Course.**

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

- B. Review, discussion, and possible approval of a first amendment to the 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 purpose of reimbursing the Seller for the relocation of power lines on the 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, and matters related thereto. **FOR POSSIBLE ACTION**

This item was tabled on May 13, 2014.

NV Energy and Parrado Partners, L.P. & Gloria E. Capps, as Trustee of the Gloria E. Capps Revocable Trust of 1989, as Amended January 25, 2011 intend to enter into a contract to relocate power lines on the above referenced parcel. The total contract amount is \$100,950, which includes \$75,648 in net relocation costs, \$24,896 in Federal Energy Regulatory Commission (FERC) Taxes, and \$406 in non-refundable deposits.

As the City has not yet purchased the above referenced parcel, it will be necessary to amend the original contract of purchase and sale, providing for a reimbursement to the Seller for relocating the power lines. The City prefers the relocation occur as soon as possible and is recommending the reimbursement be placed in escrow, pending the close of the sale. A copy of the proposed first amendment to the contract of purchase and sale has been included in the packet for review. CC

Curtis Calder, City Manager, passed out maps from NV Energy (Exhibit "A"). This would be a contract. The Purchase Agreement is between the City and Parrado Partners but it is relating to this line extension agreement between Parrado Partners and NV Energy. Moving these lines is optional. It had been determined that it would be preferred to have that easement removed from the center of the parcel. If the building is expanded in the future council will have to address this easement and relocate the power lines. The Line Extension Agreement is assignable to the city. Dave Stanton has been working with the developer on this. We requested some additional information from NV Energy but they have not been able to get that back to us regarding the third party beneficiary language in their contract with Parrado Partners. If they were not completed before the property close we could work around that issue in the beginning of the project. The risk here is NV Energy not being completed by the time we are ready to break ground. He recommended doing the relocation now rather than down the road sometime.

Councilman Keener asked if the subject parcel was under city ownership would the \$25,000 tax still be in play.

Mr. Calder said the city would still be obligated to pay that tax. That was not something that was anticipated. Local government is responsible for paying that tax.

Councilman Schmidlein asked when we were discussing this, the price was much lower. What happened to the price to move these previously? Are these lines going underground or overhead?

Mr. Calder answered these are overhead transmission lines. The underground portion will be our service line.

Councilman Schmidlein felt that with this being part of the redevelopment area, we need to follow the RDA guidelines and put these lines underground.

Councilman Rice noted it said "key segments" and not all segments need to be underground.

Mr. Calder said the developer has been working with NV Energy. We don't own the property yet. We are a third party in this. We haven't been involved in these conversations. The \$15,000 quote was something that the developer was trying to see if one power pole could be moved to get it out of the easement. NV Energy was open to looking at that and that is about what it costs to move one power pole.

Councilman Keener wanted to hear from the architect as to how important it is to have these lines moved.

Byron Smith, LCA, explained having the easement run through the middle of the site makes the arrangement of the site more difficult. They could still make it work. It will compromise the ability of the building to expand. It will require them to shift it on the site. Expansion opportunities will not be the same. It will also cause them to shift parking and access points. It will make it more difficult and possibly the site won't flow or function as well. They can still make it work. If you wanted to expand the building you would have to move the easement. It is

difficult working with NV Energy because every time he asks a question he gets a different answer.

Scott Wilkinson, Development Manager, said that Mr. Romero buried his power lines at his development voluntarily because he felt it would promote his development and make it more desirable. CAPPS had to provide a letter from NV Energy that approved the grading without raising the lines. It was his understanding that he wouldn't be required to raise the lines with the grading that has been done out there.

Kimberly Owen, NAI Alliance, said on the Romero property, he did volunteer to put those lines underground. Pertaining to his project, he set aside \$40,000 to move the lines. At the end it cost \$450,000 to do 500 linear feet. Dealing with NV Energy is very difficult. Their timelines can blow up any project. There is a lot of risk there. We are being asked to fund some improvements on a contract we are not even a party to. She was reading the amendment and felt it was unusual. Why isn't this cost being reimbursed at the closing? Why are we doing it right now? The contract reads that we will deposit \$100,950 that is immediately available, which means it will be released to the developer immediately.

Mr. Calder answered the reason money is being transferred to escrow and would not be reimbursed until closing is because the property is not in ownership of the city. Until the property closes and is in our ownership we would not reimburse for that improvement.

Ms. Owen explained that typically when you are buying property and it is supposed to be delivered to you improved, the developer will pay the costs up front and it is usually reimbursed at closing. Right now we are giving them the money, we are financing their improvements. The 9% interest; it isn't clear who is receiving the interest.

Mr. Calder said CAPPS is financing the initial improvements. Once the line extension agreement is signed and executed, CAPPS would deliver \$100,950. He is financing that at 9% per annum. When we close we would reimburse the \$100,950 plus whatever interest accrued in that time period.

Ms. Owen noted that is not what the amendment says. It says that money is released immediately.

Dave Stanton, City Attorney, said he has some problems with this amendment. It was presented to the City Council so they could consider it and discuss it. This is still a rough draft. There are a couple of problems with it. He thought some of the comments are directed to things we want changed and so far the seller doesn't want to agree to some of the proposed changes. He agreed that was how it was supposed to work and some of the language needs to be modified to reflect that. In executing this amendment, there is a third party contract that is out there and we would not have the ability to enforce it. We would have to rely on NV Energy to fulfill its commitment to the seller of the property. If there were a problem with that this amendment wouldn't give us the ability to enforce that.

Councilwoman Simons wasn't sure if moving the lines at this time is appropriate.

Councilman Keener said the risk is that if we do decide to move them down the line it will be very expensive. We are getting a reduced rate since the work is being done in conjunction with another project.

Mr. Calder said there are fewer complications doing the work now but maybe not a reduced rate.

Mr. Wilkinson discussed some of the conditions of creating a parcel.

Councilman Rice asked Jim Winer about the negotiations regarding this contract.

Jim Winer answered he is not representing Mr. Capps in the negotiation of this document. It is his understanding that this is an accommodation situation to help with the timing of construction for the city. He is trying to alleviate the time situation.

Audrey White, Elko, said she was stating observations from the taxpayers. What she hears, if you are going to sign a contract you need to understand it clearly before you sign. We are talking about \$6 million project. What worries her now is that she hears “compromise.” She is concerned about the quality of the project. One main thing about this site as she hears it, timing was so important to move this forward. She senses this could get messy.

Kimberly Owen said if the developers are coming forward and asking for \$100,000, in the development world, \$100,000 is not that much money. If they can’t move forward without a reimbursement she would be concerned about their ability to finance the entire project.

Councilman Rice thought they needed to move forward with the project. This is an accommodation. We are going to save money in the long run by moving this infrastructure now. That is in keeping with the work they are doing in the redevelopment area. There is some risk.

Councilman Keener asked if it is staff’s recommendation to move the power lines. (yes)

Mayor Johnson asked for the list of reasons.

Mr. Calder answered the site location is the main issue. They can’t bring design review to the council until they know where the building is going to be sited. This affects design and we feel that as the building expands that easement will become an issue for expansion.

Mayor Johnson would like to see the agreement be between NV Energy and the city. He wanted to leave the power lines where they are. He wanted more to justify the expense of moving the lines.

Councilman Rice thought we could leave it as it is but we would burden a future council. The building is designed to be expandable. We would have to move the power lines and dig up connections. Moving them now at this cost, even with the risk, is better for the city in the long run.

Councilman Keener said this is a tough vote. He supported moving the lines.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the first amendment to the Contract of Purchase and Sale between the City of Elko and Parrado Partners LP and Gloria E. Capps as Trustee of the Gloria E. Capps Revocable Trust of 1989.**

*The motion failed. (2-3 Mayor Johnson, Councilwoman Simons and Councilman Schmidlein voted no.)*

After the motion and before the vote, Councilman Keener said he would second the motion with an amendment, **“with an amount not to exceed \$100,950.”**

Councilman Rice agreed to let his motion reflect that.

Tony Still, 2265 Industrial Way, thought we are trying to make a silk purse out of a sow’s ear. The city has really nice available property to build this. This is a rough draft according to the attorney. You guys have made your decision and it isn’t what the taxpayers want. There are going to be cost over-runs everywhere.

Dave Stanton said there are changes he would like see made to the amendment.

Councilman Rice added to the motion, **“upon the City Attorney review.”** In the past we have given similar direction for fine tuning to a document. He wanted his motion to reflect that the attorney be given that opportunity.

Dave Stanton thought the direction needed to be more specific. The two parts of the agreement that he had issue with are: 1) the circumstances under which the money comes back to us; and, 2) the issue of enforceability of the contract between Parrado Partners and NV Energy.

Councilman Rice said those seem to be reasonable additions to the agreement. They have to be accepted by Mr. Capps. He added to his motion **to give direction to Dave Stanton to modify the draft to address the two points that he made which have to do with what happens to the dollars if we decide not to buy and then the other modification in regards to the enforceability of the contract between Parrado and NV Energy.**

Mr. Stanton added that last point would require some action on the part of NV Energy as well. They would have to agree to modify the existing agreement with Parrado Partners in order for that to become effective.

John Carpenter said you don’t seem to have any feelings to the taxpayers and their money. He doesn’t see a benefit to the taxpayers.

Shanell Owen asked if the second to the amendments still stood.

Councilman Keener approved the amendments to the motion.

**Council voted on the motion.**

## VII. 6:00 P.M. PUBLIC HEARINGS

- A. Second reading, public hearing, and possible adoption of Ordinance No. 781, an ordinance amending Title 3, Chapter 2, Section 3 of the Elko City Code entitled "General Provisions" hereby adding camping and campgrounds to the list of temporary uses permitted in LI (Light Industrial) and GI (General Industrial) Zoning Districts subject to public hearing notice, filed and processed as Zoning Ordinance Amendment No. 1-14, and matters related thereto. **FOR POSSIBLE ACTION**

Council recently identified and designated a City-owned parcel for the purposes of allowing overnight camping, to include use by homeless individuals and families, and directed staff to propose code amendments that would enable such use. Staff feels the appropriate methodology to allow camping is via the temporary use permit process within the Industrial Zoning Districts subject to public hearing notice. This gives the City the most flexibility in addressing the needs of the community, and is in keeping with the current action that the Council took in establishing a methodology for enabling Temporary Emergency Shelter provisions. The temporary use permit process allows the City to impose conditions such as time frame, location, nature and character of the use and extent of on site improvements.

Council took action to initiate a zoning ordinance amendment at its April 8, 2014 meeting. The Planning Commission reviewed the proposed amendment on May 6, 2014 and took action to forward a recommendation to Council to adopt an ordinance which approves the zoning ordinance amendment with some very specific recommendations. Council accepted two of the Planning Commission's recommended changes during the first reading of the ordinance on May 13, 2014. All changes are reflected in the ordinance in the packet. RM

Rick Magness, City Planner, explained there were a couple of changes in the first reading to now.

Delmo Andreozzi, Assistant City Manager, said he heard from a constituent with some concerns that the city will be in competition with RV parks. This will be specifically for other types of camping and they do not want to compete with an RV park.

Councilman Schmidlein said when vehicles are mentioned he wanted to make sure it stated motorized vehicles. He doesn't want any motorized vehicles allowed.

Mr. Andreozzi said the ordinance as presented says, "Overnight sleeping activities or making preparations to sleep overnight outside of motor vehicle, recreation vehicle or trailer."

John Carpenter said he is concerned about the way this is written. There is no definition of temporary use. What are you trying to do here? If it is for a homeless shelter it says engage in camping for a limited period of time that may or may not have toilets, showers or other amenities. If you are going to have homeless there they will need these amenities. He just

doesn't understand. It looks like you could start an RV park with nothing. State law doesn't allow that.

Mr. Andreozzi offered to address some of that. We envisioned this being an interim measure to address where we are at in dealing with camping on public or private spaces now and to where there is a homeless shelter. That means we need to use a temporary use process. In this case we increased the requirements to include notification and public hearing. This parcel wasn't designed for a shelter.

Dave Stanton, City Attorney, said these changes were meant to reflect changes in land use. They were intended to create an area in the city that is zoned in such a way that it can be used for places to put homeless. That is the activity that has been contemplated. It was written so it would allow that type of use in an LI or GI districts. This allows camping with a TUP but it says camping does not include using a motor vehicle, recreational vehicle or trailer as a long-term shelter for living accommodation purposes or for the purpose of storage of belongings.

Bill Hance, 724 5<sup>th</sup> Street, asked about Section 5A under Temporary Uses, Section A says "Temporary emergency shelters are defined only to be in C, LI and GI zoning. How would this affect if we had a natural disaster and the Red Cross wanted to use one of the schools or the public buildings as a temporary emergency shelter under the wording that you have in that section?"

Mr. Andreozzi said that part of the code is not being changed at this time. This is a provision that was added last year.

Councilman Schmidlein said he has read this over and over and has heartburn over 5C. We are trying to clean up how people are using public property. To allow people to not have toilets will be a problem. We are moving something from point A to point B. He didn't feel that leaving toilets in there is appropriate. We discussed having a designated area and providing blue rooms but what are we gaining here?

Councilman Keener didn't think there would be any support for any homeless shelter that didn't include any sanitary facilities. We talked about those being provided and FISH being the manager of the site.

Dave Stanton noted if a non-profit were to operate a campground on that property they would have an agreement with the city. That could be one of the conditions in the agreement.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to conduct Second Reading and Public Hearing and adopt Ordinance No. 781.**

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

- B. Review, consideration, and possible action to conditionally approve Preliminary Plat No. 3-14, filed by Bailey & Associates LLC, for the development of a subdivision entitled Cedar Estates Phases 2 and 3 involving the proposed division of approximately 14.51 acres of property into 65 lots for residential development within an RMH-3 (Residential Manufactured Home Subdivision) Zoning District,

and matters related thereto, located generally north of Pinion Road approximately 85 feet east of Primrose Lane (APN 001-926-063), and matters related thereto.  
**FOR POSSIBLE ACTION**

The Planning Commission considered this preliminary plat on May 6, 2014 and took action to forward a recommendation to Council to conditionally approve Preliminary Plat No. 3-14.

Scott Wilkinson, Development Manager, explained this is an RMH district. Any RMH development is also governed under Section 3.5 in our code and requires a CUP. Mr. Bailey filed for the CUP. He offered some background information and explained each of the conditions and recommendations.

Councilman Schmidlein asked about the road going to 50 feet from 60 feet. Will there be stipulations on parking?

Mr. Wilkinson answered they are still required to provide two off-street parking for each structure. That is consistent with all of the other residential zones. The street width is consistent with our residential street and consistent with the use.

Councilman Keener asked about cement plant there. Will it impact the residents much?

Mr. Wilkinson answered there will probably be some impact. They looked under that conditional use permit to see if there was any type of mitigation that you might take a look at. The problem is that if you consider landscaping, there is no homeowner's association proposed so the long-term maintenance of that infrastructure probably won't happen. There is some elevation between the cement plant and the development. In some places it may be as much as twelve feet. Some screen fencing along the property line would not be effective. Landscaping with some trees may mitigate some of that sound.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to conditionally approve of Preliminary Plat No. 3-14 and cite the 15 conditions published in Mr. Wilkinson's Development Department Memo dated April 29, 2014.**

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

After the motion and before the second and the vote, Mr. Wilkinson said if you look at the Planning Commission Action Report they have additional conditions from other departments. If we could do a conditional approval based on the Planning Commission Action Report for Preliminary Plat 3-14.

Councilman Keener amended his motion **to include the recommendations in the Planning Commission's memo dated May 6, 2014.**

Councilman Rice seconded the motion.

**Council voted on the motion.**

#### IV. NEW BUSINESS

- B. Review, consideration, and possible approval of Revocable Permit No. 2-14, filed by GFL Properties LLC, to occupy portions of the 4<sup>th</sup> Street and Court Street rights-of-way to accommodate on-street parking, located generally on the west side of 4<sup>th</sup> Street and the south side of Court Street near 459 4<sup>th</sup> Street, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission reviewed this item on May 6, 2014 in conjunction with a conditional use permit allowing three residential units above an existing commercial business. One of the conditions of approval for the conditional use permit was approval of a revocable license agreement for the required parking to remain on 4<sup>th</sup> Street for the existing business, and for the addition of on-street parking along the south side of Court Street approximately 125 feet west of 4<sup>th</sup> Street. The Planning Commission took action to forward a recommendation to City Council to conditionally approve Revocable Permit No. 2-14 with one of the conditions being the applicant improves the proposed parking area on Court Street. RM

Scott Wilkinson, Development Manager, explained this property is developed to the property lines. They are proposing a mixed use. The top floor would be residential and the bottom floor would remain commercial use. The parking is very limited. They are proposing the residential parking would be developed on Court Street. They want the revocable permit to include the parking in front of their building on 4<sup>th</sup> Street.

Councilman Rice said that is an improvement that they will make but we are not giving up the right-of-way.

Mr. Wilkinson answered we don't give up the right-of-way; they have the revocable permit to use the right-of-way.

Councilman Rice felt this is a great project. Who owns that parking lot at 4<sup>th</sup> and Idaho?

Kimberly Owen, NAI Alliance, answered it is Wells Fargo.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve Revocable Permit No. 2-14 subject to execution of a standard license agreement between the applicant and the City of Elko.**

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

- C. Review, consideration, and possible direction to Staff for the development of a Memorandum of Understanding (MOU) and Consent Agreement between the City of Elko and the Elko Convention and Visitors Authority for shared use parking in the civic center area including City Hall, the Convention Center and surrounding park areas, and matters related thereto. **FOR POSSIBLE ACTION**

The Convention Center is considering an expansion of the facility and has evaluated the existing parking availability, the parking requirements for the

existing facility as stipulated in city code and the total parking requirements for the proposed expansion of facilities. The existing facility is under parked. Inclusion of a parking facility addressing the total parking requirement or providing partial parking is not financially feasible. Section 3-2-17(E) of city code states *“By securing the consent to use off street parking facilities under another's ownership which are not otherwise used during the principal operating hours of the building or use in question; provided, however, that such consent shall be in written form and a copy shall be filed with the building inspector.”* The City of Elko may consider entering into a consent agreement with the Authority under this provision of code. Staff would identify areas of parking that are in conformance with code and present a draft document with the appropriate exhibits to the Council for a final approval. SW

Mr. Wilkinson explained we want to maintain this park and civic center area of our community. The existing facility is already under parked. Our code requirements are pretty restrictive. Council could direct staff to work towards working out a Memorandum of Understanding (MOU) and a consent agreement. We can identify areas and bring that back to council for consideration.

Don Newman, ECVA, said they are looking to expand the facility. They own the big dirt lot adjacent to the building. They don't know exactly where they are at and they are trying to do their due diligence to see if they can afford to build this. They would like to work with the city to possibly pave the lot behind City Hall to add more parking.

Byron Smith, LCA, offered to go over the design or answer questions.

Councilman Schmidlein asked Mr. Newman, regarding parking, is there any possibility to push the mine expo so it does not conflict with the school. Last year there was a problem at Flagview School where the mine people were taking up parking up there.

Don Newman answered if we push it back a week then we fall into the dates of the Motorcycle Jamboree. Another big problem is hotel rooms. On the Friday of the expo we also have graduation. A lot of the vendors check out on Friday and rooms become available for graduation. There has been talk of moving the NDOT facility sometime down the road.

Councilman Rice is the liaison and they have been discussing parking at nearly every meeting. There are practical solutions available.

Councilman Schmidlein asked how many spaces could be accommodated behind the engineering building. With the building expansion, how many spaces are you proposing with your new expansion?

Don Newman answered they are proposing twelve handicapped spots on Moren Way. The building would have a drop off half circle at the front. It doesn't give us a lot. At the back of the building would have a loading dock and an egress for deliveries. You don't want to put the general public back there. It's going to be pretty creative.

Councilwoman Simons thought this was a good idea because it seemed silly to put in a lot of parking spaces that you are hardly ever going to use.

Councilman Keener asked if the city did enter into an agreement, would that hamper the city's efforts to do an expansion here at city hall.

Mr. Wilkinson said they could put some time limits as to how long they could use our facility to park. That preserves that property but allows them to use it in the meantime. There is the desirability to get NDOT out of the middle of Elko and maybe be able to expand these facilities into those areas. It will not be a permanent solution.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to direct staff to develop a Memorandum of Understanding and Consent Agreement between the City of Elko and the Elko Convention and Visitors Authority for shared use parking in the Civic Center area including City Hall, Convention Center and surrounding park parking areas for further consideration by the council.**

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

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

- A. Ratification of the Police Chief issuing a 30-day temporary retail liquor license and issue a regular retail liquor license to Samuel Horvitz, dba Silver Dollar, located at 400 Commercial Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Ben Reed Jr., Police Chief, explained the Silver Dollar Club has been in existence for a long time. Mr. Sam Horvitz has been working there as a bartender for a number of years. He is the new proprietor leasing the facility. They have no issues of recent.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to ratify a 30-day temporary retail liquor license and issue a regular retail liquor license to Samuel Horvitz, dba Silver Dollar, located at 400 Commercial Street, Elko, NV 89801.**

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

- B. Review for possible approval or denial of a House of Prostitution License Application and Retail Liquor License made by Kathleen Ornelas dba Desert Rose, and matters related thereto. **FOR POSSIBLE ACTION**

A comprehensive background investigation was conducted by Elko Police Detectives regarding the Applicant. Ms. Ornelas has met the requirements relating to City Code 4-9-7. The Police Chief has reviewed the investigation and recommends approval of a House of Prostitution License, and Retail Liquor License. BR

Chief Reed explained there are five houses of prostitution in the city. Two have been vacant for a number of years. This proposal is to open one of the previous ones at 357 Douglas Street. The

applicant had to undergo a comprehensive investigation. He didn't find anything that would keep him from recommending approval.

Councilman Rice brought up an instance from five years ago where a prostitute was denied a work permit. She appealed the decision and was unable to speak English. The houses are highly regulated. He gets concerned when prostitutes go for their weekly check-in with the Police Department and they may not be able to speak for themselves. They are represented by their managers who have a stake in their work. His concern lies in that human trafficking is a real problem, especially in the sex industry. He wants to make sure everyone's rights are protected as much as they can be.

Kathleen Ornelas, 5208 Cory Road, Lake Almanore, California, said she has had the same concerns. In checking into this industry she had a lot of questions about 1) the morality issue, and, 2) that this is truly a free-will industry in this town. In her research she had the same concern about non-English speaking employees. She would not hire anyone that is non-English speaking because she wants people to be able to speak for themselves.

Chief Reed added that staff spent some time going over code and what everyone expects.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to approve the House of Prostitution license application and retail liquor license made by Kathleen Ornelas, dba Desert Rose.**

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

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

- A. Review, consideration and possible approval for Staff to solicit Request for Qualifications (RFQ's) from qualified engineering firms to perform Professional Engineering Services related to the design of the Cedar Street Reconstruction Project, and matters related thereto. **FOR POSSIBLE ACTION**

This item was approved as part of the Street Inventory List, and the 2014 Street Capital Construction Project Priority List at the April 22, 2014 meeting. Due to the size of the project, Staff feels it is appropriate to solicit Request for Qualifications. DS

Dennis Strickland, Public Works Director, explained due to the size and scope of the project staff didn't want to just select a firm. They did allocate some points for local design teams.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to approve staff to solicit Requests for Qualifications for Professional Engineering Services related to the design of the Cedar Street Construction Project.**

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

- F. Review, consideration, and possible authorization for Staff to advertise for one vacant position on the Parks and Recreation Advisory Board, and matters related thereto. **FOR POSSIBLE ACTION**

The Parks and Recreation Advisory Board currently has a vacancy with the term set to expire on June 30, 2015. By-Laws state, vacancies occurring other than through the expiration of the term shall be filled for the remaining duration of the term. Staff would like to advertise for the vacant position. JW

James Wiley, Parks and Recreation Director, explained a board member moved away due to employment. The position is vacant. There is one year remaining on that term.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to authorize staff to advertise for a vacant position on the Parks and Recreation Advisory Board for a term expiring June 30, 2015.**

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

## **V. RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance No. 782, an ordinance amending Title 5, Chapter 2 OF THE ELKO CITY CODE BY THEREIN CONSOLIDATING OFFENSES RELATING TO PUBLIC PEACE WITH PROVISIONS CONTAINED IN EXISTING TITLE 5, CHAPTER 9 ENTITLED "VAGRANCY, " BY RENAMING THE CHAPTER "OFFENSES AGAINST PUBLIC PEACE," AND MATTERS RELATED THERETO, and to direct Staff to set the matter for public hearing, second reading and possible adoption, and matters related thereto. **FOR POSSIBLE ACTION**

The City has been studying possible measures to improve public health, safety and welfare by amending Code Sections contained in Title 5 relative to conduct on and use of public and private property within the City, to include overnight camping without permission and various types of conduct that constitute offenses against the public peace. On November 13, 2012, Council received an overview of the relevant Code sections, together with recommended amendments, in an effort to further explore the effectiveness of the Code as it is presently written.

Subsequent to that initial presentation, Staff coordinated three public meetings in an effort to cooperate with various stakeholders and advocates in the development of proposed amendments. The feedback from those meetings was used to further refine the proposed amendments.

The Council may consider the proposed amendments as presented or provide additional guidance based upon the Council's desire together with any public testimony, in order to more effectively refine the code. DA

Delmo Andreozzi explained there are three ordinances here relating to the vagrancy code. We have been reviewing this for about a year and a half. He is pretty certain that we would need to do all three ordinances concurrently. Based on the last time council saw this there hasn't been a whole lot of change but they did have to make some changes. We took the opportunity to address noise and excessive vibrations. In our previous code there was very little we could do to

deal with complaints in that area. We have provided some language in this first reading for council consideration. We didn't feel we went overboard. Elko doesn't have a lot of ability to have good transitional zones from more intense uses to residential uses. If we proceed with this as it is written, this could have an impact on the businesses near the preliminary plat we looked at earlier. He pointed out the excessive noise section (5.2.4); there is a section that was stricken that had to do with noise emanating from a car stereo or a boom box. They also added a provision for two hours of vehicle idling.

Scott Wilkinson added for clarity the time constrictions are for private construction. He wouldn't expect a business to fall under this. The issue with Vega operating their business is not private construction.

Mr. Andreozzi said it may need some more clarification for that.

Dave Stanton, City Attorney, said this would restrict a business that makes excessive noise in a residential district unless it falls under an exemption.

Mr. Wilkinson said thought a downtown business that operates next to a residential district could be restricted under this ordinance.

Councilman Schmidlein said the Ready-mix place where they just approved a plot plan, if we approved this, we would have to give them an exemption. Two hours of idling is too long in his opinion. He thought 30 minutes should be the max.

Mr. Stanton asked what about in terms of Mr. Wilkinson's point about businesses near residential areas; what about an exemption No. 8 that says noise from a lawful business activity is an exemption? That would include all the activities that were talked about.

Mr. Wilkinson thought that was an approach. They do get complaints for construction activities. He thought they were trying to address those issues with construction activities that are not appropriate and not constrict the lawful business activities.

Mr. Stanton suggested noise from a lawful business activity, not to include private construction activities.

Mr. Andreozzi added for clarification that private construction is covered under C because it says it shall be unlawful for any person or persons to engage in private construction activities between the hours of 10:00 pm and 6:00 am without the prior written approval by the City of Elko.

Mr. Stanton said he wanted to carve out an exemption for lawful business activities because arguably a private construction activity could be that. He noted a typo in Section D. He restated his addition to the ordinance: Under A there would be a new No. 8, Noise from a lawful business activity (except for private construction activities). He also heard a comment about reducing the idling time from 2 hours to 30 minutes.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to conduct the First Reading of Ordinance No. 782 with the amendments as stated by our attorney, David Stanton, having to do with noise from a lawful business activity except for**

private construction, and also Councilman Schmidlein's suggestion of reducing the idling time to 30 minutes and correct the typo on 5.2.4.D by striking the letter D and starting the sentence with Four.

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

- B. First reading of Ordinance No. 783, an ordinance amending Title 5, Chapter 12 ENTITLED "RESTRICTIONS FOR BUSINESS USE OF PUBLIC AND PRIVATE PLACES OR LANDS" BY RENAMING THE CHAPTER "RESTRICTIONS ON USE OF PUBLIC PROPERTY," ADDING PROVISIONS RELATING TO CAMPING ON PUBLIC PROPERTY, AND MATTERS RELATED THERETO, and to direct staff to set the matter for public hearing, second reading and possible adoption, and matters related thereto. **FOR POSSIBLE ACTION**

The City has been studying possible measures to improve public health, safety and welfare by amending Code Sections contained in Title 5 relative to conduct on and use of public and private property within the City, to include overnight camping without permission and various types of conduct that constitute offenses against the public peace. On November 13, 2012, Council received an overview of the relevant Code sections, together with recommended amendments, in an effort to further explore the effectiveness of the Code as it is presently written.

Subsequent to that initial presentation, Staff coordinated three public meetings in an effort to cooperate with various stakeholders and advocates in the development of proposed amendments. The feedback from those meetings was used to further refine the proposed amendments.

The Council may consider the proposed amendments as presented or provide additional guidance based upon the Council's desire together with any public testimony, in order to more effectively refine the code. DA

Delmo Andreozzi explained this one is more specific to the camping on the public property. It is a good companion ordinance to the previous one. It is specific to public property and gets into other issues specific to camping.

Councilman Schmidlein brought up Section 3; he does a lot of camping all over the west. He has some issue with the use of portable charcoal. We are allowing portable charcoal? He has seen a lot of fires start when you get a tiny breeze. Gas BBQ's do not start fires for the most part. He felt that allowing camping in sagebrush areas will create fires.

Mr. Andreozzi said this is a companion ordinance. This envisions that the city would approve that use in those particular areas.

Councilman Schmidlein said in Section 5-12-3 you discuss it shall be unlawful for any business to conduct business within any city owned park and/or adjoining right-of-way, including but not exclusively streets, curbs, gutters and parks. Right-of-ways are also considered sidewalk or not?

Mr. Andreozzi answered in most cases it is but this is not changing. It is already in code.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to conduct First Reading of Ordinance No. 783 and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

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

- C. First reading of Ordinance No. 784, an ordinance amending Title 5, Chapter 9 THE ELKO CITY CODE ENTITLED “VAGRANCY” BY RENAMING THE CHAPTER “MISCELLANEOUS OFFENSES,” REMOVING PROVISIONS RELATING TO VAGRANCY, and to direct staff to set the matter for public hearing, second reading and possible adoption, and matters related thereto. **FOR POSSIBLE ACTION**

The City has been studying possible measures to improve public health, safety and welfare by amending Code Sections contained in Title 5 relative to conduct on and use of public and private property within the City, to include overnight camping without permission and various types of conduct that constitute offenses against the public peace. On November 13, 2012, Council received an overview of the relevant Code sections, together with recommended amendments, in an effort to further explore the effectiveness of the Code as it is presently written.

Subsequent to that initial presentation, Staff coordinated three public meetings in an effort to cooperate with various stakeholders and advocates in the development of proposed amendments. The feedback from those meetings was used to further refine the proposed amendments.

The Council may consider the proposed amendments as presented or provide additional guidance based upon the Council’s desire together with any public testimony, in order to more effectively refine the code. DA

Mr. Andreozzi explained this is in Chapter 9. This is where the heavy lifting has been done to modernize and update the code to make sure it is constitutional. In this ordinance we have a lot of language that was stricken through and removed.

Councilman Keener said obscene language has been removed. Is that a trend nationwide?

Councilman Rice said it was moved to an earlier section.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to conduct the First Reading of Ordinance No. 784 including any appropriate amendments and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

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

## **II. APPROPRIATIONS (Cont.)**

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

Councilman Keener asked about \$15,000 and change paid out to JBR Environmental Consultants.

Scott Wilkinson, Development Manager, answered there are two different contracts with them. We have applied for right-of-way through Section 18 for Cattle Drive. We had to engage JBR to go out and do cultural surveys and assist us in doing an environmental assessment. In addition to the storm water assistance, our environmental coordinator is out on sick leave. We are required to go out and monitor our outfalls periodically under various programs. We contracted with them to do that for us.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to approve the warrants that were submitted at the 5/27/14 meeting.**

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

## **VIII. REPORTS**

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works
- F. Airport Director
- G. City Attorney
- H. Fire Chief

*Matt Griego handed out a copy of the Fire Watch newsletter and reported on its contents (Exhibit "C").*

- I. Police Chief
- J. City Clerk

*Shanell Owen reported she assisted the County Clerk with programming election equipment last week. Early voting is underway at the Elko County Library.*

- K. City Planner

*Rick Magness invited everyone to an open house this Thursday, 5:30 to 7:30 pm, at Stockmens (second floor) for the Urban Overlay District downtown.*

- 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**

Judy Hire, 245 Ash Street, said they were watching on their computer before coming to the meeting. When the master plan was being developed, the Downtown Redevelopment Agency wanted to do artwork to greet visitors to the area. Why wasn't the Mountain City corridor considered?

Delmo Andreozzi answered we were awarded a grant which will include some art elements and landscaping. The rock retaining wall that has been there for a long time, it will have some etched artwork on it capturing different parts of our heritage.

Councilman Keener mentioned that when you see something like a bid protest, it is nice to be united and everyone be on the same page without controversy.

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