

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

SS August 27, 2013

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, August 27, 2013.

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  
Councilman Rich Perry  
Councilwoman Mandy Simons  
Councilman Robert Schmidlein

City Staff Present: Curtis Calder, City Manager  
Delmo Andreozzi, Assistant City Manager  
Ryan Limberg, Utilities Director  
Dawn Stout, Administrative Services Director  
Ben Mangeng, Information Systems Manager  
Shanell Owen, City Clerk  
Scott Wilkinson, Development Manager  
Matt Griego, Fire Chief  
Dennis Strickland, Public Works Director  
Fritz Sawyer, WRF Superintendent  
Jeremy Draper, Civil Engineer  
Doug Gailey, Human Resources Manager  
James Wiley, Parks and Recreation Director  
Rick Magness, City Planner  
Ted Schnoor, Building Official  
Don Zumwalt, Police Chief  
Mark Gibbs, Airport Director  
Dave Stanton, City Attorney  
Diann Byington, Recording Secretary

## **ROLL CALL**

## **PLEDGE OF ALLEGIANCE**

## COMMENTS BY THE GENERAL PUBLIC

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

Tony Still, 2265 Industrial Way, said his wallet was stolen out of his truck last Monday night. He did a Police report. The guy that stole it was caught within 24 hours. He is usually critical of the Police and spending but he thanked the Chief for their work.

### APPROVAL OF MINUTES:

August 13, 2013 Regular Session  
August 7, 2013 Special Session  
**FOR POSSIBLE ACTION**

*The minutes were approved by general consent.*

## II. PERSONNEL

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

The position description for Assistant City Manager has been revised and updated as a result of the Class/Comp Study and has been formatted as recommended by POOL/PACT. DG

Doug Gailey, Human Resources Manager, explained they are trying to wrap up part of the Classification and Compensation study. They went through the job description and made sure it accurately reflects what the Assistant City Manager is doing.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the position description presented effective August 27, 2013 for the Assistant City Manager.**

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

- B. Review, consideration, and possible approval of the revised position description for Water & Sewer Superintendent, and matters related thereto. **FOR POSSIBLE ACTION**

The position description for Water & Sewer Superintendent has been revised and updated as a result of the Class/Comp Study and has been formatted as recommended by POOL/PACT. DG

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the position description as presented effective August 27, 2013 for the Water and Sewer Superintendent.**

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

- C. Review, consideration, and possible approval of the revised position description for Deputy Fire Chief, and matters related thereto. **FOR POSSIBLE ACTION**

The position description for Deputy Fire Chief has been revised and updated as a result of the Class/Comp Study and has been formatted as recommended by POOL/PACT. DG

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the position description as presented for the Deputy Fire Chief effective August 27, 2013.**

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

### **I. PRESENTATIONS**

- A. Swearing in of newly promoted Captain James Riordan, Driver Operator II Jared Rader, and Driver Operator I Ryan Safford by Councilman Rich Perry.

Fire Chief Griego explained they are bringing forth three officers for promotion. He called the officers up to the front of the room and then he asked their families to step forward. The family members pinned the new badges on their uniforms.

Councilman Perry congratulated the promoted officers and administered the Fire Officers Pledge.

### **III. APPROPRIATIONS**

- B. Review, consideration, and possible approval for the Elko Police Department to sell a police K-9 "Duchess" to the Winnemucca Police Department for \$500.00, and matters related thereto. **FOR POSSIBLE ACTION**

The Elko Police Department currently has five (5) police K-9s. One of the Police K-9 handlers has resigned his position as a K-9 handler. There is no other police officer prepared or certified to become a K-9 handler and Duchess does not get along well with the other Elko Police K-9s. The Winnemucca Police Department is in need of a police K-9 and has an officer in training currently and is looking forward to an opportunity to train with Duchess to see if she will be a good fit for their department. DZ

Police Chief Zumwalt explained the handler resigned his position as a K-9 handler and the dog doesn't get along well with others. They need to do something with her because they couldn't

put her with another K-9 handler with other dogs. Winnemucca has a handler and they need a K-9 and they are doing a good job with their K-9 program. She will be put to good use there.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to recommend that the Elko Police Department sell their Police K-9 dog “Duchess” to the Winnemucca Police Department for \$500.00.**

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

- C. Review, consideration, discussion, and possible direction to Staff to apply for multiple grants as a funding source for the Elko Sports Complex, and matters related thereto. **FOR POSSIBLE ACTION**

MGB+A held public meetings to determine the goals and objectives of the City and residents and also conducted a survey. Based on the information gathered they have developed two concepts and budgets for consideration. City Staff is seeking authorization to apply for various Legacy grants available through Newmont Mining, Barrick Gold and the Pennington Foundation to use towards the development of the Elko Sports Complex. JD

Jeremy Draper, Civil Engineer, explained they are here to start their fund raising efforts. We contracted with MGB+A to provide us with some guidance on how to fund raise for this type of project to get this project done.

Jay Bollwinkel, MGB+A, gave a presentation explaining the project and the public input they have received. (Exhibit “A”)

Mayor Johnson asked for some history on site selection for this project.

Mr. Draper said some of that was done through the Master Plan process. We looked at some other options during that process and this was the location that came to the top. Some of the other sites were lacking services or were outside of town.

James Wiley, Parks and Recreation Director, said there is more history on this site. In researching the HARP River area project there were conceptual master plans, committees, councils and staff members that worked in this dating back to 1999 that did have some conceptual designation in it similar to this project. The Master Plan did agree that this was a good site for this project.

Councilman Rice asked if previous councils had looked at this as an area for park development. (Yes.)

Councilman Perry said when the Parks and Recreation component of the Master Plan was updated it had a mathematical model that showed what kind of facilities would be needed as the population grows.

Mr. Wiley answered they took a good look at the Master Plan and the information that was in there. They took a hard look at our current facilities in terms of sports complexes and then they compared that data to our growth models and national trends and determined that we are at capacity right now. In fact, we have to turn away some teams. We have had to cap the amount of teams that we can accommodate on our current infrastructure. In the Master Plan there is a table and a chart. It maps us out through 2020. We would be following that model with either one of the sports complex plans we choose.

Mayor Johnson asked about traffic signals.

Mr. Draper answered Errecart Blvd. is underutilized right now. That road can handle that but we will need a signal at Errecart Blvd. and Silver Street. We do have infrastructure in the ground right now. We did look at budgeting that for the next budget cycle.

Mayor Johnson asked about maintenance costs because of the wetlands area.

Mr. Draper answered we are almost doubling the parks system and they may need additional staff.

Mayor Johnson asked about insects.

Mr. Wiley answered that will be something that will have to be managed and it will cost. In the past we have handled abatement with aerial application. We aren't a small town anymore. Looking at other districts, they attack the larva and not the adult mosquitos. We will never completely control mosquitos. It will mean more staff time and possible contracting out.

Megan Brown, Congressman Mark Amodei's Office, asked the discussion with the whole FEMA issues, is this the discussion you were talking about helping your CRS rating?

Mr. Draper answered yes, this will actually help out with that CRS rating because it takes away from residential developments.

John Carpenter said this location presents some real problems. He questioned moving the wetlands. He felt a flood would wipe out that entire area. The mosquitos are going to be unreal. There is over 200 acres in Kittridge that should be looked at. He doesn't have a problem with building facilities because his kids used them. He doesn't think a bond for this will pass. He doesn't see a way to get this financed.

Mr. Bollwinkel explained in moving the wetlands they will actually be improving the quality of the wetlands. We are going to try to make a buffer area so that if the river area floods it will be easy clean up. You want parks in the flood plains. It costs less to clean them up. Any building will be out of the flood plain. He talked about mosquito abatement and a study that was done a couple of years ago along the Jordan River.

Councilman Schmidlein said he was concerned and not sold with the location. The City is in dire need of expanding the parks programs. He wanted a plan B area location for the facility.

Mayor Johnson asked about potential income or increases in revenue.

Mr. Wiley said there would be a component in the design that will look at this. Other communities have done this and found that the fields add millions of dollars back into the community annually. Carson City as an example earns (not just the city but the whole community) over \$10 million annually with tournaments. He offered other examples.

Mr. Bollwinkel said the Salt Lake County did a lot of research. They found that if they had 3 or 4 regional tournaments that would cover the costs for maintenance.

Councilman Perry noted we need more fields. But he thinks this facility is too much and too big. This needs to be driven by population. A phased approach makes more sense. He isn't opposed to raising money for this because that is the only way to get this going.

Councilman Rice agreed that it was a good location for this facility.

Councilwoman Simons said she has two issues. She is fine with the location. If we say we are going to have these tournaments then the residents in the area would be affected. She also has an issue with the funding. This may need to be done in phases.

Mr. Bollwinkel agreed that phasing is a good idea. We can leg in as we get money.

Councilman Rice said if we are directing staff to look at fundraising sources then we need to consider all of the questions that donors will have. Is this where we want to put this site? We need to act on that.

Councilman Schmidlein asked if we are going to go to a specific site tonight to proceed forward with funding, what are the lighting requirements going to be, and will we allow 24 hour sports activities. He wasn't prepared to be set with a specific area.

Councilman Perry asked what needs to be fixed before you go looking for grant money.

Mr. Bollwinkel answered they talked to a few of the people that could donate to this and they didn't ask about the lighting. They want to make sure that this is viable and sustainable. They want to make sure it will happen. They want some credibility with the process so they may get them excited about funding this project.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, that the council affirm the site selection for the Sports Complex and to direct staff to begin working with our consultant for the implementation, planning and fundraising process.**

*The motion was withdrawn.*

After the motion and before the withdrawal, Councilman Rice said he was intentionally leaving out direction in terms of Concept A or B because he felt that was part of the whole implementation plan.

Councilman Perry asked about a phase approach to the project.

Councilman Rice said the implementation will include phasing and a management plan.

Mayor Johnson wanted to see one more step taken and that is a public hearing advertised specifically to that.

Dave Stanton, City Attorney said we are seeking authorization in the agenda item. We are limited to that.

Councilman Rice withdrew his motion.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to direct staff to work with our consultant to begin the planning and the fundraising process for the Sports Complex and further move to bring this back to an agenda for public hearing/discussion of a site selection.**

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

After the motion and before the vote, Mayor Johnson asked would your plan require that city council see that presentation before it's put in front of the potential donors. (yes) Council isn't giving authorization to make contact with donors just yet. We want a couple of steps in between.

Councilman Perry agreed. We will meet again and vote on a site and then proceed with a presentation.

- D. Review, consideration, and possible final acceptance of the Public Works Department Preventive Maintenance Project 2013, and matters related thereto.  
**FOR POSSIBLE ACTION**

At the June 25, 2013 meeting, Council awarded the Preventive Maintenance Project 2013 to Sierra Nevada Construction, to place approximately 150,000.00 square yards of micro-pave, in the amount of \$182,007.00. Pursuant to the contract, the City of Elko had the option of increasing or decreasing the quantity. At this time, Sierra Nevada Construction has placed approximately 233,542.00 square yards of material at a cost of \$244,663.50. DS

Dennis Strickland explained we try to add areas every year when we have additional funding for preventative maintenance. The project turned out very nice. He recommended approval.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to approve final acceptance of the Public Works Department Preventive**

**Maintenance Project 2013 in the amount of \$244,663.50. The usual retention of 10% will be applied.**

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

- E. Review, consideration, and possible authorization to purchase a 2014 four-door sedan for the Administration Department and a 2014 one-ton pickup for the Public Works Department, utilizing the Nevada State Purchasing Program, and matters related thereto. **FOR POSSIBLE ACTION**

These items were budgeted for and approved in the Fiscal Year 2013-2014 Budget. DS

Dennis Strickland explained we found some vehicles that fit nicely for what we had budgeted. One of the old vehicles will be food-chained to the IT department and there will be two vehicles going to auction this year.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Perry, to authorize staff to purchase a 2014 4-door sedan for the Administration Department and a 2014 one-ton pickup for Public Works in an amount not to exceed \$20,000 for the sedan and \$35,000 for the pickup.**

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

- F. Review, consideration, and possible award of a contract for the West Idaho Street Project, and matters related thereto. **FOR POSSIBLE ACTION**

Authorization to bid the project was approved by City Council on July 23, 2013. Bids were received until 3:00 p.m. local time on August 21, 2013. DS

Councilman Schmidlein disclosed at the time the drawings were pulled he had ownership in Great Basin Engineering Contractors. They are not a contender in the bid results but he recused himself from the discussion and the room.

Dennis Strickland explained there were many departments involved in this. On the bid tab we have some notes they may help explain their thought process on this item.

Mayor Johnson asked if staff was recommending to award to the lowest bidder and then also accept deduct alternates.

Mr. Strickland said we would recommend that we award it to the lowest bidder minus all the additive alternates which would limit itself to the amount of \$371,049.67. Staff did visit with the affected property owners; Tricon and Franklin Lumber. Those companies may be inclined to participate with the contract and pay their share for the frontage. Hopefully there will be a resolution by the time we are ready to proceed. The scope of work will be: curb, gutter and sidewalk at some locations; some street lighting will be run for the entirety of the project; getting the area down where the treatment plant has their re-use hydrant; and, some drainage.

Mr. Draper said we will install missing sidewalk on Silver Street and NDOT will install an ADA ramp at the corner. We will do about 250 feet worth of improvements on Idaho Street west of Hot Springs Road for the fill stand that we have there.

Delmo Andreozzi, Assistant City Manager, had Jeremy put a color code drawing on the overhead. The map showed what was deducted. The pink is Gateway, the blue section is Tricon and the yellow is Franklin. Tricon isn't an old building but there doesn't seem to be any requirement for them to build curb, gutter and sidewalk. We have talked to the local office and they have been receptive to the idea of installing it but they need to run the request up their food-chain. Franklin was issued a temporary Certificate of Occupancy that said they needed to install the curb, gutter and sidewalk or get a deferral. There is no record of a deferral. The managers of Franklin are willing to partner in trying to address the missing infrastructure. We need to put in lighting and conduit and some other infrastructure. He asked that Council award the base bid and have staff work with the property owners and see if we can come up with something to bring back to City Council for further consideration.

Mr. Strickland said this would have to come back before council before the Notice to Proceed is issued to and figure out, however those negotiations pan out, to put in curb and gutter before paving takes place in the Spring.

Mr. Andreozzi said that City Staff has no authority to expend money on a private obligation. We are in a tough spot. We did evaluate the sidewalk at Gateway. They have some sidewalk on the front side of the building for a majority of their parcel however, that sidewalk is not in the public right-of-way. There will be improved lighting and drainage. Sidewalk provides pedestrian access but it also controls access and drainage.

Councilwoman Simons thought it would be great if all the businesses would participate.

Mr. Andreozzi said this is a prevailing wage job but the property owners will benefit because the city will pay for the demobilization and other portions of the project. In other areas of the city there were projects for curb, gutter and sidewalk that were not prevailing wage and cost more per lineal foot than this project. The frontage property owners will be paying for their proportionate share as depicted on this actual bid.

Mayor Johnson asked what will make the project move forward. Will this get the contract awarded and the project underway?

Mr. Draper said the base bid awards the entire project.

Mr. Andreozzi said to follow the recommended motion. We need to have that infrastructure in and hopefully we have some cooperation. If not we will figure out how to cross that bridge.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to award the bid to Q & D Construction in the amount of \$533,330.00 less the deductive alternates so that the bid award is \$371,049.67 and then direct staff to contact each business with the missing infrastructure with an offer to allow each business to pay their proportionate share**

**as depicted in the bidding documents for each respective frontage and to bring that back to Council for further consideration.**

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

After the motion and before the vote, John Carpenter said there are some property owners that hadn't seen the plans until yesterday. He was looking at the plans in front of Gateway and he can't tell where the sidewalk was going to be. This is going to affect these people for many years. He felt this is going to need more discussion.

Susan Thornburg, 1377 West Idaho, asked are the pedestrians going to be walking behind the cars. (Yes) These other places, are people walking behind the cars?

Mr. Andreozzi said that is not an ideal situation but you make the best with what you have to work with.

John Ellison said he was worried about losing parking in front of a business. He wants to be involved in the process.

Mr. Andreozzi said sometimes we look at what type of utilization we have. We have a moral obligation from the Federal Government to address ADA accessibility in this urban environment. We aren't trying to pick on anybody.

Mr. Strickland agreed that ADA has to be addressed. The Federal Government requires us to do that. These are leased properties but these are businesses that have leased the properties to provide a heck of a business for themselves. Because they are on leased property making money on our community, should they be relieved of these obligations? He didn't believe so.

Mayor Johnson wanted to reopen the item for public discussion.

Ms. Thornburg said they are fine with it. Close the discussion and go forward.

**Council voted on the motion.**

- G. Review, consideration, and possible authorization of a change order to the Idaho Street Landscaping, Irrigation, Electrical and Maintenance Project, and matters related thereto. **FOR POSSIBLE ACTION**

At the July 18, 2013 Redevelopment Advisory Council (RAC) meeting, a motion was made to ask Council to purchase missing tree grates as part of the Idaho Street Landscaping, Irrigation, Electrical and Maintenance Project. Staff has asked the contractor, MKD Construction, to provide a price for the installation of the missing tree grates. JD

Jeremy Draper, Civil Engineer, explained this was discussed at the RDA and it was approved. We are asking the city to purchase the missing grates. They counted ten missing.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Perry, to authorize a change order to the Idaho Street Landscaping, Irrigation, Electrical and Maintenance Project in the amount of \$12,691.62.**

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

- H. Review, consideration, and possible approval of a change order to authorize the widening of the STM Aerotor Basin Exterior Walkways, and matters related thereto. **FOR POSSIBLE ACTION**

The exterior concrete walkways on top of the STM aerator basin are too narrow and do not meet electrical code. Several options were evaluated. The project team determined the best economical option was to widen the walkways. Information regarding this change order is included in your packet for review. FPS

Fritz Sawyer, WRF Superintendent, explained this has been under evaluation since April. The issue is the clearance between the control panel and the handrails. The engineer staff's recommendation is to widen the walkway now. He recommended approval.

Councilman Schmidlein asked what the voltage is. Under 600 volts you don't need that clearance.

Mr. Sawyer answered if you are under the 600 volts you can be under the 42 inches. We are over that.

Councilman Schmidlein asked what the quantity of concrete you are looking at is.

Mr. Sawyer said he doesn't know exactly. Someone mentioned 10 yards.

Councilman Schmidlein had heartburn over this price tag. Why is this at \$52 thousand? He felt the city may be getting smoked.

Ryan Limberg said on the KG Walters correspondence there was a breakdown on all the work that will be needed. There is preparation work and a list of other work. There is also a depiction in the packet showing the 12 inch extension.

Councilman Schmidlein said the rebar price you have is great, the electrical price is great. He wanted to narrow down the price of the concrete. He feels the price tag is very high priced concrete.

Councilman Perry asked what you would propose they do.

Councilman Schmidlein answered they can't stop production. There have been issues going back and forth between contractor and city. He wished he could get a square footage of the area they are doing.

Mr. Limberg said Fritz, himself and the project manager have debated quite a while to get to this price. There was a lot of discussion involved in that. They did everything in their power to try to minimize those costs and try to find a less costly option that would work.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the walkway extension change order in the amount of \$52,098.00.**

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

- I. Review, consideration, and possible approval for the Fire Department to accept the donation of 20 fire extinguishers from Silver State Fire, and matters related thereto. **FOR POSSIBLE ACTION**

Silver State Fire has graciously donated 20 fire extinguishers with a collective value of \$1,958.00 for the Fire Department to use as needed. The fire extinguishers could be used to meet the needs of citizens that cannot afford one, or to raise funds for the Fire Prevention Program that supplies smoke and carbon monoxide detectors to citizens in need. MG

Chief Griego explained Silver State Fire wished to donate these fire extinguishers to the Fire Department to use as we see fit.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the Fire Department accepting a donation of 20 fire extinguishers from Silver State Fire.**

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

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

- A. Review and possible acceptance of a Summary Appraisal Report of 12.21± Acres of Vacant City Property (A.P.N. 001-660-105) Located at the Southwesterly Quadrant of Mountain City Highway and Interstate 80 and subsequent determination of the fair market value and market rent of the above referenced real property, and matters related thereto. **FOR POSSIBLE ACTION**

On June 11, 2013, the Elko City Council approved a Letter of Intent (LOI) from NAI Alliance, on behalf of Meridian Pacific, Ltd., based upon a pending Summary Appraisal Update.

NRS 268.059 allows municipalities to sell or lease property using one independent appraisal if the governing body holds a public hearing to determine the fair market value. Once the fair market value has been determined, the City of Elko can proceed with the lease of property in accordance with NRS 268.061 – 268.062 (public auction) or in accordance with NRS 268.063 (economic development).

A copy of the above referenced Summary Appraisal Report has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained this item is linked to another item in the agenda under Resolutions. This needs to happen before we visit the resolution anyway. There is a copy of the appraisal in the packet. Staff is recommending that you determine the fair market value is the same value as listed in the summary appraisal report which is \$55,000.00 per year on the lease basis. (Exhibit "C")

John Carpenter asked are you talking about the appraisal amounts. (Yes) He doesn't understand how the appraiser is coming up with that figure. He didn't use the lowest price per acre he found for any of these properties. He talked about price per acre on several properties. The appraiser didn't use other acreage around town. That land has a lot of possibilities. If he was younger he would take this price. It's way too low. There is supposed to have some kind of an ordinance where you rotate your appraiser.

Mr. Calder said the appraiser appraised it for a purchase price but this property cannot be purchased. The FAA will only allow it to be leased. The purchase price was converted into market rent. If these items will be approved this evening we will negotiate a lease for 50 years with escalators built in over time. This will be similar to the Aspen Partners lease. Some of our leases have market escalator each year or two. Over the life of the property, it will cash flow more money than the purchase price. The Aspen lease was in the neighborhood of 4.5 acres and significantly less square footage than this property. The Aspen parcel was the best out of all of that frontage property. This property has lots of encumbrances. As it sits today, about 9.7 acres is usable. It has a number of challenges. This appraisal is an update to a previous appraisal done almost a year ago. The value did not change. We do rotate the appraisers when they are willing to come out here. We are limited as to who can do the appraisals. We have to use a general appraiser per NRS and there is nobody in the Elko area doing that type of work right now.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to accept the summary appraisal report for 12.21 acres of vacant property identified as APN: 001-660-105 located at the Southwesterly Quadrant of Mountain City Highway and Interstate 80 and confirm the fair market value and fair market rent at \$55,000.00 per year.**

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

After the motion and before the vote, Councilman Schmidtlein asked would it be unrealistic to get a second opinion on that appraisal. It's off the beaten path and you will have to do some improvements in order to build but you are doubling the size of the property and lowering the price tag.

Mr. Calder answered if council does not accept the appraisal then we can get a second appraisal on the property.

Councilwoman Simons asked what the cost to get an appraisal is.

Mr. Calder answered the update on this was less expensive than a full appraisal but he thought it would be in the neighborhood of \$2,500 to \$3,000 per appraisal.

John Carpenter said the resolution was before the hearing in the agenda. His concern about doing this way is that nobody else knows anything about what is going on here. The paper didn't put this in the paper this way. There may be other people out there that may be willing to give you more money for this. One person is the only thing that knows anything about this. That is not how this should be handled.

Mr. Calder said if you recall back in June, City Council was presented with a letter of intent. We only had the one letter at the time. NAI was selected to actively market the property. NAI has marketed it aggressively and there is only one interested party in pursuing development on that property. We have tried to get people interested in the property.

Gary Pinkston, Meridian Pacific Ltd., said the only reason we are considering doing this development is because we are already in the community. This property has no visibility from the highway. The parking is a challenge and it's on lease land. Tenants are tough to find. We are doing this as a courtesy. You won't find anyone interested in doing a project on lease land. There is no comparison with this property and the Aspen/Newmont property. The work to get this project to fruition is tremendous.

**Council voted on the motion.**

- B. Review, consideration, and possible adoption of Resolution No. 14-13, a resolution of the Elko City Council adopting a change in zoning district boundaries from C (General Commercial) to R (Single Family and Multiple Family Residential), involving approximately 0.481 acres of property located generally southwest of Front Street and S. 6<sup>th</sup> Street, filed by the City of Elko and processed as Rezone No. 6-13, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on August 6, 2013 and took action to forward a recommendation to City Council to adopt a resolution to grant Rezone No. 6-13 as requested. RM

Rick Magness, City Planner, explained this particular request is so that we can bring into compliance some uses that should be residential. These plots needed to be surveyed. This is a housekeeping item. Planning Commission recommended approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to adopt Resolution No. 14-13 as recommended by the Planning Commission.**

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

- C. Review, consideration, and possible adoption of Resolution No. 15-13, a resolution of the Elko City Council adopting a change in zoning district boundaries from R (Single Family and Multiple Family Residential) to RO (Residential Office), involving approximately 0.184 acres of property located generally at the southwest corner of Fir Street and 8th Street, filed by Craig Walsh and processed as Rezone No. 8-13, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on August 6, 2013 and took action to forward a recommendation to City Council to adopt a resolution to grant Rezone No. 8-13 subject to specific conditions which have been agreed to by the petitioner. RM

Mr. Magness explained this application takes into consideration a couple of structures that were built in 1934 for the US Forest Service. The structures would be brought back up to code and used for an office and storage. The best zoning would be residential office. This location would then revert to residential office and the applicant will continue to use the buildings. The applicant identified this would not be a maintenance yard. It would be used for storage and parking. He will provide a site plan. Planning Commission recommended adopting the resolution.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to adopt Resolution No. 15-13 subject to the conditions as recommended by the Planning Commission.**

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

- D. Review, consideration, and possible adoption of Resolution No. 16-13, a resolution of the Elko City Council adopting a change in zoning district boundaries from C (General Commercial) to R (Single Family and Multiple Family Residential), involving approximately 0.094 acres of property located generally 350 feet northeast of the southernmost point of Manzanita Lane, filed by Shawn Carsrud and processed as Rezone No. 9-13, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on August 6, 2013 and took action to forward a recommendation to City Council to adopt a resolution to grant Rezone No. 9-13 subject to specific conditions which have already been meet. RM

Mr. Magness explained this particular zone change is to allow this property as a residential property to be sold and financed. In order for the transaction to receive proper funding it required residential zoning. These homes exist in a commercial zone. The rest of the homes will be brought to council for approval. Planning Commission recommended approval.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to adopt Resolution No. 16-13 as recommended by the Planning Commission.**

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

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

- J. Review, consideration, and possible approval requesting additional funding for change orders pertaining to the 2012 WRF Biological Upgrade Project, and matters thereto. **FOR POSSIBLE ACTION**

Staff is requesting additional funding for the force account in the amount of \$85,000.00 for this project. To date the city has approved approximately \$27,700 in change orders. Another \$85,000.00 in work change directives will be invoiced in the near future (excluding the walkway expansion change order). The purpose of this request is to avoid delays to the project. Information regarding this addition funding request is included in your packet for review. FPS

Fritz Sawyer, WRF Superintendent, explained he put a table together included in the packet showing the change orders that have been submitted for, for the Upgrade Project at present time. He went over all the changes that have happened and that are in the process. He requested additional funding so he may be able to complete the project. They may see change orders on the electrical moving forward.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the additional funding request to change orders in the amount of \$85,000.00 which will leave the current force account with \$78,000.00.**

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

### **IV. UNFINISHED BUSINESS**

- A. Review, consideration, and possible authorization for the Engineering Department to continue the process of readdressing certain properties in the City to conform to the current addressing standards, and matters related thereto. **FOR POSSIBLE ACTION**

As directed by Council at the February 12, 2013 meeting, Staff held a public workshop with residents of the Southgate Mobile Home Park, which would be our beta site for readdressing, to establish the issues and concerns. In June of 2013, the Engineering Department began the readdressing process within the Southgate Mobile Home Park to conform to the current addressing standards. Staff will provide a report on the results of that process. JD

Jeremy Draper, Civil Engineer, explained we did hold a public hearing on Pinion Road. They invited everyone. We notified them of the new addresses. We had three people show up (the manager of the park and two residents). Overall the addressing process has going fairly smooth.

Utilities made the changes. One issue was with the Post Office. Three houses were addressed incorrectly. The biggest issue we have seen is that the residents are not changing the numbers on the buildings. If EMS gets called out they may not find the address because the numbers are not on the house. We started with this mobile home park and we would like to move forward. He didn't see the need to have another public meeting since less than 1% of the population showed up at the last meeting.

Councilman Perry noted this was the BETA site. This has happened here and they have new addresses. No one is screaming that they aren't getting their bills.

Mr. Draper said we had one lady come in and they helped her resolve her issues.

Councilman Perry said it has gone without a whole lot of problems but most people have not readdressed the front of their homes. Are there addresses on the curb?

Mr. Draper answered no but the manager said she would put all the addresses on the utilities out front. They have not changed their addresses yet.

Councilman Perry asked how do you want to proceed with this.

Mr. Draper answered he wants to do all of them at once. If we get approval we may be able to whittle that total number of addresses down. Most of the remaining addresses are on the south side of town.

Councilwoman Simons said you're going to do 900 addresses; it might be nice to send out a letter to say we will have a brief meeting and explain to the people what will happen. There will be some people with questions.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to authorize staff to continue with the process of readdressing areas of the city that have been identified as being out of compliance with current addressing practices.**

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

- B. Review, consideration, and possible action with regard to the "Release of Interest Agreement" between Union Pacific Railroad Company and the City of Elko, including direction to Staff regarding the acceptance or rejection of proposed transaction terms, discussion of environmental conditions, and possible counteroffers (if any), and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko and Union Pacific Railroad have been exploring the City's possible acquisition of certain Union Pacific Railroad property for many years. On April 26, 2011, the City Council approved a "Release of Interest Agreement" with Union Pacific Railroad, which became effective June 14, 2011. *Please note that the property values cited in the "Release of Interest Agreement" are based upon a Summary Appraisal Report completed on June 3, 2010. The total*

*cumulative market value was appraised at \$5,397,000, assuming the property was free of “hazardous substances.”*

Since the Union Pacific Railroad property is derived from original Central Pacific Railroad land grants, the federal government holds the underlying fee for all rights-of-way. Thus, Union Pacific Railroad cannot transfer title to the City of Elko, but agreed to “release” their interest in said right-of-way for 50% of the appraised value, or \$2,698,500. The City of Elko agreed to this price, contingent upon approving “all factors identified by the City during the Due Diligence Review Period.” Approximately \$2,000,000 of the price would be funded through the assumption of Union Pacific Railroad leases.

As part of the process outlined in the “Release of Interest Agreement,” the City of Elko and Union Pacific Railroad have spent significant time, effort, and money investigating the environmental condition of the property. During this process, it was discovered that both parcels contain contaminated groundwater. As a result, Union Pacific Railroad and the City of Elko have been working with our respective environmental consultants and the Nevada Division of Environmental Protection (NDEP) with regard to remediation strategies and costs. Estimates for cleanup vary widely, ranging from \$630,777 - \$1,767,000, depending upon the remedial action plan(s) ultimately accepted by the NDEP, and the effectiveness of the deployed remediation methodology.

Union Pacific Railroad has indicated that the proposed transaction can only take place if the City of Elko pays the “Release Payment” of \$2,698,500 and accepts the property “as-is.” No credit is being offered for assuming the risk of environmental remediation, and a recent offer by the City of Elko to participate in remediation efforts has been rejected by Union Pacific Railroad.

Several options should be considered by the City Council when deliberating towards a decision:

Option 1: Accept the terms outlined in the “Release of Interest Agreement,” including the assumption of ALL risk associated with environmental remediation. This option requires bonding for \$2,698,500 (only \$2,000,000 can be funded through existing lease revenue, leaving a shortfall of approximately \$700,000). Additionally, the City will assume responsibility for all environmental remediation, projected to cost \$630,777 - \$1,767,000.

Option 2: Reject the terms outlined in the “Release of Interest Agreement,” based upon “disapproving all factors identified by the City during the Due Diligence Review Period,” and terminate the agreement.

Option 3: Direct Staff to present one or more counteroffers to Union Pacific Railroad for consideration, including but not limited to, reappraisal of the property, removing contaminated areas from the transaction, and possible financial contributions towards remediation.

Option 4: Direct Staff to contact the Nevada Congressional Delegation to see what, if any federal assistance is available to help the parties achieve a successful transaction.

Due to the complexity of the “Release of Interest Agreement” and existing environmental conditions, the City Attorney and a representative for JBR Environmental will be present to answer any questions. CC

Curtis Calder, City Manager, explained the write up explains where we are at in our negotiation process with the Railroad. We have had multiple meetings with NDEP to see what they would require for remediation. They have not been willing to give the city anything in writing with regards to guarantees as to how far they will go. It depends on the remediation methods. The city is attempting to do with this transactions is: 1) obtain the right-of-way which encompasses approximately 78 acres; and, 2) have a land bill drafted at the Federal level to transfer the title to; the city so the city can then sell the property to the private sector. The city has no interest in being a landlord long term. This is all about redevelopment. Both parcels lie within the redevelopment area. We are at a crossroads and need council direction on how we wish to proceed at this point. Union Pacific has been pretty clear but there may be room for counter offers. There are Federal Grants available for brown field cleanups and things of that nature. The Railroad may reject any offer we may make but at least we can make our presentation and see what their response may be. We don't take terminating this agreement lightly because it would take a long time to renegotiate another one.

Councilwoman Simons said on the option for a counter offer, one is that we can offer to continue on with some of the areas but maybe remove the contaminated areas. How much of that property would that take out?

Mr. Calder answered the property has plumes under it and how those plumes migrate would probably define how much property we are talking about.

John Russell with JBR consultants handed out a flyer (Exhibit “B”) and explained in fall of 2001, JBR was contracted by the city to conduct a phase one environmental site assessment of both parcels. We identified through that process a paper trail. We did not do any soil sampling. Given the history of the site we anticipated there were probably releases from some of the sources/businesses on the property. In January 2012 we conducted a phase two investigation where we collected soil and groundwater samples. He presented his findings before the Council at that time. We came up with ballpark ranges of pricing between \$1.9 and \$2.8 million potential remediation costs. We shared that information with Union Pacific (UP). Since waters of the state were impacted they had to share that information and they shared our reports and their consultant's phase one report from 2010 with the state. We met in 2012 and met with the state to

get some clarity on how they may regulate the sites. The state mandated that UP go out and collect more samples. They produced a summary report that JBR reviewed. Based on that new data they figured what the remediation would be at that point. They came back with cost estimates based on everything to date of \$1.2 to \$1.7 million. The state's feedback in that meeting was that there had been reported releases of hydrocarbons on parcel B which the lease tenant is Al Park Petroleum. They have underground and above ground storage tanks. Al Park is being regulated now. As long as Al Park remains solvent they will be responsible and will pay for all of those liabilities. If they go bankrupt the liability would be lassoed with the property owner. The state also said they reviewed the groundwater data and there was only one area of groundwater contamination in Parcel A that was a concern to them. They were going to mandate remediation. The other areas the concentrations of groundwater were small enough that they are not posing any risk to human health today. UP would be responsible for following a more streamlined line risk based closure approach where they would take at least one year of groundwater monitoring to build a database that shows that indeed the groundwater plumes are stable and/or shrinking in size and not migrating off site. He agreed with Option 3 and we should re-appraise the property in terms of and in light of documented quantified contamination.

Councilman Schmidlein said you have done a lot of research on this, and it's really hard to put a price tag on cleanup. He has been involved in cleanup in the past at the school district. The city would be taking on a serious liability based on the information shared tonight.

Councilman Perry asked if other than Al Park, were there other tanks with plumes.

Mr. Russell explained there is an underground regulated tank at Al Park and they also have a 10,000 gallon used oil vault that is below grade that they think is a source. It isn't regulated as a formal underground storage tank for Parcel B. For Parcel A it's possible but we haven't conducted any studies. There may be at least one 500 gallon waste well tank at the Wright Motor facility. The paper trail indicates that any registered tanks through the state were pulled and closed through the state. There may still be some unregulated tanks still buried there and he anticipates at least one.

Councilman Perry was concerned about the actual cost of the cleanup. The levels are low. Let's talk about the next step on this. Maybe we don't want to release the agreement. We don't want to go forward with this agreement and pay for the cleanup and the property. What is the form of a counter offer? Is it something that attaches to a release of interest agreement here and says we found contamination so therefore we are not going to pay \$2.698 million but we will pay this much? Do we wait them out until they clean it up? Or do we make an offer but at a much reduced purchase price?

Dave Stanton, City Attorney, said there were a number of options at our disposal. We went over the options. At the time the current agreement was negotiated we didn't know about the contamination. We suspected it and that's why we put that language in there. Now we know there is contamination.

Mayor Johnson said any offer considered by the UPRR would require the city to pay more or to take on more risk. He is not interested in any more undefined risk. Even if we terminate the

agreement that doesn't mean we are not interested. They may be testing the city to see how interested they are in the property.

Mr. Stanton said we can terminate the agreement but we cannot reactivate it once that's done without UPRR's agreement.

Mayor Johnson said staff worked hard on this but the UPRR is changing their terms. It's not fair to the City of Elko.

Councilman Rice said UP is a huge bureaucracy. We are dealing with one person in that organization. He wonders if we are smacking heads with someone in the real estate office. He thought there should be some way for our federal delegation to help us with this negotiation in a way that will save face for everybody. This is an important asset to the City. It is 80 acres in the heart of our community. It will only get worse if it stays in the hands of UPRR. Time is of the essence. We need to move forward with this. We need to leave the agreement alone as it is now and work more aggressively with our federal delegation.

Councilwoman Simons said because the state is aware of these conditions, UPRR will have to clean it up as long as the land belongs to them. She assumed the state had some timeline?

Mr. Calder said UPRR (until the last meeting with NDEP) assumed they would have more time to clean it up. NDEP informed them that if this transaction fell through they would want this cleaned up in a timely manner. There is one area in particular they are concerned and focused on. They are not willing to let that sit out there unmanaged.

Councilwoman Simons asked could a private person try to negotiate this land. (No) So we are the only people that can buy it and if we don't buy it they have to clean it up.

Councilman Rice said we can't buy it but we can possess it and then we can dispose of it. We have been dealing with this since he has been on council. It was introduced before he came on the council. We adopted a redevelopment plan and this property is in the middle of the redevelopment district.

Councilwoman Simons said we need to go through the back door and talk to another person. This has to be cleaned up.

Megan Brown, Congressman Amodei's Office, said per a meeting that we had with the City Manager and the Mayor, the congressman has already had a meeting with UPRR. We are happy to continue to have those discussions. Per your council to how you want to move forward we will continue to communicate that with UPRR. We are happy to help facilitate a discussion by getting the right people in the room. We can facilitate another person for you to have contact with.

Councilman Rice said this document is not good for anybody else. He wasn't sure if the supervisors are aware of that this is an impossible offer.

Ms. Brown said UP told us that if there is legislation they would be happy to move forward with it.

Councilman Perry asked how much would a reappraisal cost.

Mr. Calder answered this appraisal was complex. We shared the cost with UP. He thought it was approximately \$12,000. It may require a full appraisal because of how old the last appraisal is.

Councilman Perry asked what if we took the approach and gave them an offer and asked for a second appraisal. I wouldn't know what to counter offer. If we are going to ask our Congressman we will need something that will show the value now. Let's get this reappraised and then we can decide what kind of counter offer we can make. He asked if we would have to ask for an extension in order to get a reappraisal.

Mr. Stanton answered it is his understanding that we are operating under an extension right now in order to conduct the studies. It would be appropriate to go back to UP to hammer out specific dates of extensions of time.

Councilman Perry thought we could tell UP we would like an appraisal, would you pay for half?

Mr. Calder said he is open to extending any communication the council sees fit but he is expecting a low likelihood of their continued participation if we counter offer like that. He felt the whole deal changed if you go all the way back to 2010 when they presented us their phase one environmental. Their phase one was not very complete. They expected us to sign on the dotted line and take it. The more research that was conducted showed more concerns. The 50% discount was based on clean property and a bulk land sale. Now that we bring up the environmental contamination they say we thought that was there so we gave you that great discount. He encouraged continuing with the discussions at this time. Offer that we would be willing to jointly reappraise this. If the answer is no then he would be hesitant to spend any more money on this. Time is on our side in regards to the cleanup. UP will have to clean up the property. It's really not in their interests to be a landlord indefinitely. Even if we acquired the property and we were successful this is really a legacy project. It will take decades to truly redevelop the property. We would like UP to just do the right thing as a community partner. The right thing would be to improve the blight. UP wants this to be a clean cut deal where they walk away and no further interest in the liability. NDEP has lassoed Al Park Petroleum for the liability in Parcel B, however, if they become insolvent tomorrow, whoever holds the title or the right-of-way is going to be liable. I would hate to see the city ending up being liable for what could be a very expensive cleanup down the road on parcel B.

Scott Wilkinson, Development Manager, said with the appraisal and not knowing what the cleanup will be you won't have a tight appraisal. It will be a range based on what we know today. He wasn't sure what we would gain by doing that other than having a formal appraisal that gives us the information we have in front of us today.

John Carpenter said if they have said that the cleanup at Al Park is his responsibility he thought he was covered under the petroleum fund. If you are under the petroleum fund the state pays 90% and the landowner pays 10%. He knows Al Park is getting some money from the petroleum fund.

Mr. Russell said he is getting money for his underground storage tank but not sure about the above ground bulk tanks being covered.

Councilman Rice said regarding the petroleum fund, if Al Park were to become insolvent, that fund would still cover the landowner or maybe even the right-of-way person.

Mr. Russell said it would default to the landowner. We asked the state that and they said it would default to the landowner.

Mr. Calder said technically the landowner is the Federal Government in this case. They view UP as the landowner because they have the right-of-way. If we acquire the right-of-way we would get the same benefit as UP. Step one of this process is to acquire the right-of-way. Step two is to acquire the title. That is where our congressional delegation comes in. There are no guarantees in place that will happen in a timely manner. It seems like a quick process but everyone understands that congress today isn't functioning like it did three or four years ago. You could end up in a situation where if we do successfully acquire the right-of-way we do not have the ability to sell the property to anybody for however long it takes to achieve title. That is an undefined risk that council should be aware of.

Councilman Perry suggested offer a reappraisal and if not terminate the agreement.

Councilman Rice said someone out there wants this land but mitigation takes time. He would like council to be as aggressive as they can. He would like to see this happen.

Mayor Johnson wanted to table until the next meeting. We may not have more information in the next meeting but he would like time to hear more from people that are interested in the property.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to direct staff to negotiate with Union Pacific to do a reappraisal of the Union Pacific corridor property and share costs with the current information that is now known.**

*The motion was withdrawn.*

After the motion and before the withdrawal, Mayor Johnson said he felt that motion would fall on deaf ears at the railroad.

John Carpenter said if he was sitting in their chair he would ask for a meeting in Washington with our congressional delegation as high up in Union Pacific as they can get and then you might get somewhere. Those guys are going to take the fact that you are most interested in this.

Mayor Johnson said unless the city is assured that the UP is interested that any offer will be rejected.

Councilman Rice said that is why we need to talk to someone above Tony Love. Our congressional delegation may be able to help us with this. He offered an amendment to the motion; to also direct staff to work with our congressional delegation about having that conversation.

Councilwoman Simons agreed we need to go through other channels rather than the guy we had been dealing with. Let's talk to someone that is willing to talk.

Councilman Perry withdrew his motion.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to direct staff to work with Union Pacific Railroad for consideration including, but not limited to, reappraisal of the property and also to be in contact with a Nevada Congressional delegation to raise the conversation with Union Pacific to as high a level as possible in regards to the acquisition of this property.**

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

- C. Continued review, discussion, and possible action regarding the ranking and/or selection of alternative Police Department Facility locations and/or facilities, and matters related thereto. **FOR POSSIBLE ACTION**

On August 13, 2013, the City Council narrowed the list of submitted proposals to the Good Morning Furniture Building and the Bailey & Associates Building. On August 20, 2013, the Good Morning Furniture Building was withdrawn from consideration. As such, City Staff will present additional analysis on the Bailey & Associates Building. CC

Curtis Calder, City Manager, explained the Good Morning Furniture building was withdrawn. The direction from the council at the last meeting was to perform a financial analysis comparing the two remaining options: Good Morning Furniture building and the Bailey and Associates building. We excluded Good Morning Furniture from the options because they withdrew from the offering. The only option we had to compare the Bailey building to was to compare to new construction. They offered a 15 year lease with an option to purchase. We have Russ Moorehead in the audience tonight to help answer questions. There is a difference between the analyses Zions Bank did vs. Bailey. Bailey is using a discount rate of 9% in their net present value calculations and Zions Bank was using 4%. The reason why Zions Bank is using 4% is because that is what the city can achieve in their rate. When you compare the two sheets, that will be a variable that sticks out like a sore thumb. The reason that is important is because when you look at the net present value of future cash outlays at 9%, the higher the discount rate the lower your net present value is going to be. The analysis was performed by the financial advisor. If council decides that they want to go out and build a new Police Department, he would be the individual that would work with the bond council in putting the financial package together and

outlining the city's financial obligations through the process. Since the last meeting that have been other property owners that have approached the city who have identified other sites. We do have other interested parties outside of just Bailey and Associates.

Dawn Stout, Administrative Services Director, said if we go with the lease option to buy with Bailey, the balloon payment at the end may require a bond.

John Bailey, Bailey and Associates, said we wanted to make an offer to the city that would be a good deal in the market. When doing a net present value analysis, and he did one with his accountant, he made assumptions on the bonding and the discount rate. He hasn't had a chance to look at what was put together by Zions Bank. If his offer didn't meet the cities expectations he would withdraw the offer. If you want to look at other options we are done after tonight. We have people that are interested in the building and they are worried the city will take it. We are not trying to take advantage of the situation the city is in.

Mr. Calder said this might look a lot different if we had the other option available. We were going to propose comparing one building to another existing building. The new construction options had kind of been taken off the table. We are comparing a real building with a hypothetical because that is all we have to compare against. If the Bailey option goes away then all options are on the table after that. All options will involve some level of financing.

Councilwoman Simons said she loved the Bailey building. She just thinks there is some way to do this without bonding. If we do lease to own even at the end we will end up bonding. She would like to hold out to see what other options are available.

Ms. Stout said in speaking with our financial council and our bond council, there are different things the city has to do depending on which direction they go. If you do a long-term lease with no option for purchase, there is no requirement to go to the debt management commission or taxation. You just have to appropriate the funds every year during the budget process. If there is a lease with a purchase it has to go to debt management as well as taxation and you have to go through those regular processes. Bonding would have to go to the voters. Our timeline if we go to bonding would be to go forward in January or February of next year to get it all on the ballot.

Councilman Rice said we had four options two weeks ago and now we have one. He wanted to reopen it and put things back on the table.

Councilman Schmidlein agreed. It is in our best interest to open up our options again. He thanked Mr. Bailey for all the work they have done.

Councilman Perry agreed. The only thing he is sad about is that they wanted to get the police into a building quickly.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to express our gratitude to Bailey and Associates for their patience and work and direct staff to reopen the process of identifying a site for the new Police Station.**

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

After the motion and before the vote, Councilwoman Simons asked if he wanted to include a time limit.

Councilman Schmidlein said he didn't think they wanted to put a time limit on it.

Mr. Calder said we can use the original RFI criteria and work with Mr. Moorehead to tighten up the criteria. We can leave this open for 45 days to make sure everybody has a chance to submit. You do need a cutoff at some point because at some point you do need to make a decision with regard to the site because that impacts the design.

Councilman Perry said along with that we need to communicate what type of financial deal would be necessary in a submittal so that when we look at these we compare apples to apples.

Councilman Rice modified his motion to **give a deadline of October 15<sup>th</sup>**. The second stood.

**Council voted on the motion.**

## **V. RESOLUTIONS AND ORDINANCES**

- B. Consideration and possible approval of Resolution No. 17-13, a resolution finding that is in the best interests of the public of the City of Elko to lease certain land located at Elko Regional Airport to Meridian Pacific, Ltd. for the purposes of economic development pursuant to NRS 268.063, and matters related thereto.  
**FOR POSSIBLE ACTION**

On June 11, 2013, the Elko City Council approved a Letter of Intent (LOI) from NAI Alliance, on behalf of Meridian Pacific, Ltd., based upon a pending Summary Appraisal Update. The update has since been received and is pending City Council acceptance under the "Public Hearings" portion of the meeting.

The adoption of Resolution No. 17-13 is required if the City of Elko wishes to dispose of real property without offering the property to the public and without obtaining fair market value for the property. In this instance, Meridian Pacific, Ltd. has agreed to lease the property for fair market value, as described in the June 1, 2013 LOI.

A copy of Resolution No. 17-13 and appropriate supporting documentation, including an economic analysis letter and LOI have been included in the agenda packet for review. CC

Mr. Calder explained everything is in the packet that would support the Resolution No. 17-13. Council has affirmed the value during Public Hearings. This resolution does trigger NRS 268.063 that gives the Council the authority to do this pass a resolution like this and not put the property up for public auction.

Councilman Perry said we went through this when it was first presented. He felt it was the highest and best use of the property. The real value here is the property taxes and the sales tax revenue that will be generated by this for the community.

John Carpenter felt you should let more people know about it and have more input. You should look at the economic justification of this because he felt some of the figures were wrong.

Councilman Perry said this property has had a sign on it for a year. During that time anyone could have walked in but only one person stepped up. This will generate sales tax and property tax.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to adopt Resolution No. 17-13.**

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

- C. First Reading of Ordinance No. 777, an ordinance amending Title 4, Chapter 5, of the Elko City Code entitled “ELKO LIQUOR CONTROL CODE”, by making multiple revisions through the chapter including areas such as definitions, licensing, summary suspensions, the identification of intoxicated persons, and matters related thereto. **FOR POSSIBLE ACTION**

Shanell Owen, City Clerk, explained there haven't been any changes since you saw it last time. This is a first reading. If you go forward with Public Hearing at the next hearing there will be the business impact statement that you will consider as well. From there you can possibly adopt it at the next meeting.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to conduct the first reading of Ordinance No. 777 and direct staff to set the matter for public hearing, second reading and possible adoption.**

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

- A. Review, consideration, and possible adoption of Resolution No. 13-13, a resolution of the City Council approving the lease of real property less than 25,000 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

Hawkins Smith previously held a License Agreement to use City of Elko property located at Well Site #12, adjacent to 1900 Idaho Street, for parking. The agreement expired August 23, 2013. Hawkins Smith desires to continue utilizing the City property for parking. NRS 268.064 provides that the governing body

may lease the property subject to provisions outlined in NRS 268.059, 061, 062, and 064. Resolution No. 13-13 begins the process for the continued lease. SO

Shanell Owen, City Clerk, explained some background on the lease. As part of the lease they built a parking lot. It has provided additional parking for subway and the shopping center. They need to have access to the back to the property. Allowing them to lease the property will give them access as needed. This will be a public process with a notice published in the newspaper if council choses to move this forward. We will still have to negotiate the lease rate and other details.

Dave Stanton, City Attorney, said this license agreement really was a lease. It was a 25 year lease without an option to renew. It expired under its own terms. Now we have to go through this process. Because the square footage of the property is less than 25,000 sq. ft. it is an abbreviated process. There is also a new limitation in NRS that says it cannot exceed 3 years.

Ms. Owen said they can have three years with a two year extension. Basically NRS is reading every five years.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to adopt Resolution No. 13-13.**

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

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

- C. Possible reconsideration and modification of the “Notice of Order” served upon Michael D. Nye, dba Tiki Hut, Kenneth L. Honeycutt, Manager, and Joyce M. Honeycutt, Bookkeeper, Licensee, and matters related thereto. **FOR POSSIBLE ACTION**

On August 7, 2013, the City Council conducted a Special Meeting to determine the appropriate liquor license discipline concerning Verified Complaint No. 2013-001. A “Notice of Order” was served on August 8, 2013, outlining the Council-approved disciplinary action.

Mr. Nye is requesting that the Council-approved fine of \$1,500 be lowered to \$1,000. Additionally, Mr. Nye is requesting that the requirement for a Security Guard be eliminated, if the Tiki Hut closes at 3:00 a.m.

A copy of a letter from Mr. Nye and the “Notice of Order” has been included in the agenda packet for review. CC

Tom Coyle, Assistant City Attorney, explained 10 days after the liquor license disciplinary hearing, Mr. Nye asked for a meeting with the Chief and him. He had some issue with what council had ordered. They advised him to submit a letter to the City Manager. He let Mr. Nye know that he would recommend to council that this would not be appropriate for reconsideration or any action tonight. He spoke to Mr. Nye outside chambers and Mr. Nye said he would pay the

other \$500 that he has yet to pay. He may still close at 3:00 am but he was running security at that time. Mr. Nye has left the meeting. He recommended not taking any action on this item.

## **THERE WAS NO ACTION**

### **V. RESOLUTIONS AND ORDINANCES (Cont.)**

- D. Review, consideration, and possible approval of Resolution No. 18-13, donating approximately 101 broadband City radios to the Elko Amateur Radio Club, and matters related thereto. **FOR POSSIBLE ACTION**

On August 13, 2013, the Council reviewed and considered this request. Per NRS 268.028 the City Council must approve the donation by Resolution after the review and consideration. DS

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve Resolution No. 18-13 donating approximately 101 broadband city radios to the Elko Amateur Radio Club.**

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

### **VI. PETITIONS, APPEALS, AND COMMUNICATIONS (Cont.)**

- A. Consideration and possible approval to waive landing fees for a DC-3 Aircraft participating in Sky Fair 2013, and matters related thereto. **FOR POSSIBLE ACTION**

At the Elko Chamber of Commerce, Sky Fair 2013 Committee Meeting on Wednesday 31, 2013, the Committee requested City Council consent to waive landing fees for a DC-3 vintage aircraft that will participate in Sky Fair 2013. Per the FBO Agreement, El Aero collects landing fees, of which 40% is remitted to the City. Landing fees as set by Resolution No. 20-07 range from \$25 to \$200. Sky Fair will be the weekend of September 7, 2013. MG

Mark Gibbs, Airport Director, explained the DC-3 is a game-changing aircraft and a piece of history. This has been adopted every year since 2007.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve waiving landing fees for a DC-3 aircraft participating in Sky Fair 2013.**

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

- B. Ratification of the Chief of Police issuing a 30-day temporary beer and wine liquor license and possible issuance of a regular beer and wine liquor license to Jeff Dalling, dba The Coffee Mug, Inc., located at 576 Commercial St., Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Zumwalt recommended approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to ratify the issuance of a temporary retail beer and wine license and to issue a regular retail beer and wine license to Jeff Dalling, dba The Coffee Mug, Inc.**

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

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

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

Councilwoman Simons said the airport bought scotch at Kmart. Did you buy \$240.00 worth of scotch tape?

Ms. Stout said there were several items on there. That was a short list of many things.

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

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

### **VII. REPORTS**

- A. Mayor and City Council
- B. City Manager – Nevada League of Cities Conference; 2013 Legislative Report  
*Curtis Calder handed out a copy of and reported on the 2013 Legislative Session Report (Exhibit “D”). The League of Cities meeting is around the corner and starts September 10<sup>th</sup>. The Main City Park project is one day from being completed.*
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works  
*Dennis Strickland reported on paving projects completed recently.*
- D. Airport Director
- E. City Attorney
- F. Fire Chief
- G. Police Chief  
*Chief Zumwalt reported there will be a Fair Parade Friday at 11am.*
- H. City Clerk
- I. City Planner
- J. Development Manager
- K. Administrative Services Director-Report Final Budget Transfers  
*Dawn Stout reported on budget transfers included in the agenda packet. We have gone live with the utility billing on the New World System.*
- L. Parks and Recreation Director
- M. Civil Engineer

**COMMENTS BY THE GENERAL PUBLIC**

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

*There were no public comments.*

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

---

Mayor Chris Johnson

---

Shanell Owen, City Clerk