

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

SS September 10, 2013

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, September 10, 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 *arrived at 4:07pm*

City Staff Present: Curtis Calder, City Manager
Ryan Limberg, Utilities Director
Ben Mangeng, Information Systems Manager
Lorraine Martinez, Accounting Supervisor
Matt Griego, Fire Chief
Mike Hecht, Deputy Fire Chief/Fire Marshal
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
Will Lehmann, Police Captain
Mark Gibbs, Airport Director
Dave Stanton, City Attorney
Tom Coyle, Assistant 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**

John Carpenter handed out a packet (Exhibit "A") to council and talked about the area slated for the sports complex. His packet contained a drawing of a proposed sports complex and newspaper articles and pictures of previous flooding along the Humboldt River. He felt the location of the proposed sports complex included in his packet was a far better location than the Errecart Blvd. location.

I. PRESENTATIONS

A. Presentation of a Retirement Plaque for Deputy Fire Chief Mike Hecht.

Mayor Johnson presented Mike Hecht a plaque of appreciation for his many years of service.

Mike Hecht, Deputy Fire Chief/Fire Marshal said thank you for the opportunity to work for the city.

Matt Griego, Fire Chief, thanked Mr. Hecht for his many years of service with the city and with the county.

II. PERSONNEL

A. Employee Introductions

1.) Travis Shindelbower, Equipment Operator I, Street Department
Not present.

APPROVAL OF MINUTES:

August 27, 2013
FOR POSSIBLE ACTION

The minutes were approved by general consent.

III. APPROPRIATIONS

B. Review, consideration, and possible approval to award a bid for the 2013 WRF Fencing Project, and matters related thereto. **FOR POSSIBLE ACTION**

Council approved bidding the project on August 13, 2013. Bids were opened on September 4, 2013. Staff will have the bid tabulation and recommendation at the meeting. This capital project is budgeted in the Fiscal Year 2013/2014 Budget. FPS

Fritz Sawyer, WRF Superintendent, explained we received one bid from Lamoille Fencing for \$38,317.00. The budget was \$100,000.00.

Councilman Perry asked who else did you send this out to. We only got one bid back.

Mr. Sawyer answered we had two people at the pre-bid. We put it in the newspaper and it was on the city website.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to award the 2013 WRF Fencing Project to Lamoille Fencing in the amount of \$38,317.00.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible authorization to purchase a backup generator approved during the FY 2013/2014 budget process for City Hall, and matters related thereto. **FOR POSSIBLE ACTION**

A WSCA quote from Grainger for a backup generator and transfer switch is included in the agenda packet for Council review. BM

Ben Mangeng, Information Systems Manager, explained we lose power quite a bit. This would provide continuous power to City Hall and the two annexed buildings.

Councilman Perry asked this was in the budget but why do we need an emergency generator backup. Is it because we have a computer system here that we didn't have before?

Mr. Mangeng answered we have multiple computer servers. This is our second hot site. We have computers and servers at the Police Department and in this building. When we lose power, we lose employee work time too.

Councilman Rice noted we have some customer service things that we do that requires our computers to be up.

Mr. Mangeng said anything done out of this building, when we lose power, ceases to function computer related. The Water Department cannot input bills into the system.

Councilman Schmidlein said there are many things from a business standpoint, when you lose power there are other things that can be done other than sit in front of a computer. Even if the power goes out you can call a safety meeting amongst all the people in City Hall.

Councilman Rice said we have online bill paying and other services that we provide from here that citizens access remotely. Power often goes out in different parts of town. We need to do what we can to keep our portals open. When the power goes out in my office we may be able to make time to do a safety meeting. We need to be able to serve people. He felt this was a prudent investment.

Mr. Mangeng said other city sites have backup generators. City Hall does not.

John Carpenter said this came up during the budget. The county has as many or more computers as the city. He asked what they do about it and he was told that each computer have a battery backup on them so that user has an opportunity to turn the computer off. He thinks this is a luxury for government.

Curtis Calder, City Manager, said our telephone system is voice over protocol service (VOIP). When the power goes out we also lose our telephone service as well as our computers. The backup servers do have battery backup but that is only so they can start to move information back over to the Police Station. Everything is computerized now. It is critical to have redundancy built into the system.

Susan Martsolf, Director of FISH, asked how many people do you have working in this building. She felt losing power is a hazard. The city is wise to look into this and have it.

Mr. Calder answered we have approximately 35 people at this location.

Lorraine Martinez, Accounting Supervisor, said not everyone is in the dark completely when the power goes out. Some offices don't have windows and they are pitch black. If you need to use the bathroom you better have a flashlight or a candle.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the purchase of a backup generator from the Nevada State Contract WSCA from Grainger in the amount of \$33,409.20.**

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

- D. Review, consideration, and possible authorization to purchase computer equipment approved during the FY 2013/2014 budget process for the upgrade of the City's computer systems, and matters related thereto. **FOR POSSIBLE ACTION**

A list of requested equipment for our annual computer replacement and replacement of our main virtual server hosts is enclosed in the agenda packet for Council review. BM

Ben Mangeng explained this capital is a little more than normal because it includes the core servers that all the other virtual servers run on and a new backup solution that can handle that environment. It also includes equipment so we may be able to broadcast council meetings.

Councilman Schmidlein said he discussed with Mr. Mangeng earlier about replacing equipment. He checked around town and found out that Mr. Mangeng is about spot on for a replacement schedule. At first he felt the schedule was a little bit premature.

Mr. Mangeng said with the laptops, while they are taken out of primary use they are not disposed of or auctioned off at that time. They do replace secondary laptops that we use for presentations. They are kept in use for about six or seven years.

**** A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to approve the capital equipment replacement for IT and computer equipment for the 2013/2014 budget year in the amount of \$81,402.00.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible approval to award a bid for the Golf Course Sewer Main Rehabilitation Project, and matters related thereto. **FOR POSSIBLE ACTION**

This project is necessary to maintain the integrity of the existing sewer main. Video of this pipe shows multiple areas of cracking and root intrusion. This project was approved in the FY 2013/2014 budget process. Bids were opened on September 6, 2013. A bid tally sheet is provided for Council review. RL

Ryan Limberg, Utilities Director, explained a few weeks ago we had our mandatory pre-bid meeting. Three prospective bidders showed up. Layne Christensen completed the last project by McDonalds near Ryan Way. They are the only bidder on this project. Their bid was \$40,100.00 (Exhibit "B"). Staff recommended awarding to Layne Christensen. We televised the sewer main upstream. We noticed several laterals coming from the Upper Indian Colony where there was a lot of water coming in. Our water super met with a representative of the Indian Colony and they are looking into those laterals to find the problem.

**** A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to approve the award to Layne Christensen for the Golf Course Sewer Main Rehabilitation Project in the amount of \$40,100.00.**

The motion passed unanimously. (5-0)

- F. Review, consideration, and possible approval of an award of a contract for AIP-42, Reconstruct Terminal Ramp-Phase 3 conditioned on FAA AIP Grant award, and matters related thereto. **FOR POSSIBLE ACTION**

Bids were opened on August 30, 2013 at 10:00 AM. There were four responsive bids accepted by the City. Based on the bid amounts received from all responsive bidders an analysis revealed that the available local matching funds of \$952,000 would be able to fund the Base Bid and Additive Alternate 1. The lowest responsive bidder for the Base Bid and Additive Alternative 1 was Road & Highway Builders, LLC with a total price of \$1,839,702.00. Please note that Road and Highway was also the overall lowest bidder based on the complete bid package advertised. Enclosed in the agenda package is the bid recommendation letter to the Federal Aviation Administration and bid total results. MG

Councilman Schmidlein disclosed he had a commitment in his private capacity and in the interest of others who have ownership in Great Basin. He believed that his decision would be affected by this commitment so he abstained and removed himself.

Mark Gibbs, Airport Director, explained there were four responsive bidders and Road and Highway had a mathematical error that needed to be corrected. The actual amount of their base bid plus add alternate one is \$1,813,702.00. That amount is lower than the amount in the agenda item.

John Carpenter said he had great concern about what is going on here. You want to spend the entire amount of money you were awarded during arbitration. He doesn't think the city had any

engineering values to support this. The arbitrator said based on all the evidence presented by Canyon and Knight proposing to immediately replace fourteen of the panels most impacted by ASR and to replace additional slabs in 2017 and do other patching and maintenance throughout the remaining part of the 20 year estimated service life of the apron. That cost was \$952,000.00. The arbitrator said that the maintenance on the concrete would also have to be performed by the city even if the contract had not been breached. The figures were reduced by the amount that Elko would have to spend on maintenance in the amount of \$250,000.00. The net contract damage figure was \$702,000.00. Elko may only collect that contract damage once. He questioned if the city has the authority to do this work. This was also taken to the judge. She said the arbitration award dated May 9th is confirmed and so ordered. The city is replacing more than the recommended number of panels. He is going to Carson tomorrow and he knows the Chief Justice and he is going to ask him what his take on this is because you are supposed to spend that money prudently.

Councilman Rice brought up a point in order. He said we have a limit of four minutes for comment. We have heard this in the past. We would like to get new information but we are not getting new information that will help us. He knows Mr. Carpenter has strong feelings on this.

Mr. Carpenter felt that was fine but this is too important to throw away. If you want to do this, that's fine. He feels the city is breaking a court order by spending this in one fell swoop.

Mike Lattin, Canyon Construction, said he's seen the apron many times. He is a civil engineer and he has done many projects with the FAA. He knows airports and has been to pavement evaluation sessions. He even paid an expert to come in and review this. You are wasting money replacing apron parts that do not need to be replaced. Just accept the apron like it is. You are not having any problems with it. If you give back the \$351,000.00 he's paid and he will maintain the apron for the next 8 years.

Councilwoman Simons said the reason we want to do it now is we could have the Federal Funding to help out. She asked Dave Stanton when he reads the court order does it sound like we are able to utilize all those funds at once?

Dave Stanton, City Attorney, answered his firm represents Canyon Construction too so they have recused themselves from all matters involving the dispute. He recommended tabling and getting another opinion.

Mr. Gibbs said the only maintenance recommended by the FAA was to replace the concrete that contains ASR.

Councilman Rice said he was sure we could spend that.

Mr. Lattin wanted the name of the engineer and get his opinion in writing. Was it Phil Logan? (Yes) ASR is unique. There are cures for it. That apron has not changed in the last five years significantly. You all talk like the FAA grant money comes from picking it up off the ground. That is money out of our pockets. You are getting more tax money.

Councilman Rice said grants are money that comes from outside our community and back in. It is taxpayer money but it is fresh money.

Mr. Gibbs said it is not taxpayer's money. It is a user charge placed aviation users and fuel charges.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to approve an award of a contract for AIP42 Reconstruct Terminal Ramp Phase 3 conditioned on the FAA AIP Grant Award to Road and Highway Builders LLC base bid and alternate one.**

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

- G. Review, consideration, and possible approval to partner with the City of Elko Redevelopment Agency (RDA) and property owner(s) to fund sidewalk and related improvements near the Henderson Bank Building, which reflects the approved downtown parking corridor design as shown in the Elko Downtown Vision Plan, and matters related thereto. **FOR POSSIBLE ACTION**

Julie Cavanaugh-Bill, co-owner of the Henderson Bank Building, recently contacted the City about rehabilitating the sidewalk abutting her building. Staff thought this would be an excellent time to implement some of the approved downtown parking corridor design.

On August 15, 2013, the Redevelopment Advisory Council (RAC) was presented with a design for sidewalk and related improvements near the Henderson Bank Building which reflects the Downtown Vision Plan. The RAC moved to forward a recommendation to the RDA to accept the project, pay for 1/3 of the project cost out of the general RDA Fund (rather than associating it with the incentive program), and ask the City and the property owner(s) to each pay for 1/3. The RDA subsequently considered the item on August 27, 2013, and took action as recommended by the RAC. RM

Jeremy Draper, Civil Engineer, explained this has been presented to the RDA. They agreed to fund 1/3. They ask that the city pay 1/3. This will not get funded until Ms. Cavanaugh-Bill funds her 1/3. One good thing that has come from this is they have met with Jacque Errecart and Katherine Wines this morning and they will be presenting a design concept to RAC next Thursday for the corridor design. We are making some progress in getting that whole corridor designed and possible funding mechanisms included with that.

Councilman Perry asked are you talking about some design standard for what you are going to do here to fix this particular piece of sidewalk here.

Mr. Draper answered they are talking about the entire corridor and the parking lot design.

Rick Magness, City Planner, said we have an opportunity to improve sidewalk with a contribution from private sector and money that is designated for plight. This will address drainage, safety and improve sidewalk in the area. It will model what will be happening to sidewalks in the downtown area and around town. This came up through RAC and RDA. It seems to be win/win as far as a partnership goes.

Councilwoman Simons asked if we continue this style in front of other buildings how will it be funded.

Mr. Draper answered we are currently looking at the RDA to fund this and maybe some grant options.

Dennis Strickland, Public Works Director, said Public Works is supportive of this. At this location we have low traffic flow. We did have a trip and fall at this location within the last few weeks.

Cathy McAdoo, 134 W. Maple, asked are all the other sidewalks in the plan going to match this. Will they match Idaho Street?

Mr. Draper answered they won't match Idaho Street. They want to develop a corridor plan that focuses on Railroad and Commercial so that has a uniform look. This plan has a 25 foot sidewalk in front of the Henderson Bank which would allow for outside dining. The other businesses along there will be uniform.

**** A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to approve a partnership with RDA and the property owner of the Henderson Bank Building by the city funding 1/3 of the final project cost for the sidewalk related improvement near the Henderson Bank Building which is located at 4th and Railroad as scene on the drawing attached to the packet.**

The motion passed unanimously. (5-0)

- H. Review, consideration, and possible approval for the Fire Department to accept a Local Giving Grant of \$1,500.00 from Wal-Mart Stores Inc. to assist with costs associated with fire prevention education, and matters related thereto. **FOR POSSIBLE ACTION**

Wal-Mart Stores Inc. has established grants to help local agencies fund public education. The City of Elko Fire Department Prevention Bureau has been selected as the recipient of a \$1,500.00 grant for community fire prevention education materials. Wal-Mart has been a great supporter of the Elko Fire Department's fire prevention efforts for many years. MG

Matt Greigo, Fire Chief, explained this is a grant they have received for several years. It helps offset the costs of public education materials that we use in the schools and the senior centers and the general public.

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve for the Fire Department to accept a local Giving Grant of \$1,500.00 from Wal-Mart Stores and include our deep appreciation towards Wal-Mart for their generosity.**

The motion passed unanimously. (5-0)

- I. Review, consideration, and possible approval to purchase one (1) fully equipped Fire Marshal's Vehicle through the Nevada State Purchasing program, and matters related thereto. **FOR POSSIBLE ACTION**

As a political subdivision of the State of Nevada, the City of Elko is able to utilize the State of Nevada Purchasing Division for equipment and fleet acquisition. This acquisition has been included in the FY 2013/2014 Budget. MG

Matt Griego explained he received an additional estimate that came in after he posted the agenda item for the additive equipment from Advanced Technologies. This supplier is the one that supplied this portion of the bid when we did the command vehicle last year. He handed out a copy (Exhibit "C"). Eagle Communication approached him about doing this work, and that is the estimate in the packet. Based on the difference in the estimates we would elect to go with Advanced Technologies again this year.

**** A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to authorize the Fire Department to purchase one fully equipped Fire Marshal's Vehicle from State Purchasing.**

The motion passed unanimously. (5-0)

- J. Review, consideration, and possible final acceptance of the Main City Park Parking Lot Rehabilitation Project, and matters related thereto. **FOR POSSIBLE ACTION**

At the April 23, 2013 City Council meeting, Council awarded the project to A&K Earthmovers. The project was completed with two change orders. JD

Jeremy Draper, Civil Engineer, gave a presentation and recommended final acceptance (Exhibit "D").

**** A motion was made by Councilman Schmidlein, seconded by Councilman Rice, for final acceptance of the Main City Park Parking Lot Rehabilitation Project.**

The motion passed unanimously. (5-0)

IV. UNFINISHED BUSINESS

- A. Continued review and consideration of Title 5, Chapter 2 "Offenses Against Public Peace;" Title 5, Chapter 9 "Vagrancy" and Title 5, Chapter 12 "Restrictions for Business Use of Public and Private Places or Lands," inclusive of recommended code amendments that further regulate the use of public property with respect to (1) offenses which violate the public peace, including solicitation and begging, use of obscene language in public, indecent exposure, public urination, sitting or lying in doorways and blocking sidewalks; (2) overnight camping, unless the person first obtains the appropriate permit from the City; (3) temporary habitation of private property without permission; (4) whether there should be a requirement that a person be given notice of the violation before being charged; and (5) reorganization of various code provisions in the foregoing

chapters, to include possible guidance on the potential designation of public property for the provision of overnight camping space and meeting other needs of homeless people, 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, City 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.

At this time, the proposed code and amendments are being reintroduced to the Council and the public in an effort to provide additional review and further refinements as needed prior to considering final code 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. The Council may further provide guidance on the possible designation of an area of City-owned property that allows camping, provides limited services meeting basic sanitation needs, and the participation in developing an emergency plan to address periods of severe inclement weather (currently defined as reaching sub-zero temperatures or other weather defined as potentially life-threatening).

The Council should also be aware that as a result of this effort, an Ad-Hoc, Community-Based Homeless Task Force has been formed in an effort to discuss and make recommendations on issues related to the alleviation of homelessness and poverty in the greater Elko area. The committee has developed a report of findings with recommendations, which is included in the Council packet. Members of this committee will continue to work, as a centralized point of collaboration on this endeavor for the foreseeable future. DA

Curtis Calder, City Manager, explained Delmo Andreozzi was not there but he had his notes available.

Dave Stanton, City Attorney, gave a presentation (Exhibit "E").

Councilman Schmidlein asked can we designate a chunk of land or if we are designating a specific chunk of land does it need to be a shelter.

Mr. Stanton answered there is no clear cut answer. This cases deal with reasonable alternative to what the homeless have right now. He didn't find any case that said it had to be a brick and

mortar shelter; it just has to be a reasonable alternative. The more improvements and services and facilities that you have on that piece of property the less likely the city is to be facing an 8th Amendment type challenge.

Will Lehmann, Police Captain, asked do we have or have we made plans for the code to included trespassing and disturbing the peace statutes. He sent a couple over to Mr. Coyle a year or so ago that we don't have currently codified in the city. Those cases get sent to the District Attorney's office because it is a state law.

Tom Coyle, Assistant City Attorney, answered those are not included. We do have a disturbing the peace but we never had a trespass. When we got involved in prosecuting trespass it was basically for that overnight camping during certain hours of the night.

Mr. Lehmann said regarding the urinating in public, Mr. Stanton said people need to urinate however we have never sited a single homeless person for urinating in public. The ones we arrest and cite are the ones that come out of a bar and urinate on a sidewalk. A problem we have is that if you entertain the idea of having to warn someone about something, it has been long held by the courts that ignorance of the law is not an excuse for breaking the law. If you mandate that we must warn people before we take law enforcement action, we have run into this issue many times. For example, if someone is trespassed from the Red Lion, if the Red Lion cannot document in writing the time and date that they told this person before that they cannot be there the courts will not convict them.

Jennifer Kidwell, Joshua Tree Shelter, said she has been part of the ad-hoc task force. Regarding solicitation, in the proposed code changes under E, occupying public streets, curbs, or roadway medians for the purpose of begging for money, food or other articles; she had some case law where other cities have gotten into trouble because it is a public space. She was concerned that since the code says "public" that it is a place they can be. As far as designating an area; in the case law she has read it isn't specific. It's a distinction between voluntary and involuntary. If you go and do a river sweep and you have nowhere to send them, you have made being homeless involuntary and you have stepped on their rights. If you have a place for them to go then it makes it voluntary and then you are within your guidelines to enforce.

Mr. Stanton said regarding the "occupying public streets, curbs or roadway medians" issue; there is some case law that deals with 1st Amendment issues when it comes to begging in public. This is what we would call a time, place and manner restriction. When it comes to occupying public property to engage in 1st Amendment rights, the governmental entity has the power to curtail that without eliminating it entirely. The reason for this is public safety; having people occupying these areas that are so close to high speed traffic.

Councilwoman Simons asked if we have some parcel of land, possibly close to FISH, something like that would be acceptable.

Mr. Stanton said there is a 10 acre lot that may be available.

Mr. Calder said we inventoried available city parcels. He and Delmo talked about the 9.3 acre parcel indicated on the overhead. It may accommodate a camping area. It's not perfect. We

would have to rezone that property. It is within the RDA boundaries. There are other pieces of property out there but this is our first choice.

Councilman Rice asked if we were to designate an area, and it is in the RDA, does it restrict it permanently. There may be other areas that would be better suited.

Mr. Calder answered we are only talking about property that the city owns presently. There may be private owned property better suited for this.

Susan Martsolf, Executive Director for FISH, said we have a footprint that is already established at FISH. She has been talking to Lipperalli and others about their parcels. If we were able to negotiate and get those two pieces of property, we would have enough room to let FISH grow and establish a place for these folks. That parcel that you are looking at is not that far away. Most people mistakenly think this will be blight on the community but this could be a beautiful part of the community.

Ms. Kidwell said Deacon Craig Laquire had spoken to the Lipperalli's about that land next to FISH and she has spoken to FISH about collaboration. You have to be careful with a partnership. They stated they are developing it. We do have some homeless that are disabled. To you it isn't that far to the 9 acres, but to someone in a chair that is far. That would be her only complaint about the 9 acres that have been designated. The only soup kitchen is at FISH.

John Schmidt, Pastor Cornerstone Baptist Church, was the chairman for the ad-hoc taskforce. There are many people in the community that are willing to step up and work out some of these details. This is a multi-faceted undertaking. As we look at the needs of the people out there and the needs of the community we recognize it isn't an "either/or" situation.

Councilman Perry said he agreed with most of the changes to City Code. He reviewed the ad-hoc summary reports. We have a sanitary and a safety issue down by the river. The Fire Department had to put out a lot of fires along the river. If there is a logical place for a tent city what infrastructure would go there? If the temperature goes below a certain degree where could homeless people go to? There are 87 PIT (Point In Time) homeless people. That came from the 2012 census. He suggested putting together a group similar to the group that entered into this ad-hoc committee and ask them to focus on determining if there is a logical place for this and what infrastructure would go there and come back with recommendations.

Mr. Schmidt said regarding the emergency cold shelter, someone died last year. We need short term solutions in place right now. He is trying to create a partnership between the City Manager and FISH and Living Stones Church to find a location. We are trying to put that in place before winter time. If that were the direction that city wanted to go then direct the citizens to work with the City Manager's office. Maybe then we can do a lot of the behind the scenes work.

Ms. Martsolf suggested putting in a discharge policy along with this whole plan because HUD is mandating it. The jail needs to have a place for those homeless people to go before they are discharged. That is a real problem. We can't discharge them from the Samaritan House unless they have a place to go. Elko is leading the state in these efforts.

Mr. Calder suggested if there is going to be direction from the council for staff to work with the committee that we have that nailed down before we get to a position of where we have adopted the code.

Sharon Hughes, 287 Oak Street, said that having the 9 acres so far from FISH may be a hazard to the people walking there. Some of the homeless drink and they may be in danger of getting hit by a car.

Susan Martsolf said she has worked with the homeless for many years. They cover a lot of distance every day. Get My Ride works with these citizens and takes them around town to wherever they need to go.

Kimberly Reece, Underdog Street Ministries, thought we needed to approach this with concern. There are going to be those that do not want to be at the property. If we designate this property are we going to enforce no camping in town?

Gary Reece, 252 Cliff Place, Spring Creek, said he visited a tent city in Seattle called Nicholville. The difference there was that those people came together as a community of homeless people and established that themselves. It was a beautiful thing. They had bylaws, security and blue rooms. With this situation some of them won't want to go there. Some might not understand that they need to go there due to their mental conditions.

Councilman Schmidlein asked would it be wise to bring some of the homeless people into this committee to see what direction they want to go.

Mr. Schmidt said that is an important part to this process. When you helping to walk along side people that are in this stage of life and helping them to come up with solutions and take responsibility for these particular aspects of their life you are actually helping them. They need to be a part of the solution so they do not become more of a problem.

Ms. Kidwell said she liked size of the proposed parcel. Homeless are very much individuals as we are. If we were all put into a one acre parcel we would have a lot of issues amongst each other with different personalities. That was a concern. People need to be able to spread out. Joshua is open to collaborating with the city, the county and other services to help bring about long-term solutions.

Ms. Reece said she is for the property. She wants to work with the homeless to make this work. She wanted to make sure the city wasn't going to enforce camping inside city limits and be giving tickets for those that won't go to live in the designated place. If we have this property will it then be against the law to camp along the river?

Councilman Perry said part of the reason to designate an area is to have the sanitary conditions and to have a place where the Fire Department has access to it for emergency response as opposed to what we have now. Those areas now are not very accessible to fire trucks or police. He thought if we do designate an area there should be enforcement against camping within city limits or there is no use in doing this.

Mr. Lehmann thought we blurred two problems here. One is the change in the city codes that needed to be done many years ago. The other thing is the homeless issue. We have had that issue for many years.

**** A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to direct city staff to continue with the Ad-Hoc Committee and add homeless people if they are willing to participate and come up with recommendations for one or two designated ten cities and the infrastructure they would recommend go with that to provide for safety and sanitation.**

The motion passed unanimously. (5-0)

Councilman Perry then suggested some changes to the proposed ordinance. Before he went over the changes he also suggested that these changes not come back to council until after we have a place for tent city. His change was as follows:

- Chapter 12 Restrictions on Use of Public Property. 5-12-2 Drinking of Alcohol or Possession of Alcoholic Beverage Container. He felt this was redundant to what is in the Liquor Control Code and wanted it eliminated entirely. Councilman Schmidlein agreed.

Mayor Johnson stepped out chambers at 6:45 and left Councilman Rice in charge. He returned before the motion was made.

Councilman Schmidlein said regarding item E., someone brought up occupying public streets. He wanted to make sure if we leave this information in here we are not going to run into any issues.

Mr. Stanton answered this is a restriction on the place where you can engage in these activities. If a person were to be right next to a curb or near a roadway median or not on the public street this wouldn't apply.

**** A motion was made by Councilman Perry, seconded by Councilwoman Simons, to direct staff to remove 5-12-2 from the proposed draft ordinance.**

The motion passed unanimously. (5-0)

VII. 6:00 P.M. PUBLIC HEARINGS

- A. Second Reading, Public Hearing and Possible Adoption 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**

The Business Impact Statement is included in the agenda packet. SO

Curtis Calder, City Manager, explained as of the last time he spoke with Shanell Owen and Debbie Henseler we have not received any comments on the published business impact statement.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to adopt Ordinance No. 777.**

The motion passed unanimously. (5-0)

V. NEW BUSINESS

- A. Review and possible approval of a License and Concessionaire Agreement between the City of Elko, and Teri Agenbroad, dba Come & Get It Kettle Korn. Ms. Agenbroad would like to utilize the Main City Park space for her mobile food trailer, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Agenbroad has a current Elko City Business License and has a mobile food trailer. She would like to utilize park space No. 7 (shown on map in application) every month, Monday through Sunday from 8:00 a.m. to 9:00 p.m. SO

Mr. Calder explained this is the same location as we have for the other food vendors. City Council already has the process and map in place. She is a current tenant at the airport. We have no reason to believe she wouldn't do a great job in the park as well.

Councilwoman Simons asked where space No. 7 is.

Teri Agenbroad, Come & Get It Kettle Korn, indicated on the overhead screen where that space is. The space indicated was space No. 1.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to approve a License and Concessionaire Agreement between the City of Elko and Teri Agenbroad dba Come & Get It Kettle Korn contingent on receiving the required liability insurance.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible approval to submit a new Airport Layout Plan Update to the Federal Aviation Administration to correct errors found in the last submission and to coordinate a new comprehensive airport land use plan that pivots City resources to attract airport property development, and matters related thereto. **FOR POSSIBLE ACTION**

The Airport Layout Plan is a legal document that drives airport planning and development. All future development must be depicted on an airport layout plan as required by Federal Aviation Administration grant assurance 29. "The sponsor will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary..." There are five primary functions of the ALP that defines its purpose:

- 1) Legally required to receive financial assistance under the terms of the Airport Improvement Program and to receive Passenger Facility Charges;
- 2) It creates a blueprint for airport development in accordance with design standards and safety requirements;
- 3) Is a public document that serves as a record of aeronautical requirements both present and future;
- 4) Enables the airport sponsor and the FAA to plan for facility improvements;
- 5) Serves as a working tool for the airport sponsor. MG

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to table the Airport Layout Plan Update.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible approval to grant an easement to Southwest Gas in the vicinity of Bullion Road and Hamilton Stage Road, and matters related thereto. **FOR POSSIBLE ACTION**

Southwest Gas has requested an easement from the City of Elko from Bullion Road up Hamilton Creek Trail (approx. 683 feet) for the purpose of installing a gas line. This property was acquired from BLM and was patented to the City of Elko. The City is now the owner of this property which is subject to an existing ROW for road purposes (N-74438) with Jordanelle Third Mortgage. Southwest gas is requesting an easement for a gas pipeline within this existing Right-of-Way. The said property is currently located in the County; however, the City is the owner of the property which prompts this request. RL

Ryan Limberg, Utilities Director, explained this is located out Bullion Road and Hamilton Stage. There are pictures showing the location in the packet. There is one Southwest Gas line that heats this area now. During the winter the pressure in that line drops very low. They want to run a second gas line in that area up the secondary access. Staff recommends approval of the easement.

**** A motion was made by Councilman Perry, seconded by Councilman Simons, to approve the easement request from Southwest Gas.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible acceptance of a Deed of Dedication from Bar L Ranch, Inc. and Sidnie Miller for the Cattle Drive Right-of-Way and a Grant of Easement, and matters related thereto. **FOR POSSIBLE ACTION**

The Deed of Dedication for the Cattle Drive Right-of-Way and Grant of Easement is associated with the proposed development of the Exit 298 and Section 19 areas and is related to a separate Development Agreement to be considered by the City Council. The proposed right-of-way will facilitate utility and roadway development as the area develops. The document has not been executed by the Grantor at this time. The above referenced Development Agreement addresses the timing for execution of the document. SAW

Ryan Limberg explained in one they are giving us a right-of-way. This is a condition that is listed on the Exit 298 Development Agreement. That agreement will be brought back to council once the developer has reviewed it again. This will put the developer in a more advanced position.

**** A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to accept the Deed of Dedication and Grant of Easement for the Cattle Drive right-of-way for Exit 298.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible approval of a two year extension of an Interlocal Agreement with the Nevada Public Employees' Deferred Compensation Program through December 31, 2014, and matters related thereto. **FOR POSSIBLE ACTION**

On March 23, 2010, the Council approved an Interlocal Agreement with the Nevada Public Employees' Deferred Compensation Program which coincides with their agreements with Hartford Life Insurance Co. and ING Life Insurance and Annuity Company. That agreement expired December 31, 2012. They have asked the City to extend the agreement until December 31, 2014. DS

Mr. Calder explained this is a housekeeping item. We have this agreement with the State of Nevada which acts as a clearing house for two of our plans; our deferred compensation programs 457 plans for employees. The state recently contacted us and realized that the agreement had expired on December 31st and asked if the city wanted to have that agreement extended.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to approve the Interlocal Agreement between the State of Nevada Public Employees' Deferred Compensation Program and the City of Elko through December 31, 2014.**

The motion passed unanimously. (5-0)

VI. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Chief of Police issuing a 30-day temporary retail beer/wine liquor license and issue a regular retail beer/wine liquor license to Huayun Wang, dba King Buffet, located at 1830 Idaho Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Will Lehmann, Police Captain, explained they have no issue with them having a license.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to ratify a 30-day temporary retail beer/wine liquor license and issue a regular retail beer/wine liquor license to Huayun Wang, dba King Buffet at 1830 Idaho Street. This is conditioned to include all of the provisions of the newly adopted liquor code.**

The motion passed unanimously. (5-0)

VIII. REPORTS

A. Mayor and City Council

Councilman Rice commented about the Police Chief Recruitment and question 10 about where the candidate would decide to live. He felt this question should be left out because the question of residency was already decided at the last meeting. After much discussion it was decided to rephrase the question.

Mayor Johnson reported on a proclamation he read for Cesar Salicchi.

B. City Manager

Curtis went over the Police Chief Interview schedule. He was headed to League of Cities meeting where Shanell Owen was already.

C. Assistant City Manager

D. Utilities Director

Ryan Limberg reported on concrete pouring at the WRF.

E. Public Works

D. Airport Director – Emergency repairs: Backflow repair

Mark Gibbs thanked the Sky Fair committee for their hard work. A backflow preventer failed and State Fire had to come in and repair the flood damage.

E. City Attorney

F. Fire Chief

Matt Griego handed out a copy of the September Fire Department Fire Watch Newsletter (Exhibit "F"). Mike Hecht will retire and his last day will be Friday.

G. Police Chief

H. City Clerk

I. City Planner

Rick Magness reported on a rezone included in the packet.

J. Development Manager

K. Administrative Services Director

Doug Gailey reported on the Police Chief Recruitment process. There was more discussion on the process of the interviews, background check(s) and job offer(s).

L. Parks and Recreation Director

James Wiley reported they started the Skate Park additions on Monday. The Tennis Court project is in the redesign phase to get it to fit in the budget council gave it. Playground equipment is on the way for Mountain View. They will be getting quotes for the electrical upgrade and lighting at Angel Park. Other projects planned include the re-plastering of the pool and replacing ceiling tiles at that complex. There is a problem with the disinfection system at the pool. The irrigation auditor has been out at the Golf Course and has collected a lot of data.

M. Civil Engineer

III. APPROPRIATIONS (Cont.)

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

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

The motion passed unanimously. (5-0)

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