

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

SS September 24, 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 24, 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 4:22 pm*

City Staff Present: Curtis Calder, City Manager
Delmo Andreozzi, Assistant City Manager
Shanell Owen, City Clerk
Ryan Limberg, Utilities Director
Matt Griego, Fire Chief
Scott Wilkinson, Development Manager
Dennis Strickland, Public Works Director
Dennis Price II, Street Superintendent
Jeremy Draper, Civil Engineer
Doug Gailey, Human Resources Manager
James Wiley, Parks and Recreation Director
Joe Carr, Parks Superintendent
Rick Magness, City Planner
Ted Schnoor, Building Official
Don Zumwalt, Police Chief
Mark Gibbs, Airport Director
Dave Stanton, City Attorney
Jan Peterson, City Sexton
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

B. Nevada Rural Housing Authority (NRHA) Rural Housing Demand Study of the 15 Communities in the “Mining Belt” Region of Nevada.”

Eddie Hauk, Director of Real Estate for Federal Housing, explained Federal Housing is a quasi-State of Nevada government entity. It is doctined by the League of Cities, Nevada Association of Counties and the Governor’s Office of Business and Industry. Their mission is to provide housing and residential services for those rural communities. Our process is a new statewide mining study for what we consider the “Mining Belt.” The study will be done by VSI out of Columbus, Ohio. We are the largest affordable housing owner in the state of Nevada with 426 units. We plan on having more with this housing study. The study won’t be out until the first of the year. It will have results for all communities. They act as a contractor and at times as a general. Their general business is to prepare the city for the study by identifying land sites and possible financing techniques.

Councilman Perry asked who funds the NRHA.

Mr. Hauk answered they are a private company with a non-profit built in the back. It is not a profit business. If they make any money on a project it goes towards the next project through a reserve system. Since 1995 they have been quasi-government.

Councilman Perry asked how do you fund a low-income housing project.

Mr. Hauk answered there is HUD financing or USDA. They would have to own it for a period of time depending on the program they go through. Locally, Westates operates their housing projects.

An unidentified audience member asked if they can do anything for the homeless people. Can they get them housing?

Mr. Hauk answered they are working on a homeless program in certain areas. They also have Section 8 and Veteran Housing. They are rural housing and generally the homeless are in the Las Vegas or Reno areas so they really don’t have a niche on the homeless thing yet. We want people to tell us what they need.

No action was taken.

II. PERSONNEL

A. Employee Introductions:

- 1.) Chase Purinton, Firefighter, Fire Department
Present and introduced.
- 2.) Travis Shindelbower, Equipment Operator I, Street Department
Present and introduced.
- 3.) Trey Elsworth, Parks Tech I
Present and introduced.

- B. Review, discussion, and evaluation of Appointed Official job performance for Calendar Year 2012 and the first half of Calendar Year 2013, and matters related thereto. **FOR POSSIBLE ACTION**

Current City policy requires that the City Council evaluate the job performance of the following incumbent Appointed Officials in July following a City election:
1) City Manager; 2) Police Chief; 3) Fire Chief; 4) City Clerk; and 5) City Sexton.

Other Appointed Officials, such as the City Engineer, City Attorney, and Municipal Court Judge are not City employees and do not require a formal evaluation. Pursuant to City Code, these positions are appointed for an indefinite or definite term and serve at the pleasure of the City Council. DG

Doug Gailey, Human Resources Manager, explained the packets were put on their desks for review. He tallied up each appointed official in each area and came up with an overall score. Council could choose to accept those and then give each of the officials a merit raise.

Mayor Johnson said one item is to reappoint and then give a merit raise.

Councilman Perry asked so we need to establish if each one is eligible for a merit increase and reappoint them.

Mr. Gailey answered as long as they are above average that is typically how it is done.

Councilman Perry said it looks like they all are.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to accept the evaluations made by City Council of the City Manager, the Police Chief, the Fire Chief, the City Clerk and the City Sexton and move that they be re-appointed for the coming term.**

The motion passed unanimously. (5-0)

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to award merit to those eligible for merit as a one-step merit raise based on the performance evaluations to the City Manager, Police Chief, Fire Chief and the City Clerk.**

The motion passed unanimously. (5-0)

After the motion and before the vote, Mr. Gailey pointed out they need to decide when to make the raises effective. It used to be January 1st but now it is July 1st. Do we make it retroactive back to January 1st or July 1st?

Curtis Calder, City Manager, explained we are budgeted for this fiscal year as effective July 1st. We would be going back into the previous budget if we made it effective January 1st. This is one of the impacts of the election just like with Councilmen Elquist and Conner. They lost six months of their term because of the switch in election dates from a June election to a November. In order to balance it out he felt all the appointed officials were fine with a July 1 effective date.

Councilman Rice amended the motion: **The merit raise to be effective July 1, 2013.**

Councilwoman Simons seconded the motion.

Mr. Gailey noted the City Sexton would not be eligible for a step increase.

Council voted on the motion.

III. APPROPRIATIONS

- B. Review, consideration, and possible authorization to appropriate funds from the Sewer fund and Capital Construction fund to make alterations to the 5th Street drainage on North 5th Street adjacent to the Brookwood Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Staff made recommendations with respect to Phase 3 of the Brookwood Subdivision, proposing that sewer line elevations be such that it would require the filling of the drainage adjacent to Phase 3. In order to facilitate the City's own requirement of the developer to place the sewer line at a depth recommended by the Sewer Department, the City needs to make alterations to the drainage by adding an additional six-foot culvert and sufficient fill required to alleviate the change in grade in the roadway. Staff is proposing to do the work at this time as costs will only increase over time. DS

Dennis Strickland, Public Works Director, explained they are proposing a split between the sewer fund and the capital construction fund to facilitate this. The money is available. He explained where the cattle guard used to be there is a significant dip there. With this subdivision going in, staff had debates about the depth and the route of the sewer line and how to perpetuate that up N. 5th in the future. We had a couple of options for the sewer line. One was to put it 28 or 29 feet deep. That wasn't very desirable. We wanted to look at filling in that dip where the creek crosses at the edge of the subdivision. After hydrology studies they found that the existing culvert was not going to be sufficient during a major water event. Right now there is a little detour in that area. We want to fill that in and put it back in grade. It will require a 6 ft. culvert to be installed in there.

Councilman Perry asked will the culvert be in the city limits. (yes)

Councilman Perry said you are talking about a drainage culvert for surface run off. Will the city maintain it? (yes)

Councilman Schmidlein asked you are comfortable with a 6 ft. culvert with the hydrology report.

Mr. Strickland answered Jeremy Draper checked the numbers and re-evaluated that. They looked at several different options. The cheapest option appears to be putting a 6 ft. culvert and that will meet the requirements of the hydrology study.

**** A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to authorize staff to move forward on installing a new culvert; the money to be half from the sewer fund and half from the capital construction fund up to \$70,000.00.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible award of the Deductive Alternates 5, 6, and 7 for the West Idaho Street Project, and matters related thereto. **FOR POSSIBLE ACTION**

On August 27, 2013, Council awarded a contract to Q&D Construction for the West Idaho Street Project less the deductive alternates in the amount of \$371,049.67. Council directed 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 the Council for further consideration.

Staff sent letters as directed by Council, to Franklin Building Supply, Kennametal Tricon and Gateway RV Center requesting consideration of the offer on or before September 17, 2013. Current responses are as follows:

- 1) Franklin Building Supply has provided the City of Elko with correspondence agreeing to reimburse the City of Elko in the maximum amount of \$69,521.33 for their portion of the public improvements. The correspondence is included in the board packet.
- 2) Kennametal Tricon has indicated that the request would be considered at the corporate level. It has not had adequate time to fully consider the City's request. Kennametal Tricon has not provided a written response to the City's request. The City code does not stipulate a time limit with regard to when the City can require curb, gutter and sidewalk. Staff has been unable to locate a Certificate of Occupancy. Staff believes it would be appropriate for the City to continue working with Kennametal Tricon to ensure that a Final Certificate of Occupancy has been issued, and/or Kennametal Tricon's participation in the project for its proportionate share of cost for curb, gutter and sidewalk.
- 3) Gateway RV has not responded to the City's most recent request. Gateway RV does have a contractual obligation in the form of a Deferral Agreement requiring the construction of curb, gutter and sidewalk on the West Idaho Street frontage and the Hot Springs Road frontage. Staff believes it would be appropriate for the City to invoice Gateway RV Center for its proportionate share of the cost for curb, gutter and sidewalk.
DS

Mr. Strickland explained that multiple members of staff have been involved. He may have prematurely spoken for Gateway RV.

Delmo Andreozzi, Assistant City Manager, explained late this afternoon he received a call from Mrs. Thornburg at Gateway RV. She informed him that her husband, Gig, is out of the Elko area today. They are still evaluating this. They have committed to talking with staff. Staff recommended approval of the award.

Mr. Strickland said the way the change order policy works this would have been a change order that staff could not approve. They are asking that this portion of the work be put back into the project. Work would start this next Monday.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the award of the deductive alternates 5, 6 & 7 to Q & D Construction in the amount of \$150,324.15 and in order to satisfy the requirements of Elko City Code Section 2-3-13-3: 1) direct City staff to invoice Franklin Building based on its written commitment dated September 3, 2013 for its proportionate share of curb, gutter and sidewalk; 2) direct staff to invoice Gateway RV Center for its proportionate share of curb, gutter and sidewalk based on its Curb, Gutter and Sidewalk Deferral Agreement dated April 4, 2001; and, 3) direct staff to coordinate with Kennametal Tricon to determine the Final Occupancy of the building and/or Kennametal Tricon's participation in the project, based on its proportionate share of the cost for curb, gutter and sidewalk, and based on the bid documents. And if such coordination is determined by staff to be unsuccessful, direct staff to invoice Kennametal Tricon for its proportionate share of curb, gutter and sidewalk.**

The motion passed unanimously. (5-0)

IV. UNFINISHED BUSINESS

- A. Review, consideration and possible approval of a "Consent to Assignment and Assumption of Water Rights Agreement" between the City of Elko, Calvin Dean Stitzel and Marilyn E. Lund, and P & H Mining Equipment Inc., and matters related thereto. **FOR POSSIBLE ACTION**

This item was brought before Council and was discussed at the June 25, 2013 meeting. Essentially, the City of Elko has a "Water Rights Agreement" with Calvin Dean Stitzel and Marilyn E. Lund. These parties are interested in transferring and assigning the agreement to P & H Mining Equipment Inc.

At the June 25, 2013 meeting, Council approved the assignment request with the provision that the agreement is in Draft form and directed Staff to work with P & H on language contained in condition number two of the assignment, finalize that part of the agreement and bring it back to Council for final approval.

The agreement is in final form and remains unchanged from the original version brought before Council at the June 25, 2013 meeting. RL

Councilman Perry disclosed he has a conflict with this item. He works for the State Engineer and that is the government entity that regulates water rights. He recused himself from the item and left the room.

Ryan Limberg, Utilities Director, said this was heard at the June 25th meeting. In the packet is the original water rights agreement dated 1994 between the City of Elko and Calvin Dean Stitzel and Marilyn E. Lund. There is also the new Consent to Assignment and Assumption of Water Rights Agreement which was tentatively approved at the June 25th meeting. There was concern with condition number two. Condition number 2 essentially says that P&H needs to purchase the property or the agreement will be null and void. This language can stay in the agreement as it is written. He recommended approval.

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve Consent to Assignment and Assumption of Water Rights Agreement.**

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

V. NEW BUSINESS

- C. Review, consideration, and possible approval of a Development Agreement with Artisan East, LLC involving funding and installation of water, sewer, and roadway infrastructure in the vicinity of Exit 298 and Section 19, and matters related thereto. **FOR POSSIBLE ACTION**

Exit 298 was listed in the Development Feasibility Report adopted by Council on November 27, 2012 as an area having development potential. This location ranked third in the report, falling behind infill projects and Ruby Vista.

Artisan East, LLC is interested in the potential development of this property. Staff has worked with Artisan East, LLC and City legal counsel in drafting multiple revisions to a development agreement for this area. Before Council this evening is the most recent revision of a Development Agreement with Artisan East, LLC for Council consideration and possible action. RL

Mayor Johnson asked for an overview from staff explaining where this would be.

Mr. Limberg said that Jeremy Draper was indicating on the overhead screen where the development would be located. Also included in the packet are several exhibits that talk about water line locations and sewer line locations. Present in the audience is the Artisan team. He had a memorandum included in the packet. He went over the memo. The agreement primarily centers on three infrastructure needs on the property. The first is the Cattle Drive right-of-way and improvements. The second would be the water infrastructure. The third would be the sewer infrastructure. The Cattle Drive right-of-way is currently underway and was heard by council at the last meeting. Exhibit "G" is one of the exhibits behind the 34 paged agreement. It shows the water infrastructure to serve the property. As of yesterday, Manhard Consulting also gave us a depiction of an alternate location for the water alignment that they wanted presented to council tonight. Staff has reviewed preliminary drawings and has provided feedback to Manhard and the developer. Section 5-3-A defines the right to construct the water infrastructure per NRS 338.0115. That NRS does not require competitive bidding. The developer has until September 30, 2014 to install the water infrastructure as shown on the approved plans. The developer must place security with the City of Elko prior to performing this work. Exhibit "H" of the Development Agreement shows the engineer's estimate for completion of this water related

work. The sewer infrastructure, Exhibit "I," shows the sewer infrastructure associated with phase 1 and phase 2 of this project. Section 5-3-C of the agreement defines the right to construct the sewer infrastructure per NRS 338.0115. The developer has until September 30, 2016 to complete all sewer infrastructure work as shown on the plans to be approved. The developer must place security with the City of Elko prior to work. Who is going to pay for all of this? The Development Agreement is written so the developer would pay the full value of the water infrastructure, then would submit to the city for full reimbursement of the water infrastructure. Future water connections to this water main and the associated fees charged by the city would reimburse water fund for this investment. Sewer infrastructure would be funded by the Developer and then would be reimbursed to the developer by the city approximately 60%. The remaining unreimbursed amount of 40% would be eligible for connection fee credits. We have a few differences between staff and developer. Section 5-4-B and 5-5-B as well as section 7 all relate to unsatisfied contractual obligations. Staff believes the general language that is included in the development agreement now is satisfactory. The developer would like staff to state specific sections that are applicable. Staff believes the developer should list the specific sections if the developer feels the general language is not sufficient. Section 5-4-G and 5-5-G relate to reimbursable costs. Staff believes the language is adequate. The developer would like to see it change so that the change order cost above the bid amount would be covered for change orders implemented by the city or as a result of changes made to city ordinances, rules or regulations. Staff maintains that once the submitted plans are approved by the city and state there should be no such changes. Staff maintains change orders in excess of 15% will not be reimbursed by the city and the developer would like this language stricken. Section 5-5-H relates to an increase in sewer connection fee credits in the event the sewer connection fees increase. Staff does not oppose the increase in connection fee credits in the event sewer connection fees increase provided the credit amount does not exceed the non-reimbursable cost for sewer infrastructure. Exhibit "H," the water infrastructure engineer's estimate shows culverts necessary for the roadway construction. It is his personal belief that this infrastructure is a street improvement and should not be paid for with funds from the water budget.

Mayor Johnson asked what would the total cost be to the city.

Mr. Limberg answered \$2.4 million for water. The sewer would be 60% of \$3.1 million (\$1.86 million).

Mayor Johnson asked what is the scope of work of the sewer. Is it a forced main? (yes)

Scott Wilkinson said the reimbursable costs for the sewer are several years out. That is not something we would be looking at. Our code provides for septic. That has all been drafted into the agreement. We talked about some land division that could occur. It is a rough estimate that we would have a 60/40 share. We need to have a final design completed. We don't have large pieces of ground available for big industrial projects. We presented an agreement that we thought was complete. They are coming back with an alternate water line location. He disagreed with including that. If there is enough uncertainty on Artisan's part to the alignment of the water line then Artisan should probably go out and get that worked on and then bring the agreement back to city council. He cautioned the council on accepting the alternate water line. The agreement terminates if they don't meet the milestones.

Councilman Schmidlein asked how did you guys come up with a 60/40 split.

Mr. Limberg answered the 60/40 split was a proportionate share of what our best estimate is today of the percentage of their property that will develop that will be utilizing that infrastructure.

Jack Reynen, Artisan Communities, said in response to Mr. Wilkinson regarding the alternative water line, they are not throwing out the work that has already been completed. They just want alternatives. These will be private property owners. They will need easements. If there is only one route for the water line it is hard to get easements. They just want alternatives to be able to get easements from the private parties.

Mayor Johnson asked what other private property owners are involved as far as the proposed right-of-way. He thought the right-of-way was already defined with a limited amount of property owners. Has this changed?

Mr. Reynen said the Millers have given the right-of-way.

Mayor Johnson asked if that right-of-way gives them access from Exit 298 back to Mountain City Highway? (no) Is there a property owner in between? (yes)

Mr. Reynen said no one wants to do anything until they know there is a development agreement.

Mr. Wilkinson said there are three property owners. All indications are that they will grant easements for roadways and water lines. There is one party he has not been able to make contact with.

Mr. Reynen said the alignment is the same all the way through the Miller property. It goes to the NE corner of their property. The question is which way will you go around that corner? When you go to people it would be better to have an alternative. The agreement was set up so that we would do the negotiations with the owners.

Byron Giorgio, partner in the venture, said there are very few differences that are at issue. He went over the items. If the agreement were to be terminated by either party it is customary in contracts that unless the parties agree that certain obligations of either party survive the termination of the agreement. They don't. The default provision is that there is nothing that survives unless you agree in advance that they would. This language is simply open ended in that regard. The only provisions that are indicated to survive are the reimbursement provisions. The city wanted language that said without defining them that certain other obligations would survive termination. He felt that was too vague. He felt the fairest provision for everybody is that if you terminate the agreement then no one has any further obligations under it except for those that you will both agree in advance would survive a termination. Regarding the reimbursement obligations, the 15% contingency is something that everyone agrees about but they believe it should be applied globally and not to individual items. We are also asking that the 15% contingency not be the upper limitation of reimbursement if the city actually asks for the change orders. If the city does something that results in the cost of the water being higher and you want it and we do it at your request then we get reimbursed for it. We are asking to make any money on this; we just want to be reimbursed for the full amount of the cost to put that in.

Mr. Wilkinson said the city does disagree with that. The way the agreement is structured we will have engineer plans that would have been submitted and staff would have reviewed those and approved those. It's incumbent on the developer and its engineer to submit those plans to the state. If the state comes back with comments because the plans are not sufficient that's an issue that the developer would have. The way we structured this agreement, we would have review and approved the plans. Once approved, we wouldn't do anything to change those plans.

Mr. Limberg said the estimate is marked up 15% for change orders as it stands. They are uncomfortable with an additional 15% on top of that. We would envision the project not bidding until the plans are approved by the city and the state.

Dave Stanton, City Attorney, said the city is trying to avoid uncertainty and vagueness. That is why we need definition when it comes to having a cap. Regarding unsatisfied obligations, all contracts have terms. They all come to an end at some point. We heard the term customary a lot. He has seen a lot of contracts. The provision that was talked about, saying that unsatisfied obligations that accrued during the term of the contract, if they have not been fulfilled prior to the end of the contract. The term can end at any time and for many different reasons. Regardless of what causes the term to come to an end if the developer has an obligation that accrued during the term it is the city's expectation that obligation will be fulfilled. There are a number of things in this contract that could potentially survive the term. He felt Artisan is asking for us to let them off the hook if the contract ends. He didn't think that was as customary as they explained.

Mr. Giorgio explained that they have identified some of the obligations would survive if the contract gets terminated. We have asked the city to identify any obligations they felt would survive.

Mr. Stanton said they would not be able to provide a complete list at tonight's meeting.

Mr. Giorgio said they have given suggestions and they are waiting for the same from the city.

Mayor Johnson said there is a lot to discuss. Do you want to walk through each item?

Councilman Perry said he doesn't want to go into any more detail on it. There needs to be more work done on this. He has been scratching out notes if everyone else wants to talk more.

Councilman Schmidlein felt that this was too premature and too many differences to define any details and come to any agreement tonight. He felt things need to come closer together.

Councilman Rice said it is all far apart right now. If there is a feeling that we aren't that far apart we have gone through documents this complicated and addressed each issue in the past. If there is some feeling that it would be worth it then go for it.

Councilman Perry said staff and Artisan has put a lot of time into this. He agreed that Exit 298 is a priority. We would like to see it developed. When he reads the agreement and comes up with the \$4.26 million price tag to the city for reimbursement over three years, he see a situation where most of the financial risk is on the city enterprise funds. In the development report that was approved 6-7 months ago, at Exit 298 the analysis was done of what the cost would be and

how long it would take to develop infrastructure. Sewer had a positive Net Present Value (NPV) and water had a negative NPV. One of the conclusions in there was there needs to be some participation by developers in order to make that NPV at least neutral. Two years ago we budgeted \$1 million and we said if there is a developer that wants the city to participate in extension of infrastructure for new growth, the city is willing to do it at this amount. In this fiscal year we budgeted \$1.5 million. He goes back to that \$1.5 million that was budgeted. That's not what this is. Artisan is the first one to come forward. He wants to stick to what is budgeted. We, the city, are either borrowing money internally or borrowing money on the market. That would be a long payback. We need to run this like a business. We do want to see the growth there. Growth needs to pay for the majority of growth. We budgeted this much, what can that get us of a water line to start the development of Exit 298?

Councilwoman Simons asked is there a reason why we can't do some sort of payback with hookup fees or split the 60/40 on both the water and the sewer?

Mr. Limberg answered the reason they had it that way with the water is that the water connection fee is designed to pay for three pieces of infrastructure. It is designed to pay for new wells, new tanks and transmission lanes. This is essentially a transmission main with the difference that there is going to be a lot of development off of it. We have a potential future well site at the bottom of the hill which we purchased from the Millers.

Mr. Wilkinson said if you wanted to make a proposal to Artisan to consider that and structure a development agreement the same way we did the sewer, Artisan will develop property and then they are able to recover their costs up to but not to exceed an amount we agree upon. They can consider that. Then they need to manage their development.

Mayor Johnson said as far as future growth for the city, he believes the city will go in that direction. This will be infrastructure that the city will use for many years. Exit 298 is also a benefit for industrial. It brings options and potential for users downtown to relocate. He is in as far as the general concept. The developer and staff need to get onboard with these incidentals. It will be doubtful that the council does not go along with what the City Attorney recommends. There is a concern that the City of Elko puts in a bunch of dollars if we could come to terms to the value of the land. If the city puts in the infrastructure then we need to make sure that property could be purchased.

Mr. Wilkinson said what we need from council tonight is an agreement in a motion for criteria to move forward. We aren't that far apart.

Councilman Rice said he didn't want to shut the door at \$1.5 million because that is what we have budgeted. If we could have some sort of a matrix that is telling him what Artisan is coming with and what they will be needing back from us. He would like to see where our revenues are to cover those reimbursements. He wanted all of that information in a spreadsheet form so everyone could see them. He wants to leave the door open because there may be some revenues out there that come in as this develops.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to direct city staff to work towards an agreement with Artisan with the following three guidelines:
1) participation by the city of \$1.5 million through the end of fiscal 2014 for water line**

construction and extension; 2) overall we are okay with the timing and the split of 60/40 on the sewer; and, 3) and we are okay with the timing and other parts of the agreement in concept with details to be worked out by staff, City Attorney and Artisan.

The motion passed unanimously. (5-0)

VII. 6:00 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible selection of a parcel of land to be used for the development of the proposed Sports Complex, and matters related thereto. **FOR POSSIBLE ACTION**

At the August 27, 2013 City Council meeting, Council directed Staff to conduct a public hearing to allow the citizens of Elko to express their opinions as to the location of the proposed Sports Complex. The current site for the Sports Complex is an 80 + acre parcel located generally north east of the intersection of Errecart Boulevard and Bullion Road. Other possible locations included a parcel of land near Kittridge Canyon and one located west of North 5th Street. A recommendation from the Parks and Recreation Advisory Council will be provided at the meeting. JD

Jeremy Draper, Civil Engineer, explained they do have a recommendation from the Parks and Recreation Advisory Board to go with the current site at Bullion Road and Errecart Blvd. They still want to hold the public hearing and hear from concerned citizens.

Jay Bollwinkel, MGB+A, said they had some good discussion last week. He gave a presentation. (Exhibit "A")

Bill Madsen, CHA Sports, continued with the presentation and explained the project site.

Mr. Bollwinkel continued with the presentation. He explained the survey responses received and phasing the project.

Mr. Madsen continued with the presentation and explained sports lighting.

Mr. Bollwinkel continued with the presentation and explained further about concerns heard from the public.

Mayor Johnson asked about the revenue that may be generated by the use of the fields and 24 hour tournaments. There was a short discussion regarding 24 hour tournaments and day tournaments.

Councilman Perry asked about the numbers for capital costs. He wanted more detail about where the money will come from and why do fields cost this much money.

Mr. Madsen answered there is lighting for every field, restrooms and concession building. This also includes the construction contingency. They have made some assumptions on grading costs and utilities. They have tried to include everything you could think of right now to be at the top

number but be able to come down. In the estimate we have included three synthetic baseball fields and one synthetic soccer field. The synthetic fields are a premium over a natural field.

Charlie Myers said he wanted to talk about the location of the proposed sports field. You can make anything look the way you want it to. If you look at all the pros and cons done in the survey, when you break it all down only 80 people out of 200 plus people were for the location. He felt the rest of the people thought the field should go somewhere else or that there shouldn't be a field at all. He read a letter. (Exhibit "B") The mosquitos are a problem and the city needs to do something about it. Elko County was identified as a West Nile Virus county. He is supportive of an adult sports complex as long as it is not in a residential area.

John Carpenter said that anyone that says you can build in a flood plain doesn't know what they are talking about. There have been three major floods since 1900. You can see in the pictures he handed out at the last council meeting that it is exactly where you want to put the ball fields. There is a wall around the railroad tracks. He isn't sure they will hold up or not. If the wall holds up the water will go to the South Side. It's not a question of when we are going to have a flood or if we are going to have a flood. The question is we are going to have a flood. If you put all this money into the ball parks down there and we have something in the next ten years, it is going to be a disaster. The location up by the bus barn is not owned by the school district. It is owned by the federal government. You can make application and get that. He asked council to put as much energy in investigating the bus barn site as they are investigating the site by the river. He is concerned that the city will not be able to raise the money required to do this project.

Cathy Laughlin said she was in support of a new sports complex. Her concerns are that the users need to be defined. If Elko Little League will be relocated to that facility they would need to know now. Tournament fees; little league doesn't charge for tournaments. There will not be any revenue from little league tournaments. Little league is stringent in their requirements for their insurance and bonding. They need background checks on anyone that is close to the children as well as no alcohol or tobacco use. It would not work for little league and adult league to be at the same place at the same time.

Councilman Rice asked Ms. Laughlin if she was good with the proposed location.

Ms. Laughlin answered she could see the concerns but she was okay with the location. They do need more practice fields.

Tom Brunson said everyone is talking about the adult aspect of this. Nobody has figured in the revenue of youth sports. Little league is all non-profit. There are a lot of for profit teams that are out there. If you plan it right and use the fields right during the summer months you could host a tournament every weekend. That can get the revenue to maintain the park. By the time this gets built all of his kids will be raised and gone. He is doing this for other people's kids so that maybe there can be weekends that they don't need to travel.

Danny Storey said he is a sports enthusiast, no matter what the sport. He has helped run the sports leagues and has ran tournaments. This mostly seems to come down to how adult sports are run. Mr. Myers voiced concerns about a 24 hour tournament. There is only one of those a year. This meeting is about where the complex is going to be. We have over 70 teams that play on two fields throughout the summer. We have to cap tournaments and that keeps some teams

from coming back other years. With more fields we can grow these tournaments. If constructed and managed properly this could be a huge success for the community. The opportunity to build this is now.

Ken Bicknell said in reference to the fields, we do need them. This won't affect his children. He has been part of a traveling youth sports league and has traveled many miles because we don't have a facility locally. He wasn't too concerned about adult sports because he doesn't think we do enough for our youth here in Elko. If adult sports will help pay the bill that would be great. The revenue would be unbelievable. We are growing at the speed of light in Elko. We need to start expanding in areas such as parks and schools. He likes the proposed location of the sports park because it lets north side and south side join in the middle. If there is going to be a flood it may be next year or it may be 30 years from now. There is nothing you can count on weather wise in Elko.

Mr. Limberg said regarding the fields that have been proposed; this location is the closest to the reuse line for irrigation purposes.

Rick Magness, City Planner, said he thought the item talking about is the location. He thinks that it is in the city's best interest after all the time spent on master plans over the years, that we should spend some time looking at those. This site had been identified in 2007 as a regional park with many of the amenities reflected in this plan tonight. In 2011 it was addressed again and was found acceptable to go here.

Councilman Rice said this area was identified for this purpose in 1999 by a previous council. It is something that has been thought of as a good idea for 15 years. He supports this location.

Councilwoman Simons said it would be great if we could go out to Kittridge Canyon but we don't own that land. If we are going to be fiscally responsible it isn't an option. She feels this facility probably will be tough to have 24 hour tournaments because there are residents close by and because we need to accommodate the kids first. Someday this will flood but what else will we put there?

Councilman Schmidlein said he was reviewing the HARP trail too. In reference to the Master Plans, there is a 1999 Master Plan that shows a lot of the same amenities. It also shows a recreation center. We have to start somewhere. We are short ball fields of all age groups. We are voting on this item for a location.

Councilman Perry said he is in favor of the location. We have built many parks in flood plains because you can't put residences on them. The last big flood was prior to 1962. There has been work done to the flood plains and drainage to address flooding.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, for City Council to ratify the recommendation of the Parks and Recreation Advisory Board and locate the sports complex at the south side location as presented by the Recreation Advisory Board.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible action to adopt Resolution No. 19-13 a resolution and order vacating a portion of the Fir Street right-of-way consisting of an area approximately 80 feet in width by 8 feet in depth abutting APNs 001-113-004 and 001-113-005, which is located within the City Of Elko, Nevada, to the abutting property owner, i.e., Craig Walsh, filed and processed as Vacation No. 2-13, and matters related thereto. **FOR POSSIBLE ACTION**

Council accepted a petition for the subject vacation at its regular meeting of August 13, 2013 and directed Staff to continue with the vacation process by referring the matter to the Planning Commission. The Planning Commission considered the vacation at its regular meeting of September 3, 2013, and took action to forward a recommendation to Council to adopt a resolution to grant Vacation No. 2-13 subject to the specific conditions with findings in support of its recommendation. RM

Rick Magness, City Planner, explained this is part of the vacation process for consideration. Staff recommended approval.

**** A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to adopt Resolution No. 19-13 which contains the relevant conditions as recommended by the Planning Commission and as updated by Staff.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible action to adopt Resolution No. 20-13, a resolution of the Elko City Council adopting a change in zoning district boundaries from LI (Light Industrial) and AG (General Agriculture) to LI (Light Industrial), involving approximately 37.337 acres of property located generally on the west side of W. Idaho Street, north of P and H Drive, filed by Artisan East LLC with authorization from Bar L Ranch and processed as Rezone No. 10-13, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on September 3, 2013 and took action to forward a recommendation to City Council to adopt a resolution to grant Rezone No. 10-13 subject to specific conditions with findings in support of its recommendation. RM

Mr. Magness recommended that based on the discussion earlier about the Development Agreement that nothing should happen on that until the development agreement is agreed upon. Then the zoning could be brought forward for consideration.

Mr. Wilkinson said they would need to have their representation present to agree to the conditions that are proposed in the resolution. If they aren't present they wouldn't be able to do that.

Mr. Magness said we will have it come to you when the Development Agreement is being considered.

No action was taken on this item.

V. NEW BUSINESS (Cont.)

- B. Review, consideration, and possible acceptance of a recommendation from the Parks and Recreation Advisory Board for the selection of a design concept for the Sports Complex, and matters related thereto. **FOR POSSIBLE ACTION**

MGB+A has held public meetings and completed a survey to determine the goals and objectives of the City of Elko and the residents for the development of a Sports Complex. They have compiled those results and completed two concepts for consideration; these options were presented to the Parks and Recreation Advisory Board at their September 19, 2013 meeting and at the August 27, 2013 City Council meeting. The concepts as completed represent 30% design phase drawings, finalization of the concept into construction documents including lighting of the fields, types of playing surfaces, and additional elements wanted in the park will follow in subsequent design phases and public input meetings. The Parks and Recreation Advisory Board has provided a recommendation for the development of a concept and will be presented to Council at the meeting. JD

Jeremy Draper, Civil Engineer, explained we have had some good discussion up to now. We do have two concepts. Concept A has been the focus of the discussions. The overwhelming response on the survey was in support of concept A.

Mayor Johnson noted we need to decide which concept. That will get us to the next step.

Mr. Draper said a management plan should come back on another agenda and also through the Parks and Recreation board. After this we will be looking at ways to fund this and see how far we can go with phase one. From there we will enter into a new contract with MGB+A for the development of the construction documents for phase one. During that time we will be able to come up with some rules for the park.

Councilman Schmidlein said you mentioned concepts A and B. We are just voting on the concept and you will bring back a phasing proposal? (yes)

**** A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to accept the recommendation from the Parks and Recreation Advisory Board to support design concept A for the sports complex and direct staff to work with MGB+A to finalize the concept.**

The motion passed unanimously. (5-0)

- F. 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

Mark Gibbs, Airport Director, explained he brought a power point presentation but was having difficulty getting it on the computer. (Exhibit “C”) The FAA had pointed out that there were some errors in the current ALP that needed to be corrected and resubmitted. This is a document that typically gets updated every five years. It takes about a year for the FAA to approve the document. It isn’t very fluid and doesn’t happen very often. While he is making those corrections to the ALP he took a look at the land use and current economic conditions. Based on current economic conditions we now no longer have marketable commercial development zoned land on our ALP. We are asking to allocate additional land with the FAA’s blessing for commercial and industrial uses on the airport property. He discussed some of the changes he is proposing. He recommended allowing him to submit a new Airport Layout Plan.

Kimberly Owen, NAI Alliance, said she is working with the city and Meridian Pacific in developing land around the airport. This is a wonderful opportunity. We had a successful project around the airport in Las Vegas. It was at a larger scale but she is confident this will be successful too.

Scott Wilkinson, Development Manager, said one concern to address if we are going to open up this ground and it’s going to compete with Exit 298, why would we waste resources at Exit 298. If we are going to have an industrial business park setting at the airport, that wouldn’t compete with Exit 298.

Mr. Gibbs asked if Exit 298 is looking for heavy industrial.

Mr. Wilkinson answered there are two different zone classifications: General Industrial and Light Industrial. There is also a third which is Industrial Business Park. Light industrial will take care of almost all of the industrial land uses except for processing raw materials. We are looking for zone changes. Exit 298 would be Light Industrial which doesn’t have the development standards that an industrial business park might have. The presentation heard before was that we would be looking at this airport property as more of an industrial business park setting. The presenter said there would be no outdoor yard manufacturing.

Councilman Rice said we need to open doors whenever we can to development.

Councilman Schmidlein said we all have responsibly to step outside the box. Every department is trying to succeed in the City of Elko and that is what we need to look at.

**** A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the Airport's Airport Layout Plan Update with no additional cost to the City of Elko as in how staff will complete changes.**

The motion passed unanimously. (5-0)

- A. Review, consideration, and possible authorization to form a committee to recommend a Capital Improvement Project for Council consideration to fund, design and construct in celebration of the City of Elko's 100 year anniversary in 2017, and matters related thereto. **FOR POSSIBLE ACTION**

In preparation of celebrating 100 years of incorporation, Staff has been discussing the possibility of forming a Centennial Committee to define a project for possible construction to be completed by 2017. Staff recommends the makeup of the committee to be; 1 Councilperson, 1 Redevelopment Advisory Council member, 1 Arts and Culture Board member, 1 Parks and Recreation Advisory Board Member, 1 Chamber of Commerce Member, 1 Downtown Business Association Member and up to 3 members of the public interested in the project. One possible project would be the creation of a Centennial Plaza to be located downtown in the Heart of Elko. JD

Jeremy Draper, Civil Engineer, said he and Rick Magness started talking about this about a month ago. They thought it would be a great idea to form a committee to come up with some ideas of possible projects that Council could fund for our centennial celebration coming up in 2017. We are a few years out but it may take three years to come up with a project. He already has interested parties.

**** A motion was made by Councilwoman Simons, seconded by Councilman Rice, to direct staff to form a centennial committee to define a project for possible construction to be completed by 2017 with the recommended makeup outlined in the agenda.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible authorization for the Police Department to acquire a military UP-armored HUMVEE type vehicle from the Office of Criminal Justice Assistance, and matters related thereto. **FOR POSSIBLE ACTION**

The Office of Criminal Justice Assistance is a state grant that allows local law enforcement agencies to acquire military surplus vehicles and equipment. There is no cost to the City for this acquisition.

The military has vehicles and equipment that are considered military surplus and are being disposed of by donating the equipment to states for dissemination. The

Office of Criminal Justice Assistance uses a 10-33 program which allows local law enforcement agencies to acquire military surplus through the grant process. The Police Department has already been awarded this military vehicle, but needs Council approval for the acquisition. This HUMVEE will be attached to the E.S.R.T. and will be used in tactical operations. DZ

Police Chief Don Zumwalt explained the 10-33 program is different than other grant applications. The 10-33 program deals with military surplus equipment and vehicles. We have gotten a lot of equipment from this program but never a vehicle. Eight vehicles have been selected for disposal this year. He is only going to buy five new ones. This Humvee will be supplemental to our tactical units. He hoped we don't use it a lot. We can also get parts for the Humvee through the 10-33 program.

Councilman Perry said these are expensive vehicles. When he worked at Newmont he was given seven of these vehicles to try out. They were the worst maintenance nightmare in the world. They are supposed to be able to be driven anywhere but they were always being pulled out of places. After a year he gave them all back. The only reason to have something like this is to be operating this outside of the city. If the Sheriff wants this then he should get it. He didn't think this was a good idea.

Chief Zumwalt said the sheriff doesn't want it and he doesn't want to do a lot of the things we do. Inside the city limits we don't need it. Outside the city to assist other departments it is a great idea. If we don't do it who will?

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to allow the Elko Police Department to acquire this UP-armored Humvee military surplus vehicle.**

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

After the motion and before the vote, Councilman Schmidlein said he questioned this a little bit too. He would like to have it followed in the maintenance department to find out what kind of money we are rolling into. He doesn't want to bring something on to the city that will cost money. He wants a follow-up every year so we know the costs.

- E. Review, consideration, and possible authorization for the Police Department to acquire a military M-RAP (mine resistant ambush protected) vehicle from the Office of Criminal Justice Assistance, and matters related thereto. **FOR POSSIBLE ACTION**

The Office of Criminal Justice Assistance is a state grant that allows local law enforcement agencies to acquire military surplus vehicles and equipment. There is no cost to the City for this acquisition.

The military has vehicles and equipment that are considered military surplus and are being disposed of by donating the equipment to states for dissemination. The Office of Criminal Justice Assistance uses a 10-33 program which allows local law enforcement agencies to acquire military surplus through the grant process. The Police Department has already been awarded this military vehicle, but needs

Council approval for the acquisition. This M-RAP vehicle is worth about \$640,000 and is in new condition. This vehicle will replace the aging Police Department E.S.R.T. truck. DZ

Chief Zumwalt explained the existing truck they have is an old armored truck. If we keep it we will have to spend at least \$5,000.00 on tires because the cord is showing through on the tires. MRAP trucks are basically set up on an international dump truck type frame and they are all armored a little differently. This will replace what we have. This is needed. It has less than 7000 miles on it and it is in new condition.

**** A motion was made by Councilman Perry, seconded by Councilwoman Simons, to allow the Elko Police Department to acquire the M-RAP vehicle through the Office of Criminal Justice Assistance.**

The motion passed unanimously. (5-0)

VI. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible approval to waive the requirements of Title 9, Chapter 5, Section 33 (Extension of Sewer Main Facilities) and Section 61 (Mandatory Connections) for the property owner of 1850 Royal Crest Drive, and matters related thereto. **FOR POSSIBLE ACTION**

The lot in question is subject to the aforementioned provisions of City Code. City Code was recently revised to allow City Council to waive these provisions. A waiver request from Tim Pike (the adjoining property owner) was previously considered and approved by City Council. RL

Ryan Limberg, Utilities Director, explained the sewer ends across the street at the Rabbit Brush Run apartments. Mr. Pike came in about a year ago and we modified the code at that time for council to consider requests such as these to waive the requirements of two different sections. We received a request from this property owner requesting council consideration and possible approval to waive the requirements of city code.

Mayor Johnson felt that this subdivision was approved to be built with septic tanks and that is how it should remain.

**** A motion was made by Councilman Rice, to modify the requirements for the property at 1850 Royal Crest Drive in accordance with Ordinance No. 746.**

The motion was withdrawn.

After the motion and before the second and the withdrawal, Councilman Rice said that way we are not waiving anything. That is how the ordinance was designed.

Councilman Schmidlein thought that when that was written and approved they would comply or go online when the lines were extended. There was a lot of controversy over this area. He seconded the motion.

Mr. Limberg asked if they could add into the motion some clarifying language stating to allow the installation of a septic tank and not require a sewer main extension.

Councilman Rice withdrew his motion.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the waiver request from Steve Ehrmann for 1850 Royal Crest Drive in accordance with Ordinance No. 746 allowing him to install a septic tank rather than to be required to extend the sewer to his property.**

The motion passed unanimously. (5-0)

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)

VIII. REPORTS

A. Mayor and City Council

B. City Manager – UP property update

Curtis Calder reported on the Union Pacific property update. Union Pacific is taking action to terminate the agreement and they have given the required 30-day notice. Long Canyon; there will be tours of the site that Newmont will be putting together. The EIS for Long Canyon is out in draft form and available digitally.

C. Assistant City Manager

D. Utilities Director

E. Public Works

Ryan Limberg reported the first shipment of the aerotors was being delivered to the WRF this week. He will come back with another update/presentation.

D. Airport Director

E. City Attorney

F. Fire Chief

Matt Griego reported that Saturday is the fire prevention picnic from 10:00 am to 2:00 pm.

G. Police Chief

Don Zumwalt said he had a lengthy Matrix report that he decided not to do. He will do a presentation at the next meeting instead.

H. City Clerk

Shanell Owen reported that the licensing and community development departments are using New World now. She attended the Nevada League of Cities meetings and attended meetings regarding Silver Flume with the State of Nevada. She will be putting some information into each of the council boxes for their review.

I. City Planner

- J. Development Manager
Scott Wilkinson clarified his comments from earlier about the airport property.
- K. Administrative Services Director
Doug Gailey gave an update on the Police Chief offer/background check. They are still pushing for an October 31st hire date.
- L. Parks and Recreation Director
James Wiley invited everyone to an adult softball tournament this weekend.
- M. Civil Engineer
Jeremy Draper thanked everyone for their comments on the sports complex. Regarding downtown; the islands are now landscaped.

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