

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

SS January 26, 2010

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, January 26, 2010.

This meeting was called to order by Mayor Michael J. Franzoia

NOTE: The order of the Agenda has been changed to reflect the order business was conducted.

ROLL CALL

Mayor Present: Michael J. Franzoia

Council Present: Councilman Jim Conner
Councilman Jay Elquist
Councilman Chris Johnson
Councilman John Rice

City Staff Present: Curtis Calder, City Manager
Alan Kightlinger, Fire Chief
Don Zumwalt, Police Chief
Bob Goicoechea, City Attorney
Dawn Stout, Administrative Services Director
Ryan Limberg, Utilities Director
Dennis Strickland, Public Works Director
Trent Moyers, Airport Director
Eric Howes, Parks & Recreation Director
James Wiley, Parks Superintendent
Fritz Sawyer, WRF Superintendent
Scott Wilkinson, Development Manager
Jessica Johnson, Human Resources Manager
Mike Hecht, Deputy Chief/Fire Marshall
Josh Carson, Deputy Fire Marshall
Matt Griego, Fire Captain
Ted Schnoor, Building Official
Jeremy Draper, Civil Engineer
Ed Wynes, City Planner
Lorraine Martinez, Accounting Supervisor
Mary Hassett, Administrative Assistant
Linda Buffington, Recording Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

December 22, 2009
January 12, 2010

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve the minutes of December 22, 2009 and January 12, 2010 as submitted.**

Motion passed unanimously.

PRESENTATION - FIRE DEPARTMENT YEAR IN REVIEW

See Exhibit 'A'.

I. PERSONNEL

- A. Review, discussion, and evaluation of Appointed Official job performance for Calendar Year 2009, and matters related thereto. **ACTION ITEM**

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

Other Appointed Officials, such as the City Engineer, City Attorney, Municipal Court Judge, and City Sexton(s), 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. JJ

Mayor Franzoia stated we have built up a good team.

Councilman Rice commented there is good collaboration among the appointed officials and the City Manager; it is evident in the work that gets accomplished.

Councilman Conner thanked everyone for their work; definitely top quality employees.

City Manager Calder advised all evaluations were distributed to the appointed officials; they were able to review them with the exception of the City Clerk who is out of the office temporarily. Mr. Calder appreciated the comments and feedback.

- B. Discussion and possible reappointment of incumbent Appointed Officials, and matters related thereto. **ACTION ITEM**

Current City policy requires that the City Council consider the reappointment of incumbent Appointed Officials in the January following a City election. Appointed Officials occupy the following positions: 1) City Manager; 2) City Engineer; 3) Police Chief; 4) Fire Chief; 5) City Clerk; 6) City Attorney; 7) Municipal Court Judge; and 8) City Sexton(s).

Although the City Council appointed Mr. Ferron Konakis to the position of City Engineer in January 2008, the City of Elko has since hired licensed Civil Engineering Staff. Therefore, it is recommended that the City Council not appoint a City Engineer, leaving this particular position vacant. JJ

**** A motion was made by Mayor Franzoia, seconded by Councilman Conner to reappoint incumbent Appointed Officials occupying the following positions: City Manager, Curtis Calder, Police Chief, Don Zumwalt, Fire Chief, Alan Kightlinger City Clerk, Shanell Owen, City Attorney, Bob Goicoechea, Municipal Court Judge, Al Kason and City Sexton(s), Scott Burns.**

Motion passed unanimously.

**** A motion was made by Mayor Franzoia, seconded by Councilman Rice to not appoint a City Engineer.**

Motion passed unanimously.

- C. Mayoral appointments of City Council members to specific “Liaison” positions within the City of Elko. **NO ACTION BY THE COUNCIL REQUIRED.**

With the completion of the 2009 Municipal Election, the Elko City Charter authorizes the Mayoral appointment of City Council members to the following “Liaison” positions:

Mayor Franzoia appointed the liaison positions:

1. Police Department Liaison- Mayor Franzoia, Councilman Conner
2. Street Department Liaison- Councilman Johnson, Councilman Conner
3. Waterworks and Sewer Liaison-Councilman Johnson, Councilman Elquist
4. Fire Department Liaison-Mayor Franzoia, Councilman Elquist
5. Airport & Public Property Liaison-Councilman Elquist, Councilman Johnson
6. Parks/Recreation Department Liaison-Councilman Conner, Councilman Elquist
7. ECVA Liaison (Board Member- Councilman Elquist
8. Elko County Water Planning Commission Liaison-Councilman Johnson
9. Elko County Fair Board Liaison-Councilman Conner
10. Recreation Board Liaison-Mayor Franzoia, Councilman Johnson, Councilman Conner, Councilman Rice
11. Mayor Pro-tem – Councilman Johnson
12. ECEDA-Mayor Franzoia, Councilman Johnson

II. APPROPRIATIONS

- B. Review, consideration, and possible final acceptance of the WRF Headworks Upgrade Project, and matters related thereto. **ACTION ITEM**

This project was awarded to Resource Development Company (RDC) on April 14, 2009 in the amount of \$786,300. Three change orders were issued during the project in the total amount of \$14,081.62. The project is complete. Staff is asking for final acceptance of the project in the amount of \$800,381.62. FPS

WRF Superintendent Sawyer explained the three change orders; 1) painting of the main headworks room at approximately \$18,000 2) electrical work approximately \$3,300 and 3) a credit of \$7,200 for work completed by staff.

Councilman Johnson questioned if this was the project that discovered the flow error.

Mr. Sawyer verified that was correct.

Councilman Elquist questioned if this impacted the capital improvement plan.

Mr. Sawyer advised it did; by the time they discovered there were issues with the flumes the ten year master plan was 99% completed; verbiage was added into the plan to discuss the issues they had seen but they also know at some point they will have to do some biological upgrades. It will give us time to review other issues.

**** A motion was made by Councilman Johnson, seconded by Councilman Rice to approve final acceptance of the WRF Headworks Upgrade Project.**

Motion passed unanimously.

- C. Review, consideration, and possible approval of an engagement letter from Parsons, Behle & Latimer to represent the City of Elko's interests in the United States Bankruptcy Court, Case No. BK-N-09-54640 GWZ, In Re: Dhillon Properties LLC (i.e., Holiday Inn Express), and matters related thereto. **ACTION ITEM**

The City Attorney has advised Staff to retain specialized legal counsel with regard to the Dhillon Properties Bankruptcy. A \$2,000 retainer is required. CC

City Manager Calder advised Parsons, Behle & Latimer will represent the city in the appropriate bankruptcy hearings and file motions on our behalf to protect our interests which at this time include our utility payments and room taxes. They performed well for us in the past and we expect the same in this matter.

Councilman Johnson noted there had been discussion on the funds that would benefit from the process, the Recreation Fund and Water Fund; should we allocate the funds to reimburse the General Fund for this expense.

City Manager Calder advised at year end we would want the General Fund reimbursed; this is benefitting the Recreation Fund and potentially the Water and Sewer Funds that could be made part of the motion so it gives clear direction.

**** A motion was made by Councilman Johnson, seconded by Councilman Rice to approve an engagement letter from Parsons, Behle & Latimer to represent the City of Elko's interests in the United States Bankruptcy Court, Case No. BK-N-09-54640 GWZ, In Re: Dhillon Properties LLC (i.e., Holiday Inn Express) and to qualify the expense will be funded by the Recreation Fund and Water Fund in proportion to the benefit of the debt owed by the particular property.**

Motion passed unanimously.

After the motion and before a vote was taken Councilman Elquist questioned whether the ECVA would be involved in this.

City Manager Calder advised they are benefactors of the Recreation Fund; when those monies are collected on the room tax side they will receive that benefit at that point in time. This is just a collection cost that, in the short-term, is born by the City's General Fund; at year end we will make bookkeeping adjustments to make sure those collection costs are charged to the appropriate fund.

III. NEW BUSINESS

- A. Review and approval of pending Special Events, and other matters related thereto. **ACTION ITEM**

This item has been added to the agenda in order to consider any application for Special Events received by the Clerks Office. Staff will report on any application on file. SO

There were no special events.

- B. Review, consideration, and possible action to adopt the 2009 Water Reclamation Facility Master Plan, and matters related thereto. **ACTION ITEM**

The 2009 Master Plan was completed in December. The Master Plan outlines capital improvements based on the predicted hydraulic and/or the organic loadings to the WRF through 2020. The Master Plan's executive summary and capital improvements plan have been included for review. Staff is recommending adoption of 2009 WRF Master Plan. FPS

WRF Superintendent Sawyer advised copies of the master plan were available.

Councilman Elquist questioned if the rate structure is in line with keeping up with the priorities.

Mr. Sawyer believed they were; the major capital to be spent at the plant will be the biological upgrades estimated at \$4 million. The current ending balance is around \$8 million; we are banking \$700,000 to \$800,000 per year; we are doing quite well with the projects we have listed.

Utilities Director Limberg advised staff tried to match the capital improvement plans with our existing rate structure. Included in the packet is the priority level 1, 2 & 3 for projects.

**** A motion was made by Councilman Johnson, seconded by Councilman Conner to adopt the 2009 Water Reclamation Facility Master Plan.**

Motion passed unanimously.

- C. Review and possible approval of a Consent and Nondisturbance Agreement between the City of Elko and Simran, Inc., and matters related thereto. **ACTION ITEM**

Aspen Plaza Partners, LLC intends to sublease space to Simran, Inc. in Building 1 of the Aspen Plaza Shopping Center. The sublease is contingent upon Aspen Plaza Partners, LLC obtaining the consent of the City of Elko. CC

City Manager Calder advised the lease agreement and exhibit that contains the consent portion of that agreement are included in the packet. The only part of the agreement the city would be a party of is the exhibit; that is a requirement pursuant to the lease between Aspen Plaza and Simran, Inc. Mr. Calder indicated Jim Winer is present to answer any questions specific to the lease.

Mayor Franzoia questioned if we are going to see more of these?

City Manager Calder was unsure how Aspen Plaza partners will structure the leases with their sub-tenants. With regard to the city's lease with Aspen Plaza there is nothing that requires this type of agreement; this is something their lessee is requiring.

Mayor Franzoia believed the tenant wants extra security.

Jim Winer advised in this case it is a corporate tenant and they wanted to use their lease.

Councilman Johnson questioned if this was reviewed by legal counsel.

City Manager Calder verified it was.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve a Consent and Nondisturbance Agreement between the City of Elko and Simran, Inc.**

Motion passed unanimously.

Under further discussion Councilman Johnson complemented the projects that have been happening there; it is a great addition to the community.

IV. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible approval of Resolution #1-10, donating three (3) surplus handheld radios to the Elko Snobowl Foundation, and matters related thereto. **ACTION ITEM**

On January 12, 2010 the Elko City Council reviewed and considered this request. Per NRS 268.028 the City Council must approve the donation by Resolution after the review and consideration. DS

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to approve Resolution #1-10, donating three (3) surplus handheld radios to the Elko Snobowl Foundation.**

Motion passed unanimously.

V. PETITIONS, APPEALS AND COMMUNICATIONS

- A. Ratification of the Chief of Police issuing a 30-day temporary retail liquor license and possible approval of a regular retail liquor license to Rory L. Bedore, 777 Gaming Inc. dba Commercial Casino located at 345 4th Street, Elko, NV 89801, and matters related thereto. **ACTION ITEM**

Police Chief Zumwalt advised there were no issues and staff recommends approval.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to ratify issuing a 30-day temporary retail liquor license and approve issuing a regular retail liquor license to Rory L. Bedore, 777 Gaming Inc. dba Commercial Casino located at 345 4th Street, Elko, NV 89801.**

Motion passed unanimously.

- B. Ratification of the Chief of Police issuing a 30-day temporary retail liquor license and possible approval of a regular retail liquor license to Rory L. Bedore, 777 Gaming Inc. dba Stockmen's Hotel Casino located at 340 Commercial Street, Elko, NV 89801, and matters related thereto. **ACTION ITEM**

Police Chief Zumwalt advised there were no issues and staff recommends approval.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to ratify issuing a 30-day temporary retail liquor license and approve issuing a regular retail liquor license to Rory L. Bedore, 777 Gaming Inc. dba Stockmen's Hotel Casino located at 340 Commercial Street, Elko, NV 89801.**

Motion passed unanimously.

- C. Consideration of an appeal from Mr. Jose Telleria, requesting the City Council waives a pro-rated utility bill in the amount of \$103.64, and matters related thereto. **ACTION ITEM**

A letter from Mr. Telleria has been included in the agenda packet for review. CC

Mrs. Telleria advised they reported the property was unoccupied.

Mayor Franzoia questioned when they filled out the report.

Mrs. Telleria stated they reported the non-occupancy by December 9th for the December bill.

Mayor Franzoia then questioned the charge of \$103.64; what is it for.

Mrs. Telleria stated it was for water but they reported the house was not occupied.

Accounting Supervisor Martinez advised Mr. Telleria filled out an affidavit on December 9th; when staff processed the information to bill out they saw on the affidavit there were two houses on the property that were vacant. Normally staff has the water turned off when the property is vacant. Staff contacted Mr. Telleria and he came into the office and filled out a disconnect form

which we received on December 18th; he indicated disconnect should be on the 21st. In speaking with both Mr. & Mrs. Telleria we knew one house was vacant but there was some confusion over the other one; Mrs. Telleria said a portion of the month it was rented, Mr. Telleria said it was vacant. With both of them talking it was difficult for Staff to understand the exact situation so we pro rated according to the requested disconnect date by Mr. Telleria.

Mayor Franzoia requested clarification that staff pro rated the unit they assumed was not vacant.

Mrs. Martinez verified that was correct.

Mayor Franzoia questioned if everyone agreed one unit was empty shouldn't they only be charged for the one unit listed on the disconnect.

Ms. Martinez commented staff was unsure because the Tellarias were confused; staff used the disconnect date on the form they were given.

Ms. Martinez advised the ordinance regarding vacancy affidavit doesn't address residential; we do it as a courtesy.

Mayor Franzoia questioned if they hadn't filled out the disconnect form would they have paid either one; based on information on the affidavit.

Ms. Martinez indicated staff would have informed them of the need to fill out the disconnect form. Staff phoned them to advise them of that because they stated both units were empty; once they came into the office there were conflicting stories. We couldn't delay the billing so we pro rated the December bill.

Mayor Franzoia summarized the issue; there are two units on the parcel, one unit was vacant when Mr. Telleria filled out the affidavit on December 9th. On December 18th they filled out a water disconnect form that showed one unit was partially occupied; based on presentations staff charged the pro rated rate of \$103.64. Mayor Franzoia understood the pro rated rate on the partially occupied unit but the unit on the December 9th affidavit was likely unoccupied the entire month; the only unit that should be pro rated is the one staff recommended the disconnect on and which the Telleria's were not clear if it was occupied or for how long for the month of December.

Councilman Elquist believed it was a reasonable compromise.

Councilman Johnson questioned what the city policy was to not be billed for water and sewer; is there a cut off date?

Ms. Martinez advised there is no cut off date; the property has to be vacant a full thirty days before requesting a vacancy affidavit to obtain a credit. We have to have the affidavit by the 20th of every month to process the billing.

Mayor Franzoia questioned the pro rated rate on the one unit.

Ms. Martinez advised she would need to calculate that.

Mayor Franzoia noted there is a question on the partial use of the one unit that was submitted on the water disconnect application; to be consistent with other appeals we have dealt with in the past that is what needs pro rated.

Mayor Franzoia advised the council would address other matters while Ms. Martinez calculated the amount under discussion.

See further discussion pertaining to this item below.

VII. REPORTS

- A. City Manager - City Clerk out of office two weeks
- B. Utilities Director -Emergency repair to WRF reservoir; split in synthetic liner. Materials, inspection, certification of synthetic welds totaled approximately \$12,000 due to weekend repairs.

V. PETITIONS, APPEALS AND COMMUNICATIONS

- C. Consideration of an appeal from Mr. Jose Telleria, requesting the City Council waive a pro-rated utility bill in the amount of \$103.64, and matters related thereto.
ACTION ITEM

Discussion on this item resumed.

Ms. Martinez advised the corrected pro rated rate would be \$51.82.

Mr. Telleria agreed to pay the \$51.82 but stated it was unfair.

Mayor Franzoia stated if you create confusion Staff has to figure something out; the applications said different things.

Councilman Elquist questioned if they came in by the 18th and declared the second unit vacant; didn't that meet the ordinance.

Ms. Martinez indicated the confusion was Mrs. Telleria said it was rented a portion of December and Mr. Telleria said it was not; in order to process the billing staff used the disconnect date and pro rated the bill from that date.

Councilman Elquist requested verification by them signing the form they are declaring the unit was vacant for the month and they have until the 20th to make that declaration. We take the landlords at their word; is that correct.

Ms. Martinez verified that was correct; again the confusion was over what they said.

Administrative Services Director Stout clarified we typically do not offer affidavits to people other than those that have two occupancies on one property and there is only one shutoff; the only thing we can do is an affidavit if one of them is not occupied. When Mrs. Telleria came in to speak with her she stated one of the units was occupied on the first of December; that is where

the confusion came in. If a unit is occupied any one day of the month the affidavit is not valid. As previously stated there were conflicting stories. We do not offer this to residential units because they can be turned off if no one is there; in order for a residential unit to get a credit they have to be shutoff. Mr. & Mrs. Telleria were told with both units being vacant the only way to get the credit was if they were shut off; obviously that wasn't caught right away; they were called but they didn't come down right away to fill out the documentation so that lengthened the time as well.

Utilities Director Limberg questioned if Mr. or Mrs. Telleria could remember the last day someone was in the address that fronts Douglas Street.

Mrs. Telleria advised November 27th was the last day anyone was in either location.

Councilman Elquist questioned why we don't require the affidavit to be submitted by the first of that month.

Mayor Franzoia advised it creates time lines.

Ms. Stout advised we bill in arrears; we give them until the 20th of the month to let us know if it is going to be vacant the full month. Vacancy affidavits are intended for multiple residences on one connection; in this instance because they were both vacant the only option they have because it doesn't follow what the intent of vacancy affidavits are; they were two residential units that should have been shut off.

Mayor Franzoia acknowledged the confusion was a result of conflicting comments by the landlord.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to adjust the billing amount to \$51.82 on the utility bill.**

Motion passed unanimously.

VII. REPORTS

- C. Public Works
- D. Airport Director - Airport advisory meeting Friday at noon
- E. Police Chief - Thanked council for evaluation, support and good direction
- F. Administrative Services Director - November sales tax down 8.9%, year to date down 10.6%
- I. Development Manager - BLM responded on previous issue
- J. Councilman Elquist - Concern regarding Council's vision; do we know which way we are going or are we reactionary. Staff is looking for budget dollars; we have a roll in this as leaders; give some direction of how we want the community to look. The budget process is the perfect place to start.

Mayor Franzoia suggested a workshop to address the matter.

II. APPROPRIATIONS

A. Review and possible approval of Warrants. **ACTION ITEM**

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

Motion passed unanimously.

Mayor Franzoia called for a brief recess @ 5:50 p.m.

6:10 p.m. Mayor Franzoia called the meeting back to order.

VI. 6:00 P.M. PUBLIC HEARINGS

A. Public comment period. **ACTION WILL NOT BE TAKEN**

This agenda item is to provide time for the general public to address the City Council regarding items of concern. Action cannot be taken at this time, but a matter can be set on the agenda for a future meeting, as appropriate.

Sarah Sweetwater spoke on the connection between art and tourism. A visionary can drive a community to become known for all its positive aspects.

B. Second reading and possible adoption of Ordinance No. 711, an Ordinance adding Title 8, Chapter 19 to the Elko City Code entitled "Public Art Program", and matters related thereto. **ACTION ITEM**

On September 22, 2009, the City Council directed Staff to draft a Public Art Program ordinance for review and consideration. A copy of the proposed ordinance has been included in the agenda packet for review. CC

Mayor Franzoia called for public comment.

Jim Collins expressed appreciation of the arts but was opposed to the 1%; what is the anticipated return on our investment.

Hal Barkdull was also opposed to the 1%; what will it be later? Mr. Barkdull advised he would support it on a personal level; don't tax me; give me the opportunity to say yes or no.

Lynn Kistler supported the 1%. The arts speak to your heart and they do improve the community spiritually and monetarily. Ms. Kistler referenced Old Town Sacramento, Sausalito, Virginia City as examples of art communities; it can happen in Elko.

A resident of Spring Creek spoke in support of the Arts and Culture Advisory Board; they have a lot of plans to enrich community; the 1% would be money well spent.

Cynthia Delany supported the 1%. The committee has done a lot of work and came up with great plan, let's consider it and go forward. Lets look at what art can do for our community; is it all about "artsy"; no it is not; it is about economy. Art brings money to a community.

Becky Kerna expressed support of the 1%; art moves you physically and mentally.

Frank Sawyer, a twenty-five year citizen of Elko supported the 1%. Art inspires, art brings a quality of life to a community you can be proud of. There is a means for public art to draw people to a community.

Norma Viergutz commended the local artists but was opposed to the 1%. The Citizens of Elko are generous and will support the arts but we cannot burden people with more taxes; how can we justify it? We can't keep asking people who are struggling to give more.

Mike Lattin agreed art is invaluable but it isn't a city function. You have to draw the line on spending taxpayer money. Your responsibility is to provide a healthy city, a good environment, public safety, streets, sewer, water etc. People have their own ideas of art and it isn't the function of the council to promote any one type of art. If this ordinance is adopted the council will be making decisions on art. Mr. Lattin believed the council would be spending money they don't have; it was stated under a previous discussion you are facing a possible deficit next year. The public would support beautician projects in conjunction with public works projects. Mr. Lattin requested the council take time to reconsider this ordinance; is this really the direction we should be going.

Ray Pauley, life-time resident of Elko, stated art is subjective; different for everyone. The town of Bell, Oregon, population two thousand, has a mural society and it doesn't cost the city anything. Mr. Pauley supports art but let him make the decision. We don't get everything we want all the time; those days are gone forever. If the city does go with this, lets do something different this time; review it in five years to see how it work.

Stacey Sawyer spoke in support of the 1%. As a past member of the Planning Commission she has seen numerous architectural proposals for different projects to beautify the area i.e. gateway entrances to the city; those type of projects could be funded by something like this.

Yong Pratt commented the consensus is that the economy is not going in a very positive direction. As a business owner she has noted typically in that case spending in the arts increases by 20%-30%. As a vision for the city this art initiative is a great one to give the community hope to look at and enjoy where they are; give them a place where they feel part of the community and the arts are being supported. Arts do mean something different to everyone but why not make art a public function; bring art to those that are not able to go to art. Through the arts lots is possible; art can draw a community together.

Jacques Errecart commented on the economic side of the issue; art does equal money and a lot of it if it is done right. Regarding the matter of affordability Mr. Errecart clarified this is not an increase in taxes, it is a diversion. There are many ways this can be afforded; standards need to be reviewed for development within the City of Elko. We could look at ways to cut back on unsustainable practices that could provide the money for this project and others; i.e. less asphalt, reduce the standard for roadway width by 1%. If we look at the big picture we can integrate all

these different aspects of development in this community and find out how to pay for it easily and other projects as well. Mr. Errecart believed culture and educational opportunities are the drives for people staying or relocating in a community. There are a lot of people in this community that know a lot about art and can provide advice and recommendation needed to make this a success; this is not something that has to be a burden on the council. Mr. Errecart stated much of the public sees this as a historic vote and hope the council does also.

Mayor Franzoia called for more public comment and there was none.

Mayor Franzoia commented he previously voted against this due to the economy. Why does government need to fund this; why not the private sector. Is it better that the city facilitates the opportunity; too much government intervention can limit the private sector. Mayor Franzoia advised public art is narrowly focused; the ordinance is general and believed the intent here is more towards sculptures.

Mayor Franzoia addressed comments made by the various individuals; there is a lot of private art in the community already. Quantifying the quality of life; much of what people look at is how well the city is run. Regarding the comment that spending is increasing for art in a downed economy; we'll see how that works out during Cowboy Poetry; there are times people hold back on spending because of uncertainties. If the city got involved in funding public art in a downed economy with expectations that increases will occur; we have to share 72% with all other government entities that benefit from that with no cost to them; the burden is now back on the city providing things that really are outside of our scope if we look at quantifying quality of life issues in the community. Idaho Street is a gateway; we know those things are important to look at through the budgeting process. We don't get measured by one thing regarding quality of life issues in the community; we get measured by several and for us to add more when we are struggling to meet the basics comes down to funding; we are taking away from things we are trying to enhance for that quality of life i.e. streets. The alternative is to reduce staffing levels to subsidize something we currently don't provide and create an issue by providing it.

Mayor Franzoia stated we don't have a problem right now; we haven't enacted the ordinance. We are in an economic downturn; how can we create a new program we can't afford under these economic times. Everything is important but we can't be all things to all people; if we rob Peter to pay Paul we are going to have sacrifices. We are looking at a \$600,000 shortfall today and possibly \$2 million later based on sales tax revenue. Mayor Franzoia advised the city has been playing catch up from the last downturn. Mayor Franzoia stated he would not discount through a budget process when things get better that we do something for a specific purpose that is identifiable and planned for; outside of having a fund that actually takes away the limited resources that would go to streets; which is our biggest capital expenditure on an annual basis outside of the enterprise funds.

Councilman Rice stated this is a great ordinance; broad-based, provides options and does not raise taxes; it is a result of nearly two years input from the Arts and Culture Advisory Board. Regarding the cost if we look at the projects that qualify for the 1% for art in the last five years it would cost approximately \$14,000 per year to fund this; over the last ten years it would cost about \$9,000 to fund.

Mr. Rice advised communities in rural Nevada; Pahrump, Ely, Winnemucca are facing economic challenges in a much harsher way than Elko, their common challenge as far as work force development, business selection and employee retention has to do with community amenities; every stakeholder in those communities support investment in the arts. Mr. Rice believed art is infrastructure; it addresses the quality of life in our community completely and is as important to the community as public safety, streets, water etc. There is data to show when children are exposed to the kind of opportunities the 1% for art could provide to them; they are going to do better in school, data shows community crime rates will drop and dependence on federal subsidies will also fall; there are tangible reasons why he supports this.

**** A motion was made by Councilman Rice to adopt Ordinance No. 711, an Ordinance adding Title 8, Chapter 19 to the Elko City Code entitled "Public Art Program.**

Mayor Franzoia called for a second on the motion.

Motion died for lack of a second.

Councilman Rice withdrew the motion for further discussion.

Councilman Johnson commented his decision is based on what the mission is of the city. He is responsible as one member out of five to make the best decisions they can for the city. They are to allocate the funds entrusted to them by the taxpayers; the best way to use funds is to continue, as much as possible, to spend on public works and continue on that path. The City's responsibility is to have good streets, fire department, police department, sewer and water. When you get into a situation such as this and matter of opinion; it becomes very specific; it should be left to private citizens or foundations; let the city work to provide the infrastructure to support that private functions. Councilman Johnson was concerned a government body would be asked to make a decision on what would qualify for the funds.

Councilman Johnson believed this had been a great discussion and thanked everyone that provided input; it is so important we talk about what we would like to see in the future of our community. He values that but has to stay within the realms of what he believes he is responsible for as a city councilman for the City of Elko in making the best use of dollars that are paid for by citizens of the community in tax funds, rates, etc. In this matter we aren't sure what the plan is on the other side; we would create the funding and he wasn't comfortable with that. Councilman Johnson appreciated and valued the input; it is awesome so many citizens provided input and he welcomed that; he hoped they recognized his opinion tonight as well.

Councilman Conner expressed his support of art; it does make a nicer community. He voted for it at the previous meeting and since then a number of people have expressed concern it may get out of control and too much money would be spent; perhaps there should be a cap on a project. There was also a concern over the rush; perhaps we should wait until we get to the budget process and look at it again. Councilman Conner stated he never wants to go through a layoff again; there is no rush and we'll make a more informed decision if we take time to reflect on it.

Councilman Elquist agreed this was a great topic to bring into focus. Because of this many of us have stepped back and given thought to what our role is. The economic building blocks you need as a foundation, as a community, to attract business and retain employees includes education,

which is work force development, solid physical infrastructure, public safety and security, emergency response and finally; recreation and cultural opportunities and activities. Elko has it all except cultural and recreational opportunities. Are we funding the right things appropriately; all these things deserve a piece of the pie, unfortunately the pie is getting smaller. If this stuff is important, and he believed it was, we have to decide how much to give because if you give more to one area it takes away from another. There are a lot of people here tonight that want the art but if you ask the Chief of Police, who is down three officers and is being told his wages are going to stay flat for another year and the call volume is increasing; he isn't going to say art. That is where leadership and vision come into play; we have to set the path; everyone has to give a little. Councilman Elquist believed small and large businesses need these building blocks and it is government's role to create and facilitate this environment if these things are important.

Councilman Elquist suggested a compromise; fund it to a level but cap it at a modest amount i.e. \$5,000; see if we have success with it; communicate to the public it is important; if we can do that then he supports it.

Mayor Franzoia called for additional comments and there were none.

Mayor Franzoia thanked everyone for their participation and comments.

Mayor Franzoia then adjourned the meeting.

Councilman Rice questioned the adjournment.

Mayor Franzoia said no additional motions could be made on this item; any changes such as a cap would take it back to first reading. In addition there are some errors in the ordinance i.e. definition of art vs. works of art. You have to keep things consistent throughout the ordinance. Mayor Franzoia stated he wanted the process done appropriately and responsibly so as not to create unnecessary issues. This is consistent with what Council has done in the past.

Councilman Rice questioned why the city attorney had given an opinion something was wrong with the ordinance.

Mayor Franzoia advised he brought it to counsel's attention while preparing for tonight's meeting. Mayor Franzoia also referenced funding terminology as inconsistent. Again, this is consistent with what the Council has done previously in matters such as this.

Councilman Rice believed Council should be giving Staff direction to review the ordinance and bring it back. Councilman Rice expressed concern there is always a reason to say no; he wants this back before the Council as soon as possible.

Councilman Rice continued and stated he also had concerns with capping; especially at the level mentioned by Councilman Elquist; the ordinance allows for matching funds from private sources. This is affordable and there is plenty of evidence that show the return on a minimal investment is substantial; it is less money than the city pays the Council per year. Councilman Rice indicated he wanted this brought back before the Council within four weeks.

Councilman Elquist agreed \$5,000 wouldn't take it far but public contributions could.

Councilman Conner believed the budget process will alleviate many worries; there is no reason to rush and force people to vote one way or the other right now. Let's take time and do it right.

There being no further business, Mayor Michael J. Franzioia adjourned the meeting.

Mayor Michael J. Franzioia

Shanell Owen, City Clerk