

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

**SS** March 10, 2009

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, March 10, 2009.

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

## **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  
Delmo Andreozzi, Assistant City Manager  
Alan Kightlinger, Fire Chief  
Don Zumwalt, Police Chief  
Shanell Owen, City Clerk  
Dawn Stout, Administrative Services Director  
Eric Howes, Parks & Recreation Director  
Ryan Limberg, Utilities Director  
Dennis Strickland, Public Works Director  
Trent Moyer, Airport Director  
Jim Echanis, Human Resources Manager  
Scott Wilkinson, Development Manager  
Antonio Mendive, Water/Sewer Superintendent  
Mike Hecht, Fire Marshall  
Ted Schnoor, Building Official  
Lynette Ronzone, Civil Engineer  
Ed Wynes, City Planner  
Lorraine Martinez, Accounting Supervisor  
Linda Buffington, Recording Secretary

## **PLEDGE OF ALLEGIANCE**

### **APPROVAL OF MINUTES February 24, 2009**

**\*\* A motion was made by Councilman Conner, seconded by Councilman Elquist to approve the minutes of February 24, 2009 as submitted.**

**Motion passed 4 to 0.  
Councilman Johnson abstained.**

### **READING OF A PROCLAMATION RECOGNIZING "NATIONAL BOYS & GIRLS CLUB WEEK"**

# **SPECIAL RECOGNITION OF THE CONTRIBUTIONS BY WALMART AND ELKO SANITATION FOR THE CARDBOARD RECYCLING PILOT PROGRAM**

## **I. PERSONNEL**

- A. Review and possible approval of appropriate regional labor market agencies to survey for management employees and Appointed Officials classifications, and matters related thereto. **ACTION ITEM**

On February 24, 2009, Council selected a consultant to conduct an update to Classification/Compensation Plan for management-level, and Appointed Official positions. The proposed list of comparables that was used in the previous study Fiscal Year 2005/2006 has been proposed for comparables in the Fiscal Year 2008/2009 update. These comparables are from a five state region, using the criteria of employer size, geographic proximity, and the nature of services provided by the agencies, in identifying the appropriate labor market for comparison by the City of Elko. The recommended regional labor market selects agencies of comparable size from the states of Nevada, Idaho, Utah, Arizona, and Wyoming with a similar cost of living. The selected comparables, which were used by Personnel Concepts, Inc. in the previous update, are attached. JE

Human Resources Manager Echanis was present to answer questions.

**\*\* A motion was made by Councilman Elquist, seconded by Councilman Rice to approve the Regional Labor Market as presented for the update to the Classification/Compensation Study for FY 2008-2009.**

**Motion passed unanimously.**

## **II. APPROPRIATIONS**

- B. Review, consideration, and possible approval of an award of a contract for the Rehabilitation of Well 24 Project, and matters related thereto. **ACTION ITEM**

This project is included in the Fiscal Year 2008/2009 budget and is both a maintenance project and also will provide a second water source to the hospital upon completion. Bids were opened on March 4, 2009. Staff will present the bid tabulation and a recommendation at the meeting. RL

Utilities Director Limberg advised \$170,000 has been budgeted for this project; overall decline in the well necessitates the work. The well originally pumped 400 gpm and is now in the 200 gpm range; Staff's goal is to increase the production back over 300 gpm. This upgrade will provide a second water source to the hospital and is another consideration. Staff recommends award of the bid to Carson Pump, low bidder in the amount of \$59,000.

Mayor Franzoia questioned the well age.

Water/Sewer Superintendent Mendive advised records show it was installed in 1974. Records from the original driller also indicated this well could benefit from further development; the unknown is why the driller quit at the point they did.

Councilman Johnson questioned if the specs were clear enough for the amount of test pumping that will need to be completed; this low bidder is 44% lower than the next one.

Utilities Director Limberg advised the low bidder met with Staff and made a site visit. Mr. Limberg was unsure whether any other bidder had done so.

Water/Sewer Superintendent Mendive advised Humboldt Drilling also visited the site; equal time was spent with Humboldt Drilling and Carson Pump and both were aware of what the project would entail.

**\*\* A motion was made by Councilman Elquist, seconded by Councilman Johnson to award a contract for the Rehabilitation of Well 24 Project to Carson Pump in the amount of \$59,000.**

**Motion passed unanimously.**

- C. Review, consideration, and possible approval of an award of a contract to provide a rebid of the Line Shaft Vertical Turbine Pump, and Inverter Duty Electric Motor for City Well No. 43 Project, and matters related thereto. **ACTION ITEM**

This project was rebid in accordance with NRS.338. Bids were opened on March 4, 2009. Staff will present the bid tabulation and a recommendation at the meeting. RL

Utilities Director Limberg first noted the agenda item should also state “installation”. Mr. Limberg reviewed why the project had been rebid; it was originally bid under NRS.332. Questions were raised if it should have in fact been bid under NRS.338 as it included installation. The matter was discussed with legal counsel and that was in fact correct; as such it was rebid under NRS.338 which requires bid bonds etc. It then broke into two suggested approaches; bid the pump and motor then separately bid the installation. That approach poses a few problems; when the parts don’t match up the supplier blames the installer, the installer blames the supplier and the City is left in the middle to resolve the problem. Also, if a driller does not get the bid for the pump and motor he is not generally willing to install the low bid pump and motor for someone else. It was decided to bid both materials and installation together as one; the prices are higher due to the requirements of the bonding and forty additional bid documents. Due to the time lag and delay from the rebid the driller will also have to install the pump inside of the building; he will have to use a larger crane instead of his pump truck.

Mr. Limberg continued and indicated two of the original four bidders rebid the project; Zim Industries out of California and Humboldt Drilling from Winnemucca. Each had exceptions to our bid requirements however; Zim Industries had a major variation from the pump requirements and was therefore determined as failing to meet the bid specs. Staff recommends awarding the bid to Humboldt Drilling in the amount of \$178,000.

Mayor Franzoia questioned City Attorney Goicoechea on the fact the agenda did not show the “install” part of the bid. Because it is an inclusive bid and advertised to provide a pump and install it, does the Council have the latitude to award the bid.

City Attorney Goicoechea advised the agenda item was broad enough to award it.

**\*\* A motion was made by Councilman Elquist, seconded by Councilman Conner to award a contract to provide a rebid of the Line Shaft Vertical Turbine Pump, and Inverter Duty Electric Motor for City Well No. 43 Project to Humboldt Drilling in the amount of \$178,000.00 and note that low bidder, Zim Industries was out of compliance with the specs.**

**Motion passed unanimously.**

- D. Discussion and possible authorization for Staff to solicit bids for the 13<sup>th</sup> Street Sewer Line Replacement Project, and matters related thereto. **ACTION ITEM**

This project was prompted by the discovery of a City Sewer Main located on private property under at least one home, and outside of an Easement or Right-of-Way. AM

Utilities Director Limberg advised research was conducted to determine if the structures were built in the wrong location. It was determined most of the initial development where the sewer line is located occurred in the 1930's-1940. Mr. Limberg referred to a map included in the packet which identified the location in question.

Mr. Limberg advised Evan Fonger, project engineer from RTW was present to answer any questions.

Mayor Franzoia questioned if the line would be placed where the road is in the worst shape so we can repave that portion.

Mr. Limberg commented there has been discussion on repaving the road; Staff believes there is a solution that will work to everyone's satisfaction. One caveat to this is the budget; the engineer's estimate is \$280,000 for the work. It is possible we could get it done significantly cheaper during the current market. There is \$150,000 in the budget and \$143,000 in the sewer fund contingency budget. Staff recommends using the \$150,000 in the sewer budget and make up the difference from the sewer fund contingency budget; there are other options if the Council is opposed to that approach.

Mayor Franzoia questioned whether the \$280,000 included pavement; also that Staff had less expensive options.

Mr. Limberg verified pavement was included, and there are benefits to bidding the project at this time; the prices are likely as low as we will ever get them.

**\*\* A motion was made by Councilman Elquist, seconded by Councilman Johnson authorizing Staff to solicit bids for the 13<sup>th</sup> Street Sewer Line Replacement Project.**

**Motion passed unanimously.**

- E. Review, consideration, and possible authorization for Staff to solicit bids for a new one-ton four wheel drive truck with dump body and lift tailgate for the Street Department, and matters related thereto. **ACTION ITEM**

Staff requests authorization to solicit bids for a one-ton pickup for the Street Department. This truck was approved in the Fiscal Year 2008/2009 budget. This truck will replace Units #3043 and #3024 and will be used for painting, placing pretreatment for snow removal, and various other departmental needs. DWS

Mayor Franzoia questioned the age of the two vehicles this would replace.

City Manager Andreozzi advised they were purchased late 1960's and mid 1980's.

**\*\* A motion was made by Councilman Conner, seconded by Councilman Elquist authorizing Staff to solicit bids for a new one-ton four wheel drive truck with dump body and lift tailgate for the Street Department.**

**Motion passed unanimously.**

- F. Review, consideration, and possible authorization for Staff to solicit bids for the Public Works Department for Plantmix Bituminous Pavement materials to be used for the FY 2009 construction season, and matters related thereto. **ACTION ITEM**

This is an annual bid request for Plantmix Bituminous Pavement materials based upon a unit price per ton amount. The materials are primarily used by the Public Works Department on streets, but the material may also be used by other departments as needed. DWS

**\*\* A motion was made by Councilman Conner, seconded by Councilman Johnson authorizing Staff to solicit bids for the Public Works Department for Plantmix Bituminous Pavement materials to be used for the FY 2009 construction season.**

**Motion passed unanimously.**

### **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 and possible approval of amendments to the City of Elko standard contract form for professional engineering services, and matters related thereto. **ACTION ITEM**

On October 28, 2003, Council approved a contract form for professional services. Staff would like to make revisions to this contract form to include a time limit for

engineering firms to complete their services, and also for a requirement for engineering firms to submit asbuilt plans. LR

Civil Engineer Ronzone requested this item be tabled.

**\*\* A motion was made by Councilman Elquist, seconded by Councilman Rice to table this item thereby allowing staff more time for review.**

**Motion passed unanimously.**

- C. Review, consideration, and possible action to approve City of Elko guidelines relating to the use of Special Assessment or Improvement Districts (SAD/SID), as a matter of financing improvements associated with new development involving one or a small number of private property owners who intend on developing their property for residential, commercial, industrial, or other beneficial use, and matters related thereto. **ACTION ITEM**

In response to developer inquiries and proposals, Staff has reviewed the use of SAD/SID's as a financial mechanism to finance improvements associated with new development.

Under chapter 271 of NRS, the City is authorized to acquire street, sidewalk, water, sewer, curb, gutter, flood control and other publicly owned "infrastructure" improvements that benefit new development by the creation of a special improvement district.

Staff has been urged by Special Bond Counsel to have "Guidelines" adopted outlining the circumstances under which the City will consider this type of financing for new development prior to the implementation. A draft set of guidelines has been provided in the packet for review. DA

Assistant City Manager Andreozzi advised Staff has been contacted by developers interested in using this method as a means to finance public infrastructure. Mr. Andreozzi noted this type of financial tool has not been used by the City of Elko before; Staff contacted special bond counsel to seek advice from their point of view. Included in the packet is a model set of guidelines completed for Douglas County; the guidelines spell out to any potential developer what circumstances the City will consider this type of financing for. It is a very comprehensive program and allowed for by NRS. Legal Counsel has reviewed the document as well. This is before the Council for consideration so the guidelines are in place in the event anyone does want to seek this type of financing tool.

City Manager Calder pointed out some concerns; under eligibility #3 offsite improvements "*the city will consider financing only off site or regional infrastructure improvements which are those shown on the city's comprehensive plan or included in the capital improvement program or improvements with respect to which the city council has made finding of regional benefit*", for example; a major sewer interceptor, arterial street or highway that are on the comprehensive plan or found to be of regional benefit by the city council would be considered for financing opposed to something that would exclusively benefit a particular subdivision. Mr. Calder advised he pointed these out because the developers that have contacted the City regarding SID's seem to

want to use these for their on-site as well as off-site improvements; however that is not how these things are generally structured. Another example is under item 'C' for development, the water rights issue, which we have dealt with in the past. Under this it states "*if they wanted to utilize SID financing, the property owner must have irrevocably offered or dedicated sufficient water rights in good standing to the city or must have obtained from the appropriate water provided will-serve letters for sufficient amount of water for the development to proceed to completion as proposed*". Mr. Calder believed that could be a sticking point for a developer looking to utilize this tool within the city. Mr. Calder acknowledged the document is comprehensive but it does provide a good road map for the City rather than trying to reinvent the wheel; if a developer approaches us we can provide this document to them and they can make the decision of whether they want to pursue it or not.

Mayor Franzoia referred to item 'C' and noted there is still a lot of undeveloped property within the City that would not fall under the guideline of providing water rights; they are already within the city limits.

City Manager Calder acknowledged that was correct and has been the past practice; in-fill projects would not necessarily fall under this. If someone wanted to do a large in-fill project and wanted SID financing the Council could look at that on a case-by-case basis. This is designed for new infrastructure on the periphery of our service area.

Mayor Franzoia questioned if the council adopted the guidelines in what format it would be.

City Attorney Goicoechea advised it would be as a resolution.

Mayor Franzoia commented because it is named as a guideline, anything in it can be amended or adjusted by the Council.

Mr. Goicoechea verified that was correct. Mr. Goicoechea advised he reviewed the document and stated the guidelines were very well drafted for the protection of the City; the drafted standards state it has to be a very serious and large project.

City Manager Calder supported a specific set of guidelines if the Council chooses to go this direction. Up to this point most of our developers have installed the public improvements at their expense and worked the cost back into the lot prices; that is how they are getting paid back. The SID programs envision super developments; they demand arterial roads, sewer systems, water tanks, and a lot of infrastructure on the front end where the developer might not be able to get financed without a tool like this. You can use this very, very selectively; we wanted to get something to the Council because we've had at least two developers float this idea.

Councilman Rice questioned if this was the type of tool someone wanting to develop approximately four-thousand acres on the edge of town might use.

City Manager Calder verified that was correct; they would need to install a lot of infrastructure before they could even think of selling a lot. Mr. Calder believed this could be a successful tool to use but didn't believe the City wanted to be experimenting with them; it is better to use what another Nevada entity has used fairly successfully; if we need to modify it there is a provision

that allows the City Council to do that on a case by case basis; to impose additional requirements or waive specific requirements listed in the guidelines.

Councilman Elquist questioned whether or not, because it is a state law, the City is obligated to offer them.

City Manager Calder did not believe the City was obligated; the developer can ask and we can say we do not want to utilize this type of tool; that has been the position the City has taken with developers. That is a policy decision the Council may want to make; to say that we do not want to get into this business.

Councilman Rice questioned whether the guidelines reduced the City's risk.

City Manager Calder indicated they protect the City; they don't reduce all the risk involved. They set forward a checklist; for someone to even be considered they have to be eligible. These can be successfully utilized; Reno, North Las Vegas, Las Vegas, and Douglas County have used them with success. For smaller communities this is a somewhat foreign subject matter.

Mayor Franzoia pointed out two risks 1) failure - which would reduce the property values around the area and would then reduce property tax proceeds back to local government and 2) somehow it goes awry, they abscond with the money and certain public improvements are not completed. Now there is a subdivision that hasn't been accepted by the City and has property that has been sold. We run that risk with every subdivision therefore the methodology has been to make sure the City has the Public Improvements Agreement and the bonding in place which assures us the developer has to complete the public improvements within a specific time frame. Mayor Franzoia supported establishing guidelines in regards to this matter.

City Manager Calder advised one terminology correction was needed; instead of "City's Comprehensive Plan" Staff would like it changed to read "the City's Master Plan".

**\*\* A motion was made by Councilman Rice, seconded by Councilman Johnson to approve the City of Elko guidelines relating to the use of Special Assessment or Improvement Districts as a matter of financing improvements associated with new development involving one or a small number of private property owners who intend on developing their property for residential, commercial, industrial or other beneficial use and note that any reference to "city comprehensive plan" be change to "city master plan".**

**Motion passed unanimously.**

- D. Review and possible nomination of student applications for the Nevada League of Cities & Municipalities Youth Award and Scholarship Program, and matters related thereto. **ACTION ITEM**

The Nevada League of Cities sponsors a Nevada Youth Award and Scholarship Program to recognize public/community service and to encourage Nevada's young people to become involved in benefiting their communities.

The City of Elko received 6 applications for the Scholarship Program. The Council may nominate up to three applicants to be submitted to the "award"

committee for consideration. There will be one overall rural winner who will receive \$1,000 and the opportunity to attend the Nevada League of Cities & Municipalities Annual Banquet.

The City of Elko received 3 applications for the Youth (Junior High) Award Program. The Council may nominate all three applications to be submitted to the “award” committee for consideration. There will be one first place winner who will receive a \$100 check and three runner-ups who will each receive a \$50 check. SO

**\*\* A motion was made by Mayor Franzoia, seconded by Councilman Conner to table this item.**

**Motion passed unanimously.**

- E. Review and possible approval of an Oil and Gas Lease Agreement, plus addendum, between the City of Elko and Rock Investment Group, and matters related thereto. **ACTION ITEM**

The Rock Investment Group has proposed leasing the oil and gas rights associated with 1,603.09 acres of City property for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and non-hydrocarbon substances produced in association with such activity. A copy of the proposed agreement and addendum has been enclosed for review. CC

Before proceeding with the discussion Mayor Franzoia questioned if this had been advertised for lease.

City Attorney Goicoechea advised it is not a lease of land; we are leasing only the right to explore; if there are oil, gas and hydrocarbons that they can extract the oil and gas.

Mayor Franzoia requested verification the State of Nevada is silent on the question of anything other than a property type lease or sale.

Mr. Goicoechea verified that was correct.

Mayor Franzoia then requested verification the state does not consider mineral rights a property type lease.

Mr. Goicoechea believed it was not addressed in that legislation. It was legal counsel’s opinion that an oil and gas lease is not a lease or real property; which is the wording in that legislation.

Mayor Franzoia then questioned occupying the land for a specific period of time; how would that be construed if it is taken out of public use and obligated exclusively for a function such as this.

Mr. Goicoechea advised the addendum makes it clear that on the airport property they have no right to occupy or use any of the surface. If this were granted and they found anything they would have a lease also on adjacent property of a private landowner; any pump that would pump out oil or hydrocarbons under the City property would pump it out without having the use the

surface rights in any way. That verbiage has been included specifically for the airport property and perhaps we need to address the rest of it.

Mayor Franzoia questioned any possible problems with the government related to the airport property. The FAA always said any generation of revenues stays at the airport; that is the policy we have always had.

Mr. Goicoechea was unaware if the FAA had been approached.

Airport Director Moyers verified the FAA has not been approached; it has always been the policy that anything generated on the airport stays on the airport. We would need to talk with the FAA but at this point it is speculative.

Mr. Goicoechea commented based on Mayor Franzoia's questions that we are premature on getting this approved at tonight's meeting because of the airport property and having FAA approval first.

Mayor Franzoia supported discussion with the FAA to avoid any complications; everything we have done when it has been applicable to the FAA has always been contingent upon their approval.

Mr. Moyers believed this would meet the same criteria. Staff will discuss the matter with the FAA for their opinion.

City Manager Calder advised representatives from the Wolcott, LLC group were present to answer more specific questions. They have provided documentation on the property ownership and mineral rights ownership as well which are included in the packet along with a map which shows some highlighted areas. One of the areas Staff noticed was the area in section seventeen; we were aware of all the other property areas but were not that one.

Larry McGary, CEO, Rock Investment Group came forward to address the Council. Mr. McGary advised they initiated the discussion with the City of Elko to lease the oil and gas rights; they believe this would be a benefit to the City and a revenue gainer. In regards to the airport issue Mr. McGary advised the Dallas/Fort Worth Airport has been leased, although unsure if the FAA was involved, as a general rule, these are oil and gas sub-surface rights and belong to the owner of the rights, which in this case would be the City. Mr. McGary noted there are many airports and city facilities around the United States that are producing oil and gas; it is in the interest of Elko to allow us to pursue it.

Mr. McGary indicated they spent significant funds trying to ascertain whether the City of Elko does in fact have the mineral rights they are seeking to lease and develop; the City does in fact own them. This would be a joint-venture; the way an oil and gas lease is structured is the City gets 1/8 of the production or 12.5% of everything that is produced without making one investment. This is the same terms they have leased thousands of acres from the BLM and private citizens within the community; it is the same terms in which most oil and gas leasing is undertaken across the United States. With the current depressed economy this could be a very beneficial aspect of revenue generating. Mr. McGary provided documentation that indicated, from an historical basis, what kind of production has happened in Nevada. Through the use of an

arbitrary number, because we are looking out into the future, there is potential revenue to the City of Elko of \$125,000,000. Mr. McGary advised they have been involved in basic geologic research in this community for twelve to fifteen years and are now beginning a phase of development drilling for exploration holes. They believe there is potential for some of the City's area and would like to enter into a lease agreement.

Fire Chief Kightlinger questioned if this would include the water in this basin.

Mr. McGary advised it would not; there is a part of the agreement that sets aside the water if they were to find it. If they drilled into water and it was of interest to the City they would help develop it.

Utilities Director Limberg questioned how they envision this drilling will affect the ground water in the aquifer and the existing City wells located nearby.

Mr. McGary stated they would be doing nothing that would affect the aquifers. Oil and gas drilling has been going on for over one-hundred years and they are fairly sophisticated in how to not destroy or infiltrate any particular water reservoir. They also have a technology that gives an indication of the water in the sub-service as well as the potential hydrocarbons; with this foreknowledge and understanding of the geology of any aquifer they can engineer around it; there should be no impact.

Councilman Elquist expressed concern of tying the property up for an extended number of years; is there a performance guarantee, a minimum level of investment they will make every year or can the lease graduate every year where after four or five years they decide if they are serious or not and the cost keeps rising.

Mr. McGary stated they are interested in being a good citizen and would be willing to escalate on a three year basis. The lease is \$1.50 per net acre for the first three years, \$1.00 per net acre, paid yearly for the next two years, and finally \$2.00 per net acre for the next five years; so there is a cost escalation. Mr. McGary explained they enter into ten year leases because there are no producing wells in Elko County; this is the most under-explored place in America for oil. The production that has occurred in the past, when it has been offset, has not been very successful. This is totally different than gold; if we were to drill a deep well the cost could run to eighteen million dollars; it is a significant investment and a highly risky one.

Councilman Elquist understood risk-sharing and questioned their intentions over the next five years; was it to actually drill an exploration well. You have a plan; can we get in writing that some level of performance will be done so it doesn't tie it up for ten years.

Mr. McGary believed some sort of terms could be arrived at. They intend to drill a well within the next sixty days; obviously not on this ground as there is no lease at this point. This ground may be of interest to them and they hope to address it quickly; they did the research and would now like to develop the property for the City; the City was unaware they even owned this resource.

Mayor Franzoia was intrigued with the idea something could be explored; if success is obtained it is a benefit back to the citizens. Mayor Franzoia supported the amendment that protects the water related issues.

Mayor Franzoia stated he would like to see leases from the BLM etc. for comparison; there is no sense in the City trying to reinvent the wheel if the government has enough protections in there for the citizen's rights, interests and the environment.

Mr. McGary stated these are standard lease forms that they use all over the world; the exact same terms used with the BLM and other private ranches.

Mayor Franzoia advised Staff has been reviewing our normal contracts for different aspects of what we provide to the community, trying to make them more up to date, consistent and applicable to the current laws; as we go forward Staff would like to see something from the BLM that mirrors that exactly so we are protecting ourselves.

Mr. McGary stated they would provide examples of the leases.

Councilman Elquist questioned whether any of the leases contain wording that says you have to drill a hole within the ten year period.

Mr. McGary stated they do not; until we own a lease we don't have the data to know whether we would want to drill or not.

Councilman Rice questioned whether they were seeking other investors for this venture.

Mr. McGary advised they are a private company and funded by private investment.

Councilman Rice then questioned whether any other local governments are on board with this project.

Mr. McGary noted the BLM is fairly significant.

Councilman Rice questioned Mr. McGary if he had ever been involved in any court actions regarding oil, gas or mineral leases the City would need to be concerned about as partners.

Mr. McGary stated he had not and went on to clarify the specific incidents Councilman Rice referred to. Mr. McGary also stated he would provide affidavits from anyone associated with him at that point in time and over the past thirty years.

Councilman Rice thanked Mr. McGary for his response.

Mayor Franzoia questioned whether the City's water rights extended to Section 17; if not, would we have to make temporary water transfers to allow drilling.

Utilities Director Limberg was unable to provide the answer at this time.

Mayor Franzoia questioned Mr. McGary on what they hoped to accomplish at tonight's meeting.

Mr. McGary indicated they are willing to work with the City toward a finished agreement. They are willing to address any issues the City may have and would like to get a completed lease from the City so they can ultimately drill at some point in time. There is no guarantee as to when the drilling will actually take place; it is a complicated process as previously stated.

Mayor Franzoia indicated there are a lot of questions the City doesn't have answers to and suggested Staff and Council members meet with company representatives to discuss the various issues; get more information and details on the questions brought up tonight.

Utilities Director Limberg questioned Mr. McGary if they had functional wells with other cities or municipalities.

Mr. McGary stated they did not; other companies do.

Mayor Franzoia commented this is a new thing for the City; it is complicated. We have a piece of land that may have potential. There is no harm to the City for its use for other purposes and possible benefit to the citizens of Elko; have it explored for opportunity that would generate potential revenues. There is no loss to the City other than making sure any agreement we have in place is well protective of the City in a number of ways i.e. water right issues.

**\*\* A motion was made by Councilman Johnson, seconded by Councilman Conner that two Council members be designated to review the agreement along with Staff and to also look at the proper notification and bring a report back to the City Council at their convenience.**

**Motion passed unanimously.**

After the motion and before a vote was taken Mayor Franzoia directed legal counsel to verify if this type of lease was possible without the State process.

Mayor Franzoia appointed Councilman Elquist and Councilman Johnson to serve with Staff on this issue.

Mr. McGary thanked the Council for their time and stated they would provide any information the City needed.

## **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.

Jerry Brower and Robert Newman of N.E.A.T. came forward to address the Council and inform them of the non-profit, assisted living project they are hoping to bring to Elko. Mr. Brower indicated the City has property that would be ideal for this facility; they will be back at a later date to discuss the property further.

Mayor Franzoia questioned whether Staff has indicated the parcel in question is available for sale.

Mr. Brower verified they had.

Mr. Newman stated the Northern Nevada Transit Coalition operates the N.E.A.T. bus around town transporting seniors and the disabled; they want to expand that and help the community as well as the seniors and disabled to better their needs.

## V. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Consideration of an Appeal regarding the minimum setback requirements of a garage located at 606 3<sup>rd</sup> Street, and matters related thereto. **ACTION ITEM**

This item was tabled during the February 10, 2009 City Council meeting. A letter from Mr. Robert Johnson has been enclosed for review. DA

Robert Johnson was present to answer questions; Mr. Johnson stated he would like to comply with the setback requirements and would construct a firewall. The firewall would satisfy the Building Department but not the Planning Department.

Mayor Franzoia stated the City wants to make sure when property owners build something it is within the standards applicable not only for the citizens and community safety but primarily for the property owner so that it is done properly. If the City waives this request we create a precedent. Mayor Franzoia stated he would not support waiving the requirements. Mayor Franzoia believed Mr. Johnson was heading the right direction by seeking support from the Planning Commission before building the firewall.

Councilman Elquist questioned whether the Planning Commission had seen this yet.

Mr. Johnson verified they have.

Mayor Franzoia stated it hasn't gone through the process as yet.

**\*\* A motion was made by Councilman Elquist, seconded by Mayor Franzoia to deny the appeal and allow the process to move to the Planning Commission with a possible variance if plausible outside of other conditions to the standing of this building on the property.**

**Motion passed unanimously.**

After the motion and before a vote was taken Councilman Elquist commented with these small lots there is a long list of setback reductions that were done in the past. Councilman Elquist expressed his support of this, if he meets the firewall requirements, but was not opposed to it going through the process.

- B. Review and consideration of an appeal by Sherri Smith of staff's action to deny her purchase of a couple's golf pass for her husband and adult son, and matters related thereto. **ACTION ITEM**

Ms. Smith contacted the City regarding the purchase of a couple's golf pass for her husband and adult son. Staff informed Ms. Smith that a couple's pass was intended for a married couple not just a couple of people purchasing a pass together and denied her request for the couple's pass. Enclosed is her letter requesting to be heard by the City Council. DS

Administrative Services Director Stout advised new information has come forward; the gentleman in question is in fact not Mrs. Smith's son. Ms. Stout noted included in the packet is a memo from Rick Longhurst, golf pro, that provides a history of the couple's pass in his tenure at the golf course.

Sherri Smith addressed the Council to strongly express her disagreement with the policy and definition of a couple's pass.

Mayor Franzoia supported the current policy and definition.

Councilman Elquist stated we have to fall back on what the intent of "couple" was and not reduce it down to just a couple of people. Councilman Elquist expressed support of eliminating all the various rate classifications; simplify our rate structure, design the rates to cover our expenses as we should be doing.

*Councilman Elquist left the meeting at 6:28 p.m.*

Mayor Franzoia provided history of the rate classifications and indicated the classifications were reduced to a minimum for various reasons. Based on the standards we adopted and the policy we have set; this is the rate structure. Any challenge or question to that rate structure comes to the Council. Based on the history Mayor Franzoia stated he would deny this challenge.

Tony Araquistain, Ruby View Golf Course Financial Advisory Committee member advised the rate structure has been a matter of concern to the committee for some time. The consensus is they are seriously considering narrowing it down to three passes. Mr. Araquistain stated the Council has been excellent to work with as has Staff. Mr. Araquistain encouraged Mrs. Smith to attend their meetings this fall and voice her opinion; the meetings are advertised regularly and they value the input as they seldom receive it.

**\*\* A motion was made by Councilman Johnson, seconded by Mayor Franzoia to deny an appeal by Sherri Smith of staff's action to deny her purchase of a couple's golf pass for her husband and male adult friend.**

**Motion passed 3 to 1.  
Councilman Rice voted against.  
Councilman Elquist was absent for the vote.**

#### **IV. RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance 704, an Ordinance amending Title 4, Chapter 1, Section 15 of the Elko City Code entitled, "Solicitors, Temporary Merchants and Peddlers License" to provide for a Planning Department review to ensure compliance with zoning regulations, and to provide for further clarification of

temporary merchant sales on Idaho Street when no curb, gutter, and sidewalk exists; and matters related thereto. **ACTION ITEM**

Staff was directed by Council on February 10<sup>th</sup> and February 24<sup>th</sup> 2009 to bring back an ordinance outlining certain exceptions and amendments to the Solicitors, Temporary Merchants and Peddlers License. Ordinance 704 reflects the direction given to Staff. SO

City Manager Andreozzi identified the revisions since the last review. Mr. Andreozzi advised one correction was needed to the completed version; strike “sidewalk” in the title.

Councilman Rice expressed concern over creating a situation where someone is not required to install a sidewalk on a city street.

Mr. Andreozzi advised it is not the intent of this ordinance to eliminate that responsibility for a business owner. There is another section of City Code that addresses those types of public improvements.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Conner to set for Second Reading, Public Hearing and possible adoption Ordinance 704, an Ordinance amending Title 4, Chapter 1, Section 15 of the Elko City Code entitled, “Solicitors, Temporary Merchants and Peddlers License” to provide for a Planning Department review to ensure compliance with zoning regulations, and to provide for further clarification of temporary merchant sales on Idaho Street when no curb and gutter exists.**

**Motion passed unanimously.**

### **III. NEW BUSINESS**

- F. Review, consideration, and possible approval to grant perpetual utility easements to Southwest Gas Corporation for the primary purpose of the installation and maintenance of natural gas pipelines on the City of Elko Airport property, and matters related thereto. **ACTION ITEM**

Southwest Gas Corporation has installed six natural gas pipelines on the City of Elko owned airport property, APN: 001-660-106, which do not currently have easements. Two of the natural gas lines are main distribution lines to the northwest area of Elko. The other natural gas pipelines serve the Elko Municipal Airport customers. Each easement is 10 feet wide and centered over the gas pipelines. LR

Civil Engineer Ronzone advised this is strictly a housekeeping item that came to Staff’s attention when planning for the Bomb Building.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Conner to approve and grant perpetual utility easements to Southwest Gas Corporation for the primary purpose of the installation and maintenance of natural gas pipelines on the City of Elko Airport property.**

**Motion passed unanimously.**

## **II. APPROPRIATIONS**

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

**\*\* A motion was made by Councilman Conner, seconded by Councilman Johnson to approve the warrants as submitted.**

**Motion passed unanimously.**

## **VII. REPORTS**

- A. Mayor and City Council  
Councilman Rice –
1. Congratulations for accomplishments within Police Department
  2. Update - Arts & Culture Advisory Board Workshop
  3. March 13<sup>th</sup> @ 8:00 a.m. Joint NV. Legislative Finance Committee  
re: funding for higher education
- B. City Manager –
1. Legislative Update
  2. California Trails Advisory Board – March 12<sup>th</sup> @ 7:30 a.m.
- C. City Clerk
1. March 24<sup>th</sup> first day of filing for office of City Council
- D. Administrative Services Director
1. Thank you to Councilmen Elquist & Johnson for participation on audit committee
- E. City Planner
1. RDA Meeting March 17<sup>th</sup> @ Western Folklife Center
- F. Parks and Recreation Director
1. Parks & Recreation Advisory Board Meeting March 19<sup>th</sup> @ 6:00 p.m.
- G. Airport Director
1. Airport Advisory Board Meeting March 27<sup>th</sup> @ 3:00 p.m.

## **ADJOURNMENT**

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

---

Mayor Michael J. Franzoia

---

Shanell Owen, City Clerk