

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

SS November 30, 2010

The City Council of the City of Elko, State of Nevada met for a special meeting beginning at 4:00 p.m., Tuesday, November 30, 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.

Mayor Present: Michael J. Franzoia

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

Council Absent: Councilman John Rice

City Staff Present: Curtis Calder, City Manager
Delmo Andreozzi, Assistant City Manager
Don Zumwalt, Police Chief
Alan Kightlinger, Fire Chief
Shanell Owen, City Clerk
Scott Wilkinson, Development Manager
Ted Schnoor, Building Official
Jeremy Draper, Civil Engineer
Christine Kuhlman, Technical Assistant
Linda Buffington, Recording Secretary

I. NEW BUSINESS

- B. First Reading of Ordinance No. 722, an Ordinance adding Title 2, Chapter 1 of the Elko City Code entitled "Building Regulations Administrative Code of the City of Elko," as the source of regulating all building construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

Building Official Schnoor provided a background history of the building codes for the Council and advised the codes are updated every three years. As building materials and technologies change in the construction industry, so must the codes, in order to maintain the fundamental purposes which are; safety of building occupants, to stop panic, safety of fire fighters and emergency responders, safety and protection of other's properties and safety and protection of our own property.

Mr. Schnoor clarified the codes in Chapter 1 are each codes administrative portion; and is a bit confusing. Staff removed those sections from the code and replaced it with one administrative

code that is more applicable to this jurisdiction; and will cover all codes the Council adopts. This covers the legal aspects, means of enforcement, quality of plans etc.; it covers everything administratively in the code. It does not get into the basics of the codes themselves; it is more procedural.

Councilman Johnson requested clarification on this item; how was it written.

Mr. Schnoor advised much of the basis came out of the past adopted Administrative Code; the 1997 Uniform Administrative Code. That code is over twelve years old so some things have changed. Staff copied a lot of material from that because it is still applicable today and then copied sections out of all the other administrative codes in order to compile a complete document.

Mayor Franzoia referred to Page 11 where it addressed signs; what is that applicable to?

Mr. Schnoor advised that section identifies items that are exempt from permits.

Councilman Elquist questioned how Staff qualifies emergency repairs; i.e. weekend repairs.

Mr. Schnoor advised if something happens and is a life-safety issue i.e. loss of heat or power; someone is going to repair it. The code requires that, within a certain time, the contractor gets the proper permits so we have a record of what was done; if the work did in fact require a permit.

Mayor Franzoia noted it says there are cases where someone does the work before obtaining a permit and the City will not accept it until they do. What happens, when the work is done and it is passed on to subsequent owners; is it still the liability of the current owner?

Mr. Schnoor verified it was; that happens a lot with houses and basement remodels.

Mayor Franzoia questioned if all they have to do is obtain a permit to get it corrected.

Mr. Schnoor clarified the code states if you have work done, you have to leave that work accessible to the inspector; you cannot cover it up. Staff does not want to put the City in a liable situation by signing off an approval if we haven't actually seen the work.

Councilman Elquist questioned as far as administratively, are there any material changes to what someone may have done yesterday and what they will have to do when this passes.

Mr. Schnoor advised in the 2009 Administrative Code there are some requirements on the design professionals; but not a lot of change.

John Carpenter questioned when the first time Elko had a code or required building permits.

Mr. Schnoor advised the City adopted the first uniform building code in 1974.

Mr. Carpenter questioned what happens to buildings constructed prior to that date.

Mr. Schnoor stated nothing happens; the code has provisions for that. The only concern we could have on something of that nature would be if it became a life safety issue because of non-maintenance i.e. faulty electrical. We could go in; at the request of an individual; do an investigation on the structure; if it is deemed to be unsafe we can require that it be brought up to a current standard of safety.

Mayor Franzoia requested verification it would be based strictly the one concern i.e. electrical.

Mr. Schnoor verified it would pertain only to the scope of what is dangerous.

Mr. Carpenter referred to the older buildings downtown; they aren't up to code.

Mr. Schnoor advised the issue would be whether the building is dangerous; are there any life safety issues. Staff will do a preliminary inspection i.e. bare wires, stairs, fire extinguishers up to date etc. We are only looking for any small items that could cause a problem; we are not asking them to tear something down and bring it up to code. If the building has been there we are just making sure no one has gone into that structure and altered it in any way to make it unsafe.

Mr. Carpenter understood the code to read if you are going to occupy the building; you have to bring it up to code.

Mr. Schnoor indicated the code states if the occupancy is not changed then you don't have to do anything. If you change the use and occupancy of that structure, then you need to bring it up to code for that use.

Mayor Franzoia requested the definition of use and occupancy.

Mr. Schnoor noted occupancy has multiple descriptions in code i.e. A, B, R, also as businesses, mercantile, H is high hazard; all are for the use of the building itself. Under each title i.e. A, there are numerous uses and each one has special requirements, depending on the conditions.

Mayor Franzoia believed there were provisions if a building goes unoccupied for eighteen months.

Mr. Schnoor explained if there is a building with non-conforming use the Planning Department has a twelve month date on that; the Building Code does not. The Building Code is more concerned about safety and the condition of the building; life safety issues; not whether the building has or has not been occupied over a certain period of time. If it hasn't been occupied but has still been maintained that's great; if it has deteriorated to the point there is structural damage then we have a concern.

Mayor Franzoia questioned what triggers upgrades.

Mr. Schnoor advised accessibility is a trigger, based upon the amount of money spent for a remodel; 20% of the total cost of the remodel has to go toward accessibility issues. If more than 50% of the building is being remodeled you may have to bring entire building up to code; but that is a judgment call.

Councilman Conner questioned how much of what is being discussed is already in our code.

Mr. Schnoor stated quite a bit is already in affect. New techniques create changes; the code is a liquid document that is continually changing. Every three years or so we try to capture those changes so that our designers and our contractors are all up to date; architects and engineers don't stay on old codes, they move forward to the new codes.

Councilman Elquist noted manufacturers of the components also move on to new codes.

Mayor Franzoia questioned whether new technology can be used if it is not reflected in our current code.

Mr. Schnoor advised it would be difficult, you have to design to the code that has been adopted and what Staff is familiar with. We are using the 2003 Codes; that is what we inspect to, review to and what we accept on our drawings.

Mr. Carpenter requested clarification on what happens if the City does an inspection and gives approval then a day later something happens; is the City liable or not.

Mr. Schnoor stated the fact that if we show there was no malice in our inspections then that is the case. But, if you take a look and approve something you've never seen then you can be held liable. It is a matter of due diligence while on the inspection.

**** A motion was made by Councilman Elquist to set for Second Reading, Public Hearing and possible adoption of Ordinance No. 722, an Ordinance adding Title 2, Chapter 1 of the Elko City Code entitled "Building Regulations Administrative Code of the City of Elko," as the source of regulating all building construction work within the City of Elko.**

Councilman Johnson advised he was not ready for a motion and wished to address specific areas of concern to him.

**** Motion failed for lack of a second.**

Councilman Johnson indicated the Administrative Code references the Uniform Plumbing Code for testing; one paragraph states you can only test with water on a sewer system. He would like to have that switched and qualified per the Uniform Plumbing Code. Councilman Johnson advised there is also another section of concern on the plumbing side; regarding the requirements for permits, he would like to review that.

Mr. Schnoor requested verification that was under "Plumbing Rough Inspection".

Councilman Johnson verified it was and stated in the winter time especially you would want to have the option to test with water or air; on the water side it says per the UPC which he thought was a good qualifier.

Mr. Schnoor stated the UPC will not allow air testing on ABS water pipes. There have been quite a few injuries in regards to people not paying attention to what they are doing and the ABS has exploded; that is why they are requiring it be done with water only.

Mayor Franzoia believed the use of air made sense in the winter-time.

Councilman Johnson advised there are times you can't get all the water out; for cold areas it makes sense.

Mr. Schnoor noted he asked that same question; the response from the Code Council was if you are in cold weather and there is a concern; you put antifreeze in there.

Mr. Schnoor indicated the use of air could be included; if so he would like it to say "only with the approval of the Building Official" because there are a lot of cases where those pipes have exploded. He doesn't want someone injured because they weren't watching the pressure and the pipe exploded.

Councilman Johnson suggested it include as a safety device; that it can be tested with air if you have a means to relieve the pressure above 7 or 10 psi.

Mayor Franzoia supported that option.

Mr. Schnoor advised if Council wanted that rewritten he wanted to know the psi they would be comfortable with.

Councilman Johnson advised 5 psi.

Mr. Schnoor then questioned the pressure release mechanism.

Councilman Johnson indicated Staff would have to research that.

Mr. Schnoor advised he will go back to the ABS & PVC manufacturers for what they believe is the maximum pressure before you could have failure on a pipe.

Councilman Johnson believed the requirement for plumbing permits is stringent and referred to the replacement of trap, drainpipes, vents etc. Can we qualify that somehow?

Mr. Schnoor advised the concern is that an individual may under-size. Staff can work on revising that; the concern is we treat everyone equally with codes. Mr. Schnoor stated it is one thing to do repairs, as the code says, but it is another to replace a long section of pipe whether it is a vent, drainage, water etc.; does the Council want a disclaimer over a certain length?

Councilman Johnson stated, as currently written, the service plumber would be pulling a permit daily; perhaps we could expand it.

Mr. Schnoor questioned how Councilman Johnson would like to expand it.

Councilman Johnson acknowledged there were valid concerns i.e. replacement of a sewer line underground; maybe a dollar amount or length of pipe would be another one. It currently says “any” trap, drainage pipe, soil waste vent becomes defective and becomes necessary to remove and replace then a permit must be required.

Mr. Schnoor was opposed to the use of value; we need to focus on the scope of work rather than the value. And we need to look at the life-safety issue of that same thing so we are making sure that sanitary system is not being compromised with whatever was done.

Councilman Johnson stated he probably would not have an answer at tonight’s meeting but we need to expand it.

John Carpenter believed there were multiple areas within this section of the code that require a permit; the City does not have enough staff to address permits and inspections.

Mr. Schnoor advised Staff would rewrite the section under #5 related to plumbing so that it is not so onerous. You have to understand the intent of the code and what it is referring to is major items i.e. something buried under concrete.

Mr. Schnoor continued and noted the code addresses standard maintenance i.e. changing a light, changing out the faucet handles, redoing piping under the sink. The main point is once you enter a wall that is where the difficulty comes; perhaps Staff can add the word “concealed”. If so, it needs to be permitted.

Mayor Franzoia agreed if the work entailed tearing out a wall Staff would want to make sure there is competency behind there.

Councilman Elquist questioned the definition of concealed.

Mr. Schnoor advised not accessible i.e. behind a wall or slab where it takes a bit more work than replacing a piece of pipe.

Mayor Franzoia suggested tabling this item; further discussion is needed for the correct verbiage.

Councilman Johnson acknowledged there are a lot of aspects on it; it takes time to get a permit and scheduling the inspection.

Mr. Schnoor stated we have to make sure we are doing our due diligence on what the code says; we don’t want things to slip under the carpet and then have some sort of event where someone is going to lose their property because we did not deem it necessary to spend that time. The other thing is, if it says the permit is required and the permits are not pulled, the City can say the individual did not comply with code and the City has no liability.

Councilman Elquist believed the accessibility issue made sense; you need some leeway for an owner to fix something or have a contractor come in and do the repair. But if it is a shoddy repair and then covered back up then you are actually putting it on the person that buys the property next time. It seems responsible that if you have to tear it out you would want an inspection but if you are buying something and it is visible; you do your due diligence you inspect all that; you

aren't going to tear down a wall. This is about what is practicable; giving the owner the freedom to make repairs in his house without jumping through hoops.

Mr. Schnoor wanted clarification on where Council wanted to draw the line for permits. He is presenting the national standard; this isn't something Staff came up with.

Mayor Franzoia supported the idea of what is concealed and what is visible.

Mr. Schnoor indicated it could read "any work that is concealed will be considered as new work and a permit must be required".

Councilman Johnson believed it needs expanded further. As written, it would require pulling a permit on a daily basis.

John Carpenter believed Staff needs to consider places such as Home Depot; it encourages people to do things on their own and the City requires a permit for everything. Mr. Carpenter understood the safety concerns but this goes beyond that. If you don't have a lot common sense or a lot of leeway it gets to be a big problem.

Councilman Elquist acknowledged Mr. Carpenter's statement and commented he has been on the other side of the situation where places do not require permits and that can be dangerous. If we want to build the community responsibly then we should enforce the codes.

Mayor Franzoia stated his belief the code changes were going to take time and wouldn't be resolved at tonight's meeting.

Mr. Schnoor requested clarification on Ordinance 722, the administrative; have we addressed all the issues? If so Staff will bring it back with the requested changes; or are we going to have more questions.

The Council agreed there needs to be clarification between residential and commercial.

Mr. Schnoor advised it was his understanding Staff's emphasis, at this time, was to be in regards to plumbing issues with the air test and the requirement for permits.

Marv Churchfield believed the requirement of permits for any work within the City was a diminishment of everyone's freedom.

Jerri Ricci, contractor, understood the purpose for permits and licensing; but as a contractor they also have to obtain a contractor license, bonding and liability insurance. Their costs keep compounding therefore their prices increase. Mr. Ricci stated he believes in permits and licensing but it is tough on the contractors; is there a way the contractors could work with the City so they don't have to charge so much i.e. help with the inspections etc.

Mayor Franzoia agreed you can nickel and dime a project to death. Is it possible that specific things under a certain value don't have to require a permit?

Mr. Ricci recommended lower fees; the contractors bring money to the City whereas the Handyman doesn't.

Mayor Franzoia commented he had hoped to have more comment and feedback from the local contractors as this affects them.

Mr. Carpenter questioned why there were not more people present; how did the City notify the contractors.

Mayor Franzoia advised it was announced on the radio and also published in the paper.

Mr. Carpenter commented many people don't have the money to hire a contractor.

Mayor Franzoia questioned whether this information had been sent out to the contractors.

Mr. Schnoor advised everything was included on the City web site and has been available for the past month.

Tony Carroll noted many of the new codes are more lenient than restrictive. Having come from the Las Vegas area it is much easier to work in Elko than any other jurisdiction in southern Nevada. Mr. Carroll stated he only had good things to say about Mr. Schnoor and the Building Department. Again, a lot of the new codes are more liberating than restrictive; we should look at what is there and judge it by that; it could be a lot worse.

Councilman Elquist agreed with Mr. Carroll; at least from the electrical side. If you don't adopt or follow the codes every three years then you are behind. As a contractor, he uses the 2008 electrical code; most design professionals would use the more recent code; it is a better design for the owner. Councilman Elquist appreciated the streamline approach, there may be opportunities there we can look into and see if there is something out there other municipalities already have, there may be some opportunities there we should pursue.

Councilman Elquist commented most contractors he spoke with to ask how things are going with the building department gave the same comment as Mr. Carroll "the building official is great to work with, they appreciate it and some of this has been a long time coming"; the contractors appreciate keeping everything level and of a good quality.

Councilman Elquist believed what the Council has before them are just minor modifications and updates to the code; there aren't a lot of changes. We don't want to not modernize the codes; it puts contractors and design professionals in a bad situation.

Jim Conner advised he was speaking from personal experience and that the work by a licensed contractor needs to be checked.

Mayor Franzoia expressed appreciation for Mr. Ricci's comments. There has to be some way to help the Building Official and the Contractors but it is going to take time and input from the local contractors. We have time; perhaps Mr. Ricci can talk with some of the other contractors and come up with ways to make it work. Perhaps there is a better time to set up a workshop with the contractors to work through this.

Councilman Elquist commented if they have conflicting schedules they could phone the Council members to advise them of their concerns or issues.

**** No action was taken on this item.**

Mr. Schnoor advised Ordinance #723 deals with amendments to the commercial building code.

Mayor Franzoia stated he would like to see more participation. Staff needs to coordinate a meeting date with those who will be affected; realizing that you won't get everyone to attend.

Councilman Johnson doubted there would be much attendance. When the Building Official was first hired an invitation was sent out advising the date, time and location for the contractor's to meet him; the turnout was minimal. Contractors are typically reactive. Councilman Johnson stated he wants to show throughout this process there have been opportunities to give your input; so in the end if it is completely upside down at least the City has some defense. Notice of this meeting was sent out; it isn't as if the contractors haven't been advised.

Mr. Schnoor indicated if Staff can come up with a date and location every architect, engineer, contractor, citizens interested in our data base can be notified through the monthly newsletter the Building Department sends out.

Mr. Carpenter believed the City should wait and hold the meetings after the holidays.

Councilman Elquist questioned; what is material, what changes add cost to the job; that's what people care about; can we summarize?

Mr. Schnoor advised it would be difficult to put a value on every code change.

Councilman Elquist clarified he meant in material.

Mr. Schnoor indicated in material there are only a couple of areas that stand out; where someone could see what the additional cost is i.e. sprinkler systems. Other costs we have are due to standards we have to meet for the State Fire Marshall.

Mr. Schnoor clarified what you are going to see in many of these is that the justification for the changes is because there is a higher power that is enforcing it; we are trying to get our codes up their same standard so there is no conflict.

Mayor Franzoia questioned whether those could be identified.

Mr. Schnoor indicated in the justifications most are identified as being required by the State Fire Marshall. Mr. Schnoor requested verification from the City Clerk that the justifications were also on the website.

City Clerk Owen advised everything in the packet was placed on the website; the justification is there for everyone to view.

Mr. Schnoor advised he personally was not pulling anything out of the codes; he reviews them and is making whatever justification for amendments that fit this area. If it is deemed by the Council that it is something we don't want to do then Staff will pull it out.

Mr. Ricci agreed with Councilman Johnson's comment regarding attendance by the contractors; they won't come to the meetings. Mr. Ricci believed this was a two-fold issue; 1) adoption of the codes and 2) permitting. Everyone believes the adoption of new codes is a good thing; we can work on stream-lining the permitting process.

Mayor Franzoia advised we need to give the contractors every opportunity to reply; we don't want them coming back saying they didn't know about it. Mayor Franzoia strongly supported more input from the professionals.

Councilman Elquist noted current input is saying the codes are good and the updates are, in ways, less restrictive. The question is; is there an issue with code adoption or is the issue with the permitting process?

Mayor Franzoia stated the permit side is an intriguing thing that should be looked at. The requirement to have a permit and the process of obtaining it that takes longer than it does to get the job done is not a good thing.

Mr. Schnoor advised through the monthly newsletter they have offered to have people fax or email small permits over to them; the building department will process them and call when the permit is ready for pickup. That process eliminates the need for numerous trips to the building department; there are only two contractors that take advantage of the offer. The building department also has a list of small over-the-counter permits; they can come in and we deal with it immediately.

Mr. Schnoor continued and stated Staff has tried to work with the contractors time after time, it has gotten onerous with the contractors now because we say we need "this, this and this." We have to make sure they are the contractor of record and that they are going to be on site. Staff checks their licenses to ensure the fact that the licensed contractor we have on record is actually doing the job or is qualified to do the job. Staff goes through great extents in order to verify and protect the contractor license. Staff has seen cases where the plans come in signed by a contractor, we do the review and the owner comes in and pulls the permit as the owner/builder. A week later the contractor calls asking where his plans are and Staff advises they were issued. Now the contractor is upset, he doesn't have the job because they didn't accept his bid; but they have the plans. It happens all the time and Staff is trying to prevent that; we have no control over the owner/builder, no control over the handyman and no control over the individual that wants to skirt the system; that is the problem. We have contractors that are going by the law and are being penalized because of the other individuals that want to save money and hire anyone off the street.

Mayor Franzoia questioned whether the Council wanted to table all the agenda items and have a workshop at a later date to get more input.

Councilman Johnson advised he wants to be able to say that he spent 'x' amount of time on it; the City should consider continue with multiple opportunities for input to come up with the best solution we can; do it in two or three meetings.

Mr. Schnoor advised Staff would highlight the areas where we are trying to come in compliance with either State or other requirements. Mr. Schnoor reminded the Council the codes are fluid; they change every three years. If we can get past most of the road blocks, the next time we need to adopt codes we know what the road blocks are or they have been resolved and we won't have to address those; all we will have to address is the changes in the codes and not the administrative area of the code. Right now it appears the administrative is our biggest road block; if we can get that straightened out that would likely remain a stagnate document for us in the future.

Councilman Johnson stated he still has questions on the residential sprinklers.

**** A motion was made by Councilman Johnson, seconded by Councilman Elquist to table all the agenda items until the next scheduled workshop.**

Motion passed unanimously.

C. First Reading of Ordinance No. 723, an Ordinance adding Title 2, Chapter 2 of the Elko City Code entitled "International Building Code of the City of Elko," and making provisions for adopting the 2009 International Building Code with Appendices C, E, F, G, H, I and J as the source of regulating all commercial building construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

D. First Reading of Ordinance No. 724, an Ordinance adding Title 2, Chapter 3 of the Elko City Code entitled "International Residential Code of the City of Elko," and making provisions for adopting the 2009 International Residential Code with the exception of Chapters 11-42 but with Appendices H and K as the source of regulating all residential construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

E. First Reading of Ordinance No. 725, an Ordinance adding Title 2, Chapter 4 of the Elko City Code entitled "Uniform Mechanical Code of the City of Elko," and making provisions for adopting the 2009 Uniform Mechanical Code, with Appendices A, B, C and D as the source of regulating all mechanical construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

F. First Reading of Ordinance No. 726, an Ordinance adding Title 2, Chapter 5 of the Elko City Code entitled "Uniform Plumbing Code of the City of Elko," and making provisions for adopting the 2009 Uniform Plumbing Code, with Appendices A, B, D, E, I and L as the source of regulating all plumbing construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

- G. First Reading of Ordinance No. 727, an Ordinance adding Title 2, Chapter 6 of the Elko City Code entitled, "Electrical Code of the City of Elko," and making provisions for adopting the 2008 National Electrical Code as the source of regulating all electrical construction work within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

- H. First Reading of Ordinance No. 728, an Ordinance adding Title 2, Chapter 7 of the Elko City Code entitled "International Energy Conservation Code of the City of Elko," and making provisions or adopting the 2009 International Energy Conservation Code as the source of regulating all building energy conservation within the City of Elko, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

- A. First Reading of Ordinance No. 721, an Ordinance repealing Title 2, Chapters 1,2,3,5,6,7,9,10,11,12, of the Elko City Code entitled "Plumbing Code," "Electrical Code," "Reserved," "Reserved," "Residential Building Codes and Permits," "Abatement of Dangerous Buildings," "Administrative Code," "Mechanical Code," "Commercial Building Codes and Permits," and "Energy Conservation Code," respectively, and an ordinance re-numbering Title 2, Chapters 4, 8 and 13 of the Elko City Code entitled "Sidewalks, Curbs, Gutters," "Street Numbering of Buildings," and "Swimming Pool and Spa Code," respectively, and matters related thereto. **ACTION ITEM**

**** No action was taken on this item.**

II. PUBLIC COMMENT

- 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.

There was no public comment at this time.

ADJOURNMENT

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

Mayor Michael J. Franzoia

Shanell Owen, City Clerk