

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

SS June 8, 2010

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, June 8, 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
Dawn Stout, Administrative Services Director
Ryan Limberg, Utilities Director
Trent Moyers, Airport Director
Dennis Strickland, Public Works Director
Mike Haddenham, WRF Assistant Superintendent
Scott Wilkinson, Development Manager
Jessica Johnson, Human Resources Manager
Karen Walther, Animal Control Supervisor
Lorraine Martinez, Accounting Supervisor
Ed Wynes, City Planner
Jeremy Draper, Civil Engineer
Ted Schnoor, Building Official
Linda Buffington, Recording Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES May 25, 2010 Regular Session

**** A motion was made by Councilman Elquist, seconded by Councilman Johnson to approve the minutes of May 25, 2010 as presented.**

Motion passed unanimously.

PRESENTATION OF YOUTH AWARD FOR GRIFFETH BARKER ON BEHALF OF THE NEVADA LEAGUE OF CITIES

I. APPROPRIATIONS

- B. Review, consideration, and possible approval to purchase a polymer dilution system, and matters related thereto. **ACTION ITEM**

Council authorized Staff to solicit bids for this item at the May 11, 2010 meeting.

The existing polymer dilution system has proven to be maintenance intensive, unreliable, with high operating costs and insufficient for biosolids dewatering. This replacement unit is part of the 2010/2011 capital equipment request. \$30,000 was budgeted for this item.

Bids were open on June 2, 2010. Staff will provide a bid tally sheet and recommendation at the meeting. RL

Utilities Director Limberg advised two bids were received; Goble Sampson in the amount of \$45,000 and Velocity Dynamics in the amount of \$32,439.00. Staff recommends awarding to the low bidder; Velocity Dynamics.

Councilman Elquist questioned if this was the same brand and unit.

Mr. Limberg advised it was not; Staff did check the listed references and they came back positive as well as coupling up with the rotary press we have.

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to award a bid for the purchase of a polymer dilution system to Velocity Dynamics, Inc. in the amount of \$32,439.00.**

Motion passed unanimously.

- C. Brief presentation and possible acceptance of a renewal proposal from Nevada Public Agency Insurance Pool (POOL) and approval of invoice for payment from FY 2010/2011 funds, and matters related thereto. **ACTION ITEM**

As a member of the Insurance Pool, the City of Elko owns a share of the equity that forms the basis for its financial strength.

Your agenda packet includes an overview of coverage offered for the following fiscal year. The City of Elko's total program costs for FY 2010/2011 are \$485,592.11 representing an approximate 1.6% decrease when compared to the current fiscal year. CC

Russ McMullen, McMullen Insurance reviewed the renewal for the Council's benefit.

Wayne Carlson, NPAIP, Executive Director handed out a brochure that highlighted the program services and associated benefits.

Councilman Elquist requested clarification on the additional agency service compensation

Mr. McMullen advised when he first brought the City of Elko into the POOL the compensation level was very limited as compared to the rest of the agency market. He didn't believe he could service the account without adding some additional compensation. From that date to this he has moderated that amount based on what the POOL and the board members decide to do with their compensation schedule. This year they increased the compensation for all agents through the POOL; thus he reduced his additional compensation as well.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to accept the renewal proposal from the Nevada Public Agency Insurance Pool (POOL) and approve payment of \$485,592.11 from FY 2010/2011 funds.**

Motion passed unanimously.

II. 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

1. Review and possible approval of a request by the Star Hotel to close a portion of 3rd Street between River Street and Silver Street for their 100th Anniversary Street Dance to be held on July 4th from 6:00 p.m. to 1:00 a.m., and matters related thereto. **ACTION ITEM**

Scott Ygoa is requesting this closure. The actual time of the closure will be from 4:00 p.m. to 6:00 a.m. SO

Public Works Director Strickland advised the closure has been reviewed with Mr. Ygoa; there are a couple of minor modifications to the traffic control plan they want to see prior to the setup of that.

City Clerk Owen advised property owner notification has been received; the only additional item required is the liability insurance.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to approve a request by the Star Hotel to close a portion of 3rd Street between River Street and Silver Street for their 100th Anniversary Street Dance to be held on July 4th from 6:00**

p.m. to 1:00 a.m. with the condition liability insurance is provided and the final traffic control plan is approved by the Public Works Department.

Motion passed unanimously.

- B. Consideration and possible approval of an amendment to the El Aero Full Service Fixed-Base Operator Agreement, and matters related thereto. **ACTION ITEM**

El Aero Services, Inc. intends to install a “self-service” aircraft refueling station at the Elko Regional Airport. Therefore, an amendment to the El Aero Full Service FBO Agreement is required. TM

Airport Director Moyers advised legal counsel has drafted the agreement which is included in the packet for review. Mr. Moyers indicated the area in question is outside our safety area; the FAA has signed off on the location from an obstruction analysis standpoint. This will be another amenity at the airport Staff would like to see.

Mayor Franzoia questioned if this would be another lease.

Mr. Moyers verified this would be an additional lease which is included in the amendment; it is approximately 2,100 square feet for a cost of \$600 annually; plus any additional fuel flowage we would generate from that.

**** A motion was made by Councilman Elquist, seconded by Councilman Johnson to approve an amendment to the El Aero Full Service Fixed-Base Operator Agreement.**

Motion passed unanimously.

- C. Review, consideration, and possible acceptance of a letter of resignation from Zachary Woodbury, National California Interpretive Trails Center Advisory Board, and matters related thereto. **ACTION ITEM**

Mr. Zachary Woodbury has submitted a letter of resignation from the National California Interpretive Trails Advisory Board. Staff is also requesting authorization to advertise the vacancy on the board. CC

**** A motion was made by Mayor Franzoia, seconded by Councilman Elquist to accept a letter or resignation from Zachary Woodbury, National California Interpretive Trails Center Advisory Board and direct Staff to advertise the vacancy on the board.**

Motion passed unanimously.

- D. Review, consideration, and possible approval of a Cooperative Agreement between the City of Elko and the Elko County Regional Transportation Commission (Elko County RTC) for the City’s use of its Allocation of the Regional Transportation Commission Fuel Tax Revenues, and other matters related thereto. **ACTION ITEM**

Pursuant to NRS 277.080 through 277.180, inclusive, included in the agenda packet is an inter-local agreement between the City of Elko and the Elko County RTC. This agreement facilitates the City's use of its allocation of the RTC motor vehicle fuel tax revenues to help pay for the 2010 general obligation street bonds.
DS

Administrative Services Director advised legal counsel has reviewed the agreement.

Mayor Franzoia noted the RTC expressed concern there would be no obligation back on the RTC as an entity.

Ms. Stout advised that has been clarified in the agreement; in addition she also include that the formula could not change during the duration of the bonds.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to approve a Cooperative Agreement between the City of Elko and the Elko County Regional Transportation Commission (Elko County RTC) for the City's use of its Allocation of the Regional Transportation Commission Fuel Tax Revenues.**

Motion passed unanimously.

- E. Review, consideration, and possible denial of Mr. Tien Lin Chou's application for brothel license in the name of Sue's Fantasy Club, located at 175 South Third Street, Elko, NV, and matters related thereto. **ACTION ITEM**

The Elko Police Department has conducted a background check and found areas that are not in accordance with Elko City Code for owning a sexually oriented business. DZ

Police Chief Zumwalt indicated this application is similar to one back in 2006 which was denied. During the investigation for this application it was difficult to verify the data; including finances and the legitimacy of other businesses they were looking at. Chief Zumwalt commented it was difficult to read the application, read the investigative reports and understand this would be a totally legitimate business in our community and is why he recommends denial.

Mayor Franzoia questioned whether Staff has the authority, before it gets to the Council, to deny an application.

Chief Zumwalt advised City Code, Chapter 497, Paragraph 'C' directs him to reply to the City Council in writing about the conclusion of the investigation. Section 'D' talks about the Council action "within thirty days after receiving the Chief of Police's report the Council may; 1) refer the application back to the Chief of Police for additional investigation 2) require a personal interview with the applicant 3) require the applicant to submit additional information relative to his application and 4) grant or refuse to grant a license under the provisions of this chapter. Chief Zumwalt indicated that is the point we are at this time; past this action he did not know what recourse there is.

Mayor Franzoia stated there is no recourse after the City Council takes action.

Mayor Franzoia referred to option two cited by Chief Zumwalt and stated that needs to be changed and/or clarified by legal counsel; there is nothing personal about the Council doing an interview because it would be in a public forum. Mayor Franzoia noted there is a concern over what information could be asked or submitted that could be deemed confidential and could be protected because this is a privileged business.

Chief Zumwalt cited the issues of concern; 1) cannot verify where the finances are coming from or the legitimacy of them 2) Mr. Chou's connection to people that have other businesses that cannot be verified as legitimate in this country 3) legitimacy and proper employment of employees that work in local brothels.

Joseph Yem, representing the applicant, stated the comments made by Chief Zumwalt were inaccurate and attempted to clarify various issues. Mr. Tien Lin Chou owns a business in Oakland, California and his fiancée, Ms. Fang, has a business in San Francisco, California; the finances listed on the application come from Ms. Fang's business. All employees in both businesses are registered, certified masseuses and everyone pays taxes. Mr. Yem stated to imply or question the legitimacy and proper employment of the employees within the businesses was inappropriate and biased against Asian owners. Mr. Yem advised both businesses, as well as any associated businesses, are legitimate and any citations received were dismissed, therefore Chief Zumwalt's wording of illegal is inaccurate. Regarding finances; Mr. Tien Lin Chou owns the one business in Oakland and the other was registered here in Elko to manage the funding Ms. Fang made with the personal loan to the business. Mr. Tien Lin Chou also owns two homes but the value has dropped; the business in Oakland is not enough to cover the expense which is why the income statement provided shows limited income.

Mr. Yem stated if the investigator says something is illegal they need to show proof of what is wrong with the business. Mr. Yem requested the Council to not be misled by the report; the investigator did not collect enough information. Mr. Yem also stated they would reserve their right to appeal the decision if the request was denied.

Mayor Franzoia advised the only place it could be appealed would be in front of the City Council and if this is denied the Council would not listen to it again.

Mr. Yem believed the Council would make the right decision.

Mayor Franzoia indicated he preferred to have legal counsel present to verify what can be asked of the applicant but as this is a privileged business he believed the Council had some latitude.

Chief Zumwalt advised part of the difficulty with the investigation was verifying information. Chief Zumwalt noted a section of the report indicates Ms. Fang's company has been under investigation in the past for illegal activity; there is also a newspaper article on the issue which listed Ms. Fang's business along with sixteen others. Chief Zumwalt stated he was not saying the individuals present tonight are doing anything illegal; he is saying it is difficult for him to verify that the information is correct. Reading the investigation report, talking to investigators from

California, Oregon and Washington; with all the information we have Chief Zumwalt stated he still recommends denial.

Mr. Yem stated a newspaper could not be held as sufficient evidence to say things that have not been verified.

Mayor Franzoia advised when newspapers print something such as that they get their information from a police report.

Mr. Yem requested the name of the newspaper and also requested the information be verified with the San Francisco Police Department.

Councilman Elquist requested clarification on the citations.

Mr. Yem advised all citations were dismissed.

Mayor Franzoia believed the issue was the finances; nothing balances. They have money in the bank but the question is where it came from. The other thing is the real estate; have those been verified.

Chief Zumwalt indicated he was not concerned with the real estate; but the money is being loaned from Ms. Fang and it is her businesses and associates he is concerned about. If Mr. Tien Lin Chou had his own money in a United States bank and could write a check for the \$600,000 and Staff could verify where it came from there would be no issue; but he is borrowing it from her and that's where the issue is.

Mayor Franzoia stated that is why we do a background check; having a clear trail of where the money comes from is critical.

Mr. Yem stated the money is from Ms. Fang's business.

Chief Zumwalt again stated it is Ms. Fang, her money and her businesses that he has issues with.

Mayor Franzoia advised it is the Council's responsibility to uphold the standards in the community and we hold a tight line on that.

Mayor Franzoia stated if the police couldn't verify the information the only thing he could support at this point would be the Chief's recommendation to deny it or have the applicant get the information so it can be verified.

Mr. Yem indicated they tried to provide everything possible to verify the funding. If the Council chooses to use incorrect information to make their decision then they reserve their right to pursue further action; either appeal or retain legal counsel.

Mayor Franzoia stated the protections in this matter are quite different because it is a privileged business; the rules and laws are different and the discretion is very broad.

Mr. Yem stated they are just asking for a fair process.

Mayor Franzoia advised the process is fair; the concern is not having things verified by the professionals that deal with it and give us the recommendation. It is a mistake on the Council's part, based on confusion of the issues or lack of verification, to proceed and grant the application. If the applicant needs to get more information to the Police Chief the discussion can stop at this time and held over until the Chief's concerns have been answered. It may or may not work, but it is an opportunity.

Mr. Yem requested more time to gather accurate information.

Councilman Elquist requested clarification on who owned the homes in California.

Mr. Yem advised Tien Lin Chou; but there is no equity in them at this time.

Councilman Elquist questioned whether Mr. Tien Lin Chou owned a business now and what type.

Mr. Yem advised he owns a therapy massage business in Oakland, California. The second business will be in Elko if they purchase the property.

Councilman Elquist questioned who would be the owner of the new business.

Mr. Yem advised Mr. Tien Lin Chou would be the owner.

Councilman Elquist questioned if Ms. Fang would be taking any ownership in the new business.

Ms. Fang advised not at this time.

Mayor Franzoia stated when these issues come to the Council for denial there is a problem someplace. It either has to be rectified by the applicant and may or may not get the support of the police chief.

Mayor Franzoia indicated there are four options before the Council 1) table until such time the applicant provides the information to meet the chief's expectations 2) direct the applicant to get more information to the chief and have it come back before the Council within a specific time 3) deny it 4) approve it.

Chief Zumwalt advised Ms. Fang says she is not going to have ownership in this business right now; but it is her money. Based on information from the San Francisco and Richmond Police she would not be eligible for a brothel license. City Code states Mr. Tien Lin Chou's association with her and her businesses is grounds for denial.

Mr. Yem questioned if they could change the partner and funding source and start the investigation over.

Mayor Franzoia advised not with the current application but believed that was possible with a new application.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to deny Mr. Tien Lin Chou's application for brothel license in the name of Sue's Fantasy Club, located at 175 South Third Street, Elko, NV.**

Motion passed unanimously.

III. RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance #714, an Ordinance adding Title 9, Chapter 1, and Section 55 to the Elko City Code entitled "Right-of-way Toll" imposing a right-of-way toll on the Elko Municipal Water Utility, and matters related thereto. **ACTION ITEM**

During the budget workshops, Staff was directed to bring back language imposing a 2.5% right-of-way toll on the Municipal Water Utility. Ordinance #714 adds the appropriate language to Elko City Code to facilitate the toll. DS

Administrative Services Director Stout advised she received a call from the Department of Taxation; our analyst, his supervisor and the department head asking specifically what we were doing. She explained the intent and the fact we modeled it after the City of Sparks and Carson City. They asked for the NRS and chapters of the code of the various different cities; she supplies that to them and they were fine with everything.

City Manager Calder recommended tabling this item.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to table this item.**

Motion passed unanimously.

- B. First reading of Ordinance #715, an Ordinance adding Title 9, Chapter 5, Section 36 to the Elko City Code entitled "Right-of-way Toll" imposing a right-of-way toll on the Elko Municipal Sewer Utility, and other matters appropriately related thereto. **ACTION ITEM**

During the budget workshops, Staff was directed to bring back language imposing a 2.5% right-of-way toll on the Municipal Sewer Utility. Ordinance #715 adds the appropriate language to Elko City Code to facilitate the toll. DS

City Manager Calder recommended tabling this item.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to table this item.**

Motion passed unanimously.

- C. Review, consideration, and possible approval of Resolution #15-10, a resolution amending animal shelter fees, and matters related thereto. **ACTION ITEM**

Resolution #15-10 includes a revised fee structure due to the spay/neuter clinic and other revisions recommended by Staff. SO

Animal Control Supervisor Walther advised the driving force behind the scheduled changes now is the fact that we are very close to being fully operational as far as the spay/neuter clinic. We are going to have to address the fees we charge for adopted animals because they are already spayed or neutered and this time it will include their rabies vaccination. This ensures the animals we send out to new homes are not going to procreate. Ms. Walter stated we have made huge strides at the clinic and it is important our fees reflect what we are doing.

**** A motion was made by Councilman Elquist, seconded by Councilman Conner to approve Resolution #15-10, a resolution amending animal shelter fees.**

Motion passed unanimously.

- D. Review, consideration, and possible approval of Resolution 16-10, a Resolution providing for the transfer of the City's 2010 Private Activity Bond Cap to the Nevada Rural Housing Authority; and other matters related thereto. **ACTION ITEM**

The City of Elko has previously transferred its portion of the tax-exempt private activity bond cap to the Nevada Rural Housing Authority. This year the Nevada Rural Housing Authority is requesting the City's allocation of the bonds for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income (Single Family Programs). DS

Gary Longaker provided a brief update on the program.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to approve Resolution 16-10, a Resolution providing for the transfer of the City's 2010 Private Activity Bond Cap to the Nevada Rural Housing Authority.**

Motion passed unanimously.

IV. PETITIONS, APPEALS AND COMMUNICATIONS

- A. Ratification of an application for a retail liquor license and issuing said license to Teri and TJ Agenbroad, dba Come n Get it Kettle Corn located at 975 Terminal Way, Elko, NV 89801, and matters related thereto. **ACTION ITEM**

Police Chief Zumwalt advised the background investigation was complete and Staff recommends approval.

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to ratify the application for a retail liquor license and issue said license to Teri and TJ Agenbroad, dba Come n Get it Kettle Corn located at 975 Terminal Way, Elko, NV 89801.**

Motion passed unanimously.

I. APPROPRIATIONS

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

**** A motion was made by Councilman Elquist, seconded by Councilman Johnson to approve the warrants as present.**

Motion passed unanimously.

VI. REPORTS

- A. Mayor and City Council
- B. City Manager
 - 1. Attending Insurance POOL PACT Meeting 6/9/2010 in Carson City
 - 2. California Trails Center Meeting 6/9/2010 @ 7:30 a.m.
- C. Assistant City Manager
 - 1. Southside Tennis Court Project Update
 - a. Acrylic Surface being installed
 - b. Final Acceptance anticipated soon
 - c. Grand Opening planned
- D. Police Chief
 - 1. Preparing for Motorcycle Jamboree
 - 2. New software training
- E. City Planner
 - 1. Planning Commission & CRSA Meeting 6/15/2010 @ Western Folklife Center
 - 2. RDAAC Meeting 6/17/2010
- F. Civil Engineer
 - 1. Silver Street Project Update
 - a. 20% complete
 - b. 3 change orders totaling \$2,800 (possibly more to come)
 - c. Will hold project off until after Jamboree
 - d. Total completion estimated for end of July

5:51p.m. Mayor Franzoia called for a brief recess.

6:08 Mayor Franzoia called the meeting back to order.

V. 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.

Lina Blohm advised central business district property owners and businesses just recently learned about the Idaho Street project; they support the project 100% but do have concerns. Ms. Blohm presented a display of photos of Idaho Street and believed it was important to note from 5th towards Mountain City Highway is in deplorable condition. Ms. Blohm indicated the established downtown business district considers that the heart of Elko; it needs attention and they hope it isn't 5 to 10 years down the road. Curb, gutter, sidewalk, ADA handicap accessibility along with some enhancements are needed

Mayor Franzoia advised the area is controlled by the State.

Assistant City Manager Andreozzi indicated they have installed a few ADA ramps but no sidewalks; there is quite a bit of missing infrastructure. Mr. Andreozzi commented several years ago the City applied for a grant through NDOT; those enhancement grants are very competitive and have limited funding. If we were successful obtaining a grant and put in some enhancements the State may require ongoing maintenance for those improvements.

Ted Blohm noted many of those present tonight have lived here for many years; if you keep walking or driving by certain areas you tend to not see it. The committee wants to call it to the Council's attention so when you do drive by you'll look to see what needs done.

Mayor Franzoia believed with new staff at NDOT hopefully they will start looking at things differently and consider partnering; it has worked in the past.

- B. Public Hearing on the intent of the City Council of the City of Elko, Nevada to issue General Obligation (Limited Tax) Street Bonds (Additionally Secured by Pledged Revenues) in the maximum principal amount of \$10,500,000. **NON-ACTION ITEM**

This is the specified time set aside for the public to comment on the City's proposed action to issue the 2010 Idaho Street Reconstruction Project Bonds. DS

See comments made under the public comment period.

There was no further public comment on this matter.

ADJOURNMENT

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

Mayor Michael J. Franzoia

Shanell Owen, City Clerk