

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

SS August 12, 2008

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, August 12, 2008.

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

ROLL CALL

Mayor Present: Mayor Michael J. Franzoia

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

City Staff Present: Curtis Calder, City Manager
Mike Smith, Police Chief
Dawn Stout, Administrative Services Director
Shanell Owen, City Clerk
Ryan Limberg, Utilities Director
Trent Moyers, Airport Director
Rick Hofheins, Airport Security Manager/Assistant Airport Director
Dennis Strickland, Public Works Director
Scott Wilkinson, Development Manager
Jim Echanis, Human Resources Manager
James Wiley, Parks Superintendent
Candido Mendive, Fleet Maintenance Superintendent
Antonio Mendive, Water/Sewer Superintendent
Mike Haddenham, WRF Assistant Superintendent
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 July 22, 2008

Councilman Johnson noted the motion on page twenty-nine read “motion failed 3 to 2” and should instead read “motion failed 2 to 3”.

**** The minutes of July 22, 2008 were approved with the noted correction.**

PRESENTATION OF RETIREMENT PLAQUES FOR JEFF BAIN, DAVID BIXLER, MARK BUTTERFIELD, KERRY EDSON, JOSE IMATZ, DAN LANDA, CANDIDO MENDIVE, MIKE OSTLER, LARRY RUBLE, MIKE SMITH, AND SHANE WIGGINS.

Mayor Franzoia presented plaques of appreciation to those in attendance and thanked everyone for their dedication and years of service to the City of Elko. Unable to attend were Dave Bixler and Mike Ostler.

I. PERSONNEL

- A. Employee Introduction – Jory Rhoden – Water Sewer Laborer
- B. Discussion and possible action to rescind the City Council’s contingent appointment of Dan Landa to the position of Fire Chief, and matters related thereto. **ACTION ITEM**

A letter of resignation/retirement from Deputy Chief Landa has been included in the agenda packet for review. CC

**** A motion was made by Mayor Franzoia, seconded by Councilman Johnson to rescind the appointment of Dan Landa to the position of Fire Chief.**

Motion passed unanimously.

- C. Discussion and possible action to allow Alan Kightlinger, Fire Chief, to rescind his previous letter of resignation/retirement, and matters related thereto. **ACTION ITEM**

A letter from Chief Kightlinger has been included in the agenda packet for review. CC

Mayor Franzoia questioned this would then be a defacto appointment to the position.

City Manager Calder stated it would be; the Council has accepted his letter of resignation but he is still employed.

**** A motion was made by Mayor Franzoia, seconded by Councilman Conner to allow Alan Kightlinger, Fire Chief to rescind his previous letter or resignation/retirement.**

Motion passed unanimously.

- D. Review and possible acceptance of a letter of resignation/retirement from Mike Smith, Police Chief, effective August 29, 2008, and matters related thereto. **ACTION ITEM**

A letter of resignation/retirement from Chief Smith has been included in the agenda packet for review. CC

Police Chief Smith expressed his appreciation to the City of Elko and thanked the Council for their support during his twenty-five years of service.

**** A motion was made by Mayor Franzoia, seconded by Councilman Elquist to accept the letter of resignation/retirement from Mike Smith, Police Chief; effective August 29, 2008.**

Motion passed unanimously.

- E. Discussion and direction to Staff regarding the Police Chief recruitment and selection process, including the possible appointment of Lt. Don Zumwalt to the position of Police Chief, and matters related thereto. **ACTION ITEM**

The position of Police Chief is classified as an Appointed Official and does not require an open/competitive selection process. Chief Smith has endorsed Lt. Don Zumwalt's direct appointment to the position of Police Chief. Although the specific employment terms have not been discussed with Lt. Zumwalt, Staff concurs with Chief Smith's recommendation. CC

Police Chief Smith advised Lt. Zumwalt has been a stronghold to the department and understands the department functions. Police Chief Smith strongly endorsed Lt. Zumwalt.

**** A motion was made by Mayor Franzoia, seconded by Councilman Conner to appoint Lt. Don Zumwalt to the position of Police Chief; effective August 29, 2008.**

Motion passed unanimously.

- F. Review for consideration and approval an update to the City of Elko Pre-Placement Drug and Alcohol Testing Policy, and matters related thereto. **ACTION ITEM**

The Ninth Circuit Court of Appeals, which covers Nevada, recently held that a city's policy requiring all job applicants to submit to a pre-employment drug test as a condition of the job offer is unconstitutional as applied to an applicant for a position in a non-safety sensitive position. Safety sensitive positions are those positions which are regulated by special licenses or custodial requirements of citizens within their immediate control. On April 30, 2008 a POOL/PACT Human Resources "ALERT" was issued advising all pre-employment drug screens stop until this matter could be researched further. On June 11, 2008 a Human Resource Roundtable Conference Call was held; as a result the City was advised to limit all pre-employment drug and alcohol testing to safety sensitive positions (which are included in the policy revision) and to revise the existing policy to reflect this change. JE

Human Resources Manager Echanis advised the proposed policy has been reviewed and approved by the City Attorney.

Mr. Echanis addressed a concern from Councilman Johnson regarding equipment operators involved in safety sensitive positions i.e. parks, cemetery and golf course personnel who operate

lawn mowers. Legal counsel advised it is risk versus reward; for every additional position we add we have an element of risk of being challenged by it in court. We took the position to include just those that are monitored by certification and licenses or directly related to those or custodial care of children and/or citizens.

Mayor Franzoia questioned if the landfill would be included.

Mr. Echanis stated it would not; they do not operate in a public right-of-way.

Mayor Franzoia commented the previous policy covered everyone that came into contact with the citizens.

Mr. Echanis advised the option is still open to include other positions if the Council wishes; these are the recommended positions as “safety-sensitive”; if you modify the plan there could be an element of risk added on.

Mayor Franzoia believed the City already had the risk through the previous policy. If the current policy, without changes, is to protect the citizens in contact with people operating machinery it should be applied to anything that comes in contact with machinery to the citizens.

Mr. Echanis acknowledged Mayor Franzoia’s concerns; they are valid. The positions recommended as safety-sensitive can be modified by the Council to include equipment operators in the cemetery, parks and golf course. The element of risk we would be exposed to would be minimal but all it takes is one challenge in court to change that.

Councilman Elquist questioned if this included volunteer police and fire.

Mr. Echanis stated the policy is for full-time City employees only.

Councilman Elquist questioned if the City does random checks.

Mr. Echanis advised anyone with a CDL license is subject to a random test quarterly.

Mayor Franzoia indicated there were some conflicts that need to be addressed but we need to have something in place; it was his recommendation the Council consider approving it as written and then come back and add the other items.

Councilman Elquist requested clarification on the wording for maintenance personnel that work on vehicles driven by CDL drivers.

Mr. Echanis advised all maintenance personnel that work on any CDL vehicle has to meet the same requirements.

City Manager Calder advised there would be no impact if the item was tabled until the next meeting; this only impacts pre-employment drug screening and we have nothing out there at the present time.

**** A motion was made by Councilman Rice, seconded by Councilman Conner directing Staff to bring the item back with revisions to include more areas of concern related to safety sensitive.**

Motion passed unanimously.

After the motion and before a vote was taken Mr. Echanis indicated the Safety Committee had expressed the same concerns regarding heavy equipment at the landfill and also operators of lawn mowers at the golf course, parks and cemetery.

Councilman Johnson questioned if there had been any input from OSHA.

Mr. Echanis advised OSHA refers to a section of NRS that says we have to provide a safe work place, nothing else.

Councilman Elquist expressed concern there was more dangerous equipment than lawn mowers i.e. bucket trucks that would not be included under the policy; where do you draw the line.

Mayor Franzoia pointed out the concern with lawn mowers is there are citizens in the park while the lawn is being mowed.

Councilman Johnson believed the Worker's Compensation Carrier would be a good resource; that is the driver for this type of issue.

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- E. Review, consideration, and possible approval to change the name of a section of 13th Street to Sweetwater, and matters related thereto. **ACTION ITEM**

Staff has received a letter of request by Ms. Sarah Sweetwater for the Council to consider renaming a segment of 13th Street that is isolated. Ms. Sweetwater owns property and intends on operating a small business from this location. DA

Ms. Sweetwater advised there was no concern with the surrounding residents and business owners.

Councilman Rice noted there was a cost of less than five-hundred dollars; who would cover that? And, has there been any comment from the county ambulance service or the post office.

City Manager Calder advised the City would pay for the street sign. There was no comment received from the county or post office.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve a name change of a section of 13th Street to Sweetwater Street as shown on the submitted map; a one-block section of what is currently 13th Street between Silver Street and River Street.**

Motion passed unanimously.

I. PERSONNEL

- G. Review, consideration, and possible approval to update the Fleet Maintenance Superintendent Job Description, and matters related thereto. **ACTION ITEM**

With the most recent retirement announcement of Candido Mendive, as the Fleet Maintenance Superintendent, and the reorganization of the Public Works Departments two years ago, an update to the Fleet Maintenance Superintendent Job Description is necessary to reflect these changes and some minor updates reflected in the handout materials. JE

**** A motion was made by Councilman Rice, seconded by Councilman Elquist authorizing Staff to update the Fleet Maintenance Superintendent Job Description.**

Motion passed unanimously.

- H. Review, consideration, and possible approval of the Police Records Supervisor job description and associated wage scale, and the possible reclassification of Shelby Smith, Records Technician II into the new classification, and matters related thereto. **ACTION ITEM**

Kerry Edson, Records Management Supervisor in the Police Department, retired August 8, 2008. Staff is recommending a new position of Police Records Supervisor to fill the void left by the retirement. The recommended wage scale is management grade 15, step 1 with a beginning wage of \$46,125.02 annually. Staff is also recommending the reclassification of Shelby Smith, Records Technician II, into the new classification. DS

Mayor Franzoia requested verification the previous position was being separated into two.

Administrative Services Director Stout clarified we are condensing it; the requirements of the position are not completely met by Ms. Smith. The department is working to get her cross-trained in those areas; once she becomes trained we could possibly look at a reclassification.

Councilman Elquist questioned if the original position still exists but will not be filled.

Ms. Stout verified that was correct.

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve the Police Records Supervisor job description and associated wage scale, and the reclassification of Shelby Smith, Records Technician II into the new classification.**

Motion passed unanimously.

After the motion and before a vote was taken Councilman Elquist questioned if the areas not met for the Records Management Supervisor are critical to the operation.

Ms. Stout advised the major functions not met deal with the computer systems; mainly the AS400 for the police department. The minimum qualifications for that job also require an AA Degree; there are classes available and there are opportunities out there to obtain that expertise.

Councilman Elquist wanted assurance all the requirements would be met for successful operation. We are obviously trying to promote from within but this person has been there for some time and knew the qualifications needed for that promotion and has not done them until the time came; was there an effort to look outside to see if it fit what we need.

Ms. Stout believed this all relates to the current situation in the City where everyone made a decision fairly recently to retire due to the circumstances; Ms. Edson likely believed she would have more time to train Ms. Smith.

Councilman Elquist questioned if the plan was to backfill the Records Technician II.

Ms. Stout advised that position would be filled at the bottom level.

- I. Review, consideration, and possible approval of a Senior Computer Technician job description and associated wage scale, and the possible reclassification of Benjamin Mangeng, Computer Technician, into the new classification, and matters related thereto. **ACTION ITEM**

Before the hire of Benjamin Mangeng as the City's Computer Technician, the City experienced some major computer related failures. Ben was hired as a Computer Technician but has worked continuously above and beyond the position description as written. In addition, the retirement of Kerry Edson, Police Records Management Supervisor, has left a void for the support and administration of the City's AS400 system. Ben has proven his ability to manage the City's computer systems and has made some much needed enhancements. Staff is recommending a new position of Senior Computer Technician and the reclassification of Mr. Mangeng into that position. The recommended wage scale is confidential grade 23, step 1 with a beginning wage of \$51,626.45 annually. DS

Ms. Stout stated this would be a 7.5% increase over his initial hire rate.

Mayor Franzoia questioned if Mr. Mangeng had more knowledge than previous employees in that position.

Ms. Stout advised he has much more experience and background knowledge than the previous technician. That lack of knowledge is probably one reason we experienced many of the failures we have; we didn't have someone in that position that understood the requirements of the system and what needed to be done to protect the data. We lost massive amounts of critical information when our server crashed; Mr. Mangeng was instrumental in getting that back up and running, working with consultants to recover most of the lost information and get it back to where it was usable information. Through that process we discovered things were not being backed up correctly nor was everything being backed up. Those were concerns expressed to previous employees in those positions. At this time we are well covered; things are being tested to make sure they are backed up. Ben has reinstated the offsite storage, changes the tapes out daily and

takes the weekly backups offsite so at any given time, once we get through a full two years, we will have two years of backup tapes so if anything major happens we should be able to recreate anything and everything we need. Mr. Mangeng has put a lot of processes in places that were previously lacking.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve a Senior Computer Technician job description and associated wage scale.**

**** Councilman Rice amended the motion to include the reclassification of Benjamin Mangeng, Computer Technician, into the new classification with the associated wage scale, Councilman Elquist's second stood.**

Motion passed unanimously.

II. APPROPRIATIONS

- B. Review, consideration, and possible approval and issuance of final acceptance for the Airport Water Main Relocation Project, and matters related thereto. **ACTION ITEM**

City Council awarded Ruby Dome, Inc. this work on June 24, 2008 in the amount of \$29,475.00. They have satisfactorily completed the project. Staff is recommending final acceptance. RL

Water/Sewer Superintendent Mendive commended Ruby Dome, Inc. for their timely response.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to approve final acceptance for the Airport Water Main Relocation Project.**

Motion passed unanimously.

After the motion and before a vote was taken Councilman Johnson requested verification it was the responsibility of the private developer to raise the pad.

Mr. Mendive believed that was correct; the City is not paying for it.

Mayor Franzoia questioned two spigots at the entryway; will they be filled in.

Mr. Mendive stated he had not seen the final plan but if they were not Staff will bring them down to grade.

Utilities Director Limberg advised the long-term plan is to raise the ground level in that area; the spigots will match the finished grade on that property.

- C. Review, consideration, and possible approval of an award of a contract for the re-bid of the WRF Pipeline Materials for the Effluent Line Replacement Project, and matters related thereto. **ACTION ITEM**

Council rejected bids and gave Staff permission to re-bid this project at the July 22, 2008 meeting. Bids were opened on August 6, 2008. Staff will present the bid tabulation and a recommendation at the meeting. FPS

WRF Assistant Superintendent Haddenham advised two bids were received. Staff recommends awarding the bid to HD Supply Waterworks, low bidder in the amount of \$390,753.

Mayor Franzoia requested verification they met all specs.

Mr. Haddenham verified all specs were met.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to award a contract for the re-bid of the WRF Pipeline Materials for the Effluent Line Replacement Project to HD Supply Waterworks in the amount of \$390,753.**

Motion passed unanimously.

- D. Discussion and possible authorization for Staff to solicit bids for installing approximately 6,300 feet of replacement reuse pipeline along Bullion Road, and matters related to thereto. **ACTION ITEM**

Approximately 6,300 feet of reuse pipeline will require replacement due to severe soil corrosion. The City is in the process of purchasing the pipe and materials; therefore, Staff is recommending Council approval to solicit installation bids for the Reuse Pipeline Replacement Project. Approximately \$975,000 has been approved for the project. FPS

Mayor Franzoia questioned if the price included the pipe; what did Staff estimate the installation cost to be.

Utilities Director Limberg verified the pipe was included; installation is estimated at \$500,000. It is a favorable market right now and we are seeing some good prices coming in.

Mayor Franzoia questioned the engineering.

Mr. Limberg indicated the engineering will finish up this week.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson directing Staff to solicit bids for installing approximately 6,300 feet of replacement reuse pipeline along Bullion Road.**

Motion passed unanimously.

- E. Review and possible award of the bid to construct the Aircraft Rescue Fire Fighting (ARFF) building at the Elko Regional Airport, and matters related thereto. **ACTION ITEM**

Bids for the construction of the Aircraft Rescue Fire Fighting (ARFF) building were opened on Friday, August 8, 2008. Staff will review the bids and provide a summary and recommendation at the City Council meeting. TM

Airport Director Moyers advised four bids were received; Bison Construction was deemed non-responsive due to incomplete and/or missing bid documents. After reviewing the bid tabulation and the available budget for the project Kimley-Horn and Staff recommends awarding the bid to Pinecrest Construction & Development, low bidder, for the base bid and Add Alternates #2, #4, #6 & #7. Upon completion of those items Staff would like to apply any balance remaining towards partial completion of Add Alternate # 1 which totals \$97,288 for the interior fit-up (heating and cooling, restroom facility, office); estimated balance if the other four alternates are completed is \$64,260.

Mayor Franzoia questioned the total funding.

Mr. Moyers advised total available funds are \$791,486; minus \$30,500 still owed to Kimley-Horn for engineering services.

Mayor Franzoia clarified actual remaining funds for the building is approximately \$760,000.

Mr. Moyers verified that was correct. Staff wants to negotiate Alternates #2, #4, #6 & #7 to value engineer Additive Alternate #1.

Councilman Johnson requested clarification on Add Alternate #1 and verification the base bid included rough-in of the sanitary pipes.

Mr. Moyers verified the base bid includes “rough-in” of the pipes. Add Alternate #1 is the interior fit-up, Alternate #1A would convert some chain-link for a storage area and install sheetrock, Additive #2 would be the roof extension to provide a carport area and more parking for equipment, Additive #3 is an entrance overhang over a walk-in door, Additive #4 is hose reel exhausts for the three vehicles inside the building, Additive #5 is lightning protection, Additive #6 is concrete under the roof extension and Additive #7 is the trenching for the gas line. Mr. Moyers advised Staff wants to get the roof extension, carport concrete, hose reel exhausts, trenching for gas and whatever else they can get with Alternate #1; heating of the building is imperative if nothing else and is not included in the base bid.

Mayor Franzoia requested clarification of the actual balance.

Mr. Moyers stated the base bid is \$608,429 Alternates #2, #4, #6 & #7 equal \$88,297 for a total of \$696,726. Currently there is \$791,486, minus \$30,500 for engineering costs leaving a balance of \$760,986 in the budget. \$760,986 minus \$696,726 leaves a cushion that can be applied to Alternate #1.

Councilman Johnson questioned if Staff’s intent was to award the base bid and the Add Alternates as defined in the bid package; there will not be any negotiating.

Mr. Moyers stated there will be no negotiating for items #2, #4, #6 & #7; the contractor stands behind their bid. Staff will try to negotiate Alternate #1 to get it into the available budget.

Councilman Johnson questioned heat in the building.

Mr. Moyers advised that is included in Add Alternate #1; Staff would like to negotiate this item with heating and cooling as the priority.

Mayor Franzoia believed Staff should go with what is really needed; heating is the most important.

Mr. Moyers agreed heating was critical; after everything else is awarded there is approximately \$64,000 available to address that item.

Mayor Franzoia stated there was no contingency; if we agree and keep Add Alternate #1 we would have to accept it; if the contractor decides they can't move on it the project is going to be approximately \$30,000 over budget.

Mr. Moyers agreed with Mayor Franzoia; Staff hopes to award the bid contingent upon being able to negotiate up to the available budget; the FAA will have to approve awarding the bid.

Mayor Franzoia stated the amount would have to be negotiated down prior to submitting to the FAA; they will not approve spending more than we have.

Mr. Moyers acknowledged the FAA has given the City all they are going to; anything extra will come from the City.

Mayor Franzoia pointed out the risk; if you can't negotiate Add Alternate #1 you have no recourse but to not pursue it unless the Council gives certain direction. It has to be worded that the most important items are included and if it can't be negotiated something has to be pulled back to fit in the range of funds we have; at this point it is not clear. You can't put everything in there and have a building that is frozen.

Councilman Elquist noted Kimley-Horn recommended Add Alternate #1 should be awarded contingent upon value engineering to provide the bid total within the budget limits for this project. With two-thirds of the budget available we should get the most essential needs.

Mr. Moyers also believed with two-thirds available we should be able to get the essential items; if not it gets rejected. The hose reel exhausts allow us to start the equipment and keep it running; inside the building we have electrical so we can plug in oil heaters, engine block heaters etc.; we have a workable solution.

Mayor Franzoia acknowledged Staff's intent; you have a workable solution if it works out but if not we have a problem. Staff doesn't have that discretion unless the Council gives it; Staff needs to have something in there for the Council's consideration. Kimley-Horn says "we award the base bid conditioned upon a workout on Additive #1". Mayor Franzoia believed Staff needs to prioritize the next four items they want to keep based on it working, if it doesn't then one of them has to be cut out.

Councilman Elquist believed the four additives were prioritized.

Mayor Franzoia requested clarification.

Mr. Moyers advised the top three were; the cover and concrete are for additional parking space for equipment that will not fit inside and the hose reel exhausts.

Councilman Johnson stated his expectations had been a building that was acceptable to the FAA; heating is one thing they required.

Mr. Moyers believed Staff had a workable solution; the only other issue with FAA compliance would be a compressor for air brakes; that will come from City funds.

Councilman Johnson questioned if the base bid met FAA requirements for housing of the equipment and the requirements the City had to meet to house the equipment.

Mr. Moyers stated the base bid meets it aside from the compressor.

Mayor Franzoia questioned whether the FAA position on a heated building.

Mr. Moyers advised as far as the entire building being thermostatically heated no, the FAA cares that the equipment is ready to go.

Mayor Franzoia expressed concern there could be times due to extremely low temperatures the equipment may not start.

Mr. Moyers indicated the equipment is parked outside but constantly plugged into engine block heaters; the equipment has been out in the elements all winter with no serious issues.

Mayor Franzoia was opposed to authorizing more than we have available; regardless of what the FAA approves. We need to word it in such a way that if Staff cannot do value engineering or value pricing on the additives something has to be cut out; it has to be done without bringing it back to the Council and it has to work within that limitation.

Mr. Moyers requested the item not be tabled due to the increasing cost of materials.

Mayor Franzoia again stated something has to be cut to make it fit within the budget parameters.

Mr. Moyers indicated Additive #1 would be cut; if we can't negotiate Additive #1 we walk away and it leaves \$64,000 on the table.

City Manager Calder noted the building is for a fire truck with water; how can we have a building with no heat for the truck and its water load.

Mr. Moyers acknowledged heating the water was a good question; Staff will research the matter.

Mr. Calder advised he had not read the report from Kimley-Horn but noted "as it stands now" the fire truck is required to be indoors during the winter months so it is ready to respond. Priority #1 should be higher than the side shelter for additional parking. Mr. Calder opposed constructing the building with no means to heat the air to an ambient temperature for the fire truck.

Councilman Elquist requested clarification on Additive #2.

Mr. Moyers advised Additive #2 was the roof extension.

Councilman Elquist noted if #2 was eliminated you are within the parameters. And, could the compressor be purchased with grant money as the cost would be considerably less.

Mr. Moyers acknowledged Mr. Elquist's statement; if funds are available perhaps that could be negotiated.

**** A motion was made by Councilman Conner, seconded by Councilman Elquist to award the base bid to Pinecrest Construction & Development in the amount of \$608,429; add to that Additive #1 conditioned upon valued engineering, add in also Additives #4, #6, & #7 if Staff is able to get Additive #1 value engineered to a price that reduces its bid that we could do Additive #2, then add Additive #2.**

Motion passed unanimously.

After the motion Mayor Franzoia stated everything was subject to FAA approval.

Mr. Moyers advised Staff would modify their recommendation based on the motion.

- F. Review, consideration, and possible authorization for Staff to solicit bids for a Concrete Co-op Project at the corner of 4th Street and Court Street, and matters related thereto. **ACTION ITEM**

This project is a co-op with Gerber Law Offices, Robert Rustigian, and the City of Elko in an effort to enhance ADA access and drainage in this area. This co-op project would require property owners to pay for all demolition/removal and the new concrete for the sidewalk area. The City of Elko would pay for all replacement of curb, gutter, drainage, paving and site preparation. DS

Mayor Franzoia questioned why this was before the Council.

Public Works Director Strickland advised it exceeds the City's purchasing policy and is therefore required to come before the Council.

Councilman Johnson requested verification this was following a policy established by the City.

Mr. Strickland stated this follows the purchasing policy; we do have a concrete replacement program that is prioritized on a participation level, area location, drainage, pedestrian access etc. The sidewalk in this area is not ADA compliant.

Councilman Johnson then questioned we were not doing anything for this project the City wouldn't offer to anyone.

Mr. Strickland verified that was correct; it's a prioritized basis as to the location and what the impacts are in the area.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist authorizing Staff to solicit bids for a Concrete Co-op Project at the corner of 4th Street and Court Street.**

Motion passed unanimously.

- G. Review, consideration, and possible approval of an award of a contract for the WRF West Primary Clarifier Project, and matters related thereto. **ACTION ITEM**

Bids were opened on Friday, August 1, 2008. Staff will present the bid tabulation and a recommendation at the meeting. FPS

Mayor Franzoia noted three bids were received; Rema Tip Top in the amount of \$44,462, Hansen Painting for \$52,825 and RPI Coating in the amount of \$76,550. Mayor Franzoia questioned the discrepancy between the high and low bids.

WRF Assistant Superintendent Haddenham believed the high bid is likely due the cost of mob and de-mob etc.; the bidder was from California.

Staff recommended Rema Tip Top, low bidder and below budgeted amount.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to award a contract for the WRF West Primary Clarifier Project to Rema Tip Top in the amount of \$44,462.**

Motion passed unanimously.

- H. Consideration and possible "Final Acceptance" for the Public Works Department 2008 Slurry Seal Project. **ACTION ITEM**

A contract was awarded to Sierra Nevada Construction on April 1, 2008 to supply and apply slurry seal on approximately 428,955 square yards of selected City streets. Sierra Nevada Construction has satisfactorily completed the project according to contract documents and specifications. DS

Public Works Director Strickland advised the actual field quantities on the project came in under therefore bringing overall price of the project even further under budget.

Councilman Elquist noted the unit price had been low; had Staff considered adding areas to fulfill the budget.

Mr. Strickland acknowledged that is something Staff likes to do but with the budget constraints this year this was a compromise.

Councilman Johnson questioned if the citizen complaint had been resolved.

Public Works Director Strickland advised he met with the citizen and the matter was presented different than the original statement; there is no issue.

Councilman Johnson questioned if this company did as well as what the City has seen in the past.

Mr. Strickland noted when you have to switch contractors it makes it difficult for Staff; there is a learning curve to get that company to meet all your expectations. This was a bigger aggregate than used in the past, it is not as aesthetically pleasing but it meets Orange Book specs.

Councilman Elquist questioned if the Orange Book mix design is too low for what we need; could we have an Elko mix design.

Mr. Strickland indicated we do have that latitude; in the future we will bid that as “or equal to” so we can target the aggregate we know works better and looks nicer.

City Manager Calder noted compliments and complaints have been received regarding the latest slurry seal. He encouraged the Council to take action on final acceptance and requested the 5% retention to resolve any outstanding issues.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to approve “Final Acceptance” for the Public Works Department 2008 Slurry Seal Project and maintain a 5% retention.**

Motion passed unanimously.

- I. Review, consideration, and possible approval to award an engineering contract to SRK Consulting for the Reuse Site Land Expansion Project, and matters related thereto. **ACTION ITEM**

BLM has accepted the City’s Recreation & Public Purposes Act (R&PP) applications for the 800 acres that is being requested. BLM shall require the collection of baseline information for the preparation of an environmental assessment (EA) to document resources that would be purchased by the City.

Approximately \$125,000 has been budgeted for this project. This project is part of the 10-Year CIP adopted in February 2004. Staff has worked with SRK Consulting since last fall on this project and is recommending Council approval to award an engineering contract to SRK Consulting in the amount not to exceed \$104,235 to complete the required EA. This amount also includes \$20,000 of costs for the environmental site assessment and the mineral potential reports typically completed by BLM. BLM has suggested including these costs into the proposal, should BLM be unable to complete this work load (see attached SRK proposal). RL/FPS

Utilities Director Limberg simplified the explanation for everyone. We filed an application for the 800 acres; to get the BLM to review and consider that application we have to complete the environmental assessment. The BLM can do the assessment or we can hire a consultant/contractor for the assessment. In discussing the option with the BLM pertaining to the time frame and cost to the City for that service, the BLM indicated they are severely backlogged at this time; if we want them to complete the environmental assessment it would be approximately five to eight years before they could even begin the process. There is also a cost recovery for any work they undertake on our behalf for that assessment.

Mr. Limberg stated at this point Staff recommends awarding the bid to SRK in the amount of \$104,235 to complete everything necessary to file the environmental assessment document.

Councilman Johnson questioned if the engineer would be signing the City agreement.

Mr. Limberg verified that was correct.

Councilman Conner requested clarification on what the assessment covered; \$104,235 seems extreme.

Mr. Limberg reviewed a breakdown of the associated costs; hazardous material survey, mineral potential report, cultural resources and endangered species i.e. animals & plants, anything we may impact in a negative fashion.

Mayor Franzoia questioned if the contract could be approved subject to review of the City Agreement at a later date.

Mr. Limberg agreed; the standard engineering agreement would be brought back for review.

Councilman Johnson stated as we were using the standard City Agreement there was no need to bring it back before the Council.

**** A motion was made by Councilman Johnson, seconded by Councilman Elquist to award an engineering contract to SRK Consulting for the Reuse Site Land Expansion Project in the amount of \$104,232 and request the engineering firm execute the City of Elko's typical agreement we ask each consultant to sign in order to do business with the City of Elko.**

Motion passed unanimously.

- J. Review, consideration, and possible approval of a proposal from the Griffin Crowley Group to provide legislative consulting services during the 2009 State of Nevada Legislative Session, and matters related thereto. **ACTION ITEM**

In preparation for the 2009 Legislative Session, Staff is requesting the City Council to approve a consulting proposal submitted by the Griffin Crowley Group. The fixed cost of the proposed consulting services is \$25,000.

A copy of the proposal has been included in the agenda packet for review. CC

City Manager Calder stated a copy of the proposal was included in the packet for review. Staff does not anticipate the City sponsoring any Bill Drafts; if that were to come up and we utilized our lobbyists actively on that it might be outside of their scope. For our intended purposes the proposal meets what our expectations are for the legislative session.

Councilman Elquist questioned if this was a T&M (time & material) retainer or a fixed amount.

Mr. Calder stated it was a fixed contract amount for the legislative session only. They initially proposed more of a T & M monthly, not to exceed; however that did not fit in with our strategy

as we don't have a lot of interim legislative issues that can not be dealt with directly with our legislative delegation or with others that can help i.e. Nevada League of Cities.

Councilman Elquist believed based on that it actually would lend itself better to T & M.

Mr. Calder advised their minimums were very high; we took their initial per-month proposal of \$6,000 during the legislative session and \$3,000 per month during the interim legislative session, given the scope we visited with them about is that basically we are taking a defensive stature in the session; we want to make sure that things aren't taken away from us, we're not necessarily going on the offensive however they maybe something by then i.e. air service bill. As long as it is in their scope, which is fairly broad based, we will be fine. If we were going to propose something outside that scope a fixed contract may not allow us to do that without additional compensation. Mr. Calder stated based on what he knows right now in preparing for the legislative session this seems reasonable.

Mayor Franzoia and Councilman Rice stated the consultants were very competent.

**** A motion was made by Mayor Franzoia, seconded by Councilman Rice to approve the proposal from the Griffin Crowley Group to provide legislative consulting services during the 2009 State of Nevada Legislative Session in the amount of \$25,000.**

Motion passed unanimously.

III. SUBDIVISIONS

- A. Review, consideration, and possible acceptance of Public Improvements for The Pointe at Ruby View LLC Patio Homes Subdivision, and matters related thereto.
ACTION ITEM

City Council approved the Final Map on November 27, 2007. The Public Improvements for this subdivision were covered under the Agreement to Install Public Improvements and a Performance Guarantee for The Pointe at Ruby View Subdivision. The Public Improvements were inspected and certified as a part of The Pointe at Ruby View subdivision. The one year maintenance requirement will also be covered under the Maintenance Agreement for The Pointe at Ruby View Subdivision. That agreement is backed by a Letter of Credit in the amount of \$194,836. The Developer has also entered into a Deferral Agreement for the installation of curb, gutter and sidewalk along the southwest side of East Jennings adjacent to Lot 1. SW

Councilman Elquist questioned whether the deferral agreement was backed by anything financially.

Development Manager Wilkinson advised it was not; that has never been done with deferral agreements.

Mayor Franzoia questioned if it the land is subsequently sold to someone else the liability is passed on as well.

Mr. Wilkinson advised for this situation there is the expectation that lot will be sold to someone else; in order to further develop the property up there you have to extend East Jennings. The responsibility for that street development would pass on to the developers as he subdivides any additional area up there.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to accept the Public Improvements for The Pointe at Ruby View LLC Patio Homes Subdivision.**

Motion passed unanimously.

IV. UNFINISHED BUSINESS

- A. Review and possible approval of a lease agreement between the City of Elko and C-A-L Stores, Inc., dba C-A-L Ranch Stores, and matters related thereto.
ACTION ITEM

On June 3, 2008, the City Council reviewed bids and conducted a public auction for the lease of approximately .51 acres of City-owned land located at 2953 Manzanita Lane. The City Council accepted the only submitted bid of \$6,100 per year from C-A-L Stores Inc, dba C-A-L Ranch Stores.

A copy of the proposed lease agreement has been enclosed in the agenda packet for review. CC

City Manager Calder advised Staff has negotiated the lease; the draft lease has been included in the packet for review. All legal counsel has reviewed it as well; Staff is comfortable with the draft before the Council and recommends approval.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve a lease agreement between the City of Elko and C-A-L Stores, Inc., dba C-A-L Ranch Stores.**

Motion passed unanimously.

VIII. 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.

There was no public comment at this time.

V. 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

City Clerk Owen advised there is a request from the Elko County Fair to close 13th Street from Fairgrounds Road to Elm Street, commencing on August 22, 2008 through September 1, 2008. All requirements have been met.

Mayor Franzoia commented that area was scheduled for paving.

Public Works Director Strickland indicated paving was scheduled for August 13th.

Mayor Franzoia expressed concern regarding anchors; how do we make sure it doesn't happen on a new road.

Councilman Conner advised he attends the Fair Board meetings and would pass on the request they not put anchors down on the City right-of-way.

**** A motion was made by Councilman Rice, seconded by Councilman Elquist to approve a request from the Elko County Fair Board for the street closure commencing on August 22, 2008 through September 1, 2008 as shown on the application.**

Motion passed unanimously.

Under further discussion Councilman Johnson questioned why the event was not listed on the agenda.

Ms. Owen advised this was a late application. Ms. Owen explained the agenda is written as it is to address this type of situation; it is the City Clerk's policy the applicants submit their applications in a timely manner so it can be properly identified on the agenda.

Councilman Johnson believed a citizen could express concern they had not received notification.

Ms. Owen stated this was not common practice; applicants are encouraged so submit their paperwork in a timely manner.

Councilman Elquist questioned if all requests need to come before the Council if they are repetitive and meet the required guidelines and there is no exception to a baseline criteria.

Ms. Owen supported the suggestion and indicated she could report to the Council of any repetitive special events; all new events would still come before the Council.

Mayor Franzoia requested Ms. Owen bring back a new policy for consideration.

- B. Review, consideration, and possible action to approve Revocable Permit No. 1-08 filed by Ruby View Estates to occupy a portion of City owned property located generally at the intersection of Masters Lane and Ruby Vista Drive, more specifically in the middle of Masters Lane, to accommodate the placement of an

informational rock designed to designate Ruby View Estates, and matters related thereto. **ACTION ITEM**

This informational rock was placed in the Right-of-Way of Masters Lane before the Revocable Permit application was filed. EW

City Planner Wynes recommended approval.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve Revocable Permit No. 1-08 filed by Ruby View Estates to occupy a portion of City owned property located generally at the intersection of Masters Lane and Ruby Vista Drive, more specifically in the middle of Masters Lane, to accommodate the placement of an informational rock designed to designate Ruby View Estates; subject to execution of a License Agreement between the applicant and the City of Elko.**

Motion passed unanimously.

- C. Consideration and possible authorization to solicit Statements of Interest and Qualifications (SOQ) for Engineering Services at the Elko Regional Airport, and matters related thereto. **ACTION ITEM**

The Elko Regional Airport currently has a Professional Services Agreement with Kimley-Horn and Associates for engineering services at the Elko Regional Airport. The FAA requires that every five (5) years the airport re-advertise for consultants to provide engineering services. The process will be as follows:

- The airport will seek proposals from all interested firms;
- The airport will establish a committee to review and narrow the interested firms down to a short list;
- The airport will request the short listed firms to come to Elko for an interview;
- The airport will then attempt to negotiate a contract with the top-scoring firm.

Mayor Franzoia questioned the committee members.

Airport Director Moyers recommended the Airport Advisory Board.

Councilman Johnson questioned if it was an option to the City to have two consulting firms; one that specializes in engineering services and another specializing in building.

Mr. Moyers advised the scope could be written as strictly engineering services as far as runway, taxiway, pavement, concrete etc. The architectural items could be out-sourced instead and not included in the scope of services. Mr. Moyers was opposed to two contracts; we don't do a lot of buildings and recommended it on an as-needed basis.

Councilman Elquist believed Staff could look at the Capital Improvement Plan for the airport and gear it towards that.

Mr. Moyers believed the five-year plan was a good place to start; currently it shows no buildings.

Mayor Franzoia questioned if the scope of work had been defined; who does that.

Mr. Moyers stated it had not; the SOQ's will be reviewed to determine what they are qualified to do and if there is anything we want to modify.

**** A motion was made by Councilman Elquist, seconded by Councilman Rice authorizing Staff to solicit Statements of Interest and Qualifications (SOQ) for Engineering Services at the Elko Regional Airport.**

Motion passed unanimously.

Mayor Franzoia requested Staff bring back the scope of work for the Council's consideration.

Councilman Elquist noted the FAA requires this; can you go outside the selected engineer for buildings or other consulting services.

Mr. Moyers stated it has been done on other projects i.e. the bomb building.

- D. Review, consideration, and possible action to reappoint Planning Commission members Jeff Thompson and Reece Keener to additional four-year terms to expire July, 2012, and matters related thereto. **ACTION ITEM**

Jeff Thompson and Reece Keener's terms expired July, 2008. Pursuant to City Code, Planning Commission members may be reappointed for additional terms. Mr. Thompson and Mr. Keener have indicated an interest to continue serving on the Planning Commission. EW

**** A motion was made by Mayor Franzoia, seconded by Councilman Rice to reappoint Planning Commission members Jeff Thompson and Reece Keener to additional four-year terms to expire July, 2012.**

Motion passed unanimously.

- E. Review and possible approval of the Elko City Disaster Operation Plan, and matters related thereto. **ACTION ITEM**

A copy of the "Draft" Elko City Disaster Operation Plan has been enclosed in the agenda packet for review. CC

Elko City Emergency Manager Aaron Hughes advised this is an interim policy; the State will be putting together a state-wide booklet using each entities outline. Mr. Hughes advised this policy needs to be updated each year and will be his responsibility.

City Manager Calder noted the document was large and quite detailed; if the Council needs additional time for review it can be approved at the next meeting.

Mr. Hughes clarified the plan does not address a particular emergency, it is an outline and how the Incident Command Structure would work if something happened; how everyone would get

together and the direction we would be going in order to deal with the incident; again not about the actual incident itself.

Further discussion continued regarding the plan; the Council indicated more time was needed to properly review the document.

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

Motion passed unanimously.

- F. Review, consideration, and direction to Staff regarding the Bureau of Land Management's position as it relates to the development of a "Hotshot" facility on Bureau of Land Management property fronting both Idaho Street and Manzanita Lane, and matters related thereto. **ACTION ITEM**

J.F. Sato and Associates has submitted Construction Documents on behalf of the Bureau of Land Management (BLM) to the City for the proposed Hotshot facility located on BLM Property fronting both Idaho Street and Manzanita Lane. Access is proposed from Manzanita Lane. Utilities are in place extending from Manzanita Lane to the existing offices fronting Idaho Street. Staff has reviewed and commented on the plans as outlined in its letter dated March 28, 2008. As a part of that review and comment, Staff requested full width improvements to Manzanita Lane. The BLM has indicated, in its letter dated April 29, 2008, that the agency is prohibited from using federal funds to making improvements to non-federal land. The BLM has also stated its position, that the City was included in the process as a courtesy to the City and the agency does not require formal approval to proceed with the project.

Staff has requested that the BLM provide information with regard to the Right-of-Way improvements (curb, gutter and sidewalk) along Idaho Street adjacent to the property. It is the understanding of Staff that the BLM paid for these improvements. City staff has requested that the BLM clarify the conflicting positions. Staff believes the BLM has completed public improvements on Idaho Street Right-of-Way in the past and therefore should make the same commitments to public improvements on Manzanita Lane. SW

Development Manager Wilkinson stated that based on discussion with the prior City Engineer, the BLM has extended funds on Idaho Street for curb, gutter and sidewalk; the City did the paving as part of a larger paving project. Staff requested BLM address that apparent conflict; BLM advised they find nothing in their records with regard to that issue.

Mr. Wilkinson believed BLM would have representatives at tonight's meeting but apparently there was not. Mr. Wilkinson continued and advised the City Manager has been in contact with legal counsel regarding some of the citations they provided us.

City Attorney Goicoechea advised BLM provided a letter that cites old opinions out of the 1920 General Administrative Office or Finance Office; the opinion says the federal government can't give money away; it's not really on point. We have asked they provide us something directly out

of a federal statute or from case law that says they are prohibited from paying or cannot participate when they take access off of a state or city road. It was Mr. Goicoechea's opinion the BLM had not responded to the direct issue; they responded very broadly with old opinions that say you cannot give away government money. Because the BLM was not present tonight Mr. Goicoechea recommended a deferral of curb, gutter and sidewalk until such time as Manzanita Lane is developed. If they provide something that shows they cannot participate in costs when they build a structure that accesses a state or municipal road we may change our mind.

Mayor Franzoia stated the taxpayers fund them and they are funding their obligations back to the taxpayer. In most cases when someone leases their property all that is covered in the upfront cost of development which would include the public improvements i.e. water, sewer line extensions which they pay for and is no different that curb, gutter and sidewalk.

Mr. Goicoechea verified the BLM does lease buildings in other cities; they don't own them themselves so they didn't pay but in effect they are paying for all of that.

Mayor Franzoia stated his belief when the new courthouse in Reno was built the cost of the public improvements was born by the federal government; do they do it differently here because they can against where in Reno they make them pay; there can't be two different standards.

Mr. Wilkinson advised the BLM has stated their position; they provided these documents as a courtesy to the City of Elko, they don't need our approval to move ahead with the hotshot facility. Based on that position he did not believe they would enter into a deferral agreement for any improvements on Manzanita Lane. Their position is they are prohibited from any expenditure there.

Mayor Franzoia expressed concern; they don't pay taxes, why should the taxpayer be stuck with something we get nothing in return for.

Mr. Wilkinson agreed and advised they attempted to get the BLM to focus on what has occurred in the past on Idaho Street. In verbal discussion they agreed they probably did pay for those improvements but they couldn't find anything in their records to provide the City with regard to the issue. That is what we asked for; provide some information and address their conflicting positions where they've paid for it on Idaho Street and now say they are prohibited from spending the funds. City Staff located one item, an email from the City to BLM personnel in regard to this issue; unfortunately the document was scrambled when it was scanned into the records. Discussion with the prior City Engineer verifies they (BLM) paid for curb, gutter and sidewalk; the City did the paving as part of a larger paving project. Discussions with BLM personnel that worked directly with the prior engineer on that project stated that is the facts but they are not able to produce any type of agreement on the improvements.

Mayor Franzoia questioned who would inspect the property under construction.

Mr. Wilkinson believed their own personnel would have some type of QA/QC to observe their projects.

Mayor Franzoia questioned if the BLM moves forward they are aware they will have to install a water meter.

Mr. Wilkinson stated they are aware of that; they are prepared to put in water meters and have all the fire hydrants in place for fire protection. City Staff has commented on the plans; BLM has revised the plans according to Staff's comments, excepting for Manzanita Lane improvements, and resubmitted the plans to us. They are looking for some type of approval although they state they don't need it.

Mayor Franzoia noted fire protection is one requirement; they will do that requirement and not the other.

Councilman Johnson questioned if they would purchase a building permit.

Mr. Wilkinson advised they are not required to do so.

Councilman Johnson then questioned what the City would require if it was a private developer.

Mr. Wilkinson advised the requirement would be paving, curb, gutter, sidewalk on Manzanita Lane; meter the water, install utilities, extend utilities to the end of the property if required, develop the approach to a City standard where they would take off of Manzanita and ensure that the sidewalk and ramps are ADA compliant etc.

Councilman Johnson was aware the federal government has done this same thing on other projects in the county. Mr. Johnson was opposed to a deferral and believed the Council should take no action.

Councilman Elquist expressed concern and believed the BLM was using a policy statement that applies out in the field to private ranches etc.; they are trying to apply it inside a city parcel. The policy statement they are citing makes no sense. Mr. Elquist requested more research on precedent of where they have built other buildings in other towns and show that city had to do all the public improvements. Mr. Elquist also believed they were saying the "BLM Agency" was not responsible.

Mayor Franzoia questioned Legal Counsel if the federal government would have a standard that one agency can do it and another agency can not.

Mr. Goicoechea verified there are times they do have different standards; the BLM has multiple agencies under them. Mr. Goicoechea supported Councilman Johnson's recommendation to take no action; address the issue when Manzanita Lane develops.

Councilman Rice noted individuals at the local BLM are aware this was done in the past and supported enlisting them to do more research on their own so when the time comes we have a policy in place that works for us; they are our neighbors.

Mr. Wilkinson stated he met with local officials, in that meeting they made it perfectly clear they provided the documents as a courtesy to the City of Elko, they didn't need our approval. Discussion with other local BLM Staff that worked on the Idaho Street improvements verified their position as they are not going to do any improvements on Manzanita Lane, period. Current local officials don't seem to feel they should do any improvements on Manzanita, maybe at a later date there will be different people involved that are willing to do it. Mr. Wilkinson believed

it was the BLM's intent to move forward with the project if the City doesn't give them the courtesy approval just as they gave us a courtesy review. Mr. Wilkinson stated he would have liked BLM representatives present at tonight's meeting to qualify their position.

Mr. Wilkinson requested verification Staff not respond to the plan submittals.

Mayor Franzoia verified that was correct; if we have no say over it, it is a mute point.

Councilman Johnson recommended packaging up the plans and returning them to the BLM.

City Manager Calder believed the Council understood development issues in the community; what Mr. Wilkinson and Mr. Andreozzi are up against when any developer comes into town. The developer's goal is to minimize the amount of public improvements they are going to put in and the City's goal is to try to maximize that; we usually meet somewhere in the middle. There are cases that appeal to the Planning Commission for a waiver of public improvements; from their perspective it doesn't make sense to put them in. The Planning Commission has advised the public improvements will be installed based on City Code; there are times we defer them for various reasons. The only concern in returning the plans to the BLM is the next large private development on Manzanita Lane will require those same public improvements; they can state BLM next door didn't have to install them and then the City will have to fight that battle. That is a concern and certainly a somewhat sensitive issue because the BLM isn't here and we can't ask them anything. As long as the Council knows where Staff is at on this; we are in a deadlock position. We can box the plans up but we are going to have to address this issue when it comes to a private developer in the future.

Councilman Johnson stated the Federal Government says the City has no choice. If a private developer comes in and says they don't have to deal with the City because of federal law; then we deal with it. If the Council defers this matter it puts us in a worse position when it comes to private development. Councilman Johnson strongly supported taking no action.

Mr. Wilkinson suggested we have legal counsel dispute the BLM letter that states they are prohibited. Maybe that sets us up for asking for those improvements at a future date.

Mr. Goicoechea supported returning the documents. We will require the public improvements as Manzanita Lane develops, when the time comes we will see what position they take; they will be required to put them in.

Mr. Wilkinson indicated the road is close to being built; this will create a big gap when we get to that point.

Councilman Rice also supported taking no action; return the documents.

City Attorney Goicoechea believed the City was not harming its position by not pushing the issue at this point.

Mayor Franzoia commented technically it is a deferral until the road is built and we go after it then; it is something they are required to do. It will give Staff time to look into the matter.

Mr. Wilkinson stated the burden of proof is on the BLM; they should provide all that information rather than City Staff spending the time to research.

City Manager Calder advised the property they are going to construct the building on was City property; it was exchanged equal value for equal value for the property on North 5th Street and that might be an angle Staff can research and see if we are in fact stuck with doing the public improvements on their property did we get an equitable exchange for the property on 5th Street.

Mr. Wilkinson noted they are required to have metered service.

Councilman Elquist questioned if we have an obligation to serve them if they are not within our jurisdiction. This is our only area of leverage; do we use it. They need to be good neighbors; for them to put the burden on us is fundamentally unfair.

Councilman Johnson advised City Ordinance states anyone within the City limits will be on the City water and sewer system; if they are going to pull rank on the ordinance then we have no recourse. But, if they want to come in and request City water/sewer the City would only be limited to make the requirements for those specific services i.e. meter, back flow etc. and they can decide if they will spend monies on that versus drilling their own well. If they can pull rank by not having to abide by building codes they probably can pull rank and put in their own well and septic. It is unfortunate they aren't here tonight for discussion.

Councilman Elquist believed there was precedent where they have constructed a building and have had to put in public improvements.

Mr. Wilkinson stated the precedent is on Idaho Street.

No action was taken on this item.

VI. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible action to approve Resolution No. 20-08, a resolution establishing a service fee for Visa, MasterCard or Debit Card telephone transactions, and matters related thereto. **ACTION ITEM**

Since the installation of the credit card machine staff receives numerous telephone calls to pay for various services which takes time to process. The City offers other options of payment such as Direct Pay, City Web Site and Online Payment through customer's bank account. Staff is recommending Council approval of a \$3.00 service fee for each telephone transaction. LM

Mayor Franzoia questioned the standard transaction; does Staff want to use a \$3.00 minimum regardless of the transaction.

Accounting Supervisor Martinez advised the transactions vary depending on the issue; Staff is spending too much time processing and recording the information before they even process the credit card.

Councilman Elquist believed this doesn't save Staff time; we should not take credit cards over the phone and instead encourage alternative options of paying.

City Clerk Owen advised there would be a concern with the bid packages; many out of state bidders provide a credit card so we can process their request and get the bid package mailed out to them.

Councilman Elquist questioned if the water bill was creating the volume.

Ms. Martinez verified that was correct.

Ms. Owen stated when there is a fee for the bid packages over 50% are paid for with a credit card.

Mayor Franzoia believed paying by credit card has become a trend because of the benefit back to the customers. There is more Staff time involved with a returned check than processing a credit card; it is a more involved process.

Councilman Elquist noted for better customer service we want to encourage customers to use direct deposit, websites and various alternate means of paying; there is a magnitude of savings by a customers using those options rather than walking through the door or calling up and paying with a credit card. Maybe a \$3.00 fee will address that but it might be better to not handle those transactions over the phone.

Ms. Owen advised bidders would not be able to direct pay through the website for a bid package; only a water bill can be paid through the website.

Administrative Services Director Stout indicated there are several different issues; bid packages can only be paid for with a credit card, only accounts receivable and water payments are handled through the City website and direct pay is strictly utility billing. There are other avenues available for people who want to use them, however there are going to be those instances where there is no other available avenue. By implementing a service fee it will hopefully deter those people that write one check at the end of the month for the perks they receive from the credit card. The City takes a bigger hit on those types of cards because the discount comes back to the City as a charge against us and is passed onto the customer. In those instances we would prefer they use the other options available to them.

Ms. Stout advised the issue is not so much with the walk-in customers but with the phone-in; especially those that try to pay multiple transactions i.e. room tax, rental properties, water bill etc. with one charge. Staff can be on the phone for thirty minutes one customer and it takes them away from the customers coming in the door. We are trying to deter those that get the perks; maybe it will be enough of a deterrent to make them pay with another method.

Councilman Johnson questioned how many phones calls per month had multiple transactions.

Ms. Stout was unsure of the specific number but stated it was the same people each month; every month Staff directs them to direct pay or to online payment through the bank, but as previously noted they want to pay with a credit card for the perks.

Councilman Johnson believed it was fairly limited and \$3.00 was not going to make much difference. Staff's time is important but would we lose more of Staff's time dealing with complaints regarding the charge and explaining why we did it. For this scenario you have entities taking up so much time maybe there should be another provision put in place upwards of a \$25.00 fee.

Councilman Rice suggested a "per transaction" fee.

Ms. Stout agreed a \$3.00 fee per account was a consideration if the Council so directed.

Mayor Franzoia believed this was a start, wait and see how it works; adjust it as needed.

Councilman Elquist noted the other side of the argument is that it is all part of customer service.

Ms. Stout believed we provide customer service through the various payment options we have.

Councilman Elquist questioned if we are falling behind, is there a fiscal impact to this that we need to recover or is it just an irritation.

Ms. Stout stated it was not an irritation; it is a customer service. Credit cards require more Staff time and effort; we've offset that by providing other means of payment. As we become busier it takes more time to process these; there has been no overtime yet but there are employees that don't take their breaks; it's difficult to take a break when you have customers standing at the window, on the phone etc. Other operations of the office still have to continue and we are getting busier; we don't have the resources to hire additional staff or office space for them. All we can do is encourage people to use other methods of payment as opposed to the telephone for credit card payments.

Councilman Elquist supported a website for payment of the bid plans etc. use technology.

Ms. Stout stated the technology is only so good; with online payments just as with a check, there is the possibility of that payment not going through due to insufficient funds. The plans are required to be paid for upfront; the only method of doing that is either they come in a give us the cash, check or credit card; all other payment types i.e. direct pay are a three to five day wait period before we receive those monies.

City Manager Calder supported a larger service fee i.e. \$10.00 as a disincentive; \$3.00 likely will not solve the problem and \$10.00 will not scare away any contractor requesting bid documents.

Councilman Conner was opposed to a \$10.00 fee; if someone is unable to leave their home to pay a bill we shouldn't penalize them with such a large fee; \$3.00 is fair.

Ms. Stout advised for customers that are house bound or have a medical reason why they can't come in and pay there is still the old fashioned way of writing a check and mailing it in. We aren't impacting anyone that can't come down to City Hall; we are just trying to encourage people to use the other methods of payment. Direct pay is the biggest benefit for everyone and the one Staff prefers; it is automatic and everyone is aware of when the charge is coming out.

Mayor Franzoia expressed concern the City accepted credit cards over the phone; in addition to the possibility of having the charge contested there is also the risk of identify theft. It puts the City at risk to accept credit cards over the phone for the normal payment processes; the exception would be for bid documents. As it currently stands the City has extreme exposure and that needs to be resolved.

City Manager Calder believed the best solution was to modify the existing practice of accepting credit cards over the phone with the exception of the bidding process due to time constraints. For day to day transactions we have other alternatives; by saying we no longer offer that service we resolve the problem for the Finance Department.

Councilman Johnson supported not accepting credit cards over the phone, with the exception of bid documents.

Councilman Elquist believed for the bid process Staff could be more aggressive with the fee.

Ms. Owen advised there is no issue with bid documents; however business owners will phone to renew their license and this will address that also.

City Manager Calder recommended the Council take no action on this item. Administratively we can stop accepting credit cards over the phone; it is not set up by resolution.

**** A motion was made by Councilman Conner, seconded by Councilman Johnson to take no action on Resolution 20-08.**

Motion passed unanimously.

Mayor Franzoia called for a brief recess at 7:22 p.m.

Mayor Franzoia called the meeting back to order at 7:30 p.m.

- B. Review, consideration, and possible approval of Resolution 21-08, a Resolution providing for the transfer of the supplemental allocation of the City's 2008 Private Activity Bond Cap to the Nevada Rural Housing Authority; and other matters related thereto. **ACTION ITEM**

The City of Elko previously transferred its 2008 allocation of the tax-exempt private activity bond cap to the Nevada Rural Housing Authority. Recently, the Federal Government allocated supplemental monies for the private activity bonds in the amount of \$343,006.24. The Nevada Rural Housing Authority is requesting the City's supplemental allocation of the bonds for the purpose of providing a means of financing the costs of single family residential housing units that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income (Single Family Mortgage Loan Program). DS

**** A motion was made by Councilman Elquist, seconded by Councilman Rice to approve Resolution 21-08, a Resolution providing for the transfer of the supplemental allocation of the City's 2008 Private Activity Bond Cap to the Nevada Rural Housing Authority.**

Motion passed unanimously.

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. The ratification of a 30-Day Temporary Packaged Beer and/or Wine Liquor License. Approve regular Packaged Beer and/or Wine Liquor License to Angela Miller, dba Divine Expressions, located at 717 West Idaho Street, Suite B, Elko, NV 89801, and matters related thereto. **ACTION ITEM**

Staff recommended approval.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to ratify a 3-Day Temporary Packaged Beer and/or Wine Liquor License and approve Packaged Beer and/or Wine Liquor License to Angela Miller, dba Divine Expressions, located at 717 West Idaho Street, Suite B, Elko, NV 89801.**

Motion passed unanimously.

- B. Consideration of a possible modification to the Gallery Bar's existing Liquor License, removing Barbara Errecart and adding Joan E. Anderson, and matters related thereto. **ACTION ITEM**

Staff recommended approval.

**** A motion was made by Councilman Conner, seconded by Councilman Rice to approve a modification to the Gallery Bar's existing Liquor License, removing Barbara Errecart and adding Joan E. Anderson.**

Motion passed unanimously.

- D. Consideration of a request from Dennis Cook of Elko Auto Wrecking, LLC., to: 1) initiate the sale of 9.347 acres of City-owned land located in the vicinity of Hot Springs Road for use as an automobile wrecking facility and metal recycling business; 2) apply for a Conditional Use Permit (CUP) while the appraisal process is conducted; and 3) apply for a zone change while the appraisal process is conducted, and matters related thereto. **ACTION ITEM**

Mr. Cook has requested that the City consider selling the above referenced property for use as an automobile wrecking facility and metal recycling business. This particular parcel is currently zoned Light Industrial and is located within the City of Elko's recently formed Redevelopment District.

A copy of Mr. Cook's letter has been enclosed in the agenda packet for review.
CC

City Manager Calder advised when someone initiates the sale of property we typically look at our land inventory; this parcel is available for sale. However when that determination was made by the Council the Redevelopment District had not been approved. This parcel is located on the west end of the Redevelopment and could be a factor as to whether the City wants to sell the parcel. If the decision is made to publicly auction this property; for his intended purposes and if

he were the successful bidder Mr. Cook would need to have a conditional use permit to operate a salvage yard as well as a zone change. If there is an interest in selling, the City on his behalf could apply for the conditional use permit and zone change to run concurrently with the appraisal process which could take three to four months. Those would be conditioned upon Mr. Cook purchasing the property; without a conditional use permit and zone change the property would be of no use to him as a salvage yard.

Mr. Cook believed this would be a valuable business to the City.

Councilman Rice questioned how items would be contained if this was a salvage yard.

Mr. Cook advised state regulations require a no-see through fence.

City Manager Calder advised from the redevelopment perspective, if the property sold for the appraised value, granted all permitting and Mr. Cook opens a salvage yard at that location there would be minimum tax increment, if any, and is something to take into consideration.

Mayor Franzoia requested verification if the issue goes forward, the applicant is the successful buyer and he builds on the property is he required to put in the public improvements.

City Manager Calder believed there would be deferral for curb, gutter and sidewalk; there are no road improvements in that area; there would have to be other improvements i.e. fencing and any improvements the State of Nevada would require for a salvage yard.

Mayor Franzoia questioned how many appraisals would be needed.

City Manager Calder advised one appraisal and then we would hold a public hearing to confirm the value. There is no expense to the City; Mr. Cook will be required to place a deposit for the appraisal so in the event he is the successful bidder the City would be paid in full for the appraisal plus any legal advertisements.

Councilman Elquist noted the Parks Advisory Board wanted to review the land inventory to see in any fit the need for a new sports complex; this property might fit that need. Mr. Elquist questioned if the City wanted to sell land to private industry and take the risk as opposed to having it in the City land base.

Councilman Conner indicated this parcel was not one under consideration by the Parks and Recreation Department.

Mayor Franzoia noted the property outline and location was not conducive to a sports complex.

Councilman Johnson believed the Redevelopment Agency should have input on the sale.

**** A motion was made by Councilman Rice, seconded by Councilman Conner to table this item until the next scheduled meeting.**

Motion passed unanimously.

- C. Review, consideration, and possible waiver of required improvements that could be imposed upon development of the property if annexed in to the City as indicated in the request by Andrew and Shannon Knudsen, and matters related thereto. **ACTION ITEM**

Staff has received a letter from Andrew and Shannon Knudsen with a list of concerns regarding improvements that may be required upon development and possible waiver of such requirements if they wish to develop their property upon annexation. They want to know prior to annexation what they will be required to do in regards to their property and adjacent streets upon development. EW

Mayor Franzoia questioned if the Knudsen's were informed of the meeting.

City Planner Wynes verified they had been notified.

Mayor Franzoia indicated this was an unusual request; the Council is being asked to make a decision or have input; we have no say on the requirements of their property, it is not in the City limits.

Mr. Wynes commented the applicant was advised of that.

Mayor Franzoia stated there is nothing the Council can do; this is premature.

Mr. Wynes advised the applicant is attempting to get waivers for numerous items before they annex; they want to know what they are going to have to pay when they annex.

Mayor Franzoia stated we can't answer questions if we don't know what their questions are. Until something is more defined or engineered such as a parcel map they are not in the City. Mayor Franzoia indicated one option was to annex in, work through the issues and then de-annex if the terms aren't agreeable. Property owners annex into the City because of the benefits derived there from.

Development Manager Wilkinson stated the Knudsen's had been before the Council requesting water service; the Council's position at that time was they should consider annexing in. The Knudsen's concerns pertain to the public improvements that would be required if they pursue that option. Mr. Wilkinson agreed the suggestion of annex/ de-annex was a good approach if it didn't work out for them.

Mayor Franzoia commented, to make a speculative assessment on generalities and the fact that plans could change as the process goes forward and what we start off with today doesn't end up to be the same tomorrow; we put ourselves in a position of not being consistent.

Councilman Elquist commented the Knudsen's need to work at the Staff level; see what precedent is out there and what they've seen approved or not in the past. There is no way we can guarantee anything as far as waivers at this point.

Mr. Wilkinson advised they are proposing a subdivision which requires all the public improvements; they are not comfortable with the cost to develop the property. Basically they are

already appealing some discussions we've had at the Staff level. Staff has advised there are options available to them to utilize this property and possibly pursue different types of zoning that make the public improvements a little easier.

City Manager Calder advised Staff has recited to them numerous times what City Code requires. They don't like what is required and wanted a venue before the Council but as they didn't show up there is no reason to spend any more time discussing the matter.

**** A motion was made by Councilman Rice, seconded by Councilman Johnson to remand the issue back to Staff.**

Motion passed unanimously.

II. APPROPRIATIONS

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

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

Motion passed unanimously.

IX. REPORTS

- A. Mayor and City Council
 - 1. Councilman Rice – National Night Out
- B. City Manager
 - 1. Nevada League of Cities Conference – August 20-23, City Manager and City Clerk will be out of the office Wednesday & Thursday
- C. Administrative Services Director
 - 1. Fiber connection between City Hall and Police Department, thanks to all departments that assisted
- D. Building Official
 - 1. Energy Code adopted – Free class to public by Sierra Pacific
- E. Public Works
 - 1. 5th Street update – 60% complete (small change order for additional trenching and conduit), school district aware of implications
 - 2. 13th Street paved prior to Elko County Fair
 - 3. Phase One - tree planting & fencing at Landfill
- F. City Planner
 - 1. Joint meeting RDA and RAC Tuesday, August 19, 2008

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

Mayor Michael J. Franzoia

Shanell Owen, City Clerk