

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

SS January 8, 2013

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, January 8, 2013.

This meeting was called to order by Mayor Chris J. Johnson

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

Mayor Present: Chris J. Johnson

Council Present: Councilman John Rice  
Councilman Rich Perry  
Councilwoman Mandy Simons  
Councilman Robert Schmidlein

City Staff Present: Curtis Calder, City Manager  
Delmo Andreozzi, Assistant City Manager  
Shanell Owen, City Clerk  
Dawn Stout, Administrative Services Director  
Matt Griego, Fire Chief  
Ryan Limberg, Utilities Director  
Fritz Sawyer, WRF Superintendent  
Dennis Strickland, Public Works Director  
Scott Wilkinson, Development Manager  
Doug Gailey, Human Resources Manager  
James Wiley, Parks and Recreation Director  
Joe Carr, Parks Superintendent  
Lorraine Martinez, Accounting Supervisor  
Jeremy Draper, Civil Engineer  
Ted Schnoor, Building Official  
Don Zumwalt, Police Chief  
Vince Smith, Assistant Water/Sewer Superintendent  
Diann Byington, Recording Secretary

## **ROLL CALL**

## **PLEDGE OF ALLEGIANCE**

## **COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive

agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

Glen Guttry, County Commissioner, congratulated the new members.

John Carpenter said he thought the Ethics Commission should have handled the situation with Robert Schmidlein. He is on the Ethics Commission now. If the City needs any other opinions then they should go to a member of the Ethics Commission. He felt this was handled improperly.

Mike Lattin asked if the Board directed Manager Calder to get the legal opinion from Mr. Barrows. (no) He felt Mr. Calder wanted to discredit Mr. Schmidlein and reduce his effectiveness going into office. No issues have come up yet. He hopes the new councilmen will follow the laws in Nevada and Attorney General Guidelines for Open Meeting Law. Mr. Calder has too much power and Mr. Barrows' opinion is wrong.

**APPROVAL OF MINUTES                      December 11, 2012  
FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the minutes from the December 11, 2012 City Council Meeting.**

*The motion passed. (3-0 Councilwoman Simons and Councilman Schmidlein abstained)*

**I. PRESENTATIONS**

**A. PRESENTATION OF RETIREMENT PLAQUES FOR ANTONIO MENDIVE AND WILLIAM "BILL" CHAMNESS**

Police Chief Don Zumwalt introduced Bill Chamness, explained his service to the City and presented him with a plaque.

Ryan Limberg, Utility Director, introduced Antonio Mendive, explained his service to the City and presented him with a plaque.

**II. PERSONNEL**

**A. Employee Introductions:**

- 1.) Dennis Flavin, Parks Laborer, Parks Department

*Present and introduced.*

**B. Mayoral appointments of City Council members to specific "Liaison" positions within the City of Elko. **NO ACTION BY THE COUNCIL REQUIRED****

With the completion of the 2012 Municipal Election, the Elko City Charter authorizes the Mayoral appointment of City Council members to the following “Liaison” positions:

1. Police Department Liaison
2. Street Department Liaison
3. Waterworks and Sewer Liaison
4. Fire Department Liaison
5. Airport and Public Property Liaison
6. Parks/Recreation Department Liaison
7. Redevelopment Agency Liaison
8. Animal Shelter Liaison
9. Elko County Board of Commissioners Liaison
10. Elko County Fair Board Liaison
11. Other Departments Not Listed - SO

Mayor Johnson made the appointments as follows:

1. Police Department Liaison – *Mayor Johnson 1<sup>st</sup> and Councilman Perry 2<sup>nd</sup>.*
2. Streets/Public Works Department Liaison – *Councilwoman Simons 1<sup>st</sup> and Mayor Johnson 2<sup>nd</sup>.*
3. Waterworks and Sewer Liaison – *Councilman Perry 1<sup>st</sup> and Mayor Johnson 2<sup>nd</sup>*
4. Fire Department Liaison – *Councilman Perry 1<sup>st</sup> and Councilman Schmidlein 2<sup>nd</sup>.*
5. Airport and Public Property Liaison – *Councilwoman Simons 1<sup>st</sup> and Councilman Perry 2<sup>nd</sup>.*
6. Parks/Recreation Department Liaison – *Councilman Schmidlein 1<sup>st</sup> and Councilwoman Simons 2<sup>nd</sup>.*
7. Redevelopment Agency Liaison – *Councilman Schmidlein 1<sup>st</sup> and Mayor Johnson 2<sup>nd</sup>.*
8. Animal Shelter Liaison – *Councilwoman Simons 1<sup>st</sup> and Councilman Rice 2<sup>nd</sup>.*
9. Elko County Board of Commissioners Liaison – *Councilman Rice 1<sup>st</sup> and Mayor Johnson 2<sup>nd</sup>.*
10. Elko County Fair Board Liaison – *Councilman Schmidlein*
11. Building Department Liaison – *Councilwoman Simons 1<sup>st</sup> and Councilman Perry 2<sup>nd</sup>.*
12. Landfill Liaison – *Councilman Schmidlein 1<sup>st</sup> and Councilman Perry 2<sup>nd</sup>.*

C. Appointment of one (1) member of the City Council to the Elko Convention and Visitor’s Authority, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to appoint Councilman Rice to the Elko Convention and Visitor’s Authority.**

*The motion passed unanimously. (5-0)*

- D. Appointment of one (1) member of the City Council to the Northeastern Nevada Regional Development Authority, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to appoint Councilman Rice to the Northeastern Nevada Regional Development Authority.**

*The motion passed unanimously. (5-0)*

- E. Appointment of one (1) member of the City Council to the Elko County Regional Transportation Commission, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to appoint Councilman Rice to the Elko County Regional Transportation Commission.**

*The motion passed unanimously. (5-0)*

- F. Appointment of one (1) member of the City Council to the Elko County Debt Management Commission, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to appoint Councilman Schmidlein to the Elko County Debt Management Commission.**

*The motion passed unanimously. (5-0)*

- G. Appointment of four (4) members of the City Council to the Elko County Recreation Board, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to appoint Mayor Johnson, Councilwoman Simons, Councilman Schmidlein and Councilman Perry to the Elko County Recreation Board.**

*The motion passed unanimously. (5-0)*

- H. Election of Mayor Pro Tempore, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to elect Councilman Rice as the Mayor Pro Tempore.**

*The motion passed unanimously. (5-0)*

### III. APPROPRIATIONS

- B. Review, consideration, and possible approval of a line extension agreement with NV Energy to provide power service to the 2012 WRF Biological Upgrade Project, and matters related thereto. **FOR POSSIBLE ACTION**

A new electric service is required to serve the STM aerators currently under construction at the water reclamation facility. To install this new electric service NV Energy requires a signed line extension agreement. FPS

Fritz Sawyer, WRF Superintendent, explained this has been planned and budgeted.

Councilman Schmidlein disclosed Canyon Construction pulled drawings on this project but did not bid the project. He will participate on discussions and vote on the item.

Mr. Sawyer said this will draw power into the new construction site that is under way right now. He recommended approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the line extension agreement with NV Energy.**

*The motion passed unanimously. (5-0)*

### IV. NEW BUSINESS

- A. Review, consideration, and possible approval of a Grant of Easement with NV Energy providing a ten foot easement over approximately 400' of 4" conduit to provide electric service to the WRF 2012 Biological Upgrade Project, and matters related thereto. **FOR POSSIBLE ACTION**

This easement is required for the new electric service which will provide electricity from NV Energy to the STM aerators currently being constructed. FPS

Mr. Sawyer explained this is the standard agreement required by the power company so they have access to the power lines running into the plant.

Councilman Schmidlein had the same disclosure as the previous item and he will participate and vote on the item.

Mike Lattin with Canyon Construction explained it was his understanding that after a motion is put on the floor that there is supposed to be a pause for public comment. He wants to know what that last item will cost the public. There wasn't much provided in the way of background information for the public.

Mayor apologized for not pausing and asked the question be answered.

Mr. Sawyer answered the service to drop into the plant is \$50,158.00 and \$1 for the easement.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to grant an easement with NV Energy.**

*The motion passed unanimously. (5-0)*

### **III. APPROPRIATIONS (Cont.)**

- C. Review, consideration, and possible issuance of Final Acceptance for the Biogas Pipeline Replacement Project, and matters related thereto. **FOR POSSIBLE ACTION**

This project was awarded to Great Basin Engineering Contractors at the August 14, 2012 Council meeting. The work has been completed and Staff is recommending final acceptance for the project. There was one change order for \$1,962.35. FPS

Councilman Schmidlein disclosed he was directly involved in this project and left the room.

Mr. Sawyer explained the project is complete and recommended final acceptance. The total project cost, including the change order which involved one isolation valve and some extra concrete, is \$216,323.14.

Councilman Rice asked if the budget amount available was \$180,000.00 then explain the difference.

Mr. Sawyer answered the original budgeted amount was his estimate when they did the budget and there had not been an engineering estimate done on it. The first bid that went out came back at \$280,000.00. We rejected those bids and went out for rebid. The dollar amount of \$180,000.00 was the original budget estimate.

Councilman Rice asked where are we finding the money.

Mr. Sawyer answered it will come out of the operating budget.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to approve the final acceptance for the Biogas Pipeline Replacement Project in the amount of \$216,323.14.**

*The motion passed. (4-0 Councilman Schmidlein abstained.)*

- D. Review, consideration, and possible approval to establish a force account and develop a committee to review and approve change orders pertaining to the 2012 WRF Biological Upgrade Project, and matters thereto. **FOR POSSIBLE ACTION**

Staff is requesting the establishment of a force account in the amount of \$100,000.00 for this project. Staff is requesting Council authorization to develop a committee consisting of the City Manager, Utilities Director, WRF Superintendent, and the Project Manager to review and approve change orders up to \$50,000.00. The purpose of this request is to avoid delays to the project in the event of a change order. FPS

Mr. Sawyer explained this project is fast-tracked since we are trying to get the project done in less than a year. They want to be able to react to the change orders in a quick manner. This was done for the Idaho Street Project too and it worked well. With the committee that is being proposed the accountability will be there.

Councilman Schmidlein disclosed Canyon Construction pulled drawings on this project and will vote on item.

Mayor Johnson asked Mr. Sawyer if he wanted to follow the example of an old policy?

Mr. Limberg said the old policy said the approval of contract change orders with the total aggregate cost up to 10% of the contract amount but not to exceed \$25,000.00. As this is a multi-million dollar project we felt that \$25,000.00 may be low. We would like to double that amount so we don't delay any work by weeks if there is a change order. There is a solid committee to review these change orders.

Mayor Johnson thought it would be good to bottom line this.

Councilman Schmidlein asked what issues do you foresee coming up. He is leery on questioning what would approach that much money.

Mr. Sawyer said the biggest issue that we see is the underground utilities. We just found out we have to move a gas line. There is one change order pending on the over excavation of the aerator base. That one is still pending and we don't know the cost yet. The biggest thing is the underground.

Councilwoman Simons asked how much would it slow down the process if we included a councilmember in the committee.

Councilman Rice said this \$100,000.00 is only 1% of the total project. From that prospective it seems reasonable.

Councilman Schmidlein mentioned that looking at the budget available, on the previous agenda item we were looking at \$7,777,001.00. On this budget available now there is \$7,477,001.00. Why is there a jump when asking for \$100,000.00 and you are going from one agenda item to the next?

Mr. Limberg admitted to that mistake. He forgot to include the engineering and design costs. The higher number is the total budget.

Councilman Perry said it is a proposal to have \$100,000.00 total force account which a committee comprised of the City Manager, the Utilities Director, Mr. Sawyer and the Project Manager could approve up to a one time item of \$50,000.00 and not to exceed \$100,000.00 for the project.

Mr. Sawyer agreed. The total force account would have a total balance of \$100,000 with a change order approval of \$50,000. If we go over the \$100,000.00 we will be back asking for additional money.

Councilman Perry asked if this is in the approved budget amount for the project.

Mr. Sawyer answered this is extra. This is for change orders so it is in addition to the budgeted amount.

Councilwoman Simons asked if there could be multiple change orders.

Mr. Sawyer answered yes but it is our responsibility to control the force account.

Mr. Limberg noted sometimes there are negative change orders that can affect the project as well.

Councilman Schmidlein asked in a previous project Canyon Construction completed, it was written in the specs that if we hit it we fixed it. Is this written in these specs? (yes)

John Carpenter said it seems to him that this is a big item to hand over to the staff. Council was elected to watch over the funds. The total bill will be around \$8 million. Seems they should be able to pick these things up and put them in the bid. He has seen it that contractors bid these low and make money on change orders. You either bring it up to council for the change order or put members of the council on it to see what is going on.

Mr. Sawyer said the original project is over budget. Everything that has been brought to Council is part of the original project. They just want to set up a force account for the unknowns and things they cannot foresee.

Mayor Johnson clarified you are going to do everything you can to not exceed \$50,000.

Mr. Sawyer said the goal is to manage the project. That is why we have a project manager.

Councilman Rice asked what the cap for the Idaho Street project was.

Jeremy Draper, Civil Engineer, answered we did set up a force account but without the \$50,000 cap. We kept our change orders within the \$100,000.00 limit.

Councilman Rice asked if those change orders were reported regularly.



Mr. Draper answered yes and they had a standing item on the City Council agenda.

Councilman Rice asked how did you come up with the \$50,000.00 cap for this project.

Mr. Limberg answered that doubles the amount we had the last time. He and Mr. Sawyer struggle with change orders too. They don't like to see them and go over each one closely. There are times they are forced to make a decision in the field.

Mike Lattin added based upon his experience, the time issue is not legitimate. The board should approve the change orders and not staff because the board is responsible for spending the taxpayers' money.

Councilman Schmidlein asked are you having the engineer make decisions that the over excavation needs to be done. The engineer needs to be involved because he is the one that is going to stamp it at the end of the day.

Mr. Sawyer answered he has been involved.

Councilman Schmidlein asked are you including the engineer at no cost.

Mr. Limberg answered the engineer proposal they have included a change order review. Extra cost for the engineer would be for extra design work.

Councilman Perry said the City does these things a little differently than in mining. He was used to (in private industry) a contingency account for overages that were not anticipated. This would be 1.5% contingency. We have a good project team and a great staff running this. He feels this is realistic and is comfortable with this. If we make them bring us every change order then we are micro managing this project and that was not what we wanted.

**\*\* A Motion was made by Councilman Rice, seconded by Councilman Perry, to approve the establishment of a force account in the amount of \$100,000.00, and authorize staff as a committee to review and approve change orders up to \$50,000.00.**

*The motion passed. (4-1 Councilman Schmidlein voted no.)*

#### **IV. NEW BUSINESS (Cont.)**

- B. Presentation and possible approval of the Consolidated Annual Financial Report and Audit for the City of Elko for the Fiscal Year ending June 30, 2012, and matters related thereto. **FOR POSSIBLE ACTION**

Teri Gage with Kafoury, Armstrong & Co. will be in attendance to present the City of Elko's fiscal year 2011/2012 Financial Report. DS

Dawn Stout, Administrative Services Director, introduced Teri Gage from Kafoury, Armstrong & Co.

Teri Gage, Kafoury, Armstrong & Co., explained she will go through the audit report and will answer questions.

- Page 1 of the report is their opinion on the financial statements. It is a clean opinion and is the type of opinion you would want to have.
- Page 10 is the statement of net assets which is similar to a balance sheet. The Council is in charge of about \$115 million in net assets. Included on this page are limitations/restrictions as to how some of the \$115 million could be spent or applied.
- Page 29 there were some statute violations noted. At the bottom of the page there were three funds where you had exceeded budget.
- On top of page 30 there was a fund that had a deficit at the end of the year. This was the narcotics taskforce fund. The next item was a violation due to an interfund loan not being brought to Council with a resolution.

Mike Lattin said looking at the resolutions adopted for this Idaho Street project and the bond covenants, it is pretty clear that 15% of the consolidated tax revenue is supposed to be placed in a special account with a special designated name. The resolution said that fund is supposed to come directly from the state but she said it comes from the county. He felt there was a conflict with that. With that 15% of the consolidated tax revenue there should never have been that shortfall and there should be a surplus.

Ms. Gage said in the audit report, under restricted cash, according to the bond covenants they are required to restrict that next principal and interest payment. That is included in restricted cash in the general fund and the debt service fund in the June 30, 2012 audit. It is for the next payment coming due and not for the total amount of the bond. If the gas tax dollars do not come in to the level that is needed to make the next payment then they are to use the pledged revenues which is the C tax. We look at funds differently than what a bond document looks at a fund. They did have conversations with bond council on this. These funds are restricted for these payments.

Mr. Lattin said then they are not really technically complying.

Ms. Gage said she believes it is in compliance.

Mr. Lattin said there should be a reserve of money of one year's principal and interest.

Ms. Gage said there is that reserve.

Mr. Lattin said it should be restricted in there at all times.

Ms. Gage said it should be in there for that next payment. It is a portion of that next payment that is coming due. Each month they have to reserve 1/6 until that next payment.

Mr. Lattin explained he thought they needed to reserve 15% of that.

Ms. Gage continued with her explanation of the audit report.

- Page 96 is the scheduled expenditures of federal awards. A majority of the awards were the FAA funds for the airport projects. The grant program that they tested was the airport improvement.
- Page 98 there was one finding in the financial statement audit. She is excited about the New World software for the capital asset module.

The charts show revenues and expenses. She gave a presentation showing the charts. (See Exhibit "A")

Councilman Rice noted our customer base went up by 3% but our expenses went up by only 1%.

Ms. Gage continued with her presentation. While on the Airport Fund slide of the presentation, Ms. Gage asked Council to go to page 75 of the audit report and she explained the depreciations. Page 76 is the non-operating revenues and expenses.

John Carpenter noted in the airport you still didn't put the fire department expenses that should be part of the airport. He thought council instructed staff to put those expenses into that.

Ms. Gage recalled that several years ago the City determined that the fire department costs would be part of the general fund. The Mayor asked this year, and on page 92, those costs were split out.

John Carpenter said council agreed that this should be part of the airport fund just a few months ago. You don't see a true picture if they are on another page. They are an expense to the airport.

Ms. Stout said we did show it in the airport fund and we showed a transfer in to cover those costs because the airport cannot afford to pay those costs. It was confusing so we took it out and council was made aware of that. Council has not taken action to change it back to the way it was. The request was that we show it and that is what we did.

Mayor Johnson agreed that was his intention to have it shown.

Ms. Gage said if council does choose to go back and allocate this to the airport fund it could be done.

John Carpenter said on the revenue side we have the rent and all the buildings and they have nothing to do with the airport. Take them out and you will really see what this airport is costing. We need to cut down on expenses.

Ms. Stout said if you look across the state and the nation most airports do exactly what we are doing to help supplement costs to the airport.

Ms. Gage said the last item in her audit is the letter. This is a required auditor communication. This letter is sent to the Council at the end of the audit. Auditing standards requires that she informs council what their accounting estimates in the statement were, if there were any difficulties encountered during the audit, what adjusting journal entries that we provided

management that we found, entries that were found that were not recorded because they were immaterial, if she knew of any opinion shopping, and any other auditing issues.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the Consolidated Annual Financial Report and Audit for the City of Elko for the fiscal year ending June 30, 2012.**

*The motion passed unanimously. (5-0)*

- C. Review, consideration, and possible authorization to solicit bids for the Elko City Cemetery Fence Replacement Project, and matters related thereto. **FOR POSSIBLE ACTION**

Staff is requesting authorization to solicit bids for the installation of new chain link fencing surrounding the City Cemetery. This project was previously approved as part of the Facilities Reserve Fund with a budget of \$55,000 for Fiscal Year 2012/2013. JW

James Wiley, Parks and Recreation Director, explained there is a budget of \$55,000.00. Built into that budget is the fence replacement and also two entryway features (or signs) on the main entrance into the city cemetery. We are confident we can do the fencing portion of this around \$45,000.00 leaving us with approximately \$10,000.00 to do entryway features. Because of the amount of the fencing project we are asking for permission to request bids for that portion of it. The rest would fall in line with purchasing procedures.

Councilman Perry asked why we are replacing the fence.

Mr. Wiley answered it is beyond repair and it's old. It looks horrible.

Councilman Perry asked how old is it and how long would one of these fences last.

Mr. Wiley answered this one has been in place for decades and he is unsure how long it has been in the ground. It has probably been there 30+ years. These fences could last decades.

Councilman Schmidlein asked if they are retaining the posts or are they redoing the entire thing.

Mr. Wiley answered it would be a complete replacement.

Councilman Perry asked if this was for the main cemetery and not the masonic cemetery.

Mr. Wiley answered this is just the city section of the cemetery between Fairgrounds Road, Cedar Street, 8<sup>th</sup> and Burns Road.

Councilwoman Simons asked if the work on the entry would just be signs.

Mr. Wiley answered it is mainly a sign identifying it as the City Cemetery. Mr. Draper has done some preliminary engineering on an archway feature. We have been pursuing cost estimates on

that project and they are coming out to be a little more than we want to pay. We may scale that back some and get more quotes on it. It could be steel signs or a rock entry feature. We want some identifying factor there that this is the City Cemetery.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to allow staff to solicit bids for the installation of a new chain link fence surrounding the City Cemetery.**

*The motion passed unanimously. (5-0)*

- D. Review, consideration, and possible authorization to Staff to sell a bunker and field grooming machine to Elko County School District, Elko Baseball Program, and matters related thereto. **FOR POSSIBLE ACTION**

The Golf Course has a 1992 John Deere Field Groomer which has been designated as surplus and is slated for disposal. The Elko High School Baseball Team has expressed an interest in purchasing this piece of equipment from the City for use on the baseball fields. The price for the piece of equipment is \$500.00. JW

Mr. Wiley explained they have been trying to figure out how to dispose of this piece of equipment. Elko High School Baseball team has been looking for a piece of equipment similar to this one and would like to purchase it for \$500.00. They also help with maintenance on lower and upper Kump ball fields. We would no longer have to maintain the equipment because it would fall under their care.

Councilwoman Simons asked have we already replaced this equipment.

Mr. Wiley answered yes and we have two others that the golf course utilizes for grooming.

Councilwoman Simons asked how much do those cost.

Mr. Wiley answered brand new they are between \$7,000.00 and \$10,000.00.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to authorize staff to sell a 1992 John Deere Bunker and Field Groomer to the Elko County School District for the amount of \$500.00.**

*The motion passed unanimously. (5-0)*

- E. Review of a letter from the Bureau of Land Management, Wells Field Office, inviting the City of Elko to become a Cooperating Agency for the Environmental Impact Statement (EIS) process for the proposed Northeast Nevada Wild Horse Eco-Sanctuary, including possible action to accept or decline the invitation, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the letter from the Bureau of Land Management has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained if we chose to participate we would be committing some staff time to attend meetings during the CIS process. Since the BLM did want a response regarding this invitation he thought City Council would be the best entity to make a decision on this. This isn't something that is very close to the City of Elko. It may have some limited impact on the Cities economy in the future. He personally didn't see why the City would want to participate at this level for this process.

Councilwoman Simons said we can still participate but we won't have the title of cooperating member and have to send staff.

Mr. Calder said she was correct. It is an open public process and we would just not be designated a cooperating agency.

Councilman Rice asked if we have been asked to participate as a cooperating agency in any other projects by the BLM, Forest Service or any other Federal Agency.

Mr. Calder answered not in recent times. We may have been years ago but he couldn't recall any.

Councilman Perry said this is similar to an ECO process. The BLM tries to establish major stake holders and include them in regular meetings. He talked to Glen Guttry about this today. The County is a participating agency.

Councilman Rice said we have never been asked this before. This is a matter that has gotten a lot of attention. There are three or four meetings in the letter. He doesn't know if there is an advantage or not to participating. He also doesn't see any reason not to participate.

Mayor Johnson said City still has the opportunity to comment.

Councilman Perry thought there was a cost to this. You get assignments that will consume staff time.

**\*\* A motion was made by Councilman Rice, Seconded by Councilman Schmidlein, to participate in the EIS process in the public forum but not as a cooperating agency.**

*The motion passed unanimously. (5-0)*

After the motion and before the vote, John Carpenter said he doesn't know why you wouldn't want to be a cooperating agency. If this eco sanctuary ever becomes a reality it has huge implications for the ranching community and everyone that uses public land. Why give up the opportunity to be in on the ground floor. You might have to go to a couple of meetings. Council may want to get in the ground floor.

Councilman Schmidlein said we still have opportunity to participate in the regular planning process. He doesn't disagree but thought we will still have opportunity to participate if we so desire.

Council voted on the motion.

## V. RESOLUTIONS AND ORDINANCES

- A. First Reading of Ordinance No. 765, an Ordinance amending Title 3, Chapter 2, Section 17 of the Elko City Code entitled "TRAFFIC, ACCESS, PARKING AND LOADING REGULATIONS" by adding regulations to regulate parking within the Central Business District (CBD) parking corridor, and matters related thereto.  
**FOR POSSIBLE ACTION**

At the June 26, 2012 Council meeting, action was taken to initiate a Code amendment to regulate parking in the CBD Parking Corridor by promoting accessibility, economic utilization and parking turn over, and reducing blighting effects and unintended use of the public's asset.

The Planning Commission took action on this zone amendment at their regular scheduled meeting on December 4, 2012 and forwarded a recommendation of approval. DA

Delmo Andreozzi, Assistant City Manager, explained we have this public parking corridor thanks to project Lifesaver that removed the railroad tracks. Over time we have had some abuses that are difficult to regulate. We received at one time, a letter from a businessman that has about 12.5% frontage in the corridor, saying that he was very concerned with the blighting influence and not having the parking turnover and utilization. At that time we were challenged with some RV's that were being stored there. Beginning on page 11 of the ordinance we are proposing restrictions.

Councilman Rice said there are businesses in the downtown corridor that park their vehicles overnight. Does this prohibit that?

Mr. Andreozzi answered only if they are over 26,000 GVWR. It is set up similar to on-street parking. If we were to get a complaint that a vehicle has been parked there for days we would still have to go and mark the tire and actually see that it has been in violation of 48 hours. If they moved a spot they would be okay.

Councilwoman Simons asked if there are any businesses that all their employees meet and shuttle out to a site. On item 7, if there is a business that does shuttling why would we prohibit that?

Mr. Andreozzi answered mine-type work that takes place in this area we encourage them to have designated parking areas. There is a business on Idaho Street that shuttle employees offsite that are working at mine sites.

Councilman Rice said if one business did it, we don't want to open the doors for a lot of businesses doing this.

Councilwoman Simons thought that if there was a business that bought the store front with the expectation then we make this rule then that is detrimental to their business. That is not a healthy policy for the City. She agreed that it could get out of hand.

Councilman Rice explained he wasn't addressing anyone that had any property down there but made the reference in general.

Mr. Andreozzi said that is something specifically we addressed. Every home or business is required to provide off street parking. In the old Elko area it was built without many vehicles in town. It provides any development within 400 feet of the parking corridor doesn't have to provide off street parking.

Councilman Perry said there was a construction company that was using the parking area in front of Romero's building. It was being used for construction crews to shuttle people out to their work. The City had complaints from the retail people there because their parking was filled and their customers couldn't get a place to park. Knowing there are businesses in the corridor that park vehicles there as part of their business (such as Bodily's delivery truck), if we say 48 hours and there is a 3 day weekend, is there a violation there?

Mr. Andreozzi said if there is available parking down there we would be less likely to pay attention to that. If there is an abandoned vehicle down there then we would have the means to move it. If Council wants to change the time from 48 hours to 72 hours, that may be a good idea.

Councilman Perry said it could happen that someone goes down there and parties too much and they leave the car down there for a few days while they sober up. If we changed this to 72 hours would we have to take it back to Planning Commission?

Mr. Andreozzi believed we could make that change without taking it back to Planning Commission. Council can make minor tweaks to the proposal. He would have to refer the changes to the City Attorney and if he has any issues with those we would run them back through the process.

Councilman Schmidlein said you talk about 26,000 GVWR. You do have 10 wheelers that are below 26,000. Is there anything that stipulates idling semis?

Mr. Andreozzi answered there is nothing in here that would prohibit anything from idling the way it is currently written.

Councilman Schmidlein said there is no variance with control at Walmart for idling semis. There in the corridor you ought to put words about idling in there.

Councilman Rice asked if he was talking about commercial trucks and not RV customers. (yes)



Councilman Perry asked are there many trucks that idle in the corridor.

Mr. Andreozzi answered that has not been a concern and we haven't received those complaints. The reason we targeted that 26,000 was simply because of the weight of the vehicles in the corridor. There are some people in the area that idle louder than other vehicles. They generally don't park there.

Councilman Perry asked if 26,000 GVWR is a semi?

Mr. Andreozzi answered that is a CDL required vehicle. The reason why we chose that number is that the Bodily's trucks do not require a CDL.

Councilman Perry suggested the wording in item 8 "it shall be unlawful to store, park, or idle any over size vehicle." With regards to special events that is allowed in number 6.

Scott Wilkinson, Development Manager, said if you wanted to address idling throughout the community you might want to revise the code in another section of the code or do it under the general provisions of zoning where it could apply to all the zones. Rather than just addressing it here in the corridor.

Mr. Andreozzi agreed with that in terms of noise. The only thing we have in the City Code right now that is prohibited with excessive noise is anything coming from boom boxes. We do receive those complaints.

Mike Lattin thought Council is trying to address an abuse that is happening. It seemed to him it is hard to write an ordinance to ticket someone due to their vehicle weight. That means the officer would have to weigh these trucks in order to cite them. We have some mechanics that run 2 axle service trucks that are required to have CDL's if they have air brakes. It may be more appropriate to restrict based on the number of axles. A three axle truck or tractor would be precluded from being in the corridor. That way it is a visual determination and you don't have to weigh the vehicles. He isn't sure how you could convict someone of carpooling. It will be difficult to enforce.

Mr. Andreozzi thought the axle idea is a great suggestion. We spent quite a bit of time with legal counsel and we felt this was the best way to try to handle these issues. They are infrequent but extremely frustrating to some businesses.

John Carpenter mentioned concern for trailers parked for emergencies. He thought something should be in the code for emergency situations. He also thought the weight provision was too restricting for ranchers towing trailers that may want or need to stop in the corridor.

Chief Zumwalt said he thought the problem was simple and the solution would be simple. We don't have authority to move vehicles from the parking corridor since that is not considered on street parking. We would have trailers or other vehicles with no plates on them parked there for extended periods of time. Now that the downtown area is getting developed and has some nice

office complexes in it, right in the middle of the parking area in front of this new complex there are pieces of garbage that he does not have the authority to move. The Police Department could do whatever they want them to do as far as enforcement. He apologized for not making this as simple and clean as he thought he had made it.

Mayor Johnson felt they were close to getting this resolved.

Tony Steel said he frequents that area often but never sees big rigs there. You do see abandoned rigs or vehicles that obviously don't move much. It looks like it would be real easy to put a ticket on the windshield and give them a week to move it. He doesn't want to be a taxpayer and pay for another policeman to start monitoring that whole corridor for something to move. He is against more regulation from government.

Councilman Perry addressed Mr. Steel's concern. There is no intent to add people to go up and down the corridor. Right now we can't remove junk motorhomes and other vehicles that are there.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to conduct first reading of Ordinance No. 765 with the following changes: Item No. 6 shall read seventy-two (72) hours (replacing forty-eight (48) hours); Item No. 8 shall read, "It shall be unlawful to store, park, or idle semis with trailers within the Central Business District (CBD) public parking corridor" and strike out "any over-sized vehicle 26,000 GVWR." This item is to be set for Second Reading, Public Hearing and possible adoption.**

*The motion passed unanimously. (5-0)*

After the motion, before the second and before the vote, Councilman Rice said that parking lot is not designed for an oversized vehicle. We are looking at preserving our parking lot. He seconded the motion.

After some discussion about possible wording changes, Council voted on the motion.

- B. First Reading of Ordinance No. 767, an ordinance amending Title 3, Chapter 2, Subsection 10. B of the Elko City Code entitled "C General Commercial District", filed and processed as Zoning Ordinance Amendment No. 4-12, and to direct Staff to set the matter for public hearing, second reading and possible adoption.  
**FOR POSSIBLE ACTION**

The Planning Commission determined that it is necessary to amend the zoning regulations of the Elko City Code to remove Section 3-2-10 B. 8. Mobile Homes of the C General Commercial District as mobile homes were recently added under conditional uses permitted within the C General Commercial District, and pursuant to Section 3-2-21 made a motion to initiate the process at its regular meeting of November 7, 2012. The Planning Commission held a public hearing on December 4, 2012, and took action to forward a recommendation to City Council to approve the amendment. DA

Delmo Andreozzi, Assistant City Manager, explained this one is a house cleaning issue. We went through a zone change in C zoning. There was a mobile home provision as a permitted use and we moved it over into a conditional use in the C Zone. When we did that we neglected removing this as a permitted use. This will clean up the language.

Scott Wilkinson, Development Manager, said when we amended the C zone we took the ability to have a mobile home as a residential use out. You could utilize a mobile home under a conditional use permit process for an office or something along those lines, and we removed the ability to have a mobile home as a residence in a commercial zone. If you look at what is struck out in the proposed amendment, it talks about an office use and it also talks about if a mobile home is used as a residence, but in the provision it does allow for that type of use of a mobile home.

Councilman Perry said there was a change to general commercial district which was added in 4D mobile homes. That was added but now you want to remove it from the description.

Mr. Wilkinson said if you read further in that section it says with the exception of use permitted in the preceding sentence, mobile homes shall not be permitted as office, residences, temporary dwellings during construction projects or commercial structures in the C zone.

Councilman Perry asked but you can still do it as a conditional use permit.

Mr. Wilkinson answered not for a residence but you can for an office.

Councilman Perry asked are there any places in the city where there are residences this will impact.

Mr. Wilkinson answered if you have an existing use, passing the ordinance today would not cause that use to be discontinued. We do have mobile home parks in commercial zones that were permitted at some point in the past.

Councilman Perry asked what initiated this in the planning commission.

Mr. Wilkinson answered we made other changes that included other provisions. In the previous zoning all the conditional uses were not consolidated in one area of the code. We addressed apartments in a commercial district. We cleaned up that code. When we looked at mobile homes we took away mobile homes being an allowed use with a conditional use permit. We took out the ability to have residential use with a mobile home in a commercial zone.

Councilman Schmidlein said any current resident in a commercial area will that be grandfathered for the duration of the property?

Mr. Wilkinson explained in our code we have legal non-conforming uses. If you have a use of property and codes are changed you have legal non-conforming use. That is another section of the code and it is specific about how that use continues.

Mayor Johnson asked can a mobile home park go into the City of Elko.

Mr. Wilkinson answered they can go into a RMH district. We don't want light residential uses in our commercial district. Single family homes are not allowed to be built in a commercial zone. We have different zoning for different uses.

Councilman Schmidlein asked what if you have the Double Dice and there is a structure behind the RV park owned by someone else and they sell it to Double Dice. Will the owner be able to expand the RV park out that way?

Mr. Wilkinson answered that since he has an RV park and he gets a conditional use permit he can extend that in a commercial district. Using legal non-conforming use an owner would be able to expand if they get a conditional use permit. You just can't expand it you have to go through a process. You don't lose non-conforming use when code changes.

John Carpenter asked where in Elko you can put in an RV park.

Mr. Wilkinson answered you can do an actual RV park in a commercial zone with a conditional use permit. Iron Horse is an example.

Councilman Perry asked if an RV park is a permanent recreational vehicle park where people rent spaces.

Mr. Wilkinson answered in the definition of a recreational vehicle that is not a permanent structure. There is a conflict in the code as it reads now. Item 4-D Conditional Use Permit was passed recently and it was a mistake when we overlooked striking number 8.

Councilman Perry felt we have time before adopting this ordinance. He understood about cleaning it up but wanted to further understand the impact it would have on existing properties in Elko.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to table Ordinance No. 767.**

*The motion passed unanimously. (5-0)*

- C. First Reading of Ordinance No. 768, an ordinance amending Title 3, Chapter 3, Sections 20 and 70 of the Elko City Code entitled "SUBDIVISIONS", by adding additional provisions to clarify the modification of subdivision standards, and matters related thereto, and to direct Staff to set the matter for public hearing, second reading and possible adoption. **FOR POSSIBLE ACTION**

The code amendment is proposed to eliminate any ambiguity with regard to modifications of standards under Chapter 3 of City code which may be inconsistent with of Chapters of City code. Chapter 3 provides for modification of standards under the subdivision process stipulated in that chapter. The proposed

amendment clarifies the modification of standards that may apply to other chapters of City code as appropriate to meet the intent of the code. SW

Mr. Wilkinson explained as part of a subdivision review process we look at lot layout. You have to conform to the zoning district. Under the R district we had minimum lot dimensions and minimum lot areas specified. On this particular subdivision all the lot areas were about 30% greater than what is required in subdivision code. The dimensions of the lots were different so he consulted with the City Attorney. Under the subdivision process you can modify the standards as required by the chapter to the minimum extent necessary to carry out the intent of the chapter. The City Attorney felt we needed to get a variance for the lot dimensions under chapter 3-2 of the City Code. There are some difficulties applying that chapter to subdivisions. The Attorney felt we needed to clarify some ambiguity that was in the Code. Chapter 3-2 deals with all the zone issues and the process to vary. He went through the changes with Council.

Councilman Perry clarified this is modifying the subdivision standards chapter with two sentences. This will allow for more flexibility.

Mr. Wilkinson said the goal of the minimum lot area in a subdivision is to have developable lots. So we had a subdivision presented to us with all the lots 30% larger. The depths were 90 feet instead of 100 and the frontages were 80. They were meeting the intent of the code but the attorney said you can't modify those lot dimensions unless you get some language that will allow it.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to conduct the first reading of Ordinance No. 768 and direct staff to set the matter for Public Hearing, Second Reading and Possible Adoption.**

*The motion passed unanimously. (5-0)*

## **VI. PETITIONS, APPEALS, AND COMMUNICATIONS**

- A. Review, consideration, and possible action to accept a petition for annexation of property to the City, filed and processed as Annexation No. 3-12 by Jordanelle Third Mortgage, LLC, consisting of approximately 94.39 acres of property to include portions of the Sundance Drive right-of-way located generally east and west of Sundance Drive approximately 2,160 feet south of Mountain City Highway, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Andreozzi explained we have an application that has been filed with the Planning Department. He wants to annex a piece of property into the City of Elko. Since this is just the initiation staff would recommend that Council would refer the matter back to Planning Commission for further consideration, analysis and report of findings and recommendation back to City Council.

Mayor Johnson disclosed Mr. McRichie has contacted him regarding water rights his family holds. So far it has just been a phone call to see if Charles Chester is interested in selling any of them. He will vote on the issue.

Councilman Perry asked for the master plan to be overlaid using the overhead projector. This property would connect up with the city on two sides.

Jeremy Draper, Civil Engineer said it is listed as medium density residential.

Mayor Johnson when the City of Elko accepts a petition, unless there is something that really stands out that is not in the best interest of the City to move down a path, then Council will move this to the Planning Commission and they will see it again. There is probably a lot more information that will come through.

Councilman Perry said the Master Plan has it consistent with family residential in there. In the recent development plan that we did, this area has water but will be challenged with sewer. It is adjacent to the City and boundaries.

Mr. Wilkinson said originally we had some property west of Sundance was identified under that development feasibility as having potential for annexation. The area to the East was not. As we worked through the water issues we actually had to pull this acreage back out.

Councilman Perry asked wouldn't this give us an ability (assuming this thing goes through) to have a corridor to put a water line without having to wait for the BLM to say yes to service Exit 298.

Mr. Wilkinson answered yes. We anticipated that easement across the bottom because there was a water main in Sundance. The property owner disagrees with that assumption. There are alternative routes.

Councilman Schmidlein said it is his understanding there is a potential production well on this property. It may be something worth adding this into the current water system.

Mr. Limberg said the City originally looked at that well and it didn't look favorable. We can re-evaluate it. He thought the owner of that property purchased the water rights from that well a while ago.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to accept the petition for annexation of property to the City filed and processed as Annexation No. 3-12 by Jordanelle Third Mortgage, LLC and refer the matter to the Planning Commission.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration, and possible action to ratify the Chief of Police issuing a 30-day temporary retail liquor license and issue a retail liquor license to Alejandro Perez, dba Casanova 9 Club, located at 232 Silver Street, Elko, Nevada, and matters related thereto. **FOR POSSIBLE ACTION**

Don Zumwalt, Police Chief, explained this is a new business in an existing building next to the Star. When they get their permits and get ready for work they apply for a liquor license. He recommended ratification of the temporary license and approve a retail liquor license.

Councilman Perry asked where this was located. (building where Hee Baws used to be located)

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to ratify the 30-day temporary liquor license and issue a retail liquor license to Alejandro Perez, dba Casanova 9 Club.**

*The motion passed unanimously. (5-0)*

### **III. APPROPRIATIONS (Cont.)**

#### **A. Review and possible approval of Warrants. FOR POSSIBLE ACTION**

Dawn Stout, Administrative Services Director, explained they try to list these by departments so the Councilmen know what the departments are purchasing. There are two different lists of checks this time because typically we have two meetings in a month and these are approved at each meeting. A lot of those companies need to be paid. We did a run at the end of December when Council would have had their normal meeting. If there are any questions she can answer.

Councilwoman Simons asked why we paid \$15,000 to the College.

Ms. Stout answered it was approved at the last Council meeting in December. They had requested funding for a position over there that had previously been funded by grant funds.

Mayor Johnson decided to move on to reports while council members reviewed the lists.

### **VII. REPORTS**

#### **A. Mayor and City Council**

*Mayor Johnson said everyone has their own ideas of where they want the City to go. He wants an agenda item where the council members can say what they want to see happen. He met with some state representatives regarding issues the city has. On Friday senators and assemblymen will have a conference call regarding bill drafts.*

*Councilman Perry reported he has been going out every couple of weeks to the construction at the WRF and looking at issues out there. Things are going pretty good even with the weather.*

#### **B. City Manager**

*Curtis Calder reported on a notice of resignation from the City Sexton. The City Sexton has always been the City mortician. We will advertise for letters of interest. This is a non-paid appointed job. Legislature starts February 4<sup>th</sup>. He is signed up for fiscal notes. Since the Liaisons have been assigned Kim Wilkinson will contact each of the Councilmembers to set up tours and go*

*over specific information. He also talked about spots on the radio and the local television station.*

C. Assistant City Manager

D. Utilities Director

*Ryan Limberg reported on the WRF project. The contractor is building forms to pour concrete. Their dewatering system froze up in several locations. He plans to bring back a power point presentation in February to show what is happening. Vince Smith has accepted the position of Water/Sewer Superintendent.*

E. Public Works

*Dennis Strickland reported that with the recent weather we received over 16 inches of snow in 5 days.*

F. Airport Director

G. City Attorney

H. Fire Chief

*Matt Griego reported there have been many fires in the area since Christmas. He will be bringing an end-of-year report for 2012 statistics.*

I. Police Chief

*Don Zumwalt reported police staff went to each school and wandered around on the last day of school before Holiday Break. He reported he will offer a year-end review of 2012 statistics.*

J. City Clerk

*Shanell Owen reminded the Council that the appointed and elected financial statement disclosures are due or fines can be imposed. She also reminded them we do need people to speak into the microphones. We are considering a longer microphone at the podium for taller people. She has looked into a system with portable hearing assistance that can be added to the current system.*

K. City Planner

L. Development Manager

M. Administrative Services Director

*Dawn Stout said Teri Gage will be available to answer any questions on the audit.*

*Doug Gailey reported he has 6 applicants for the City Planner position. He hired 32 people in 2012 and 5 were totally new positions. That is a 16.4% turnover rate for 2012. It is down from previous years.*

N. Parks and Recreation Director

*James Wiley reported on the snow bowl. They have finished up creating a short list of candidates on the sports complex and interviews are scheduled. The tennis court design is on its way. He is anticipating grant funds for the skate part. Adult basketball is in full swing. He will be assisting with the Cowboy Poetry event. For the first time in a couple of years there is cross country skiing at the golf course.*



**III. APPROPRIATIONS (Cont.)**

A. Review and possible approval of Warrants. **FOR POSSIBLE ACTION (Cont.)**

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the warrants.**

*The motion passed unanimously. (5-0)*

**COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

There being no further business, Mayor Chris Johnson adjourned the meeting.

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Mayor Chris Johnson

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Shanell Owen, City Clerk