

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

SS March 7, 2013

The City Council of the City of Elko, State of Nevada met for a special meeting beginning at 3:00 p.m., Thursday, March 7, 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
Doug Gailey, Human Resources Manager
Ben Mangeng, Information Systems Manager
Scott Wilkinson, Development Manager
James Wiley, Parks and Recreation Director
Ryan Limberg, Utility Director
Rick Magness, City Planner
Tony Ferguson, Sr. Engineering Technician
Ted Schnoor, Building Official
Don Zumwalt, Police Chief
Ty Trouten, Police Lieutenant
Matthew Locuson, Sergeant Advanced
Dave Stanton, City Attorney
Tom Coyle, Assistant City Attorney
Jeremy Draper, Civil Engineer
Debbie Henseler, Business License Technician
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**

John Monahan Jr. explained that he and his partner, Dylan Brandon, have started a designated driver company in Elko. For \$20.00 they will pick you up from the bars and drive people home. He hopes this helps decrease the DUI problem.

I. NEW BUSINESS

- A. Review of recent activities in the Central Business District, specifically the facts and circumstances surrounding the violent activity occurring in the downtown area on March 2 & 3, 2013, and matters related thereto. **NON-ACTION ITEM**

Chief Zumwalt explained we have had bar fights in Elko ever since Elko was incorporated. Sunday started out at 7:00 am when he heard from his lieutenant. He was told there were a lot of issues. He put together a report that he emailed to each member of Council and he has six things in his report to go over. He offered to give the facts that he knows. He said he would mention some bars and locations because they were specific to the crime report.

1. A fight started at La Cantina bar. The fight was broken up and filtered out. An individual was beaten severely and kicked in the face. The victim was found about 2:00am. They have no suspects at this time.
2. At 3:00am argument started in the G Bar. People swinging and someone got hit. Someone went to the hospital. They have no suspects at this time.
3. This is the most serious one of all. At around 5:00am a passerby saw what they thought was a man on the street. It was a white male in the fetal position face down in the gutter. He had been beaten and kicked in the face. Initially they thought he had been hit by a car but he has a boot print on his face. He was taken to the hospital and flown to Salt Lake City. There is no suspect information. They just determined he had a family. He had an out of state license in his wallet. Detectives found an Elko address. The neighbors didn't know his first name. He was a quiet guy that didn't know his neighbors. They don't know where he came from or what happened.
4. A fight started inside the La Cantina bar where a Hispanic male was harassed and beaten. He left the bar, went home and retrieved a hand gun. He went back to the bar but La Cantina was closing. He went to the Silver Dollar Club and had contact with the same individuals he had a fight with earlier. He brandished his fire arm to intimidate the people that were bothering him. That didn't work and the suspects chased him out of the bar and down the street. There is confusion as to when and how many rounds were fired but in the course of fleeing that area this individual discarded his handgun. The people chasing him picked up his handgun and fired 4 or 5 rounds. We do know 5 rounds were fired for sure because we found empty shell casings. The individual that was the victim of the fight went to jail. The ones that picked up the hand gun and fired it are at large. We have no information on those people. The shots were fired around 4th Street and Douglas Street.

5. There was another call at La Cantina where a person was breaking windows inside the bar. The bar owners decided they didn't want to press charges. The individual went to jail for other issues. There were two officers involved in a scuffle with the suspect and one was injured. The officer is still working and the extent of the injuries is not known yet.
6. There were another half dozen calls where officers were downtown patrolling and thought they saw a fights brewing. Each time they called dispatch and broke up the fights. We had a total of 155 calls for service over the weekend. We had 14 fight calls, a weapons call, and many more calls that we averted other problems. We were downtown working most of the night.

In summary, all of these issues were from 2:00 to 7:00am. The graveyard guys even admitted they weren't really busy until 2:00am. This is what he reported to Council on Sunday and then Council decided to have this meeting. He mentioned the driver that went into Blohm Jewelers. They got a call about a possible drunk driver. They found the truck at a motel parking lot and found the driver headed to a room. The officer made contact and left with the individual in a motel room. Thirty minutes later that vehicle was speeding down Idaho Street; reports say upwards to 60 mph. He failed to negotiate a right turn at 5th Street and ended up in the Blohm Jewelers window. Fortunately no one was out and no one was injured. It was just property damage. Could we determine where this guy had been drinking? He was too drunk to do a field sobriety test and passed out. The last traffic accident he reported on was on Mountain City Hwy. Three or four vehicles were piled up in front of Smiths. This accident was from a DUI driver. The driver rear-ended another vehicle and fled the scene. Two hours later they found him and he was cited for leaving the scene of the accident but DUI will be problematic in court. Those two traffic accidents were part of a violent 24 hour period. He offered to answer any questions.

Eva Owsian, Hook, Yarn & Needles, asked why the bail is so low. She was shocked that this guy only had \$3,500.00 bail.

Mayor Johnson asked that we stay within the incidents that happened during the weekend and focus on establishing those.

Councilman Perry asked how many officers were on duty.

Chief Zumwalt answered there were five people; a sergeant and 4 patrolmen.

Martin Spintly, Telescope Apartments, said he witnessed the incident Sunday morning. He was looking out the front door of the Silver Dollar when the gentleman (the shooter) along with another male came walking across the parking lot. He stopped to talk to two ladies when he was accosted by two people that were in the bar. They broke the fight up. The suspect took off. Three other people that were in the bar went out the back door of the bar and attacked the suspect. The man was beaten to the ground. Some friends showed up. The guys that beat the suspect up were coming back to the Silver Dollar but were stopped from entering the bar. One of the friends ran home and came back to them. He informed the bartender that was on duty that they were coming back and he locked the back door. The man that had gotten beaten was at the front door. He raised his shirt up and pointed with his hand to the revolver. That was when the

bartender called the police. He told the gentleman to leave. He did leave and the police found him in front of the Blind Onion. He had been watching the suspect run away and when the shots were fired he went back into the bar. The man never came into the bar.

Will Moschetti, 312 Oak, said that vehicle on Idaho Street was probably trying to miss him. He had just left his office and the driver was running in the parking lane and not the street. He crossed the street. The driver didn't try to turn right. He was seconds from losing his truck and life.

Lina Blohm, Blohm Jewelers, Chairman of the Redevelopment Committee, said everyone is a victim here. Our children and grandchildren are victims. We are all part of the solution.

Clay Gremell, The G, said we talk about these accidents, do we know if these people were drinking in the bars downtown before all this happened?

Chief Zumwalt answered we don't have information about where the one that crashed into Blohms was drinking. The other crash suspect had been drinking at several bars. Had been intoxicated all evening and was still being served. He mentioned some fights that started in a bar. That is the information they have as to where they started. He has been downtown and talked to bartenders. We are trying to develop time frames.

Mr. Gremell said they have security cameras inside the G that run all the time. Did you have any officers on foot patrol when this happened?

Chief Zumwalt answered if they are dealing with stuff they are on foot patrol and they are on foot patrol a lot. Officers are in the corridor a lot. When officers respond to calls they go from place to place.

Councilwoman Simons asked how many of the bars have surveillance.

Chief Zumwalt answered he didn't know. He is usually told they don't work or they don't know how to use it.

Juanita Gaeta, La Cantina, said that when they did call regarding the broken windows, it was a gentleman that came in very intoxicated. They refused to serve him and security escorted him out the front door. That is when he became very angry, throwing bottles and punching out windows from the outside of the bar. The other shooting incident suspect was in their bar. He asked if he could finish his last drink while they were closing up. There were no signs of violence.

Steve Andrus, Commercial Street, said he is wondering out of all of these incidents, how many alcohol related crimes have the people involved committed? If they are repeat offenders, maybe stiffer penalties?

Tony Still said in the newspaper it was reported there were 12-20 fights. The chief said 14 total. Are domestics getting lumped into the count?

Chief Zumwalt said a domestic violence call is separate and is not being lumped in with the fights downtown. There were 14 reported and half a dozen or so that the officers averted, plus the weapons call, plus the medical calls. Overall there were over 20 calls.

Mr. Still said he is confused. We talked about the five. What about the 10 that were reported that we didn't discuss?

Chief Zumwalt answered many of them we don't get information on. If a fight gets stopped before it starts then that is the end of the report. He won't bore everyone with the not so serious incidents. The fight situation downtown is getting more often and more violent.

THERE WAS NO ACTION.

- B. Review, discussion, and possible action pursuant to City Code 4-5-13, thereby initiating investigations into the actions of any Liquor Licensee, which may result in the possible cancellation, temporary suspension, permanent revocation, or placement of restrictions and conditions upon any Liquor License(s), and matters related thereto. **FOR POSSIBLE ACTION**

Chief Zumwalt explained Section B, we are already doing. As far as developing timelines and specific information for council, we have already begun that process.

Mayor Johnson said we have to make a decision about what is best for Elko. We aren't headed in the right direction. More things are going to happen. The corridor had a very serious incident. If you have murders in the downtown area that is very serious. He doesn't know if the taxpayers are required to supply a security force in order to maintain order in the downtown area. There has to be a change in business. What is the solution? Restrict liquor licenses? We can all probably agree that alcohol is a big factor. We are going to have to come to a solution. He would like to see a partnership with the City and businesses.

Councilman Rice noted we had a comprehensive conversation regarding the liquor code. The direction given to staff didn't change a lot. Last call was something that we determined that we didn't want to go forward with. Most everyone that was here last Tuesday is here now. What we heard was don't change the liquor laws, enforce the ones available for enforcement. He did hear gunfire when he was out walking the dogs in the neighborhood. He was disappointed in the people that he heard from last Tuesday because he knew that nothing had changed. He later heard about bartenders and owners that were so intoxicated that they were cut off. Those bartenders suffered consequences. He heard that we were asked to enforce the laws that were already in place. He read from the Code. We have more leverage in the current code than what we were discussing in the last meeting. We have plenty of leverage for helping take care of some of these problems.

Councilman Perry said we started this last October with looking at what could change in liquor control codes. We had a lot of problems downtown. There was also a homicide. We added four policemen last year. We can't just add policemen to the downtown area. The police force is

being consumed downtown. It is a subsidy to bar owners that stay late and call the police to break up fights. The bars downtown have become a venue. It is problematic to shut a bar down at 2:00 but there are other things that can be done. Why would you want to stay open past 2:00 am? That is when all the problems occur. There is nothing good that happens there after midnight.

Councilwoman Simons said she doesn't know what the solution is. She did a lot of research since she talked to the chief last weekend. We are going to come up with a solution ourselves. If we take a step back and take a broader view, not just as a business owner but as a citizen of Elko, we would have to admit there is a problem. It is irresponsible for Council to allow this to continue. We want to keep the town safe.

Councilman Schmidlein read 4-5-13-A.6 out of the Code. He cannot believe that all this happens downtown and no one sees what is happening. The people in the bars need to inform the police. His wife feels that violence is fed from the cage fighting on the colony. If we need to shut places down we are going to do it. There could have been more this last weekend. People have to start giving out names about who is causing the problems. People see the stuff happen and they have to come forward.

Chief Zumwalt said bringing forth complaints to city council about problems is in the works. He and the City Attorney have spent many hours going through information. He is trying to bring legitimate complaints. He has suggestions he will share later.

Eva Owsian, Hook, Yarn and Needles, said she has been in the map house for 6 months. Do you know how many people go into her back lot and make a mess? They go back there, and may go to a bar, and then go back to her lot where they are parked. She saw someone boozing it up and throwing trash into her cans. Some of these people are going to drink. Sometimes these people are not drinking in bars. She addressed the MMA comment and said it isn't true. Her grandson will be fighting this weekend. She feels it is a great program.

Pam Borda, NNRDA, apologized that the silent majority has not been present and hasn't said anything. She will be present and vocal from now on. We are never going to solve the problems downtown unless we clean it up downtown. There is not one person she can get to relocate downtown. The businesses down there are struggling. Do something about the problems that we have. Other communities in the state have a last call. They close down all other bars except casinos.

Marv Churchfield owns the Double Dice RV park and owns the bar there. His business has cameras. He isn't sure if over the last 70 years that there has been drinking problems. This problem won't go away no matter how many laws are passed. He feels the city needs to go after the guys causing the problems and not the bar owners.

Josh Conetah, 2321 Indian View Heights, said he goes downtown quite a bit and does see fights break out. He doesn't believe all the fights in town are started with local people. Some fights are started by people visiting and getting caught up in the Elko lifestyle. Some can handle it while others can't.

Lina Blohm said this is a complex problem. We have been dealing with this for many years. The solution isn't easy either. Stricter enforcement of the laws on the books is part of the solution. Stiffer penalties for people that break the law could help too. The third part of the solution is us. We need to raise the bar. We need to be more attentive to the businesses that we run and the community.

Chief Zumwalt said bail is set by the courts. The officer that responds has nothing to do with the bail amount set. We charge them with things such as a traffic accident or a DUI but bail is set by the courts. If all of us got together we would raise the bail but it is not up to us.

Frances Via, Horseshoe Club, said not all of the drinking is coming from the bars alone. They don't always get cut off at the casinos either. The Horseshoe Club does have surveillance. We have upped all of our security along with an ID person at the door. We also have a person wandering. If we see someone intoxicated we give them water or coffee free of charge.

Sam Orbitson, Silver Dollar Club, has been bartending downtown for about 10 years. He has some solutions. The problems fall on the bartenders first. They are not there to party but control the party. A drunken bartender cannot control the bar. MMA does cause some problems. Any MMA fighter should be suspended from fighting if they are involved in a fight downtown. There has been a lot of turnover in the bartender scene. He called the police on the incident with the gun. He feels they stopped a shooting downtown at the bar. He offered teaching other bartenders how this game is done. This could be a huge impact in stopping problems downtown. He would like to help others improve the situation.

Councilman Perry said several years ago the pipeline company came to town. Pipe-liners could be a rough crowd but they were given codes of conduct by their employers. One code of conduct they were given was if you were in the newspaper on Friday you don't have a job on Monday. Maybe some of the local businesses could force the same code on their employees?

Councilman Rice thought that was a good idea. There have been times when employers had intervention for that very reason. It had to do with their level of production too. It is a community problem and solutions lie in every part of the community. The offer of helping less experienced bartenders is generous.

Steve Andrus, 418 Commercial, asked he is curious because Elko is growing quickly, how many people live in Elko City?

Councilman Perry answered 19,500. The local area (Spring Creek, Osino, etc.) is 35,000. As of two months ago, there are 700 people living in motels for lack of housing.

Mr. Andrus asked how rapidly that is expanding, what are the projections and what about expanding the police force to accommodate those numbers.

Chief Zumwalt said we have not grown in the police department. He has fewer officers than he had in 2008. We have tried to do a lot of things with technology and shuffling people around

and we still need people on the street. Throwing more officers at the problem may not be the answer. He would like more officers but we may not be able to afford them yet.

Councilman Schmidlein said he spent the weekend in Mesquite. The town is identical to Elko as far as population. He saw one person pulled over for a traffic violation. There was an EMS unit parked off the side of the road. He heard one set of sirens. He was there for 4 days. That is the environment he would like to have here. It isn't a fair example because it is a retirement and golf community. There were drunks in the casinos dropping coins in the slot machines. The average age in Elko is 35 where Mesquite is 60. He would like to see Elko get closer to that kind of community.

Matt Locuson, Police Sergeant, said this is a mining community and a 24 hour community. A lot of the workers are shift workers. In his experience graveyard can be an interesting animal. Some nights are slow. This community responds to the weather too. Cold is slow. Warm is busy. He has worked some un-fun nights and a homicide. The police department cannot regulate the bar patrons and actions. Everyone has constitutional rights and we want them to enjoy the evening. Friction starts when fights occur and when the police show up the bar belongs to officers. We are tasked to keep the peace. People get so intoxicated that the police cannot reason with them. We are bound by law and they need to witness most violations. He is asking for a cooling down period where the officers could close the bar down for the night. It would help the officers when they are dealing with multiple fights downtown.

Katherine Bradford, Crafty Caldron, 405 Court Street, said she is a downtown business. She has seen what people can do all on their own without any bar involvement. She has found needles in her yard. She feels people need to be given higher consequences for their actions. She is from Las Vegas. People are not allowed to walk around with alcohol. It means we would lose our Wine Walk but at least people would be safer.

Joe Doucette, Elko Fly Shop at 453 Idaho Street, said he sees a concentration of some businesses on the map. What about the small business owner downtown that loses business because of what goes on downtown? He worked as a bartender in college and he likes the idea of last call. The bars are providing a venue for the problems downtown.

Tony Still asked that the shooter was an illegal, will he be deported?

Chief Zumwalt answered deporting is not up to him. He is in jail and he wasn't the shooter. He went home and got his gun but threw it down and other people started shooting it. The court system will deal with him as they see fit.

Tony Still asked if there isn't a regulation that if you are an illegal and are involved in a felony that you would be deported.

Chief Zumwalt answered deportation is a difficult issue and he has nothing to do with it.

Mike Uriate, Goldies Bar, said there is an issue going on downtown. The venue is in the bars but it is also in the casinos and the stores wherever you can purchase alcohol. If you grant the Police

Department the ability to close a business down for a day, everyone causing problems is now going down the street to another bar. He has been strict with anyone that is even wavering. People may be in parking lots drinking alcohol and going into the bars. There is going to be more fights this weekend so will that be the bars fault. People need to be responsible for their own actions.

Councilman Rice said he is glad to hear that he has been trying to change things in his bar but the bars are the venue. He feels badly as a councilman that he hasn't brought the conversation to this level. There are habitual offenders. The same people are coming into the taverns and you allow them in. You have every right as a private business to tell anyone that they are not welcome. The problems are concentrated in the downtown area. That is where we are focusing our attention. He is glad that other business owners are in attendance. This is about everyone's economy and not just the bars. They are not working well together. We are trying to create a fair playing field for everyone. There are incidents occurring that are coming from those 8 businesses. We have the tools to deal with it and we have been encouraged by those business owners to help remedy this. This is a public health, safety and an economic issue. He wants to move forward to make the playing field equal for everyone.

**** A motion was made by Councilman Rice, seconded by Councilman Perry, to instruct the Police Department and the City Attorney's office to continue with their investigations of the incidents of this weekend and other investigations that are ongoing and to report to us when those investigations are ready for Council to hear.**

The motion passed unanimously. (5-0)

After the motion and before the vote, Steven Houk, Farmers Insurance 1308 Idaho Street, said downtown businesses are affected directly by the bar occurrences. He relocated for that reason. It is blight on the community. People come here with complaints. He has a solution. We no longer have citizens on patrol or the sheriff's posse or any other influence to help the police. He felt a presence is needed downtown to help stifle the problem.

Clay Grimel said we talk about the bottles downtown, his bar does not allow bottles out of the bar. He doesn't think that shutting down bars after a certain hour of the night will help the problem.

Brandi Sandstrom, Goldies Bar, said a lot of the problem is that we have a big city shoved into a small town. It is impossible to control human nature completely. We are doing the best we can. Bottles do not go out and other drinks do not come in. There is only so much they can control. They have more experienced bartenders on duty at night. They get fingers pointed at them. Maybe we can come up with something together.

Ty Trouten, Police Lieutenant, said there is more than just the dollars that go in or out of your business. There is a greater cost. When detectives are tied up on what may be a homicide that means that we are not checking sex offenders or embezzlements. It could mean a child molestation case is not investigated. He has talked to some bartenders and there are some good ideas. We need to work together. What kind of community do you want to have? We have all these wonderful parks and programs for children and then a dark side that comes out. If you

want law enforcement down there just strictly handling the downtown problems we can address that. Consider the cost to the community.

Marv Churchfield, Double Dice, said one thing we have all overlooked is there might be a discriminating issue by shutting down the small bars and not the large bars. He is sure it is going to come up.

Council voted on the motion.

- C. Review, discussion, and possible action pursuant to City Code 4-5-14, thereby summarily suspending any Liquor License in cases appearing to be an aggravated or flagrant violation of the Elko Liquor Control Code or the laws of the State of Nevada, upon finding that such action is immediately necessary to preserve public health, welfare, safety, and morals of the inhabitants of the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

Mayor Johnson said we don't have enough evidence at this time to take action but this is where we are headed if things don't turn. There are some great points that have been brought up. One thing that has to happen downtown is cooperation. The goal is for people to go and have fun. No one is there to turn it into a fight or a beating. Let's keep that goal for everyone. If these things happen the City needs to be harsher. We need to make Elko a place that is productive for everyone. The situations are getting serious enough that we have to have these conversations. He hopes this isn't the direction that we head but it could be.

Chief Zumwalt had some suggestions:

1. Quarterly review of liquor licenses rather than having them renewed automatically.
2. Revisit the open container downtown law.
3. More bar checks. We will do that anyway.
4. Provide more education. We already have server training for bartenders. Any education we can provide can help.
5. Bars open after midnight to provide security.
6. Council can limit the number of liquor licenses in the community.

Joe Doucette, Elko Fly Shop, said the county has an ordinance where if there is a cost incurred by a deputy going to an establishment with a liquor license that establishment can bear the cost of the deputy showing up. If there is extra cost for an officer going to a bar maybe the bar should cover the cost.

Councilman Schmidlein said there was some bar windows broke out downtown. The bar owners didn't want to press charges so the Police Department pressed the charges for them. Is that correct?

Chief Zumwalt answered that was not correct. The officers dealt with the suspect on other issues. He ended up going to jail anyway.

Councilman Schmidlein said the participation we need from all of the business owners; if they know who the person is we need them to press the charges and give the information. If someone broke out a window that I owned I would want to be reimbursed for the damages.

COMMENTS BY THE GENERAL PUBLIC

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Carla Upchurch, Osino, said you are only targeting bars. Why wouldn't you apply this to the casinos too? If people want their alcohol they are going to find it no matter what.

Mayor Johnson answered Council passed a motion to continue investigation so that is not limited to small bars or any bars.

Councilwoman Simons said we have an ongoing process of looking at the liquor code right now. In the end we may end up doing things that apply to other businesses.

Ms. Upchurch said it goes to the people actually causing the problems. She doesn't see why you could close down a bar and punish everyone in the bar for one person's bad action.

Councilman Schmidlein noted during the motorcycle jamboree there are more local arrests than out of towners.

Dennis White suggested 1) when are we going to get serious about upgrading the law enforcement. We need to have a new police station and they need the resources to handle these issues; 2) we are a regional hub for NHP, Sheriff and the City. All three have jurisdiction within the city. Maybe we need to look at addressing them with some type of cooperation agreement.

Sam Orbitson suggested one possible solution would be that all the bars get together and create a downtown 86 list.

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

Mayor Chris Johnson

Shanell Owen, City Clerk