

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

SS June 25, 2013

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, June 25, 2013.

This meeting was called to order by Mayor Chris 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  
Ryan Limberg, Utilities Director  
Dawn Stout, Administrative Services Director  
Fritz Sawyer, WRF Superintendent  
Shanell Owen, City Clerk  
Matt Griego, Fire Chief  
Dennis Strickland, Public Works Director  
Scott Wilkinson, Development Manager  
Doug Gailey, Human Resources Manager  
James Wiley, Parks and Recreation Director  
Dawn Leyva, Recreation Services Manager  
Rick Magness, City Planner  
Jeremy Draper, Civil Engineer  
Ted Schnoor, Building Official  
Don Zumwalt, Police Chief  
Mark Gibbs, Airport Director  
Dave Stanton, City Attorney  
Tom Coyle, Assistant City Attorney  
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**

*There were no public comments.*

**APPROVAL OF MINUTES**      June 11, 2013 **FOR POSSIBLE ACTION**

*The minutes were approved by general consent*

**I. PERSONNEL**

A. Employee Introductions:

- 1.) Kevin Woten, WRF Technician Trainee

*Present and introduced.*

**II. APPROPRIATIONS**

- B. Consideration and possible approval of the FY 2013/2014 General Liability Insurance with Aviation Marine Insurance Services, Inc., for the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

The General Liability Insurance for the Elko Regional Airport is separate from the City's Liability Insurance. The renewal offer is \$9,225.00 and last year's premium with the same carrier was \$10,250.00. Therefore, the airport will have a savings of \$1,025.00. Representatives of McMullen Insurance will be prepared to review and discuss the quote received. MG

Jon Warenbrock, McMullen Insurance, explained this coverage is not part of the POOL insurance.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve the purchase of General Liability Insurance for Aviation Marine Insurance Services in the amount \$9,225.00 for the next fiscal year.**

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

- C. Consideration and possible approval for the Fire Department to accept a grant for \$1,000.00 from the Home Fire Sprinkler Coalition for a Public Service Information Campaign, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko Fire Department Prevention Bureau is pleased to have been selected as a "Built for Life" Fire Department by the Home Fire Sprinkler Coalition. The "Built for Life" Fire Department program encourages and recognizes all United States fire departments that make home fire sprinkler education a focus of their community outreach. In addition to being selected as a "Built for Life" department, the HFSC has awarded the City of Elko Fire Prevention Bureau with a \$1,000.00 fully funded grant to utilize free customized

PSAs and print ads provided by HFSC and cover local media placement costs. The City of Elko Fire Prevention Bureau was one of 50 fire departments selected to receive the “Built for Life” grant. MG

Fire Chief Griego explained last year we did a public service with a sprinkler booth. This year we received this grant to do some advertising and put out information to the public about sprinklers. We will be customizing the advertising for the Elko Fire Department.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Fire Department accepting a grant for \$1,000.00 for the Home Fire Sprinkler Coalition for a public service information campaign.**

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

- D. Review of the bids received and possible award of the Public Works Department Preventive Maintenance Project 2013, to apply Slurry Seal and Micro Pave to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

At their May 14, 2013 meeting, the Council authorized Staff to solicit bids for the Preventive Maintenance Project 2013. Bids will be received until 3:00 p.m. local time on Thursday, June 20, 2013 at which time Staff will review the bids. DS

Dennis Strickland, Public Works Director, explained the bid tabulation was provided that afternoon. (Exhibit “A”) We have received two excellent bids. Staff recommends award to Sierra Nevada Construction.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Perry, to award the bid for the Public Works Department Street Maintenance Project 2013 to Sierra Nevada Construction Incorporated for \$182,007.00.**

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

### **III. UNFINISHED BUSINESS**

- B. Review, discussion, and possible action in response to the May 28, 2013 presentation by the Elko County Sheriff’s Department regarding regional law enforcement consolidation, including possible direction to Staff to amend the previously approved Police Chief recruitment plan, and matters related thereto. **FOR POSSIBLE ACTION**

During the May 28, 2013 City Council meeting, The Elko County Sheriff’s Department gave a presentation regarding regional law enforcement consolidation. The item was placed on the agenda as “information only,” therefore no action could be taken. Depending upon the direction of the discussion regarding consolidation, the City Council may wish to amend the previously approved Police Chief recruitment plan. CC

Curtis Calder, City Manager, explained Council received copies of letters received after the presentation. He handed out copies of the letters. (Exhibits “B” and “C”)

Mayor Johnson said it’s a good presentation to consider. He is leaning towards the city continuing down the path proposed by the Matrix study. The city should remain on course.

Councilman Perry said his opinion is that we continue down the path of the improvements initiated by the Matrix study and not consider a consolidation.

Councilwoman Simons said it seems that this is not a good fit for the city right now. We have a good blueprint to go forward with our existing Police Department.

Councilman Rice said consolidation is not a fit for the City of Elko at this time.

Councilman Schmidlein said the Matrix report was not an easy item for the Police Department to do as a group. At this point we are not sitting in a financial issue that would force this type of merger at this time. He would like to move forward with trying to find a chief.

Jim Pitts, Elko County Sheriff, said he was present to support council in whatever they decide. We were just trying to give you options and they will continue to work with the Police Department as they have in the past.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Perry, to move forward as planned with the Police Chief recruitment plan and not consolidate with the Sheriff’s Department.**

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

After the motion and before the vote there was some discussion about amending the motion.

Councilwoman Simons amended her motion to say: **“...to continue with the City Police Department and not consolidate with the Elko County Sheriff’s Department and also to continue with the previously approve Police Chief recruitment plan, however, extend it until July 19<sup>th</sup> and authorize some word changes in the recruitment advertisement.”**

Councilman Perry said his second stood.

Council voted on the motion.

#### **IV. NEW BUSINESS**

- A. Review, consideration, and possible approval of a request from Marilyn Lesbo to assign a water rights agreement that currently exists between the City of Elko, and Calvin Dean Stitzel and Marilyn Lund (Lesbo), to Joy Global (i.e. P & H Mining Equipment Inc.), and matters related thereto. **FOR POSSIBLE ACTION**

On February 24, 1994, the City entered into a Water Rights Agreement with Calvin Stitzel and Marilyn Lund (aka Marilyn Lesbo). This agreement allowed for the transfer of 58 acre feet of water from the City to Stitzel and Lund to be used

solely in the NW ¼ of the NW ¼ of Section 30 (exit 298 vicinity). Further conditions on the agreement state that any time the property described above is annexed into the City the water rights shall be transferred back to the City. Additionally, the agreement states Stitzel/Lund shall not assign or transfer these water rights without the prior written consent of the City.

The original City water rights permit was #56590. This permit was abrogated (replaced) by permit # 58379 which lists Stitzel/Lund as the applicant for the water rights and changes the place of use to the location previously described above. Subsequently, permit #58379 was replaced by permit # 61635 which maintains the same quantity of water, but expands the place of use for that water to areas outside of the location originally agreed to by the City in the Water Rights Agreement dated February 28, 1994. To Staff's knowledge, the City does not have records showing this expanded place of use was ever approved by the City.

Lesbo/Stitzel would like to have the agreement with the City transferred or assigned to Joy Global (i.e. P & H Mining Equipment Inc.) upon successful closing of a sale of land. RL

Councilman Perry recused himself from the discussion. This is a water right issue and that is the business he is in. He left the room.

Ryan Limberg, Utilities Director, explained in the packet is the request letter from Lesbo. (Exhibit "D") He went over the history of the water right. His recommendations were listed on the action sheet under the recommended motion. Josh Anderson from Joy Global was present in the audience.

Councilwoman Simons noted in your conditions requested, one said they needed to put language in the remarks section of the permit application describing the area will revert back to the city when certain conditions are met. Do we need to outline those conditions?

Mr. Limberg answered those conditions are listed on the original water rights agreement. We may not need all of them. Just conditions three (3) and four (4) would be sufficient. Condition two (2) may be appropriate too.

Scott Wilkinson, Development Manager, explained that condition two (2) discussed the purchase of real property. Joy Global may purchase more property but they need to take over the water system of this entire area. He suggested acknowledging that this is a draft agreement and have staff bring back the final draft for approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the request from Marilyn Lesbo to assign water rights agreement currently existing between the City of Elko and Calvin Dean Stitzel and Marilyn Lund Lesbo to P&H Mining Equipment Inc. (Joy Global) with the provision that the agreement is a draft agreement and direct staff to work with P&H Mining Equipment Inc. (Joy Global) on number two (2) of the draft agreement in regards to the purchase of real property and for**

**staff to finalize that part of the agreement with P&H Mining Equipment Inc. (Joy Global) and bring to the Council for final approval.**

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

### **III. UNFINISHED BUSINESS (Cont.)**

- A. Review, discussion, and possible action with regard to correspondence received from Defendant Canyon Construction Company, outlining options for resolving an ongoing dispute regarding the Satisfaction of Judgment, and matters related thereto. **FOR POSSIBLE ACTION**

Two (2) letters from Canyon Construction Company have been included in the agenda packet for review. Although the original judgment amount of \$952,000 has been paid to the City of Elko, the interest payment on the principal remains in dispute. Special Legal Counsel for the City of Elko will be in attendance to answer any questions the City Council may have. CC

Councilman Schmidlein disclosed he had a conflict of interest and recused himself from participation and left the room.

Mike Lattin, Canyon Construction, said where we stand is on March 18<sup>th</sup>, the acting Judge granted the city a judgment in the amount \$702,000.00 from Canyon Construction and Knight Pieshold (KP) for breaching their contract with the city on the airport. In addition she granted a judgment of \$250,000.00 for KP for a tort claim that the city filed for negligence on their part. Since that time Canyon came to the council on April 17<sup>th</sup> and brought a check for \$351,000.00. The question is interest due to the city. When we paid on the 17<sup>th</sup> we stopped the interest from accruing. The city attorney likes to make things complicated. He requested that the city accept his proposed interest payment and Satisfaction of Judgment.

Councilman Rice asked so you provided us with checks that total about \$388,783.00.

Mr. Lattin answered that was one of his proposed options. His other option would be to go ahead and pay the interest on the whole \$702,000.00 as he calculates it and he would collect the money from KP. He would then want the city to sign the Satisfaction of Judgment.

Councilwoman Simons asked what percentage you are using to get that number owed.

Mr. Lattin answered the percentage is defined in NRS. He figured a daily per diem on the \$702,000.00. You would take the 5.25% and convert it to a decimal .0525, multiply that by \$702,000.00 and divide that by the number of days in a year. The interest stopped on April 17 when Canyon made a payment of \$351,000.00. Then the per diem after April 17<sup>th</sup> drops to 50% of that amount and it is due for the next 17 days at \$50.00 a day. If you pay a creditor the interest stops on the principal you pay to the creditor.

Councilman Rice asked one thing discussed the last time was your appeal. Would you be willing to drop your appeal?

Mr. Lattin answered no the appeal is going forward.

Mayor Johnson said he thought one of the issues had to do with the Satisfaction of Judgment. We have been advised that the way the Satisfaction of Judgment is written we give up our rights to the appeal.

Rich Barrows, Special Counsel for the City, said there are two items that need to be referred to. Mr. Lattin's June 11 letter under his option #2 requires that the city release Canyon from any further obligation to the city. That would include the results of a successful appeal by the city. Then the Satisfaction of Judgment can be argued to be a waiver by the city unless the Satisfaction of Judgment has a reservation by the city of the issues on appeal. That reservation language was proposed to Mr. Lattin's attorney but Mr. Lattin's attorney said that Mr. Lattin rejected it.

Councilwoman Simons said we would like to make this go away today. We won't give up those rights. It isn't fair to the taxpayers.

Councilman Rice said if you drop your appeal right now this would all be over.

Mr. Lattin said he will move ahead with the appeal.

Councilman Rice noted that Mr. Lattin's desire is to extend this dispute by moving ahead with the appeal.

Mr. Lattin said we have to go to mediation on August 15<sup>th</sup> as a requirement of the Supreme Court. After that the Supreme Court will make a decision if no agreement can be made.

Councilman Rice said his obligation is to address the matter before us. If you will drop the appeal this matter is done tonight.

Mr. Lattin offered to read his Satisfaction of Judgment and let Mr. Barrows propose some modified language.

Mr. Barrows said that had already been done and rejected.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, that if Canyon would agree that the \$3,887.38 Canyon check held by the city is tendered as a payment of one-half (1/2) of the full interest due of \$4,745.59 and not as a full satisfaction of the judgment, the city will deposit the \$3,887.38 check. If the check clears, apply it upon one-half (1/2) of the interest in the sum of \$2,372.79 and return the \$1,514.59 of excess to Canyon then request KP to immediately wire the city the other one-half (1/2) of the full interest and on receipt of the KP wire immediately issue a full Satisfaction of Judgment for all sums owed under the un-appealed portion of the money judgment.**

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

- B. Review, consideration, and possible approval of a request by the Elko Basque Club to close a portion of Chris Sheerin Way for the Basque Festival Kick Off on July 5, 2013, and to close a portion of Flagview Drive for the Basque Festival Picnic on July 7, 2013, and matters related thereto. **FOR POSSIBLE ACTION**

The Basque Club will be changing the event venue to the Basque House this year. The requested closures include Chris Sheerin Way on July 5<sup>th</sup> from 2:00 p.m. to Midnight, and Flagview Drive on July 7<sup>th</sup> from 8:00 a.m. to 5:00 p.m. SO

Shanell Owen, City Clerk, explained the application was included in the packet. This is a change to their regular closure. We have their insurance on file. Everything is in place.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to approve the request of the Elko Basque Club to close a portion of Chris Sheerin Way for the Basque Festival Kick Off on July 5, 2013 and a portion of Flagview Drive for the Basque Festival Picnic on July 7, 2013 as out lined in their application.**

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

- D. Review, discussion, and possible action to approve or modify the terms of a proposed negotiated resolution of the Verified Complaint, file no. 2013-002, for liquor licensee disciplinary action filed against LAURIE SUE GARDNER and RONALD ALLEN GOLDIE, dba GOLDIE'S and/or the Verified Complaint, file no. 2013-003, for liquor licensee disciplinary action filed against HADLOR INC., dba HORSESHOE CLUB, DEBRA MENSING, OWNER-PRES., ANDREW C. WELSH, CFO and JESSICA L. WELSH, SEC., or to direct the matter be brought to a hearing before the City Council as expeditiously as practicable, and addressing other matters appropriately related thereto. **FOR POSSIBLE ACTION**

Mayor Johnson said if all of the parties are in agreement we can vote on this tonight. If not he recommended setting this matter for a hearing in the future.

Tom Coyle, Assistant City Attorney, explained upon the filing of the Verified Complaints we entered a written agreement with the licensees to take a timeframe and see if we could negotiate a resolution of these, short of a contested hearing. What you have in the packet was close to that agreement. There have been some changes that have happened since it was included in the packet. 1) The probation period would be a six (6) month probation period. 2) Under paragraph 9 the security cameras provision was changed that cameras will be operating while operating business. An admission of a violation as alleged in the verified complaint (serving intoxicated persons), for that there will be a \$500 fine. The probation would be for 6 months. He went over the terms of the probation. The Chief and I have talked about this and we feel this is a good resolution to this at this point prior to a hearing. Last week the Tiki Hut decided to not move forward. Mr. Dolan filed a withdrawal as a representative of Tiki Hut. Mr. Dolan also advised this afternoon that Goldies will not go forward with the agreement. We are only addressing the Horseshoe. Does this really provide with punishment for the violations? No it does not.



Mayor Johnson asked if the representative (Mr. Dolan) from Horseshoe was in agreement. (yes)

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to accept the agreement with the two modifications that Mr. Coyle mentioned: 1) that it has a six (6) month probation; and, 2) the security cameras are to be operated during the hours of operation.**

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

Mayor Johnson asked if Goldies was not in acceptance of what has been presented and that they wanted to move to a hearing.

Ron Goldie answered that was correct.

Mayor Johnson recommended to City Council that they make a motion to schedule a hearing as described in the item today.

Brandi Sandstrom, Goldies Bar, said they would be willing to settle with some changes to the agreement.

Mayor Johnson said there were a lot of issues that needed to be discussed which we had hoped were happening. He asked council if they wanted to hear the options or go to a hearing.

Councilman Perry said that when they came here this had to be done outside of here. If you are not in agreement, this will go to a hearing. He asked Ms. Sandstrom if they were sure they didn't want to agree to this. (Yes)

Bob Dolan, Council for the Horseshoe, said any further notices to Goldie's needs to be sent to Goldie's and not to him. He has not made a formal withdrawal yet but he is no longer responsible for Goldie's.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to direct staff to schedule a hearing in regards to the complaints in compliance with the procedures outlined in our liquor ordinance.**

Councilman Rice amended his motion, **“that the hearings will be regarding the complaints regarding Goldie's and Tiki Hut.”** Councilman Perry said the second stood.

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

- E. Review, consideration, and discussion for the re-appointment of four (4) current members, and the appointment of one (1) new member to the Parks and Recreation Advisory Board, and matters related thereto. **FOR POSSIBLE ACTION**

The terms for board members, Colby Curtis, Harmony Stahl, Fred Beitia, Cathy McAdoo, and Kent Aveson expire on June 30, 2013. An advertisement for

recruitment for open positions was published with the Elko Daily Free Press and we received letters of interest from five (5) individuals. JW

James Wiley, Parks and Recreation Director, explained we have five open positions as of June 30, 2013 on the Parks and Recreation Advisory Board. We had 4 current members submit interest for reappointment. He did get another letter from Kent Aveson showing his interest in reappointment. (Exhibit "E") Cathy McAdoo decided not to be reappointed. We got a letter from Jim Conner expressing his interest in serving.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to reappoint members Colby Curtis, Harmony Stahl, Fred Beitia, Kent Aveson and appoint Jim Connor to a four (4) year term to the Parks and Recreation Advisory Board.**

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

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

- A. Consideration of a request to name the upper soccer field at the John Hogg Soccer Complex after Mr. Ramon Zugazaga, and matters related thereto. **FOR POSSIBLE ACTION**

A letter submitted by Dena Anderson, President of Elko AYSO Soccer has been provided for your review in the Council packet. JW

James Wiley, Parks and Recreation Director, explained we changed a name on a ball field recently. This request does fit the policy for renaming a field. He read the code.

Curtis Calder, City Manager, said in this instance you would accept the petition. Then we would bring it back under a public hearing to get approval.

**\*\* A motion was made by Councilman Perry, seconded by Councilwoman Simons, to accept the petition to name the upper soccer field at John Hogg Soccer Complex after Mr. Ramon Zugazaga and place the item on the agenda for public hearing at the next council meeting.**

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

- B. Review, consideration, and possible action in response to an appeal filed by Michael Clay Corporation on behalf of Elko Wire and Rope, appealing the decision of Staff that requires civil improvements on Zaga Way in conjunction with Building Permit 13-128, and matters related thereto. **FOR POSSIBLE ACTION.**

The property is located generally southwest of East Idaho Street and Zaga Way (4800 East Idaho Street). The Development Department requested several revisions to plans associated with Building Permit 13-128 in its letter dated April 16, 2013. Condition One (1) requested revisions showing civil improvements on Zaga Way and Condition three (3) addressed the possibility of the applicant dedicating the easement area as right-of-way to the City. Michael Clay

Corporation has appealed those conditions on behalf of the property and business owners. SW

Scott Wilkinson, Development Manager, explained the appeal process and asked council if they would follow that.

Mike Sheppard explained this property was purchased by the Bartholomew's in 2010. They engaged Lana Carter as the civil engineer to survey and start a design process. The proposed building would be an impressive structure facing Interstate 80. Using the white board, Mr. Sheppard drew a representation of Idaho Street and Zaga Way. It was his understanding that Zaga Way is not a dedicated right-of-way or a street of conventional form that you have around the city. They were under the impression that they would not have improvements to make on Zaga Way. Mr. Wilkinson is requiring them to pave the property and put in curb and gutter. There is no formal street and no prospect that any of the neighbors would do anything in the future. He argued that the half road will not be maintained. Also the asphalt will be damaged by the surrounding gravel.

Councilman Schmidlein agreed with Mr. Sheppard. That road hasn't been maintained. He has issues with paving a half side of a street. If you were going to develop your side the city should come in on the other side with curb to match it. He would like to see the curb put in going down that side of the road.

Richard Bartholomew asked why I would want to put asphalt out there so Smith Diesel could work on and park trucks on it. Who will stop them from parking there continually?

Mr. Wilkinson explained he provided the code requirements in the agenda packet. On page 2 of the May 29<sup>th</sup> memo he references a requirement for sidewalk, curb and gutter. Zaga Way was dedicated as a roadway easement for public access and public utility purposes. If you look at Romeo Way, it wasn't dedicated for public access yet it has been developed with a paved surface. Zaga Way functions as a public street. It provides connectivity between Idaho Street and Manzanita Lane. If you close that off you will land lock the parcel in the middle. Zaga Way meets the definition of a street in City Code.

Councilman Perry asked are there any waivers for curb, gutter that have been agreed upon.

Mr. Wilkinson answered if he had any in the files he would be calling on those for this development.

Dave Stanton, City Attorney, emphasized that the waiver for a curb, gutter and sidewalk is different. The City Council doesn't have the ability to waive a requirement unless it is in the city code. There is a provision that allows council to waive the requirement for curb, gutter and sidewalk if the process is followed. No similar provision exists for the road part of it. If you want access to a right of way or easement it will only be granted if the provisions have been satisfied.

In rebuttal, Mike Sheppard said in every city he is aware of, cities don't do development. He is aware there are other half roads. That is not common. That is uncommon. You have half roads for lots of reasons. In most cases the half road is going somewhere. This half road won't go

anywhere. He noted that council does not have the ability to waive the street under code. Putting a piece of asphalt on that easement will not do any good for anyone.

John Carpenter said you are keeping a lot of people from developing with your restrictions. It makes no sense that you can waive curb, gutter and sidewalk but you can't waive the asphalt. That is not right and should be changed. You say the city is not doing the infrastructure but you have been doing all of that work on Main Street and Idaho Street.

Councilman Perry asked has the building permit been issued.

Mr. Wilkinson answered no we have requested revisions to the civil improvement plans to show the improvements on Zaga Way.

Councilwoman Simons asked it is basically illegal for us to say we would waive the half road.

Mr. Stanton answered the way the code is written, when someone wants access to a city right-of-way or easement they need to make improvements. There is a remedy and that is to not give them access. There is an issue of disparate treatment. That is when you treat different builders or developers different ways and doing it in an arbitrary way. That has some constitutional implications under the equal protection clause.

Mr. Bartholomew handed out pictures of trucks parked on Zaga Way. (Exhibit "F") He explained this is what Zaga Way looks like almost every day.

Mayor Johnson said it is a difficult decision. The city requires that property owners make public improvements. It isn't the best of circumstances but the city has called in deferral agreements in other areas of Elko. Before he was on city council he didn't understand why developers had to put in public improvements but now he understands.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to deny the waiver of appeal for civil improvements on Zaga Way.**

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

After the motion and the vote, Councilman Rice said he wanted council to take a comprehensive look at this throughout the community.

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

- C. Review, consideration, and possible acceptance of letters of resignation from Mr. Doug Owen (effective July 17, 2013), Mr. Nick Tompkins (effective immediately) and Mr. Vaughn Frei (effective immediately) from the Planning Commission, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to accept the resignation of Planning Commission members stated and thank them for their service to the community.**

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

- F. Consideration, discussion, and possible authorization to accept funding for a 1:1 matching grant from the Federal Land and Water Conservation Fund for the Elko Skateboard Park Enhancement Project, and matters related thereto. **FOR POSSIBLE ACTION**

Last fall, Council authorized Staff to apply for a grant with the Federal Land and Water Conservation Fund for improvements to the Elko Skate Park. Staff recently received notice that our application was approved for funding for a total project cost of \$98,000. At the end of the project, the City will be reimbursed 50% of the total cost through the 1:1 matching grant. JW

James Wiley, Parks and Recreation Director, explained we have been approved for funding. We are ready to move forward on the project.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to accept a 1:1 matching grant with the Federal Land and Water Conservation Fund for the Elko Skate Park Enhancement Project.**

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

- G. 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 Long Canyon Mine, 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

Delmo Andreozzi, Assistant City Manager, explained we have a letter from the BLM in the agenda packet. We had a similar request from the Eco Sanctuary but Council decided at that time that they didn't have any interest in being a cooperating agency. The BLM wants to hear one way or another. If you decline formal participation you can still attend the hearing process.

Mayor Johnson asked does the city know of the amount of time needed for those meetings.

Councilman Schmidlein answered there would be three meetings over the next 18 months.

Councilman Perry thought we should be a participating agency and that it falls into the mission statement.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Perry, to direct staff to accept the invitation from the Bureau of Land Management Wells Field Office for the City of Elko to become a cooperating agency for the environmental impact statement process for the proposed Long Canyon Mine.**

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

## V. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible approval of Resolution No. 08-13 authorizing budget transfers for Fiscal Year 2012/2013 for various funds of the City pursuant to NRS 354.598005, and matters related thereto. **FOR POSSIBLE ACTION**

This is the annual year-end housekeeping item to transfer funds between functions, and funds as required to fund all budgetary changes that occurred during the fiscal year. DS

Dawn Stout, Administrative Services Director, explained this is the annual year-end budget process. She went over the options that the city has to change budgets.

Councilwoman Simons asked if the transfer to the Airport Fund was the same amount as last year. (no)

Councilman Schmidlein asked about the Recreation Fund; on the credit side of the \$426,800.00 you do an equal distribution on the debt side.

Ms. Stout answered we received more room tax revenue than what we had anticipated by about \$500,000.00. The other side of that is that we owe a portion of those monies to those various different entities that receive a portion of the room tax. That wasn't budgeted.

Councilman Schmidlein asked regarding the transfer to the Airport, on the back page you have \$90,000 estimated for the legal fees. There is also \$75,000.00 for the Airport Security. Where would that extra \$10,000 go?

Ms. Stout answered on the overall appropriations at the Airport; there were sufficient monies at the time to make up the other \$10,000.00. The city receives invoices as well as revenues for 60 days past the end of the year. The other \$10,000 will be available resources. The actual amount transferred will be what is required.

Councilwoman Simons asked about the heading Capital Equipment City Manager Training.

Ms. Stout answered in the Capital Equipment Fund we have the new software that was purchased (NewWorld). As part of that we have training. That isn't a capital item but it is necessary.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Perry, to approve Resolution No. 08-13 authorizing budget transfers for the Fiscal Year 2012/2013 for all listed funds persistent to NRS 354.59005.**

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

- B. Review, consideration, and possible approval of Resolution No. 09-13 authorizing augmentation of the 2012/2013 Fiscal Year Budget of the Airport Fund increasing appropriations to \$3,891,468 to account for \$175,000 in unanticipated revenues, pursuant to NRS 354.598005, and matters related thereto. **FOR POSSIBLE ACTION**

The Airport Fund received \$175,000 in additional revenues from a transfer from the General Fund pursuant to Resolution No. 08-13. This revenue was not budgeted and was unanticipated during the budgeting process. In order to pay for the expenses associated with this revenue it is necessary to augment the budget.  
DS

Ms. Stout explained this accounts for the expenditures in the Airport Fund. We need to augment that budget to increase the appropriations to account for those differences.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Rice, to approve Resolution No. 09-13 augmenting the Airport Enterprise Fund in the amount of \$175,000.00.**

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

- C. Review, consideration, and possible approval of Resolution No. 10-13 a resolution designating components of the fund balance of all required governmental funds pursuant to GASB Statement #54, and other matters related thereto. **FOR POSSIBLE ACTION**

The Governmental Accounting Standards Board (GASB) issued Statement No. 54 Fund Balance Reporting and Governmental Fund Type Definitions, with the intent of improving financial reporting by providing fund balance categories that will be more easily understood. Resolution No. 10-13 further designates the components of all qualifying governmental fund balances. DS

Ms. Stout explained a couple of years ago we had our fund balance designation policy which determines how those fund balances are committed or handled. GASB tries to make things easier. This particular part of it has caused a lot of pain and agony. We didn't do this resolution last year but the auditors recommend we do it this year for the General Fund.

**\*\* A motion was made by Councilman Perry, seconded by Councilman Schmidlein, to approve Resolution No. 10-13 committing the fund balance of all required governmental funds pursuant to GASB Statement No. 54.**

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

## **VII. REPORTS**

- A. Mayor and City Council

*Councilman Rice reported on the ECVA meeting.*

*Councilman Schmidlein reported on the downtown corridor tour that city staff and RAC participated in. He mentioned there are issues at the Golf Course.*

*Mayor Johnson said he appreciates everyone's cooperation with the appeal. He reported on his tour of the dam at South Fork.*

*Councilman Perry reported on the anniversary event that took place at South Fork.*

- B. City Manager- Legislative Update

- C. Assistant City Manager  
*Delmo Andreozzi reported that Curtis Calder left a copy of a Legislative Update for each councilmember.*
- D. Utilities Director
- E. Public Works
- F. Airport Director
- G. City Attorney
- H. Fire Chief  
*Chief Griego reported on fire prevention education and the Fire Department's participation at the Temoke Safety Fair. He will be meeting with the city attorney to finalize the BLM agreement for council to review. He met with the State Forester last week regarding the state's involvement after the county takes over.*
- I. Police Chief  
*Chief Zumwalt reported on the 13<sup>th</sup> Annual Elko Motorcycle Jamboree event.*
- J. City Clerk
- K. City Planner  
*Rick Magness noted that one of the retiring planning commissioners will be available until July 10<sup>th</sup>.*
- L. Administrative Services Director  
*Doug Gailey reported on the Police Chief recruitment.*
- M. Parks and Recreation Director  
*James Wiley reported on some emergency repairs that were made at the Golf Course on the irrigation system. The approximate cost was \$24,000.00.*
- N. Staff Engineer  
*Jeremy Draper reported on the meeting with the South Gate Mobile Home Park residents held a couple of weeks ago. On July 10 there is a joint meeting with the County regarding FEMA. There is a public meeting set for the sports complex project on July 18<sup>th</sup> to get input on the entire process.*

## II. APPROPRIATIONS (Cont.)

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

Councilman Perry asked about Flying Energy LLC Midcon F for \$17,069.00. Is that gasoline?

Ms. Stout answered that is our fuel inventory.

Councilman Perry asked about Bonneville County implement precision cut. \$24,889.00

Ms. Stout answered that is a mower for the Golf Course.

**\*\* 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