

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

SS July 23, 2020

The City Council of the City of Elko, State of Nevada met for a special meeting beginning at 9:00 a.m., Tuesday, July 23, 2020. Due to the COVID-19 pandemic the meeting was held via GoTo Meeting.

This meeting was called to order by Mayor Pro Tempore Robert Schmidlein. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can participate by phone, tablet, laptop, or computer by registering with the Goto Webinar link provided in the agenda. Questions can be sent to cityclerk@elkocitynv.gov.

CALL TO ORDER

ROLL CALL

Council Present: Councilwoman Mandy Simons
Councilman Robert Schmidlein
Councilman Chip Stone
Councilman Bill Hance

Mayor Absent: Reece Keener

City Staff Present: Scott Wilkinson, Assistant City Manager
Kelly Wooldridge, City Clerk
Jan Baum, Financial Services Director
Jason Pepper, Police Lieutenant
Dave Stanton, City Attorney
Diann Byington, Recording Secretary

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. Comments may be made through GoToWebinar.com or by emailing kwooldridge@elkocitynv.gov. **ACTION WILL NOT BE TAKEN**

There were no public comments.

I. APPROPRIATIONS

A. Review, consideration, and possible acceptance of Coronavirus Aid, Relief, and Economic Security Act (CARES) funding, and matters related thereto. **FOR POSSIBLE ACTION**

Scott Wilkinson, Assistant City Manager, explained all the information was included in the packet. He had legal review the information and he consulted with the Police Department. He had concerns with accepting the money. His biggest concern was with adhering to existing directives or future directives from the Governor's Office. The Police Department has some concern and some uncertainty with that. The City Attorney also noted some inconsistencies.

Dave Stanton, City Attorney, went over all the areas of the terms and conditions that he had issue with. The way the eligibility certification is written right now, he could not advise the City to enter into this contract. If the State was willing to work with us in correcting some of these drafting errors on the documents, he would be willing to change his position. There appears to be an issue with the State adding some requirements to the CARES Act Funding that the Federal Government did not intend and the State cannot be in conflict in the Federal requirements. He was also concerned with the City being required to enter into and abide by future amendments when the City doesn't know what those future amendments would be.

Mayor Pro Tem Schmidlein asked if the State of Nevada will sign different agreements with each of the 17 separate counties. These documents are due back to the State within the next 48 hours. Will we be able to negotiate a contract within that time with the State?

Mr. Stanton said that certain State agencies are unwilling to change documents like this, and some agencies are willing. It will be difficult to do this in 48 hours and he wasn't sure if it was feasible.

Councilman Stone didn't know how the City could agree to this like it is. In order to proceed, there needs to be some negotiation. We don't know what is coming down the pipe and we can't accept this with no idea.

Councilwoman Simons noted that Washoe and Clark counties have received their funds. Did they agree to this document?

Mr. Stanton didn't know if it was the same document. They have received their funds through a different program or under a different provision of the CARES Act.

Councilman Stone asked if the Governor's office was willing to talk with us about the more extensive issues and if they are willing to adjust.

Scott Wilkinson, Assistant City Manager, answered they have not reached out to the Governor's office yet. Council can consider, if they want to move forward with an opportunity to accept the funding, a motion could be made to have staff draft up some proposed revisions and approach the Governor's office to see if that is possible. If the proposed revisions were to be rejected, if the Council still wanted to move forward with the funding, the motion can be made to have staff reach out and attempt to revise the document. There are other cities out there that are moving forward with accepting the funding but he wasn't sure if they have made any attempts to revise the documents.

Police Lt. Jason Pepper stated the Chief had prepared a statement for the meeting but could not attend. He read the statement:

While I recognize the potential benefits and the need for the Cares Act Funding for the City of Elko, I have reservations and respect for the language provided in the eligibility certifications, as well as, the consequences of failing, specifically to having to repay this funding. I would direct your attention to item 8 and placing all funding contingent upon the City of Elko's adherence to the Governor's Emergency Directives. While it lists certain inclusions, it does not prohibit any future emergency directives. This would, in effect, lock us into enforcement without recourse no matter how egregious such directives might be. Their lax guidance as to what adherence might mean; if one person does not wear a mask, does that disqualify us? If business licenses are called into jeopardy, is there a timeframe by which they must be completed, or, will the City be considered not eligible or in violation of these terms? No matter the validity the directives from the Governor, they must compete with all other established laws in the State of Nevada and the City of Elko for the limited time available by officers. Summer is routinely the busiest time of the year for the Elko Police Department. Recent events have shown compliance is difficult to achieve once out of sight of an enforcement body, as is with all laws. While we have done our utmost to set the example, and have responded to complaints arising out of the multitude of directives issued by the Governor, complete and total adherence is unachievable. This is true with all laws that we enforce. Even if we were to focus only on enforcement of the directives, we cannot ensure complete compliance. We, thus far, have not been able to ensure that those that have tested positive for COVID-19 remain in quarantine. I ask the City Council to carefully weigh the potential benefits the likelihood we will actually see such benefits given to the City of Elko, the cost within the community and even attempting to realize the benefits. Respectfully, Ty Trouten, Police Chief

Mayor Pro Tem Schmidlein respected the Chief's opinion on this but wondered if we needed to stand firm and not accept the money. It's hard to say what we want to do with this.

Mr. Wilkinson thought we needed to understand the risk with this. The risk that the City runs if we were to have to refund the funding, is minimal depending upon what we move forward with.

Jan Baum, Financial Services Director, explained that the spreadsheet presented shows the expenditures we have already incurred. Whether or not we get the funding, we have already spent these funds. She went over the items in the spreadsheet (included in packet).

Mayor Pro Tem Schmidlein called for public comment without a response.

Councilman Stone stated he supports Chief Trouten's statement and he doesn't want the City to be dictated to just because we might accept the money. It scares him.

Mr. Stanton thought it would make sense to reach out to the Governor's Office first to see if they are open to revisions. But what happens if the Governor's office says they are not willing to make any changes. Will the City want to move forward with the certification as written for the funding?

Councilwoman Simons stated she doesn't want the Federal Government giving money away to just anybody so she was glad there are provisions but the ones that deal with the future without knowing if what we will be asked to do in the future is even reasonable, those are hard for her.

She has no problem agreeing to certain terms. It seems that the line has been crossed and we are asked to agree to things that have not been spelled out. We need to know exactly what we are dealing with.

Mr. Stanton said we can tell the Governor's Office how we want to proceed and we can make the changes to the document but it has to be ratified subsequently by Council. If so, maybe we can move forward with this.

Councilwoman Simons noted the timeline is difficult to work with.

Mr. Stanton said a decision needs to be made on the certification as written if we are unable to work with the Governor's Office. Other Cities may be signing this just because of the timeline.

Mayor Pro Tem Schmidlein thought the risk for the City of Elko for the amount of funds we are asking for, if we did not get the money we can cover the costs. The additional funding for the business people in the City, there are a lot of them that are hurting that would want to receive this funding. The City of Elko is being held accountable to potentially pay this back. We need to move forward on some sort of proposal.

Councilwoman Simons agreed that they needed to make the decision now. She doesn't want to deprive the community of the money.

**** A motion was made by Mayor Pro Tem Schmidlein, seconded by Councilwoman Simons, to direct staff to make revisions and submit them to the Governor's Office, and if they do not accept the revisions, to go ahead and accept the CARES Act funding from the State of Nevada as written.**

Mr. Stanton said he wanted direction as to what they should do if the Governor's Office agrees to work with us on the changes.

Councilwoman Simons answered then go forward with the changes you can get and we can ratify it.

Mr. Stanton said you would be directing the City Attorney to work with the Governor's Office to make revisions, and if the revisions are approved by the City Attorney, then direct that the revised document be executed and ratified by City Council at a later date.

Mayor Pro Tem Schmidlein agreed to amend his motion with Mr. Stanton's recommendation. He added that if they do not accept the revisions then we accept it as written by the Governor's Office.

Councilwoman Simons stated her second stood.

Mayor Pro Tem Schmidlein restated his motion: **Direct staff and the City Attorney to make the revisions and allow the City Attorney to make those revisions with the Governor's Office and act as an authority to develop a revised certification and other contract documents with then present them for signature and subsequent ratification by City Council. If they do not accept that, we will accept the CARES Act funding as written.**

Councilman Stone felt this puts the Police Chief in a difficult enforcement position.

Councilwoman Simons was very concerned with businesses closing their doors.

Councilman Hance didn't think many businesses would qualify for the grant money.

The motion passed. (3-1 Councilman Stone was opposed.)

- B. Review, consideration, and possible authorization for Staff to determine eligible expenses and purchases to be reimbursed or expended from Coronavirus Aid, Relief, and Economic Security Act (CARES) funding, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Wilkinson explained he was asking Council to consider authorizing staff to finalize the numbers to the state. The draft document was included in the packet. We have been looking at a bigger building for social distancing as things move forward. They are trying to get an answer if that is possible or not.

Ms. Baum noted we have gone over the expenditure list. These are for what we have already incurred. There are some purchases listed to assist with working remotely if needed.

Councilwoman Simons asked if we don't clear up if buying office space is qualified, can that be put into the second half of the funding?

Ms. Baum answered yes. The building has been put out there right now with the auditors and the Governor's office for opinions.

Mr. Wilkinson said, regarding the office space, we are waiting for an appraisal before it gets included in the allocations. This is really geared towards Finance to finalize the documents to be submitted to the State.

Mayor Pro Tem Schmidlein said he spoke with Senator Goigoechea and was told that the City of Fallon and Churchill County have been approved to build a new facility. They were able to tie it to the COVID virus. If we purchase a building we need to get very creative in how we write it up but it can be possible.

Councilman Hance thought that was a good option to look at. There is not enough room to have 6 feet of separation.

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to authorize staff to determine eligible expenses and purchases to be reimbursed or expended from the CARES Funding.**

The motion passed unanimously. (4-0)

- C. Review, consideration, and possible allocation of Coronavirus Aid, Relief, and Economic Security Act (CARES) funding not utilized by the City of Elko to Elko County, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Wilkinson explained the City of Elko would not be able to justify expenditures of \$1.8 million. He and Jan Baum met with Cash Minor to see if the City can give the money to the County to be used as a Small Business Grant Program. The packet has some information about what would be funded and the size of the grants.

Cash Minor, Elko County, gave some information regarding the proposed grant program. They decided that they can run the grant program through NACO for a small fee. They are looking at what Clark County did for their grant program as a model for this program. They want to get the money out to businesses so they can survive and stay in the community. He will be letting NACO know they will be participating in the program tomorrow.

Mayor Pro Tem Schmidlein asked if some of this money can be used for non-profits.

Mr. Minor answered they can but they are treated as a separate sub grant. There are more hoops to jump through to do that. He didn't feel there was enough time to get this set up for non-profits during the first half of the funding, but it should be in the second half.

Mr. Wilkinson said that the City Attorney stated we need an interlocal agreement for the grant program. He wasn't sure if there would be enough time to get the agreement back before Council.

Mr. Stanton wondered if the interlocal agreement could be done later on but before the funds are expended.

Mr. Minor answered they are looking at having the funds next week and sent out by September 1st. It's a tight timeline. He offered to work with City Staff on the agreement. He will work with the County funds and then later include the City funds when it becomes available.

Councilman Hance was concerned with some of the businesses that were ineligible for grant funds through the Clark County program. He didn't think we needed to exclude all of those types of businesses. A few of them he agreed with but the rest are struggling businesses too.

Councilman Stone wanted the little guys to be able to get the money instead of just the larger companies. He liked the amounts and how it was broken down.

Councilwoman Simons liked a system where the applications have a deadline and then a lottery if there is more money left over.

Mayor Pro Tem Schmidlein agreed that we needed to look at the businesses that may be ineligible.

Councilwoman Simons said she was fine with the ineligible list.

Councilman Hance didn't want the convenience stores excluded. He questioned why we are excluding some of these businesses. If your business is hurting then you need the help too. He only agreed with the first two business listed, and the last two. All the rest should be eligible.

Mr. Minor said the Massage businesses that were supposed to be excluded in Clark County were adult oriented businesses.

Councilwoman Simons proposed we change item 7 to include the adult oriented businesses, including massage parlors, cannabis related businesses, and state and federal certified labor unions. The other Council members agreed with this.

Mayor Pro Tem Schmidlein called for public comment without a response.

**** A motion was made by Councilman Hance to consider the possible allocation of the CARES Funding not utilized by the City of Elko to Elko County for the Business Grant Cares Grant Program, in the amounts specified in the draft attached with the caveat that Item No. 7 has the businesses adjusted as discussed.**

Mr. Stanton asked if there would be any reference to an interlocal agreement in the motion.

Councilman Hance added: **Subject to an interlocal agreement with Elko County.**

Councilwoman Simons seconded the motion.

The motion passed unanimously. (4-0)

COMMENTS BY THE GENERAL PUBLIC

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There were no public comments.

There being no further business, Mayor Pro Tempore Robert Schmidlein adjourned the meeting.

Mayor Pro Tempore Robert Schmidlein

Kelly Wooldridge, City Clerk