

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

SS July 25, 2017

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, July 25, 2017.

This meeting was called to order by Mayor Chris Johnson.

ROLL CALL

Mayor Present: Chris J. Johnson

Council Present: Councilman John Rice
Councilman Robert Schmidlein
Councilman Reece Keener

Council Absent: Councilwoman Mandy Simons

City Staff Present: Curtis Calder, City Manager
Scott Wilkinson, Assistant City Manager
Ryan Limberg, Utilities Director
Shanell Owen, City Clerk
Jonnye Jund, Administrative Services Director
Aubree Barnum, Human Resources Manager
Cathy Laughlin, City Planner
Ben Reed Jr., Police Chief
James Wiley, Parks and Recreation Director
Jeremy Draper, Development Manager
Bob Thibault, Civil Engineer
Jeff Ford, Building Official
John Holmes, Fire Marshal
Matt Griego, Fire Chief
James Foster, Airport Manager
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. **ACTION WILL NOT BE TAKEN**

Don Newman, ECVA, said he was asked to come and speak about a concept they are developing: "The Horse With No Name." It was built by local artist, Barry Crawford. Mr.

Crawford and Catherine Wines came to him and Mr. Crawford wants to make a 12 ft. replica of that piece. They wish to put it between the two buildings; the conference center and the convention center. He will commission that piece for the low price of \$30,000. We don't have that in their budget but he feels that amongst the community there is a possibility of raising some of that money. We are finding that Burning Man art is quite the tourist attraction throughout the state. This would add to the art scene that Elko is becoming.

Councilman Rice said it was talked about at the ECVA meeting this morning. It would be good to meet with the artist and examine the details of it. The ECVA has been working on grabbing artists on their way to Burning Man and on their way out. We are in the discovery phase of this seeing what it would cost. They will keep the city updated on this.

II. PERSONNEL

A. Employee Introductions:

- 1.) Robert Hunton, Parks Maintenance Technician I, Parks Department
Present and introduced.
- 2.) Grant Pashano, Parks Maintenance Technician I, Parks Department
Present and introduced.

B. Review, discussion, and evaluation of Appointed Official job performance for Fiscal Year 2016/2017, including the possible award of merit pay increases for the following eligible Appointed Officials, and matters related thereto: 1) Curtis Calder, City Manager; 2) Ben Reed, Police Chief; 3) Matt Griego, Fire Chief; 4) Shanell Owen, City Clerk; and 5) Janet Petersen, City Sexton. **FOR POSSIBLE ACTION**

Current City Policy requires performance reviews to be completed for each Appointed Official during the month of July of each year. With the exception of the City Manager, Appointed Officials, who are considered employees, shall be evaluated by the Council on years that end in an odd number. Reviews for Appointed Officials shall be conducted by the City Manager on years that end in an even number. The City Manager will be evaluated by the Council in July of each year. Prior to any reappointment of an Appointed Official, a performance evaluation shall be completed. A copy of the job performance ratings are included in the agenda packet for review. AB

Aubree Barnum, Human Resources Manager, explained the performance ratings are included in the packet for review and discussion. If the ratings are accepted the eligible Appointed Officials will be granted a one-step merit increase, effective July 1, 2017. There are two appointed officials that are not eligible for a merit increase: City Manager, Curtis Calder and City Sexton, Jan Peterson.

Councilman Keener thought the scores spoke for themselves. We have great people on staff. Congratulations to everyone who were evaluated.

Councilman Schmidlein said the evaluations show everyone's dedication to the city and what you bring to the community.

Councilman Rice said evaluations are a good way to reflect on the events that have occurred in the city. Good work all around.

Mayor Johnson acknowledged all of the extra work the appointed officials put in. The city is fortunate to have everyone here that is appointed.

Councilman Keener thought Mr. Calder has done a great job in heading up the organization in his role as City Manager.

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to accept the Appointed Officials evaluations as submitted and submit for the corresponding merit pay increases.**

The motion passed unanimously. (4-0)

- C. Review, discussion, and possible reappointment of the following incumbent Appointed Officials, and matters related thereto: 1) Curtis Calder, City Manager; 2) Ben Reed, Police Chief; 3) Matt Griego, Fire Chief; 4) Shanell Owen, City Clerk; and 5) Janet Petersen, City Sexton. **FOR POSSIBLE ACTION**

Current City Policy requires that the City Council consider the reappointment of incumbent Appointed Officials in July following a City election. The Council may or may not choose to fill any Appointed Official position as the Council deems appropriate. AB

**** A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to reappoint the following incumbents: Curtis Calder, City Manager; Ben Reed, Jr., Police Chief; Matt Griego, Fire Chief; Shanell Owen, City Clerk; and, Janet Peterson, City Sexton.**

The motion passed unanimously. (4-0)

- D. Review, consideration, and possible approval of an Agreement between the City of Elko, and the International Union of Operating Engineers, Local 3, July 1, 2017 – June 30, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko has concluded negotiations for FY 2017/2018, FY 2018/2019, & FY 2019/2020. A redlined copy of the proposed Collective Bargaining Agreement has been included in the agenda packet for review. AB

Note: This portion of the meeting may be closed pursuant to NRS 288; therefore the Council may move to adjourn the meeting prior to consideration of this item.

Ms. Barnum explained negotiations went well. We were able to agree to a three year agreement. Included in the packet is the fiscal impact disclosure, which includes the increase in gross wages for all three years with the proposed COLA.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve an agreement between the City of Elko and the International Union of Operating Engineers, Local 3, July 1, 2017 through June 30, 2020.**

The motion passed unanimously. (4-0)

- E. Review, consideration, and possible approval of the revised position description for Police Captain, and matters related thereto. **FOR POSSIBLE ACTION**

The Police Captain position description has been revised and updated to more accurately reflect the actual requirements and qualifications of the position, in addition to the actual duties performed, and to comply with updated position description standards as recommended by POOL/PACT. AB

Ms. Barnum explained we are updating the previous job description that we had in place. We don't currently have that position filled.

Chief Reed said about four years ago, we went from a system of Chief, Captain and then two Lieutenants to the Chief and two equal Lieutenants that reported to him. He would like to keep that system in place but he has a Lieutenant that has been a Lieutenant for about ten years, and he would like to change his rank for the time being. It doesn't really change the structure. There will be a slight pay increase over the course of the years.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the revised Police Captain Position Description as presented effective July 25, 2017.**

The motion passed unanimously. (4-0)

III. APPROPRIATIONS

- C. Review, consideration, and possible authorization for Staff to solicit bids for the FEMA Culvert Replacement at 6th Street and Douglas Street, and matters related thereto. **FOR POSSIBLE ACTION**

This culvert was damaged and collapsed during the flooding in February, 2017. The City would be responsible for 25% of this repair, and FEMA should reimburse the City for the other 75% of the cost. DS

Scott Wilkinson, Assistant City Manager, explained we are bringing this to council based on the quotes we received on the 14th Street repair. We believe this repair will exceed the \$50,000 threshold. We are asking for authorization to solicit bids for the project.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to authorize staff to solicit bids for the FEMA Culvert Replacement at 6th Street and Douglas Street.**

The motion passed unanimously. (4-0)

- D. Review, consideration, and possible award of or authorization to rebid the Centennial Park Electrical Improvements Project, to construct the electrical upgrades necessary for the Centennial Park expansion and Chilton Centennial Tower, and matters related thereto. **FOR POSSIBLE ACTION**

At their June 27th, 2017 meeting, Council authorized Staff to rebid the Centennial Park Electrical Improvements Project. Bids were received until 3:00 p.m. on July 24th, 2017. A bid tabulation and recommended motion will be provided at this meeting. BT

Councilman Schmidlein disclosed that Great Basin Engineering bid on this project and the next project. The owners of Great Basin Engineering are his partners in Canyon Construction. He recused himself from both items.

Bob Thibault, Civil Engineer, read a letter he wrote into the record (Exhibit "A"). He recommended awarding to Intermountain Electrical Contractors. Also on this tabulation there were some mathematical errors that changed the Great Basin Engineering bid.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to award the bid for the Centennial Park Electrical Improvements to Intermountain Electrical Contractors, in the amount of \$140,728.20.**

The motion passed. (3-0 Councilman Schmidlein abstained.)

- E. Review, consideration, and possible award of or authorization to rebid the Chilton Centennial Tower Project, to construct the tower and foundation, and matters related thereto. **FOR POSSIBLE ACTION**

At their June 27th, 2017 meeting, Council authorized Staff to rebid the Chilton Centennial Tower project. Bids were received until 3:00 p.m. on July 24th, 2017. A bid tabulation and recommended motion will be provided at this meeting. BT

Mr. Thibault explained this bid had some issues. He read his letter into the record (Exhibit "B"). He recommended rebidding the project again.

See Councilman Schmidlein's disclosure on previous Item D.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to reject all bids for the Chilton Centennial Tower Construction as non-responsive and direct staff to rebid the project.**

The motion passed. (3-0 Councilman Schmidlein abstained.)

Councilman Rice asked how important it is that the contractor have experience in this specific type of project.

Dave Stanton, City Attorney, said this has been voted on and approved so he was concerned that they may be getting into an item that hasn't been agended.

IV. UNFINISHED BUSINESS

- A. Review, consideration, and possible authorization to pursue further action against the Ormaza Family Trust for failure to adhere to the conditions found in the Curb, Gutter and Sidewalk Waiver No. 3-02 between the City of Elko and Ormaza Family Trust dated October 30, 2002, and matters related thereto. **FOR POSSIBLE ACTION**

In October 2002, the City of Elko entered into an agreement with the Ormaza Family Trust providing for the temporary waiver of curb, gutter and sidewalk improvements on Manzanita Lane. The City of Elko completed the design for Manzanita in 2012. In accordance with the agreement, the City of Elko has provided the required 90 days written notification to the Ormaza Family Trust on several occasions since 2012 when construction plans for Manzanita Lane were completed.

The City of Elko Development Department has attempted to work with the Ormaza Family Trust since 2012, in an effort to call the referenced deferral. The City received a response in 2013 from the Trust committing to complete the work in 2014. Subsequent notices have gone unanswered, with no formal response provided by the Ormaza Family Trust.

This item was tabled at the June 13, 2017 meeting, at the request of Mr. Ormaza to allow him time to prepare a timeframe for completed the improvements as stated in the agreement. The items have been tabled at two additional meetings; June 27 and July 11, 2017. JD

Pedro Ormaza, 225 Silver Street, said the last place we left this, the City was going to go notify all the other deferrals on Manzanita so we are all brought up here at the same time.

Mayor Johnson said the City has a presentation.

Jeremy Draper, Development Manager, gave a presentation (included in packet).

Councilman Rice wanted to talk further about the Redburn property. Redburn has a deferral?

Mr. Draper answered that Redburn has an agreement with the City. To call it a deferral, you probably could. It is an agreement with the City that they would pave their section of Manzanita Lane when the Ormaza Family Trust honors their deferral agreement 3-02 and installs the curb, gutter and sidewalk on the Redburn property as shown on the overhead screen.

Councilman Rice asked if the other Ormaza property that we are discussing is the vacant one next to Redburn.

Councilman Schmidlein said we are discussing both of them.

Mr. Draper answered yes, the deferral was for both of them. The deferral was part of a parcel map creating these two parcels.

Councilman Rice said the Redburn agreement was about paving; it's not about curb and gutter.

Mr. Draper said correct. A little history on the deferrals; these were always issued administratively. The earliest record he could find in the vault was 1986. In 1989 there was a memo from our Public Works Director at the time, indicating they were stopping the use of deferrals because of the issue of, "Why do I have to do it when my neighbor didn't have to?" In 1996 additional deferrals were issued. In 2013 we removed the ability to defer improvements from City Code. Between 1986 and when we stopped issuing those, we issued 38 deferrals. Seventeen of those have improvements completed. Nine of those have transferred owners. Eight are still current owners of those properties. Three have no signed agreements. One has plans submitted for review and that is Coach USA. Some recent property owners have honored those deferrals are Gallagher Ford and Norco, Flyers Energy off Silver Street and Gateway RV on Idaho Street.

Councilman Rice asked that nine have transferred owners but do the deferrals or the requirement for fulfillment transfer to the new owner.

Councilman Schmidlein answered no because they haven't been recorded. If it is not recorded they have no basis.

Mr. Draper said there is a statement in the deferral agreement that it does go on to the other property owner but as Councilman Schmidlein stated, they have not been recorded so we would have to consult with legal counsel to see if that is something we can enforce.

Councilman Rice said three have no signed agreements. What does that mean?

Mr. Draper answered basically that means that a deferral was granted but there is no agreement with the property owner signed by the City or the property owner when it was granted.

Councilman Rice asked what position does that leave us in.

Mr. Draper answered you have no basis for those.

Councilman Rice said so it is just a good idea.

Councilman Schmidlein said it would be an "in kind" if they would like to do it.

Scott Wilkinson pointed out the fact that none of the deferrals are contingent upon another deferral being completed. They are very specific to that circumstance and he is not aware of any language in any deferral that says other deferrals have to be completed in any particular location in the City before we can enforce the other one.

Councilman Rice said he knew that. We have been committed to cleaning these things up for 8 or 10 years. We need to be diligent about this in terms of everyone who has been granted a deferral and make them happen in some timely manner and in a way that makes economic sense

and development sense. There is no tit for tat on this. We need to communicate with everyone that has a deferral as we go along here.

Mr. Ormaza asked if they wanted his response. It was nice that the City found the letter because earlier it was said the he never responded. It looks now like you found a letter that he did respond in the last few years. He understands that he has to do it and he has no problems with doing it. He didn't understand why he is the whipping boy; the first one out of all of them. There are three others out there that the City hasn't contacted. Could anyone explain why he is the first out of the four?

Mayor Johnson said there is an opportunity with Redburn that is where the real driver is. Redburn is saying they want to pave but curb, gutter and sidewalk needs to go in.

Mr. Ormaza said that is it? Did the other people get contacted?

Mayor Johnson answered they have. Look at the ones that have been completed.

Mr. Ormaza said he meant the other three on Manzanita...

Councilman Schmidlein said the three that have transferred ownership, he wasn't certain we have any basis. He isn't legal counsel but at the same time if you don't have a contract with the current owners, he didn't know what basis you would have to enforce the deferral.

Mr. Ormaza said his deferral was on his land and it was sold to Schwann's and then later sold to Redburn. He is assuming that if there is a deferral on a piece of property it would go back to whoever signed the original deferral. He doesn't own the property where Redburn is at. They bought it from Schwann's who bought it from us. He doesn't understand that for sure.

Mr. Wilkinson explained they believe the deferrals are with the parties that signed. We believe Mr. Ormaza is responsible for that frontage even though he doesn't own the property. The improvements would be on the right-of-way. With respect to the others, we have reached out to one and we have a verbal commitment. Much to their surprise they were not informed when they purchased the property. It wasn't disclosed to them that they had a deferral but verbally they have agreed that if we give them a couple of years to take care of it, they will curb and gutter one year and the sidewalk the next year. It is for a considerable length of frontage on the east end. The second deferral is with a large equipment company. Although the deferral is with a private individual, we believe that if we reach out to that mining equipment supplier that they might give that some consideration. We had one instance where we had a deferral that was with a bankrupt company and as the property was redeveloped we brought that up with the new property owners and they went ahead and did 1,000 feet on Manzanita of improvements. We have had a lot of success even though we kind of lost hold of being in control. We will continue to do that. Clearly, back in 2012, and it wasn't just about Redburn, we had Highmark, Redburn, Nought Industries and Legarza. There were four different companies that activity going on Manzanita and we were in the process of finishing up the design for Manzanita in 2012. We didn't have it in place. We needed to have that complete design. All four of those companies wrote letters to the City Council and said, basically, we're willing to do X once that design is completed. With Redburn in particular, there was a deferral issue. You had Nought Industries, Highmark, Legarza that all completed improvements on Manzanita. Redburn committed to

paving. They didn't believe it was their responsibility to do curb, gutter and sidewalk because of the deferral, but they committed to do that paving as soon as Ormaza would complete those concrete improvements. If you look at the timeline, we finished up that design in 2012. All of this came to the Council. We reached out to Ormaza Family Trust in 2012. They were unresponsive. We reached out in 2013. They acknowledged that they had the obligation but due to the timing (this was September) of the year they requested that this be delayed until 2014. They didn't perform and as you can see we continued to reach out. After this response here we did not receive responses to our request. That is why Mr. Ormaza is addressing the City Council.

Councilman Rice said earlier in that statement, Mr. Wilkinson was talking about when property transferred what happens with those deferrals.

Mr. Wilkinson said there is a provision in (he believes) all of the deferrals but he would have to look at them. Basically it indicated that the deferral passes to the successors but none of the deferrals were ever recorded so none of that shows up in a title report. Unless the property owner remembers he has a deferral out there when he sells a property or transfers a property that may be missed. We believe that deferral is still the responsibility of that property owner who had the benefit at the time.

Councilman Rice asked in the very last slide we have how many pieces of property that have transferred. Nine of them. So for those nine that have transferred, our position is that whoever we had the deferral agreement with is the one who would have to complete those improvements.

Mr. Wilkinson said that would be the starting point. There is one up there where Coach had submitted plans but that was with KT Services. They are no longer available. Many times you don't have the other party available.

Councilman Rice said he is looking at Redburn and he wants to get all of this out here. How much success do you think we would have in going back to those nine previous owners and getting them to fulfill their deferral agreement?

Mr. Wilkinson said he doesn't know who they are.

Councilman Rice said he would doubt that we would have much success. As much as he wants all of these sidewalks where people walk and curb and gutter where water flows on roadsides, a part of his thought is how much of a legal leg would we have to require the Redburn deferrals be fulfilled. We are in a squishy place. This is such a mess. This is 30 years old and we have been trying to clean it up as best we can. Half of those deferrals that are out there, I think we would have a hell of a time getting those previous owners to fulfill it. He and Pedro (Ormaza) spoke yesterday about what we can do. Mr. Ormaza told him he was working on a timeline. We talked and I said he probably wouldn't have it to present tonight. There is a letter there that said you would do it in 2014 and it didn't get done. He would like, if Mr. Ormaza could come up with a timeline by the second meeting in August, and some sort of agreement where we can enforce it too so that we don't wind up in the same situation as we wound up in 2014 where you told us it was going to happen and then it didn't, and some sort of a timeline with an agreement that it take place and if it doesn't the City can enforce it in some way. Then the citizens of Elko have some assurances and it is not us. It is the whole community. He understands that rolling out a project like this is no small deal. It is a big deal. It costs money and you have to commit employees and

time. It's not something you can say you will do it next week. We have the option of just making a motion to direct staff to look at the options of enforcing this. We can do that. Then we would be pushing and pulling one another. What he thought we could do in the next four weeks is come to an agreement for when it can be done in a reasonable amount of time. Things don't happen overnight so he understood it might take some time. He would like them to come to some sort of agreement to get this completed. He felt a month was time enough to do that so we can move forward. He also wanted to make sure that the City has some evidence of communication with the rest of those with deferrals. He was confident the time is right for this. We have been trying to get this done for five years. We had the design in place and Redburn is ready to pave. They want to do that. They want pavement in front of their place. They are not going to put in the curb, gutter and sidewalk. We would have a hell of a time getting them to do it. We have been battling this around now for six weeks. We can do four more weeks. He will bat it around for four more weeks. That is his position. That will be ten weeks that we had to get this done and we haven't made any progress. If we come back a month from now and there is no good agreement then we direct staff to figure out a way to enforce it. Then it will get ugly and it won't be any fun.

Mr. Ormaza said it great that the City has this audit trail and all the correspondence that has been sent to him and he sent back. He agreed that he could put this together in four weeks. He also wants to see the correspondence and audit trail for everybody else that have deferrals. In four weeks you can present all of those. He assumed that the City has notified everybody else over the last five years of their deferrals and they have written back and they have had some correspondence with the city. He felt like he is getting picked on for some reason. You don't have an audit trail with anybody else.

Councilman Rice said he will not make that a condition.

Mayor Johnson said when we looked back at the minutes, we had Highmark, this property, and there may have been another one. This was when Rich Perry was here. There were several properties that were on those minutes and we were deciphering what the City's commitment was and it turns out that it is the other side of the street. The City has the minutes that show that there were discussions of multiple properties.

Mr. Ormaza asked if all of those people have been notified since 2012.

Mayor Johnson said it's done.

Mr. Ormaza asked if all of the deferrals on that street besides his, the City has an audit trail as you have with him, that the City has notified all of the owners that they have to do the same stuff, right?

Mayor Johnson said he didn't know if Highmark or other properties were the same.

Mr. Ormaza said there are three still outstanding besides his.

Mayor Johnson said right, but your parcel was before the City had the design on Manzanita.

Mr. Ormaza thought the other parcels had to do it because they did remodels to that piece of property. They have to do the improvements before the City would give them... It is a little different situation. He wasn't asking for a building permit.

Mayor Johnson said it makes perfect sense. Why put in curb, gutter and sidewalk if we don't know what the design is.

Mr. Ormaza said eventually, on the bare piece of property they are going to dig out part of it to put in...

Mayor Johnson said they put in curb, gutter and sidewalk and they took it back out on Mountain City Highway. It makes good sense that the City doesn't have the design there is no sense putting it in but once the design is complete, put in the curb, gutter and sidewalk. That's what the deal was going into this.

Mr. Ormaza said even though he doesn't know what's going on with that property. He will have to dig out 50 feet of it.

Mayor Johnson said the agreement to him was fairly clear. It says once the City has the design...

Mr. Ormaza said he agreed. The only thing he is asking is that he is being picked on and he wants to know that everybody else has been treated the same. You guys have an audit trail; Jeremy (Draper) just showed an audit trail of his for five years. He assumes the other properties have an audit trail.

Mayor Johnson said the properties have gotten done what they are going to get done.

Mr. Ormaza said there are three more that haven't even been contacted.

Mr. Wilkinson said the three other properties don't have people waiting to pave.

Mr. Ormaza said that took place less than two years ago. Redburn bought it from Schwann's.

Mr. Wilkinson said no, that was 2012. So the reason we reached out and called yours was because Redburn needs to pave the street.

Mr. Ormaza said you still are not going after the other three like the City has been him for the last five years.

Mr. Wilkinson said we will be.

Mr. Ormaza repeated you will be. So why is he being picked on for the last five years?

Mr. Wilkinson said we have been dealing with other properties along the way.

Mr. Ormaza said for the last five years the City hasn't contacted these other people but the City has him. He had a problem with that.

Mr. Wilkinson said somebody is waiting to pave that frontage if you would honor your commitment to the City.

Mr. Ormaza asked if he just gets Redburn done the City would be okay with that. He doesn't have to do the other one because nobody...

Mr. Wilkinson said you have a deferral for all of that frontage.

Mr. Ormaza asked for those two pieces. (yes) But you are saying we have to get Redburn because they're the ones that want to pave, right?

Mr. Wilkinson answered that is why we contacted you.

Mr. Ormaza said but you didn't contact anybody else.

Mr. Wilkinson said we didn't have anybody else moving in that needed to pave a street.

Mr. Ormaza said so you didn't contact anybody else. So the five years that he has been contacted is just because of Redburn?

Mr. Wilkinson answered correct.

Mr. Ormaza said okay. So is the City going to contact the rest of them?

Mr. Wilkinson answered we have already contacted them.

Mr. Ormaza asked if the other two know.

Councilman Rice said he wants us to find out about all of these deferrals but we are talking about yours. Let's just focus on that. He is not going to agree to anything that says we are going to provide that audit.

Mr. Ormaza said you are just going to pick on me. You are just going to pick on me, the Pedro.

Councilman Rice said we are not picking on you. All we are doing is, you are in business and you made an agreement.

Mr. Ormaza said the other ones made agreements too and you haven't even contacted them. That's his only point here. It almost feels racist. We got a Pedro guy and that's different. Seriously, it's almost to the point of being racist.

Councilman Rice pointed out that no motion has been made yet.

Councilman Schmidlein said at the end of the day, Pedro, when you write a letter to somebody telling them you are going to address this matter and then you start back peddling...

Mr. Ormaza said he isn't back peddling. He said he was going to do it. He just hasn't done it.

Councilman Schmidlein said just figure out a timeline of when you would like to complete it for us. He doesn't want to run this around a merry go round all night.

Mr. Ormaza said he doesn't want to either. His point is that he has no problem give the City a date of when he can get it done. The only thing he wants to have noted is that he feels like he is being picked on for some reason. Whereas the other three, and he sort of knows who they are, have not been contacted. That blows him away. That's his whole point here. The fact that the City put in there that he never responded and he did write a letter, that's.... You guys put that in the newspaper and he got his feelings hurt. He has no problem coming back in four weeks and giving a date. He wants it noted that the City has not followed through on the rest of the deferrals. He is being singled out. He will come back in four weeks and give a timeline.

Mayor Johnson wants some motion so he doesn't have to read this agenda item anymore. We just want to get through it. He thought the building season was gone for this year. If Mr. Ormaza says he will get it done next year, it is done, over and gone.

Mr. Ormaza said he agreed but he didn't like being picked on. He is being singled out because the City hasn't gone after the rest of us.

Mayor Johnson said Mr. Ormaza has not been singled out. There is an agreement.

Mr. Ormaza interrupted saying the City hasn't even called. That's fine. Make the motion. He's okay.

Mayor Johnson asked you are being picked out with the deferral agreement and the request from Redburn. The City is picking you out?

Mr. Ormaza repeated that the City has not even contacted the other three that have deferral agreements.

Mayor Johnson didn't know if that was the case. We set this on a meeting to have this all worked out, and to have this come up again?

Mr. Wilkinson said in any given year we've had, if you can recall the West Main experience that we spent half a year on.

Mayor Johnson said the other deferrals that haven't been aren't specific to Manzanita.

Mr. Wilkinson said there are two or three on Manzanita. We've had a verbal discussion with one of them already. Mr. Draper will follow-up on the rest. We're working on that. We have a triggering event here that occurred in 2012. That is Redburn Tire. We didn't single anybody out for special treatment. We had a triggering event; we had a deferral. It was identified. Same type of occurrence on West Main. We had a triggering event which was a reconstruction of a street. We looked at Gateway RV. Actually that triggering event was expansion of a building in addition to the street. We also went to Franklin Lumber. They had a condition on a C of O that required them to do some frontage. He even went out to Tricon, who had no deferral at all just appeal to their corporate sensibilities to do that improvement and they did it. All of that

consumed eight months out of a year to work through all of those issues. It is just a matter of allocating resources to dealing with these things. We get triggering events and we try to move whatever comes before us forward. He thought if Council wanted to make a motion, and try not to have this come back to the Council, what we could do is have a recommended motion that the Ormaza Family Trust respond to the May 13, 2017 request within four weeks and with a proposed timeline to complete the improvements. Failing that, direct staff to take whatever measures are appropriate to enforce the deferral agreement. Then it will be up to the Ormaza Family Trust to respond to Staff's request within the next four weeks.

Councilman Rice said one of the things he had talked about earlier was to have some assurance in that proposal timeline that there is an understanding between the Ormaza Family Trust and the City of Elko that if it is not fulfilled by that timeline that enforcement would occur. Is that pretty much what you are saying?

Mr. Wilkinson answered yes.

Councilman Rice said we are dealing with this matter. There are a lot of really legitimate reasons why we are doing it right now. He was sorry that Mr. Ormaza felt the way he did. He agreed and is very interested in knowing what is going on with all of the deferrals. He can't make a motion to that effect because it is not agendized. He will be making a request that Council be provided with that information. That will be information that will be available to Mr. Ormaza as well.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to direct staff to correspond with the Ormaza Family Trust asking them to respond to the letter of May 13, 2017 within four weeks...**

Councilman Rice asked when is the second meeting of August. He continued with the motion:

by August 29th.

Councilman Rice noted that was the date of the second meeting. He would like have it...

by Wednesday, August 23rd that way it could be included in our agenda.

Mr. Draper noted that meeting is the 22nd.

Councilman Rice changed the date again to:

Wednesday, August 16th. That the Ormaza Family Trust respond to the May 13, 2017 letter from the City of Elko with a proposed timeline for the completion of the deferred project by Wednesday, August 16th by 5:00 pm.

Mr. Wilkinson asked if that date was right. He asked Mr. Draper to pull up his letter.

Mr. Draper answered the actual date was May 8, 2017 when he sent the last letter to Mr. Ormaza.

Councilman Rice revised the motion to be:

May 8, 2017.

Councilman Rice restated the motion:

To direct staff to correspond with the Ormaza Family Trust asking them to respond to the letter of May 8, 2017 requesting that a timeline for the completion of the deferred project be provided by the end of business on August 16, 2017.

Councilman Keener seconded the motion.

Mayor Johnson asked Mr. Ormaza if he thought we were gaining with that. Are you going to be able to come back...

Mr. Ormaza said he can come back and give a timeline. He could give a timeline today. He can come back on the 16th and give a timeline. His whole point isn't about that.

Mayor Johnson said he knew that and that is why he is bringing it up. He doesn't want to have the same conversation.

Mr. Ormaza said no, I will give you a timeline.

Mayor Johnson asked do you think you need four weeks. You're not going to probably...

Mr. Ormaza said no, I can give you an exact timeline.

Councilman Schmidlein said, along with that, when you say a proposed timeline, on those basis, you can add additional information to there to where he will give a proposed timeline being completed by the end of 2018. Have the work completed by August 1, 2018, just add that to it. If you are not going to commit to completing it this season, we will give you a few months next summer to get it completed, if that is what we want to go with this. He didn't know what Mr. Ormaza's workload is and at the same time, by the time you come back in August, by the time you try to kick around curb and gutter...

Mr. Ormaza said that's going to happen this year.

Councilman Schmidlein said that's what I'm saying. Modify it with having an actual completion date within the timeline. If you don't want to do it, that's fine.

Councilman Rice said he wanted it, as he and Pedro (Ormaza) talked, timing and staging and all that sort of thing. I don't have a problem with that buy the end of the construction season 2018, or whatever.

Mr. Ormaza said okay.

Councilman Rice said to Mr. Ormaza that he told him that he wanted to do this.

Mr. Ormaza said he will come back with a timeline. I have no problem with that. I have every intention of doing it. Too bad you don't expect that of other people but ya, I have every expectation of coming back and doing that.

Councilman Rice pointed out that Mr. Ormaza repeated tonight that he was asking for that information. I am not picking on him.

Mr. Ormaza said he appreciated that he was going to ask for that.

Mayor Johnson said all of next year is pretty wide open. You don't think you have enough information tonight vs. what you will have four...

Mr. Ormaza said he would rather think about it so give him a couple of weeks and he will send a letter.

Mayor Johnson said how about if we just make it so we can get this agenda item out of the way.

Mr. Ormaza said that sounds good.

Mayor Johnson continued, and if you said, "City of Elko, I'm still not satisfied of the deferrals." Then you request a city agenda to the City Manager that says, "I challenge the City of Elko to justify the deferrals..."

Mr. Ormaza said he doesn't want to go there. He doesn't want to spend much in legal fees.

Mayor Johnson said no, it's not legal fees. If we get this one closed then it is up to you if you want to bring it back. We don't have...

Mr. Ormaza said no, no, no. That would be good. I will just send you a letter so you can handle it on your next agenda and we don't have to come back. That would be perfect. I will just send you a letter saying when I can get the curb, gutter and sidewalk finished by.

Mayor Johnson asked Mr. Ormaza will send a letter so you don't have to come... Oh, that's perfect. Okay.

Mr. Ormaza said and you guys can approve it or not approve it. You guys can discuss it. If it doesn't work...

Mayor Johnson asked oh, you want to send a letter for us to approve and I have to read this agenda item again. Can we change this agenda? I don't like this agenda item.

Mr. Ormaza asked what do you want. Then get rid of it.

Mayor Johnson said that is what he is saying. He doesn't like this agenda item. He doesn't like to read it.

Mr. Ormaza said he has to think of a date, so.

Mayor Johnson said it could be just, boom.

Mr. Ormaza said that is too much pressure. By the 16th he will have council a letter and it can be put on an agenda item.

Mayor Johnson said he wants this agenda item to go away and a new agenda is written to respond to ...

Councilman Rice said it will be because that way we will be considering the timeline. And if you still don't like it he will read the agenda item, dramatically.

Mayor Johnson asked if he wanted to read that dramatically.

Councilman Rice answered no. He is saying the next one around.

Mayor Johnson said we are all trying not to go down the path of... We have put this in how many meetings? We recognize Mr. Ormaza as an outstanding citizen contribution. Your family is huge in Elko. This is not fun. We have a commitment to other property owners that have completed improvements on Manzanita. Whether it's the perfect way or not. The City has been consistent in going through that. It's hard not to take very much offense to Mr. Ormaza's comments of singling him out because of certain particulars. That's tough and that's not fair to the City of Elko.

Mr. Ormaza said it's pretty black and white.

Mayor Johnson said he doesn't believe so.

Mr. Ormaza countered he thought that 100%. The three people haven't even been... So he hopes on the next agenda you have those other three people discussing when they are going to give you a timeline. That's what he would like to see. That's what he would like to see. That's not going to happen because you haven't contacted them in five years. So that's not going to happen. But he wrote a letter and he will get it done, but we know that's not going to happen. You haven't even contacted them in five years. There is no audit trail. There is with him so on the 16th he will send a letter of the date the he will get his stuff done and hopefully by then the City will contact the other three. He will have his letter to the City.

Councilman Rice called for the question.

Mayor Johnson said all right.

Council voted on the motion.

The motion passed unanimously. (4-0)

Mr. Ormaza asked what council just voted on. The question?

Councilman Rice said they just passed the motion so we are waiting to see your timeline.

Mr. Ormaza said oh, okay.

Councilman Rice added that it is the end of the discussion.

- B. Review and possible approval of a Concessionaire Agreement with ENTERPRISE LEASING COMPANY-WEST, LLC, a Delaware Limited Liability Company for the operation of a car rental agency at the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

On the 12th day of February 2012, ENTERPRISE LEASING COMPANY-WEST, LLC, a Delaware Limited Liability Company entered into lease agreement with the Elko Regional Airport for a period of five years. The lease expired on February 12th 2017. The annual revenue generated from this Concessionaire Agreement will be \$5,125.00 plus an additional 10% of Gross Receipts. The Lease will be for a period of five (5) years commencing upon the execution of the Agreement. JF

James Foster, Airport Manager, explained this is our typical lease for rental car companies out of the airport.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Keener, to approve the Concessionaire Agreement with Enterprise Leasing Company-West, LLC, a Delaware Limited Liability Company, for the operation of a car rental agency at the Elko Regional Airport.**

The motion passed unanimously. (4-0)

V. NEW BUSINESS

- A. Review, consideration, and possible approval of a Concessionaire Agreement filed by Jennifer Saxton, dba Sisters Food Service, to operate a mobile food truck in the Main City Park, Areas 4 & 5, and matters related thereto. **FOR POSSIBLE ACTION**

Jennifer Saxton applied for a Concessionaire Agreement to occupy concessionaire space for a mobile food truck in the Main City Park. They currently hold an Elko City Business License. She is requesting 2 spaces due to the size of her truck and trailer. Her start date to operate in the park will begin August 1, 2017. SO

Shanell Owen, City Clerk, explained the concessionaire agreement was included in the packet. We do have two spaces available.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the Concessionaire Agreement file by Jennifer Saxton, dba Sisters Food Service, to operate a mobile food truck in the Main City Park, Areas 4 & 5.**

The motion passed unanimously. (4-0)

VI. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible approval of Resolution No. 23-17, a Resolution Amending and Creating Police Department Fees, Pursuant to Elko City Code Title 5, Chapter 11, Section 4 and Title 5, Chapter 14, Section 4, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed resolution has been included in the agenda packet for review. BR

Chief Reed gave some background on the issue. Shelby Womak was present to answer the more technical questions. The Police Department fees have not been adjusted for some time. They started doing an analysis of the activities and services performed a while back. The final product is what is included in the packet in the form of a resolution.

Councilman Keener asked about the redacted video body camera charge of \$25. It seems there would be a lot of editing involved in getting that content. Is that enough?

Chief Reed answered that we haven't had that before. We have no history of trying to produce those. It may need to be adjusted in the future.

Councilman Keener suggested the fee be increased to \$50.

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to approve Resolution No. 23-17, a resolution amending the and creating Police Department Fees with the edit on the redacted video/body cam category of \$50 per video.**

The motion passed unanimously. (4-0)

- B. First reading of Ordinance No. 819, an ordinance amending Title 3, Chapter 2, of the Elko City Code "GENERAL ZONING ORDINANCE" specifically establishing a new zoning district along the 5th Street corridor which will be titled 3-2-6 Residential Business District, filed and processed as Zoning Ordinance Amendment No. 2-17, and to direct Staff to set the matter for public hearing, second reading, and possible adoption, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission initiated the new zoning district at their meeting October 4, 2016. At their meetings November 1, 2016, March 7, 2017, and May 2, 2017 they reviewed the district and made amendments as deemed necessary. The Planning Commission then held a public hearing on June 6, 2017, and took action to make an additional change and bring it back to Planning Commission for another public hearing. The Planning Commission held that public hearing on July 18, 2017, and took action to forward a recommendation to Council to adopt an ordinance which approves the zoning ordinance amendment. CL

Cathy Laughlin, City Planner, explained the new zoning district. She recommended approval.

Councilman Keener wanted to know if marijuana dispensaries would be allowed in this new zoning district.

Ms. Laughlin answered the amendment that we are taking in our zoning will restrict that because of the distance to residential, so it would not be allowed.

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to conduct the first reading of Ordinance No. 819, and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

The motion passed unanimously. (4-0)

VIII. 5:30 P.M. PUBLIC HEARINGS

- A. Second reading, public hearing, and possible adoption of Ordinance No. 821, an ordinance repealing Title 8, Chapter 8 of the Elko City Code entitled “SIERRA PACIFIC POWER COMPANY FRANCHISE” in its entirety and establishing replacement language for Title 8, Chapter 8, Sections 1 – 5 entitled “ELECTRICAL SYSTEM FRANCHISE FEES,” and matters related thereto.
FOR POSSIBLE ACTION

On June 27, 2017, Council approved an Electrical System Franchise Agreement to Sierra Pacific Power Company, d/b/a NV Energy. Ordinance No. 821 repeals existing City Code and replaces it with a Chapter entitled “Electrical System Franchise Fees.” A copy of Ordinance No. 821 has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained this is the franchise agreement language that is being removed and the fees are being placed in the same chapter as the old franchise agreement. The new franchise agreement that was approved will be a standalone franchise agreement.

Mayor Johnson called for public comment without a response.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to approve Ordinance No. 821.**

The motion passed unanimously. (4-0)

VI. RESOLUTIONS AND ORDINANCES (Cont.)

- C. First Reading of Ordinance No. 822, an ordinance increasing the corporate limits of the City of Elko, Nevada, pursuant to the provisions of N.R.S. 268.670 annexing thereto a certain tract of land partially contiguous to and not embraced within the present limits of the City of Elko described as follows: a parcel of land located east of Jennings Way and approximately 185’ north of Cortney Drive, in Section 8, T. 34 N., R. 55 E., MDM, Elko County, Nevada, consisting of 10.149 acres, more or less, filed by Dusty Shipp on behalf of DDS Properties, LLC and processed as Annexation No. 1-17, and to direct Staff to set the matter for public

hearing, second reading, and possible adoption, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the petition for the subject annexation on June 27, 2017, and directed Staff to continue with the annexation process by referring the matter to the Planning Commission. The Planning Commission considered the annexation on July 18, 2017, and took action to forward a recommendation of approval with findings back to the City Council. CL

Cathy Laughlin, City Planner, explained this area has been identified as having annexation potential. The two parcels have been merged with the approval of Elko County by a parcel map that was recorded on June 30th. The applicant has applied for a vacation of access and utility easements through the county. If approved today, this will not be brought back until all of that is completed. There is an application for a rezone on the property. With the annexation it will come in as Agricultural. The applicant has applied for R1, which is consistent with the master plan. She recommended approval as conditioned by the Planning Commission.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to conduct the first reading of Ordinance No. 822, and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

The motion passed unanimously. (4-0)

- D. First reading of Ordinance No. 823, an ordinance amending Title 4, Chapter 1, Section 2 of the Elko City Code entitled “DEFINITIONS”, and matters related thereto. **FOR POSSIBLE ACTION**

The proposed ordinance further clarifies and defines the Definitions section of the Business License Code as directed by City Council at their meeting of May 23, 2017. SO

Shanell Owen, City Clerk, explained the proposed definitions.

Dave Stanton, City Attorney, clarified this is keying into the wage and hour laws in the NRS and how the legislature has decided to make the distinction between employees and independent contractors. It makes the distinction that is also recognized by the courts that an independent contractor is there for a limited period of time, makes decisions as to how the work is to be done and produces results, and distinguishing factors between employees and independent contractors. He thought this makes a workable distinction that really is consistent with Nevada Law generally.

Lee Gurr, Caldwell Banker, Realtor, said a lot of work and thought has gone into this. When we refer to NRS 608.0155, one of the distinctions specifically addresses the manner in which an independent contractor would pay taxes, specifically schedule C for self-employed. 608.0155 specifically states whether or not the person has filed an income tax return for a business or earnings from self-employment with the IRS in the previous year. The IRS makes a specific exemption for Real Estate Licensees. They are called Statutory Non-Employees so that brokers don't have to withhold taxes from their wages. Would the City be amenable to making a small change in the definition of an employee that would then cover possibly even insurance agents

and attorneys and lots of other fields, that adds where the employer has the power or right? Maybe *obligation*, power or right to control? That's really what they are talking about with Real Estate Licensees is that our Brokers have the obligation to control and supervise our work product. That doesn't mean that they are telling us from 8:00am to 5:00pm you shall do this, this and this, which is more of an accepted stereotype for an employee. Our brokers are the employers. We cannot work outside the purview of what we are instructed to do by the broker. All the money comes into the brokerage to the broker and then the broker makes the determination to pay licensees that are affiliated.

Mr. Stanton asked if she is requesting that we remove the language after oral or written from the definition. Everything after that where it says, "where the employer has the power or right to control and direct the employee in the material details of how the work to be performed." You are asking for that to be taken out?

Ms. Gurr answered no. She is asking for subtly different language that recognizes the fact that our brokers have a duty or obligation to control or direct the employee.

Councilman Rice saw where she was going with this but he thought "power or right" covers what she is talking about; that whole idea of obligation. If obligation is in there that is a different kind of mandate but they still have power or right to relieve a person of their responsibilities within the brokerage firm in the case of a real estate agent, or to maintain them. They are directing the employee in this definition. They are directing the real estate licensee.

Mr. Stanton said this is designed to cover all professions. It is not specific to real estate or any particular profession. It is basic law that if an employer has the ability to control the manner in which an employee performs for them. There is never an obligation to do that. There are a lot of bosses who give their employees a great deal of flexibility/leeway in how they do their jobs. They always have the ability to go in and change that at any time. They don't always have to exercise it but they always have that right.

Councilman Rice said from the discussion a month or so ago, a licensed real estate agent is an employee.

Mr. Stanton said he can't get to that conclusion with just that. It would depend upon the relationship. The distinction is that I am bringing in someone that has a license and I tell them to sell properties and I am not really supervising how you do it. If you have an employee, you are probably paying them a wage and you are telling them how they go out and make sales. You are supervising it and telling them which sales they go out and focus on.

Councilman Rice then asked Ms. Owen if we are going to require a business license for real estate agents.

Ms. Owen answered that if someone called in and asked for a business license we would have them read the definitions and have them make the distinction. From what it sounded like at the last presentation is that we would not require those real estate agents to get a business license. The broker would have the license.

Councilman Schmidlein wanted to know if all of these realtors here would have to come down and get a business license if we approve the verbage that is written in this.

Ms. Owen said from the information that they told her at the last meeting, no they would not have to have a business license. But there could be other situations where the contract is different or they are bringing in one person to do a special project. It depends. When brokers pay their annual business licenses we would expect that they would be paying their gross receipts based on the gross receipts of the realtors as well. She looked at some of those situations and she would say that is not being done right now.

Mayor Johnson said when we talked about this and trying to qualify whether or not the broker solely held the license (which he absolutely agreed with), he didn't necessarily support that the city needed to provide a definition of employee vs. independent contractor. He didn't think that was the right way to go. It comes down to who is ultimately responsible for the transactions. That is who holds the city business license.

Ms. Owen said both of these definitions will help us with issues that come up.

Mr. Stanton said the same concept would apply to law firms, doctor offices, and engineering firms, there all kinds of professionals that would fall within this. This will help Ms. Owen and the business license department. He read part of NRS 608.0155.

Ms. Owen said if we had a new licensee as a broker come in and say they want to establish a new brokerage company, I would tell them to read NRS 608.0155 and our definitions of employee and independent contractor and ask which category do they best fall in. If they say they feel that are employees she would be fine with that until someone goes to her and says they don't think they are employees.

Ms. Gurr said in a real estate brokerage in the State of Nevada, no real estate licensee can receive any compensation as a result of a real estate related transaction from anyone except the broker with whom they are associated. That's it. Every single file, transaction, movement that an agent makes within the performance of their work falls at the feet of the broker if there is a problem. She hoped that cleared up the question about who is ultimately responsible. She is concerned because there are agents out there who aren't going to know if they are an employer or an independent contractor. For years the IRS has said we are independent contractors under their exemption "statutory employee." There are a lot of agents out there that think they are. She thought it was a step in the right direction when Ms. Owen said they were going to ask the question of the applicant. Her real concern regarding real estate licensees is that they may or may not be able to answer the questions appropriately because they are taught they are independent contractors.

Ms. Owen explained that when someone comes in and says they are going into a salon, we have two different types of salon classifications. We have the ones that are independent contractors and we have salons where they are the actual employee. We automatically know that if they work for JCPenney that they are actually an employee. If they work for "this company" you are actually an independent contractor. So we already know that. Now if someone comes in and says they are working for Caldwell Banker, we would know they are considered an employee. We are going to filter out those situations just like we currently do.

Alisa Landing, Keller Williams, Elko, said as agents we have established that we get paid directly from the broker. Never can an agent be incorporated or be paid through any IN ever. It must be in their name with their SSN. She cannot get business insurance. The Real Estate Division gives her the permission, if she has one or more agents under her, to advertise as a team, but she can't license that name.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to conduct the first reading of Ordinance No. 823, and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

The motion passed unanimously. (4-0)

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible authorization for the City to apply for a Temporary Use Permit for the operation of the Humanitarian Campground located off Hot Springs Road, and matters related thereto. **FOR POSSIBLE ACTION**

Council took action on March 18, 2014, approving the development of a temporary humanitarian campsite located on City property off Hot Springs Road. Friends in Service Helping (FISH) operated the camp under a Temporary Use Permit that has expired. FISH is no longer able to operate the campground. SAW

Scott Wilkinson, Assistant City Manager, explained he would like to apply for a temporary use in the city's name and have that heard by the Planning Commission. We filled out the application for a five year period. He would ask the Planning Commission to consider an automatic extension of another five years. The other item he would like the Council to deliberate is we had a prohibition on the installation of fire rings at the camp. He would like to have one of the conditions of the Temporary Use Permit allow for the city and/or partners with the city to install fire rings made out of culvert or steel type fire rings down there. We cannot deny fire at the camp since it is considered live sustaining. He has a non-profit that is proposing to do some work at the camp this September and one of the things they would like to do is install fire rings at the camp.

Mayor Johnson asked if we could have the option to go ahead and just have a Conditional Use Permit.

Mr. Wilkinson answered no because our code allows for a temporary use. A Conditional Use Permit is something that we haven't written into the code for any of these districts where this can be considered. This was anticipated as being a temporary situation and then we would develop a more permanent camp.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to authorize staff to apply for a Temporary Use Permit for a period of five years with respect to the Elko Humanitarian Campsite, to include site upgrades including fire rings.**

The motion passed unanimously. (4-0)

After the motion and before the vote, Councilman Schmidlein asked if the campers would have to follow the regulations of when there is no burning and everything else.

Mr. Wilkinson answered they actually get to have campfires even when we have prohibitions on burning because it is a life sustaining function.

Council voted on the motion.

- B. Consideration of an offer to purchase a portion of property located at 163 12th Street from Ellison Properties, LLC for \$92,000, which includes the removal of the existing building located on the southwest corner of 12th and Silver Streets, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko currently owns/maintains traffic signals and related equipment adjacent to the property being offered for purchase. If acquired, the City of Elko would have additional room for future infrastructure relocation/expansion, and improve visibility at a very busy intersection.

Although unbudgeted, the City's Ad Valorem Capital Project Fund has adequate resources to purchase the property. A copy of the letter from Ellison Properties, LLC has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained as soon as we put this on the agenda, we got a request to table this item. He was not sure when we would bring this back.

**** A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to table this indefinitely until it is brought back.**

The motion passed unanimously. (4-0)

APPROVAL OF MINUTES: July 11, 2017 Regular Session

The minutes were approved by general consent.

I. CONSENT AGENDA

- A. Review, consideration, and possible approval of the City of Elko Fiscal Year 2017/2018 Indebtedness Report, Debt Management Policy, and Five-Year Capital Improvement Plan as required by NRS 350.013, and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to NRS 350.013, all entities must file the Indebtedness Report, an updated Debt Management Policy, and the Five-Year Capital Improvement Plan. The updated reports are included in the agenda packet for your review. JJ

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the consent agenda.**

The motion passed unanimously. (4-0)

III. APPROPRIATIONS (Cont.)

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to approve the warrants.**

The motion passed unanimously. (4-0)

- B. Review and possible approval of Print 'N Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Rice, seconded by Councilman Schmidlein, to approve the Print 'N Copy warrants.**

The motion passed. (3-0 Councilman Keener abstained.)

IX. REPORTS

- A. Mayor and City Council

Councilman Keener asked Chief Griego to let the crews know he was sorry he couldn't participate last week in the burn activity but he would like to be included in another training opportunity. Can the deferral be put in a consent agenda the next time it comes back? Curtis Calder said if he agrees in writing to comply by a certain date is wasn't even sure if he needed to put it on an agenda.

Councilman Rice reported he was able to do the fire training, it was great. He heard the firefighter challenge was a great event. At ECVA this morning, Tom Lester did a report on airfares. Roundtrip airfare to SLC and other destinations is not very expensive but roundtrip Elko to SLC is \$520. We need to have a conversation with Delta about this. They charge this because they can. These fees are getting in the way of our tourism in a big way. We also learned today that we may be losing our Amtrak stop here. That is a concern for a number of people.

- B. City Manager

Curtis Calder said regarding Councilman Rice's remarks on airfares, the City stays in touch with Skywest and we will reiterate our concerns. We can go back down there later in the fall. The general public doesn't know the load factor coming into Elko. If those planes were full you would see lower fares. Central Dispatch Administrative Authority rotates their chairmanship every year. This year he will be the chairman. There will be a resolution on the next agenda regarding selling golf carts to the City of Wells.

- C. Assistant City Manager

Scott Wilkinson reported we put a water line out at Exit 298 and people have made comments wondering when that water line will be used. There have been discussions about it and future expansions. There are some things happening out there.

- D. Utilities Director
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief

Chief Griego thanked Council for reappointing him. He handed out a copy of his newsletter (Exhibit "C"). We have been participating in some wildland fires. Councilman Schmidlein complimented the staff that attended the firefighter event this last weekend.

- I. Police Chief

Chief Reed reported he was reappointed to the E911 board for another 2 year term. A commercial burglary happened at Elko Sanitation where several trucks were broken into and vandalized. A citizen saw a person jumping the fence and he was arrested. Regarding the armed robbery attempt at Dos Amigos, there is a suspect in custody. National Night Out is next Tuesday and he asked for volunteers. Regarding promotions, they will do a ceremony in-house next week and he invited council.

- J. City Clerk

Shanell Owen thanked Council for the evaluation and reappointment. Late last week we revoked a liquor license for Cabo due to non-payment. You may see a future liquor application for that business.

- K. City Planner

Cathy Laughlin said she has priced flying out of Elko round trip but never to Elko round trip. She just did that last week and booked a flight from Bozeman, SLC to Elko roundtrip and it was \$424. It seems cheaper to fly in vs fly out.

- L. Development Manager

Jeremy Draper reported asbestos removal at the old Police Station starts next Monday.

- M. Administrative Services Director

- N. Parks and Recreation Director

James Wiley thanked Mayor Johnson and Councilman Keener for visiting the Parks Department. We still don't have a 404 permit but we do anticipate that by the end of the month. Eleven new golf carts have been ordered. There have been some issues with the turf at the Golf Course. There had been some significant electrical failures in the new system that have since been resolved. Parks and Recreation have been pretty busy. The Pool has been crammed full the last month or so.

- O. Civil Engineer

- P. Building Official

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.

Mayor Chris Johnson

Shanell Owen, City Clerk