

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.D.S.T., TUESDAY, AUGUST 7, 2018
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

David Freistroffer, Chairman of the City of Elko Planning Commission, called the meeting to order at 5:30 p.m.

ROLL CALL

Present: **David Freistroffer**
 Evi Buell
 Ian Montgomery
 Jeff Dalling
 John Anderson
 Stefan Beck
 Tera Hooiman

City Staff: **Curtis Calder, City Manager**
 Scott Wilkinson, Assistant City Manager
 Cathy Laughlin, City Planner
 Bob Thibault, Civil Engineer
 John Holmes, Fire Marshal
 Dave Stanton, City Attorney
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Burt Gurr, 554 S 5th St, asked if the public would have time to comment on things that were on the agenda before the items were opened.

Chairman David Freistroffer explained the procedure to Mr. Gurr.

APPROVAL OF MINUTES

June 5, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the minutes from June 5, 2018.**

Moved by Jeff Dalling, Seconded by Stefan Beck.

****Motion passed. (4-0, Commissioners Buell, Hooiman, and Montgomery abstained)***

July 9, 2018 – Special Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the July 9, 2018 Minutes.**

Moved by Jeff Dalling, Seconded by Evi Buell.

**Motion passed. (4-0, Commissioners Montgomery, Beck, and Anderson abstained)*

I. UNFINISHED BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action on Variance No. 7-18, filed by HCPI/UTAH, LLC for a reduction of the required setback from any interior lot line, from 27' to 0' on the Northwest, 29' to 5.1' on the Northeast, 27' to 10.3' on the Southeast, 29' to 9.7' on the Southwest, and increase the maximum lot coverage from 35% to 73%, within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change application, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west side of Golf Course Drive, approximately 205' south of Cedar Street. (855 Golf Course Drive - APN 001-200-005)

Bob Morley, 640 Idaho Street, explained that this item was tabled from the July meeting, because it was advertised incorrectly. There were three rezone requests, three variance requests, and a revocable permit that were associated with the VFW, the Clinic building, and the Surgical Center building. In the process of the VFW asking for some improvements, staff discovered that the zoning was residential for all three properties. Staff suggested that those properties be rezoned to PQP, which would match the zoning of the properties to the uses. The rezone applications were approved at the July meeting, along with the two variance applications for the VFW and the Clinic. The variance applications were required because the setback requirements for the PQP zoning district are quite onerous. In order to get the buildings, as they exist, in compliance with code the three variance applications were submitted to reduce the setbacks.

Cathy Laughlin, City Planner explained that this application was in conjunction with a rezone, which was approved by the Planning Commission and the City Council. Ms. Laughlin went over the City of Elko Staff Report Dated June 25, 2018. Staff recommended approval subject to the facts, findings, and conditions in the staff report. Parcel Map 3-18 was needed because when they surveyed the property in order to provide applications for the rezone and the variance, there were some errors found in the previous mapping of the property. Mr. Morley has done a parcel map to modify the boundary of the surgical center parcel to accommodate the errors that were found. The Parcel Map has been approved, but has not been recorded yet.

Bob Thibault, Civil Engineer recommended approval as noted by staff.

John Holmes, Fire Marshal, recommended approval.

Curtis Calder, City Manager, recommended approval.

*****Motion: Conditionally approve Variance No. 7-18 subject to the conditions in the City of Elko Staff Report dated June 25, 2018, listed as follows:**

- 1. Approval of Rezone 5-18.**
- 2. Parcel map 3-18 is to be approved, recorded and all conditions satisfied.**

Commissioner Buell's findings to support her recommendation was the proposed variance approval is in conformance with the Land Use Component of the Master Plan. The property is not located within the Redevelopment Area and consideration of the plan is not required. The property is a lot with interior property lines on all sides, and no common property line that is considered a part of a street line. Interior setback requirements for the PQP Zoning District cannot be met. The property as developed, exceeds the thirty five percent of the net site area lot coverage. Approval of Variance 7-18 in conjunction with approval of Rezone 5-18 will bring the property into conformance with Section 3-2-8 of City Code. The special circumstance is directly related to the property being improperly zoned for the developed use of the property. The exceptional practical difficulty is directly related to the fact that the property is improperly zoned for the existing use of the property and the variance is required to legally rezone the property and address the required setbacks stipulated in the proposed zone. The special circumstance of a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use is limited in extent in the district. The circumstance does not generally apply to other properties in the district. The identified issue is restricted to a small number of properties within the civic center area of the community. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use. The applicant is not seeking the variance to develop or expand the use of the property. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification. The property is fully developed with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use and the granting of the variance will not impair natural resources.

Moved by Evi Buell, Seconded by Jeff Dalling.

**Motion passed unanimously. (7-0)*

II. NEW BUSINESS

A. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible initiation to amend Title 3, Chapter 3, of the Elko City Code entitled "Subdivisions", with the repeal and replacement of the chapter, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin explained that this item was an initiation of a repeal and replace of The Title 3, Chapter 3, which is currently titled Subdivisions. Keep in mind that this is initiation and that in the past initiations have been brought to the Planning Commission many times before they were sent to City Council. It does not mean this item will be set for a public hearing. The 5th Street District was brought back to the Planning Commission five or six times for initiation before it was set for a public hearing. Developers, Engineers, and Contractors, staff would like you to understand that with this full title replacement and repeal that it is important that we start somewhere and we had to get something in writing. It was most important to have legal review done on the current code and bring the current code revisions into conformance with the NRS. Staff started with the revisions and then they went through legal counsel. This is not set in ink. We are here to make revisions, but we had to start with something, so that we could get input. It is important for us to bring this draft to you after we've had legal review. We need to bring the Code into conformance with the NRS. Mr. Stanton has proposed revisions that not only bring the Code into conformance with the NRS, but to also eliminate the ambiguity of the code, and try to streamline the process. Much of the Code revisions were just a housekeeping policy, cleaning up the Code. There has not been a full code revision of this section of code, so it is important that we take our time, and initiate this as many times as needed to make sure the process is right. Ms. Laughlin reiterated that this was a housekeeping process and that the changes that are proposed are not radical changes. In the packet are a series of documents. This first document is a track changes document, which has all the staff and legal recommended changes. It is very difficult to read. All of that information was put into the Draft Ordinance. The draft Ordinance is what we send to City Council, once approved by Planning Commission. We started with the draft Ordinance to make it easier to read. In the draft Ordinance what is bold and struck through is the existing Code, and what is bold and underlined are the proposed Code changes. Because there were so many changes it was easier to repeal and replace, rather than to try to go through the Ordinance and strike out, underline, and bold all the changes. Usually we go over the entire code and show word for word the changes, but we won't be doing that. We will point out areas that we feel are important and then Mr. Stanton will go over his changes. Ms. Laughlin wanted to give a refresher on the Subdivision Process. First is Stage 1, the Pre-application Stage, which is the meeting with all the Departments and the Planning Commission Chairman. It is a very important stage in the process, because staff tries to work with Developers on what they need to do to bring it back as a Tentative Map. Stage 2 will now be called the Tentative Map, and used to be called the Preliminary Plat. There are several stages within the Tentative Map process. It gets brought to the Planning Commission for consideration, as well as City Council. Once the Preliminary Plat is approved the final stage is the Final Plat. At the same time as the Final Plat the Civil Improvement Plans, or Construction Documents, are considered. There is also a Performance Agreement and a Performance Guarantee. This is all in the Code as it is. Ms. Laughlin then showed a slide of the proposed changes to the Subdivision Process. Previously, staff only had 21 days prior to Planning Commission meeting to review the applications. NRS allows up to 60 days prior to the Planning Commissioner. Staff is proposing 45 days for review prior to the Planning Commission Meeting. Fourteen days prior to the Planning Commission Meeting Preliminary Plat legal notifications have to go out to the newspaper, so that does not allow staff enough time to review the Plat and get changes if needed, which is why staff is asking to extended that out to 45 days. That will give staff enough time to review the application to

make sure the application is complete and the Map has everything that is needed for the Planning Commission's review. Another proposed change is for the same section for the Final Plat, to extend from 21 days to 45 days prior to the Planning Commission Meeting. A change in the title is also proposed. She then wanted to go over the changes to the Table of Contents. On the left is what is proposed and on the right is what is existing. The numbering has changed. The previous Subdivision Code skipped some numbers, so now it will be in chronological and numerical order. The title has been changed to 'Divisions of Land', which matches the NRS. She then went over the proposed changes to the Table of Contents, included as Exhibit A. There has been some misconception on a part of the performance guarantee. The next slide showed, on the left, the Performance Guarantee as it is in the Code currently, and on the right, is what is proposed. She then explained the differences between the two. There is a lot of talk that there isn't a Performance Guarantee in the Code, and there is. Many of the Developers are also requesting a Workshop, which will be a joint effort between City Council and Planning Commission. They would like that to be held before the next Planning Commission meeting, if this is going to get initiated again next month. The Commissioners may want to consider that in their motion, to hold the workshop prior to the next initiation.

Dave Stanton, City Attorney, stated that he was looking forward to getting everyone's input. This is a long part of the Code, an important part of the Code, and it is fairly complex. It ties in with a complex part of the Nevada Revised Statutes. He thought it would be beneficial for everyone to be involved and engaged in provided a lot of input. The draft that it is in the packet is a work in progress. It is not intended to be a final document. He mentioned that he had been working on it today, putting in new language, and made some modifications to bring some things in line with the NRS, which are not in the draft that was in the packet. It's a place to start and it is far enough along to start discussion. He wanted to make a comment on the old Code, it is something that is pervasive throughout statutes, administrative codes, regulations, and City Codes, and they sort of evolve in response to specific issues. If you look at the old code you'll see when the old ordinances were enacted, which was back in the 70's. Specific issues would come up and they resulted in a code change. As codes change like that over a long period of time, in reactions to things, they get unwieldy, they don't always jive, and you find ambiguities and inconsistencies. When that starts happening it's time to redo it. The way a code like this is supposed to work, it is supposed to be a guidebook for someone who wants to divide land. Someone should be able to take a look at this code and start at the beginning, go all the way to the end, and say "That's how the process works and this is what I need to do". It should be clear, concise, and predictable. Mr. Stanton didn't think the draft they had now was. There are still some things that needed clarification. He thought it was a lot better than the old code. One of the things that they really worked hard to do, was to clarify meanings of things. When you get into special areas, such as subdivisions or Building Codes, there are terms of art, very specific terminology that people in the industry, or people who work in those departments, are familiar with but they are not familiar to everyone else. They are trying to beef up the definition section and get some clear and consistent definitions. That was one of the main areas of focus when all the changes started to be made. Another area was incorporating corresponding provisions in the NRS, Chapter 278. Mr. Stanton was still working on that. That was one of the focuses, to go through this carefully and make sure that if it's not consistent with NRS we make it consistent or take it out, so that the NRS provision applies by default. Some terms are outdated, so those have been taken out and updated with the new terms. The text of the code was reorganized to try to make it chronological. He noticed that the grammar in the old code was not that great, so they tried to make it grammatically correct. There are some issues that there will hopefully be some

discussion about that have to do with the practicality of going through the Subdivision Process. Hopefully we hear from people who are going to be affected by this code. Hopefully we hear some of the practical difficulties of the encounters, and come up with some resolutions and ways to make it work for everyone. Mr. Stanton stated that his role was to make sure the changes were clear, concise, consistent with the NRS, legal, and enforceable. Mr. Wilkinson and Ms. Laughlin will be good resources in terms of the practical side of things from the staff's point of view. One key area that Mr. Stanton thought would be talked about more than other areas was the issue of Performance Agreements and Performance Guarantees, and maybe Maintenance Guarantees. Performance Guarantees are not required by law. The NRS does not require the City to have a Performance Guarantee for improvements. If there is an Agreement to install improvements, then we may require a guarantee for the improvements. The term may mean you can do it, but you don't have to. From the legal perspective there are some options. If you have a Performance Agreement you are requiring improvements in connection with a subdivision and you don't require a performance guarantee. That leaves a few options in order to make sure those subdivision improvements are done right. There are a few things Mr. Stanton thought the City could do, hold up the process until the improvements are approved by the City, Mr. Stanton thought there were practical difficulties with doing that. He thought it would create a potentially contention situation at the end of the process, he didn't recommend that. The other option, a major option, would be, since it's an agreement and it's a binding contract, you can just sue them and take them to court for not installing improvements to the City's standards, he didn't recommend that option either. That would be lengthy, time consuming, expensive, and unpredictable process. Having a Performance Guarantee in place eliminates a lot of those issues. He thought that seemed like the best fit and that's the way the City had been doing it. As sort of a middle of the road way to deal with some situations we've been running into, where improvements had already installed, but the bonds were still in place for the full amount of the agreement, it could be put into an agreement. He thought that would be discussed. There were probably some ways to fine tune the process, and streamline it.

Chairman David Freistroffer announced that there would be a three minute time limit, per person, for public comments.

Burt Gurr, 554 S. 5th Street, stated that he had been looking at this off and on for two months. He'd been told it had been in process for six or seven. They just handed them what appeared to be a fire hose full of water for them to drink in four days. When they say they rewrote the code, they rewrote the code that didn't get to you guys. They abandoned the old code. They had a redlined code that was in there. Mr. Gurr stated that he read it three or four times and couldn't make heads or tails of what they were trying to do. Simplify, clean-up, he agreed that there were some issues. The bonding thing is going to be a big item, on how you handle it and where you go with it, especially if it's not required under NRS. There are a lot of Cities in this state that don't require it, there are some that do, and they have different methods of handling it. The biggest issue is this community and the housing side wasn't contacted. They've had no input in this. There is a regulation sitting there that is being revised every day. He thought the best way to go with this was to table it, or move for initiation in another month and have a task force appointed between the Council, the Planning Commission, and the development community. The task force could sit down and go over the issues, so that everyone speaks the same language and know what is being done. Once it's cleaned up, and everyone understands where it's going, then there wouldn't need to be a five hour meeting. When this comes to a meeting, not for initiation, everyone has three to fifty minutes in their mind. They really wanted to have a task force

appointed. He thought it should be the full members of each board and have agendas, so that everyone understands the process. And so that the Planning Commission and City Staff understand what goes into developing in Elko, and understand why Elko is just about the hardest place to do a development in Nevada. Staff is correct, they gave up to 60 days for Counties under 700,000. Mr. Gurr stated that he tried to tie NRS Chapter 278 into this document. Chapter 278 has definitions and they pulled most of those. Chapter 278, in the quotes that Mr. Gurr found, included the whole Chapter 278. They would really appreciate either tabling the item tonight, so that everyone understands what is going on, and/or even if it is tabled they want to have the task force meeting. They want to have it after the holidays, and after September 1st.

Jim Winer, 700 Idaho Street, stated that he was representing the end product, which is houses for sale and the clients that they represent. Just so the Planning Commission understands the process they are about to start, the decisions they are about make, the recommendations and how they are going to affect the community for years, as Mr. Stanton said the last time it was looked at was in the 70's. The National Association of Realtors says that a good healthy real estate market will have an appreciation of 3 to 5% a year. The statistics right now, from the Elko County Association of Realtors, state that the average sales price in Elko from January to August 3rd are up 14.2%. That is not healthy. The reason Mr. Winer pointed that out was because Elko is in a housing shortage, that he hopes doesn't get worse. Nationally the prices of lumber are through the roof, because Canada did tariffs, because Trump did tariffs. We are in a labor shortage of construction in Elko, and so is everywhere in the United States of America. There are only a fist full of builders and developers that choose develop in this community. It is tough to get people in from surrounding communities, because Reno is on fire, the Wasatch, Vegas, and Boise. That is usually where trades are drawn from. There are changes in the regulations that are going to make it more cumbersome, red tape equals cost. There are some things that directly equal cost, and the cost of the land means the final product is higher. It will be a trickledown effect. They already have an issue in the community with affordable housing. There is already an issue with supply. You can see what the numbers are doing, and it's not going to get better in the near future. Housing affects the community in so many different ways, all the way down to employment. The decisions the Planning Commission is going to make, and the recommendations they will forward, will affect the community in so many ways. Mr. Winer hoped the Planning Commission appreciated the levity of what they were about to do. He also thought a workshop was a good idea.

Sheri Eklund-Brown, 1925 Antler Road, stated as a former elected official, the thing that has bothered her the worst was the lack of desire to involve the public. She couldn't understand why, when there were formal requests for a workshop, there wasn't one. There were builders upset with the Building Department at times, and there were workshops with them. There were workshops held with anyone that wanted a workshop. It was great to have public involvement. When you have all these stakeholders in the room, and they are this upset, she thought it could all be resolved with good communication, good working relationships, and listening to the public. She didn't think that was happening, and that is very disturbing. Her advice to the Planning Commission, as a former elected official, was to listen to the public and let them be involved. She highly suggested that a workshop be in order and be very organized and go through things as they should be. She didn't think it was good government.

Dusty Shipp, 959 Montrose Lane, wanted to run through the numbers with the Planning Commission, in regards to the Performance Agreement. Right now the idea is that they are going

to do an Engineer's Estimate base on prevailing wage, and based on that they are going to put up cash or put up a bond on that. He has a subdivision he's working on, it is 26 lots, and the Engineer's Estimate is \$2.3 Million. If you divide that by 26 lots that is \$91,000 per lot. The lot value is probably about \$90,000 in today's market, and that doesn't include the land costs, bond costs, interest on money, selling, or insurance. It is really about double what it should be. The way the Agreement is going to work is he will put up the cash, or bond, and he will be paying on that twice, because it needs to be half what that is. This specific subdivision is not tied to another subdivision, it is a loop. If he decides to never do it, or not finish, Mr. Shipp didn't see a lot of impact on the City if he didn't follow through. The idea of being able to pay for the development as he goes, out of his pocket and not have to put up the bond, would make it more doable. If there was going to be a Workshop he thought it was going to need to be more than just a half day meeting. It's going to need to be several meetings, extended, and lots of conversation and ideas to make this work.

Marcey Logsden, 625 W. Birch Street, said the changes to the Subdivision Code have come to a surprise to many of us here. She stated that she was not a developer, a contractor, or a builder, but when she had the chance to read through this, it didn't make a lot of sense to her, so she reached out to some City Officials, Developers, Architects, and Real Estate Agents. All were pretty surprised about what was happening in this ordinance change. She understood the need to get the ball rolling, that this is something that needs to get started so we can get organized, but she believed that the future of the development of Elko was at stake. She talked to the key players in the game. This ordinance input was done without any information from the people that have actually been putting millions of dollars into this community. That was very concerning to her as a private citizen. Input was taken, per Mr. Wilkinson, from developers in Reno and out of State. She asked Mr. Wilkinson why he didn't bother to talk to the developers that actually produce for Elko, and she didn't get a clear answer. That was also disturbing to her. She appreciated Ms. Laughlin's phone call, which cleared up a bunch of things for Ms. Logsden. Ms. Logsden wanted to say that although this Code is dated there has been no catastrophic impact of the current code to the City, or the people that reside here. There is no urgency here. There are no current public safety hazards that will devastate Elko. They have the opportunity to utilize the professional input of developers, builders, architects, real estate agents, and any other key players that significantly contribute to Elko, build homes, and create the future that Elko and its citizens desperately need. She wanted the Planning Commission to consider that this doesn't just impact these guys, there are effects on everyone, so please table the item.

Robert Capps, Capps Homes, 1706 Flagstone Drive, stated that he was in the middle of all of this, currently developing lots and building homes. Since he's heard about this, he has been taking it very seriously, because it is a big deal that doesn't only affect the development community, but the community as a whole. As he studied this quite a bit, he appreciated Dave Stanton's comments about some of the language in the current code. Some of it is not clear, and could be clarified, so everyone could have a better understanding. Also, being a land owner, he appreciated any City's concern about taking ownership of property. Once a Final Map is recorded the City is taking possession of improvements, so you want to be 100% sure you're not getting stuck with something. There can be some things clarified in code that will help with that. The Performance bond is a big deal. As proposed it is a very expensive undertaking, which is only going to make the cost of supplying lots and homes even more expensive. There is no way to get around interest and bond expense. Other Cities are doing performance bonds, generally speaking, and he had studied this extensively. Reno, for example, Performance Bonds are

common there, but because the developers want to do them because they have huge phases and they want to be selling lots at the beginning of the phase, before they get to the end of the phase. This is a different situation here. He also studied NRS, Chapter 278, Section 380 and 371. They both clearly state that developers have the option of either completing the improvements prior to the final map being recorded, or some type of performance guarantee to do that if they are not complete. He thought it was good that the code is being looked at, and that it can be clarified. Another thing that is very important is consistency. They want to be sure everything is being applied consistently. He asked that there be a workshop. He thought this was a big deal and that it should be further vetted before any action was taken.

Ms. Laughlin wanted to address some of the public comments. She wanted everyone to understand that the word initiation, is exactly what that is, it's initiation. Recall how long it took to get through the zoning ordinance for 5th Street. It took five or six months of workshop Planning Commission meetings. It was continuously worked on and developed, until it got to a point where it could go to a Public Hearing. Staff is not rushing anything through. She didn't want it to be perceived that anything was being rushed through. Staff just had to get something on paper for a place to start. Staff has not engaged the developers, because that is the next step in the process. It is expected that the Planning Commission will take staff's and the public's recommendations to schedule a workshop with everyone to start the process of getting public input. We are not trying to not include them in this Code revision. There is no sense in tabling the item, because if it is tabled it will come back as unfinished business exactly how you see it today. Staff agrees with the consistency and clarification, which is why it was started with legal counsel doing so much work in this code, so he could clarify issues and to make it consistent. The part about the Performance Guarantee, it is in Code right now. Because it has not been enforced at some points, staff apologizes for that. If there was nothing done to the Code, the Performance Guarantee is still required.

Scott Wilkinson, Assistant City Manager, encouraged the public, as they have a chance to go through all of the material and have very specific questions, to forward those to Ms. Laughlin. Yesterday evening there was a developer who contacted Ms. Laughlin with specific areas of concern. It was very beneficial because Mr. Wilkinson and Ms. Laughlin were able to talk about it and then those concerns can be forwarded to the City Attorney.

Mr. Stanton wanted to make a point about tabling, as a procedural matter. He thought that some of the members of public might not actually want this tabled. From what he was hearing, he thought they wanted the document to get improved and evolve, as it moves forward. Tabling the item locks it in. He thought what they wanted to do was to have new drafts be presented, that are taking the comments, input, and new changes into consideration. He thought that was the way the document review process should work. If there is a task force and a workshop there will be a whole bunch of other things that will go to it. Procedurally, tabling it will not accomplish that.

Mr. Thibault stated that he had read through the document and any comments he had were included. One thing about some of the comments from the public. There were some concerns raised about additional costs that are being created by this change. Mr. Thibault was curious where exactly those were. He knew there were costs involved with the Performance Guarantee. As stated that is already in the Code. Some specific statements about what changes in the code are adding costs is what Mr. Thibault would be curious to hear.

Mr. Holmes had no comments.

Mr. Calder had some general comments. The City Council, from time to time, decides to change code. A lot of the time it is not Planning and Zoning Code, it's unrelated. Right now we are going through a Traffic Code Amendment, so the Planning Commission wouldn't be involved, which is an additional level of public involvement. When we go through an ordinance change to change code, so everyone understands how that works, we ask the City Council to initiate a code change. Once they say go ahead and bring back a proposed draft, it goes through a 1st reading process, which isn't a formal public hearing but public comment is always taken at the City Council meeting. Based on the public comment, if there are going to be changes to the proposed code it would have to come back for another 1st reading before it's ready to go to a 2nd reading, and then gets adopted. That is the process to change City Code. Under the Planning and Zoning Code there's an additional level of involvement in the public meeting forum with the Planning Commission. That's why we felt it was important to get the Planning Commission's input, because the Planning Commission are the ones that do the heavy lifting every month when dealing with Planning and Zoning issues, and then they make recommendations to the City Council. There will be a lot of public involvement though out this process. City Staff has been pretty consistent in saying that as soon as the Planning Commission got a look at a draft to work off of, that we would be scheduling a joint workshop to include Planning Commission members, as well as City Council members, staff, and the public. There will be some logistics involved in that. He heard some comments that maybe they should wait until after the fair and the holiday. If that's what the public would like to see, we are happy to accommodate that. There is not a pressing rush to hold a workshop, so if it takes some time for the public and the Planning Commission to digest this, we can shoot for a workshop sometime after Labor Day. In the end what we want to see is an improved Code. Ultimately the City Council will decide on what the ordinance will be, which will set the Policy. Once the Policy is set it will be Staff's job to implement that Policy consistently and uniformly. The Policy issues have to be debated in public, and ultimately the Council needs to make a decision on which way they want to go.

Commissioner Evi Buell wanted to make sure she was understanding this part of the procedure correctly. Initiation just means that they get the ball rolling. They can start the process, start the workshops, and start the conversation. They aren't anywhere near approving or recommending anything. (Correct)

Mr. Stanton clarified that this was just a draft document to start talking about it. When it gets up to the City Council level there will be a 1st reading, and if there are a lot of changes after the 1st reading then there will be another 1st reading. If there aren't a lot of changes it will go to a 2nd reading and that's when it can be approved. That would occur after the Planning Commission sends it on to the City Council.

Chairman Freistroffer wanted to clarify that they had a zoning change on N, 5th Street, which was a mixed business residential zone, and that rather small change took about 5 months at the Planning Commission level before they sent it to the City Council. It was up for public hearings every month for five months. This is the process by which they start doing those sort of things.

Commission Buell said this is where they start getting input and making the document better.

Chairman Freistroffer had a few wording questions. The first one is probably just a modernization of wording, and also goes to procedure for when they approve things or don't approve them. Throughout, when it talks about approval of a map, for example, instead of using approve or not approve, it is using approve or disapprove. He wondered how that worked with formulating motions.

Mr. Stanton thought that archaic language came from some language from the NRS. There is an example in NRS 278.349 (2).

Chairman Freistroffer asked if it was synonymous with not approve. If they don't approve something, then they disapprove it.

Mr. Stanton said that was a procedural question, sometime things are just not approved because it dies, and sometimes there is an affirmative decision to disapprove something. He viewed the two as being synonymous.

Chairman Freistroffer asked if the Planning Commission had to change their practice to actively make motions to disapprove things because of the code they are creating.

Mr. Stanton didn't think so. The thing is that Chairman Freistroffer just raised an ambiguity, because he wasn't sure, so that means other people aren't sure. If that is the case then that should go in there.

Mr. Wilkinson mentioned with a subdivision, if the Planning Commission disapproves it they have to present findings justifying that decision to the developer and then to the City Council. In that case the Planning Commission would be taking action to disapprove it for whatever reasons.

Chairman Freistroffer asked if the motion would have in it findings to explain to the developer, and to direct staff to explain to developer.

Mr. Stanton said that was something they could put in the definitions section. The NRS doesn't really say anything about it, it's just language that appears in the statutes and they are expecting the local governments to apply.

Chairman Freistroffer agreed with Mr. Wilkinson. He thought it was at least partially addressed. At the beginning of Ms. Laughlin's presentation she presented a side by side of new code and old code for the Performance Guarantee section. That was to illustrate that it was already in code. He liked how staff tried to organize how the changes were made in the different documents that were included.

Ms. Laughlin explained that was the draft ordinance and all the deletions have to be bold and struck through and everything that is being added has to be bold and underlined. An ordinance isn't the track change document that was provided, that is very difficult to read, which was why the draft ordinance was provided.

Chairman Freistroffer said in the packet on Page 82 G(1)(d) was one of the sections.

Commissioner Dalling suggested they go over all questions in the workshop.

Chairman Freistroffer wanted to go over prevailing wages and local rates. He thought that was where one of the major concerns was coming from. That makes the performance guarantee twice as expensive. He needed a clarification between prevailing wages and local rates.

Mr. Wilkinson explained that under the NRS if the City is required to undertake work, and it's subject to prevailing wage, that would be the rate at which the City would incur if it had to complete the work. What is proposed is to address that. Typically we look at the local rates. The City bids a variety of projects over the course of a year and most of those are based on prevailing rates. If you had sidewalk and the engineer estimated that their cost was \$2/sq. yd. and we look at what the City has had to pay under contracts and its \$4, the City would adjust that rate up to \$4. There is a potential impact for that bond to be higher initially, but then the reimbursement, if you had a reduction in the bond over time, or the deposit of security, they would also be reducing it in accordance with those rates. There is just the beginning period of time where they might have an initial higher cost, but eventually that bond is being reduced accordingly.

Chairman Freistroffer said he understood the prevailing wage section. He then asked how the local rates fit into that.

Mr. Wilkinson explained that the City tracks the local rate. If on aggregate the City projects over the course of a year or two are \$3. He suggested maybe changing the code to read and/or. A prevailing rate would have you paying a higher amount, the City would go with the local rate, because that's what the City would end up paying.

Chairman Freistroffer asked if that could be done by NRS.

Mr. Wilkinson explained that the idea is that the unit rates that are tracked are reflective of the prevailing rates on a variety of different jobs. It could be clarified to say 'and/or', or 'or the local rates'. What we want to do is ensure that we have an appropriate security. The City has incurred expense in the past, because the bonds weren't sufficient. We need to be cautious when we calculate the Engineer's Estimates. Most communities that Mr. Wilkinson has looked at, under their code the engineer's estimate is approved by the Jurisdictional Authority, or the City Staff, and that is an appropriate procedure.

Chairman Freistroffer said he would save the rest of his comments for the workshop.

Mr. Wilkinson encouraged the Planning Commission, as they go through this, to send any questions or comments to the City Planner, so that we can take a look at that and be that much further along.

Commissioner Stefan Beck asked if the Planning Commission tabled the item if it would have any effect on the timeline of the general philosophy that Ms. Laughlin has mentioned, that we have to start somewhere. He thought it wouldn't affect anything at all until the next meeting.

Mr. Stanton explained that tabling it would stop it in its tracks. What you have right now is the agenda item and the agenda packet before you, and if you table it that would be what you would have at the next meeting. He thought they were talking about making this document evolve, making changes that would take into account comments from all different sources, and making

revisions and have another version of this document to take to a workshop. He recommended against tabling this particular item. It would make more sense to just move forward, take in more public input, and have a living document.

Commissioner Beck was wrestling with, as an oversight committee member, the purpose of a government is to serve the people. He was hearing the public saying that they didn't know what was going on, they are confused, they are drinking out of a fire hose, they've been blindsided, and there is a lot of concern on their part. What he was hearing was that they wanted to table this and put it off. He asked if there was a way that the public could be satisfied that their concerns are being heard, that there will be plenty of opportunity for them to have input, and to be satisfied without tabling it. He asked if there was a way to get an executive summary on what the path and procedures are. He stated that he was a little confused. His main argument was that when he looked out at the public and they're hesitant and unsure of what is going on, that is not a good sign. He thought there was too much of a disconnect with the information from his point of view.

Commissioner Dalling mentioned that was the motion he wanted to make, was to initiate the workshop, so they keep everyone on the same page.

Mr. Gurr saw a lot of value in what Commissioner Beck said about tabling it, initiating it at the next meeting, and then have a workshop after that. He said they'd be looking at September 11 through the 13th to have a workshop. He didn't see how it would stop the process, it didn't stop them from building the document before it came here. If there is going to be revisions and changes keeping going with it, bring it back, and they'll look at it. They are having their first second meeting Thursday afternoon, so they were going to look at it pretty closely. It's not going to be an in the dark situation. He didn't understand how it would stop anything.

Ms. Laughlin explained that as legal counsel said, if it gets tabled, using the word table, would leave the document as it was presented today exactly as it is, there won't be any changes made between now and the next meeting.

Chairman Freistroffer explained that initiation directs staff to keep working on it. Table says freeze.

Mr. Gurr asked when the Planning Commission first told staff to start working on it.

Chairman Freistroffer said it was at the May meeting.

Mr. Gurr said they should look at the middle of September for the workshop.

Commissioner Buell asked if there was a countdown clock to get this finished. (No)

Catherine Wines, 421 Railroad Street, explained that she was an architect, but she was coming to the Planning Commission as a citizen. The construction public, real estate agents, engineers, architects, and developers are asking to slow down. She appreciated everyone's comments. As the public they were asking to get caught up. She only became aware of this four days ago, and didn't have time to go through it because there is so much development going on. Elko is not going to stop if this is put off for a month. There was no one in the room that Ms. Wines was not

familiar with and she thought that was what was nice about living in a small town. She thought they all appreciated that. This disconnect between the public and government, why would we want this? Why not just give the public a chance to catch up.

Ms. Logsden said from someone who has to be fiscally responsible in her everyday life. She thought that it was the Planning Commission's responsibility to be fiscally responsible here as well. If this item is not tabled tonight, changes will be made every day, billable hours will be going to the City Attorney that the tax payers have to pay, and Ms. Logsden wasn't ok with that. If it gets tabled it stops random emails to the City Planner. Changes made on a daily basis can cause quite a mess. Please table this tonight, and have the much needed workshop, and come together with everybody's recommendation.

Commissioner Dalling wanted to propose keeping it going and have a public workshop with everyone and the building public. He wanted to keep that part going, so they all get together and have the public workshop. That doesn't mean they are passing anything, but they would be keeping it going. That's where everyone would get invited to come in and give input. That wouldn't be done until after the holiday. That would give plenty of time, moving forward, to digest it and to get questions in to Ms. Laughlin.

Commissioner Buell thought one of the keys was that the Planning Commission's duty was to safeguard the interest of the City, but at the same time to listen to the public. She stated that she had never built, or sold a home. The Planning Commission needs the public's input. She didn't want anyone locked out of this process, but they aren't on a deadline. Initiating this doesn't start a countdown clock, and it wouldn't mean that they would have to do something right now. It means that the Planning Commission can vote on this, this time next year. Commissioner Buell stated that she would vote to initiate the item tonight, but she would not vote to recommend anything to City Council until the Planning Commission was sure that the public's concerns had been addressed.

Commissioner Dalling added that they just wanted to initiate a conversation.

Commissioner Beck thought the Planning Commission's job was to protect and safeguard the public, as well as the City. He was still hearing, after all the debate, that there was still uncertainty and hesitancy. There is a disconnect. He thought to regain a good faith relationship, his recommendation was to have an executive summary put together to clarify what is being done and why. He wanted to table the item, because that's what the public wanted.

Mr. Calder said just so everyone knows, during this period of looking at this ordinance, considering changes, and up until the final option, the current Code, as it is written today, applies and will be enforced as it is written. If there are developers out in the audience that are concerned about Performance Guarantees, nothing changes until the Code changes. Mr. Calder stated that he didn't care how long this took, but a developer who had a concern about a Performance Guarantee, who may want the Council to change the current code, may have some concerns if this drags out and they are in the process of starting a subdivision.

Chairman Freistroffer clarified that Performance Guarantees were currently required under Code.

*****Motion: Initiate an amendment to Title 3, Chapter 3 of the Elko City Code, known as Subdivisions, repealing and replacing the Chapter, and direct staff to get together a workshop, which would include the City Council, Planning Commission, and the public.**

Moved by Jeff Dalling, Seconded by Evi Buell.

****Motion passed (6-1 Commissioner Beck voted no).***

Commissioner Dalling clarified that they didn't initiate changes. Now they want to include the public. He thought that was the right step for the public and the Planning Commission.

Commissioner Tera Hooiman expressed that in her opinion initiation did not approve what had been done. It keeps it moving forward.

2. Review, consideration, and possible action to change the time of the regular Planning Commission Meetings, and matters related thereto. **FOR POSSIBLE ACTION**

Chairman Freistroffer explained that this decision was up to the Commissioners. He has been on the Planning Commission several years. He can't make the times work in the future. He explained that he needed to teach evening classes, or things wouldn't work for him at work. His evening classes have to be Tuesday and Thursday at 5:30 p.m. to 6:45 p.m. He said he would bug out of those early once a month to make it to this meeting if they are at 6:30 p.m. He couldn't make the 5:30 p.m. meetings anymore for the foreseeable future.

Ms. Laughlin explained that she talked to Mr. Stanton in regards to if the Vice-Chair was to start meeting at 5:30 p.m. and the Chairman arrived at 6:30 p.m., would there be an issue or an open meeting law violation. Mr. Stanton stated that as long as we have a quorum to start the meeting at 5:30 p.m., and as long as when the Chairman comes in at 6:30 he is given a summary of the current agenda item, or he abstains from the vote on that item. There is no problems with that.

Commissioner Dalling thought changing the meeting times to 5:30 p.m. was a great change for the public and City Staff. He thought they should stick with 5:30 p.m. meetings. He talked to a lot of the public and they liked the 5:30 p.m. meeting time as well. He didn't want to be at the meetings until 10:30 p.m.

Commissioner Buell said that it made no difference to her, and she wanted to know who else was in the same situation.

Commissioner Ian Montgomery said it didn't matter to him.

Commissioner Beck said it didn't matter to him.

Commissioner Hooiman said she couldn't to 6:30 p.m.

*****Motion: Keep the Planning Commission meeting times at 5:30 p.m.**

Moved by Jeff Dalling, Seconded by Tera Hooiman.

**Motion passed. (6-0, Chairman Freistroffer abstained from the vote)*

III. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin reported that at the July 24th City Council Meeting, they approved the Rezone for VFW, Elko Clinic, and Surgical Center; the Revocable Permit for VFW was approved; the Final Plat for Riverside Villas was approved; the Vacation for Humboldt Hills was approved; and the Preliminary Plat for Humboldt Hills was approved.

B. Summary of Redevelopment Agency Actions.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

Ms. Laughlin reported that the September Planning Commission meeting will be a Special meeting. It got pushed to Thursday, September 6th because of Labor Day. The deadline for applications is August 16th.

E. Elko County Agendas and Minutes.

F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.

Chairman Freistroffer asked if anyone had any comments on today's meeting.

Commissioner Hooiman didn't think the public understood.

Commissioner Montgomery said the public didn't understand what tabling would have done to the item.

Commissioner Buell said the public was portraying it as the Planning Commission was not listening to them.

Commissioner Montgomery said that's why they started with initiation, was so that they could understand their comments, listen to them, and make note of them, and get to work on this.

Mr. Wilkinson thought they were taking the right action to accommodate the public input.

Chairman Freistroffer thought they took the action to get more public input.

Ms. Laughlin explained that once all changes are made that are wanted, and we come to a final agreement, then we set it for a public hearing at a Planning Commission meeting, which is when they would make a recommendation to City Council.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC


There were no public comments made at this time.

ADJOURNMENT

There being no further business, the meeting was adjourned.



David Freistroffer, Chairman



Tera Hooiman, Secretary