



CITY OF ELKO
CITY MANAGER
1751 COLLEGE AVENUE
ELKO, NEVADA 89801
(775) 777-7110/FAX (775) 777-7119

The Elko City Council will meet in regular session on Tuesday, September 25, 2018

Elko City Hall, 1751 College Avenue, Elko, NV 89801, at 4:00 P.M., P.D.T.

Attached with this notice is the agenda for said meeting of the Council.

In accordance with NRS 241.020, the public notice and agenda was posted on the City of Elko

Website, <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website,

<https://notice.nv.gov>, and in the following locations:

ELKO CITY HALL

1751 College Avenue, Elko, NV 89801

Date/Time Posted: September 20, 2018 at 8:30 a.m.

ELKO COUNTY COURTHOUSE

571 Idaho Street, Elko, NV 89801

Date/Time Posted: September 20, 2018 at 8:40 a.m.

ELKO POLICE DEPARTMENT

1448 Silver, Elko NV 89801

Date/Time Posted: September 20, 2018 at 8:50 a.m.

ELKO COUNTY LIBRARY

720 Court Street, Elko, NV 89801

Date/Time Posted: September 20, 2018 at 9:00 a.m.

Posted by: <u>Kim Wilkinson</u>	<u>Administrative Assistant</u>	<u><i>Kim Wilkinson</i></u>
Name	Title	Signature

The public may contact Kim Wilkinson by phone at (775)777-7110 or email at kwilkinson@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is available at Elko City Hall, 1751 College Avenue, Elko, NV or on the City website at <http://www.elkocitynv.gov/>

Dated this 20th day of September, 2018

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.

Curtis Calder
Curtis Calder, City Manager

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.D.T., TUESDAY, SEPTEMBER 25, 2018
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES: August 28, 2018 Regular Session
 September 11, 2018 Regular Session

I. PRESENTATIONS

- A. Reading of a proclamation by the Mayor in recognition of Fire Prevention Week 2018, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

II. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review, consideration, and possible final acceptance of the Public Works Department Preventive Maintenance Project 2018 to apply Micro Slurry Seal to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

At their June 12, 2018 meeting, the Council awarded the Bid for the Preventive Maintenance Project 2018 to Sierra Nevada Construction in the amount of \$527,507.00 plus additive alternate 1 in the amount of \$4,500.00, for a total of \$532,007.00. Micro Slurry Seal was also placed on Airport and Landfill facilities. Sierra Nevada Construction has satisfactorily completed the work. DS

III. NEW BUSINESS

- A. Review, discussion and possible action to direct Staff to develop alternative dark fiber pricing models, including authorization to obtain feedback from broadband providers regarding the viability of such models, and matters related thereto. **FOR POSSIBLE ACTION**

City Staff has been in communication with the Governor's Office of Science, Innovation and Technology concerning the possibility of leasing or licensing to various companies, such as Syringa Networks, the use of dark fiber owned by the City. The City has different options at this point, to include setting pricing for the use of dark fiber. The City also has the option of leasing dark fiber through an agreement that gives the lessee exclusive use of specific strands of fiber for a term, typically 20 years, versus the option of licensing the use of strands of fiber under certain terms and conditions. A lease would guarantee exclusive use during the term while a license would not. Typically, dark fiber is leased through an "indefeasible right to use" contract. However, since those contracts are actually leases in most cases, the requirements of NRS 268.059, et seq. would apply and the City would likely have to go through a public auction process before entering into the contract. City Staff needs direction from the Council in terms of how to proceed. CC

IV. RESOLUTIONS AND ORDINANCES

- A. Review, discussion, and possible adoption of Resolution No. 26-18, a Resolution Opposing Ballot Question 3, The Energy Choice Initiative, for the 2018 General Election, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed Resolution has been enclosed in the agenda packet for review. CC

V. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-22(H), appealing the Elko City Planning Commission's decision to deny Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, located generally on the north side of Benti Way, approximately 257' east of Spruce Road (927 Benti Way), and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject variance on September 6, 2018 and took action to deny the variance. Subsequently, the applicant appealed the Planning Commission's decision. CL

VI. REPORTS

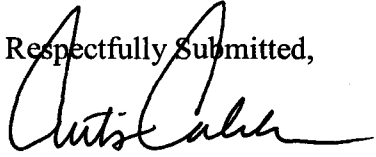
- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Administrative Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

COMMENTS BY THE GENERAL PUBLIC

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NOTE: The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

Respectfully Submitted,

Curtis Calder
City Manager

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

SS August 28, 2018

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, August 28, 2018.

This meeting was called to order by Mayor Chris Johnson.

CALL TO ORDER

ROLL CALL

Mayor Present: Chris J. Johnson

Council Present: Councilman John Rice
 Councilwoman Simons
 Councilman Robert Schmidtlein
 Councilman Reece Keener

City Staff Present: Curtis Calder, City Manager
 Scott Wilkinson, Assistant City Manager
 Ryan Limberg, Utilities Director
 Kelly Wooldridge, City Clerk
 Dennis Strickland, Public Works Director
 Cathy Laughlin, City Planner
 Matt Griego, Fire Chief
 Jack Snyder, Deputy Fire Chief
 Ben Reed Jr., Police Chief
 James Wiley, Parks and Recreation Director
 Aubree Barnum, Human Resources Manager
 Candi Quilici, Accounting Manager
 Bob Thibault, Civil Engineer
 Jeff Ford, Building Official
 Kara Vera, Minutes Clerk

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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There were no public comments.

The minutes were approved by general consent.

I. PRESENTATIONS

- A. Reading of a proclamation by the Mayor recognizing the month of September as Take off Pounds Sensibly (TOPS), and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

Mayor Johnson read the proclamation and presented a copy of it to TOPS.

Wendy Bernhard, TOPS, said they would like to expand their outreach. She invited anyone to join a support group for losing weight or maintaining a healthy weight. For information, the website is TOPS.org or the Everything Elko website.

III. PERSONNEL

- A. Employee Introductions:

- 1.) Clark Phillips, Water Operator II, Water/Sewer Department
Present and introduced.
- 2.) Rhyann Meade, Systems Administrator, Information Systems Department
Present and introduced.

- B. Fire Department, Badge Pinning by Fire Chief Matt Griego

- 1.) Brian Hoehne, Firefighter, Fire Department

Chief Griego introduced Brian Hoehne, who has successfully completed his probation period. Today he will take his oath.

Brian Hoehne, Firefighter, introduced his daughter, Olivia, and son, Evan, along with his wife, Amanda, who will be pinning his new badge on his uniform.

Councilman Rice congratulated him and expressed his appreciation and administered the Firefighter Oath.

- B. Presentation of the Annual Crime Report 2017 by Police Chief Ben Reed, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

Chief Reed gave a presentation (Exhibit "A").

IV. APPROPRIATIONS

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

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

The motion passed unanimously. (5-0)

- 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 Councilwoman Simons, to approve the Print 'N Copy warrants.**

The motion passed. (4-0 Councilman Keener abstained.)

- C. Review, consideration, and possible amendment of Jviation, Inc. Contract No. 16 dated January 14, 2014 with the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

This item is to amend the current contract between the City of Elko and Jviation, Inc. The Jviation contract amendment No. 16 will cover fees associated with Airport improvement Project (AIP 49 upgrade airport security fence, including construction management services.) JF

Curtis Calder, City Manager, explained this is a standardized contract amendment based on the AIP Program, specific to this project, which is the fence relocation and the electrical vault upgrade. Jviation is in their 5th year of their contract and we will be starting the Request for Proposal process this fall and we will be working through this process up into the New Year. He recommended approval of the amendment.

**** A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to accept the Amendment No. 16, between Jviation, Inc. and the City of Elko.**

The motion passed unanimously. (5-0)

V. NEW BUSINESS

- A. Review, consideration, and possible approval of a request from the Downtown Business Association (DBA) for a Letter of Support for the Levitt AMP Elko Music Series a request to utilize the Elko Train Park for the free outdoor concert series, and matters related thereto. **FOR POSSIBLE ACTION**

The DBA requested and was approved for this item by the Council last year. However, the DBA was unsuccessful in obtaining the grant. They are once again applying for the grant from the Levitt Foundation for a free outdoor concert series to be presented between May 1, 2019 and October 31, 2019. There will be a minimum of 10 Concerts. The goal of the Levitt AMP Elko Concert Series is to reflect the best of Elko City life by creating community and social interaction among people of all ages and backgrounds, empowering Elko to reclaim green

spaces and reinvigorate public spaces, and ensuring the performing arts are accessible to all through high quality free concerts. KW

Kelly Wooldridge, City Clerk, said we gave them a letter of support last year. We are thinking they have a higher chance of being successful this year.

Rushele Melton, DBA, explained they were very close to getting the award last year.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to draft a letter of support for the Leavitt AMP Elko Music Series to utilize the Elko Train Park for a free outdoor concert series.**

The motion passed unanimously. (5-0)

- B.** Review, consideration, and possible approval of a request from the Downtown Business Association (DBA) to reserve fifty (50) parking stalls on various City of Elko rights-of-way on September 8, 2018, from 3:00 p.m. to 7:00 p.m., for the purpose of displaying classic vehicles during the DBA's Wine Walk, and matters related thereto. **FOR POSSIBLE ACTION**

Lina Blohm, DBA, introduced Cheryl Paul, and said they are all involved in a movement to help with family fun and/or events in the downtown area. We have been challenged to bring a portion of the car show to the downtown area. The Classic Car Show begins September 6th, but their event would be September 8th. We are inviting 50 cars to designated parking spots on city streets in the downtown area, during the three hours of the wine walk. She handed out a rough draft of where the cars would be parked (Exhibit "B"). They solicited sponsorships for awards for the cars and there are several sponsors for the event. This could require putting out cones to preserve parking spaces in some areas.

Cheryl Paul, participant of Elko Rides and Rods Car Show, said she has attended the car show for the last 25 years and has participated for the last 15 years. It is a good family event and she felt it would be fun to bring it downtown.

Rushele Melton, DBA, stated that it just so happens to fall on a wine walk weekend but it would be a wonderful staple to create and bring back downtown. The DBA wants to make this an annual event.

Curtis Calder, City Manager, said we don't have a process in place to reserve parking spots. We have a process in place to close the corridor, to close streets as part of the special event language. Unless it is a new closure, we don't have to bring it back to the Council. In this case, it is a unique request. It would require blocking off some parking in the downtown area even though the road will remain open. It will depend on the spot and location of parking, whether or not it will require some level of traffic control such as an orange cone, and possibly having the event organizer visit with the business next to where the parking is being reserved to make sure the business is okay with that. City staff can be flexible enough to assist with the traffic control although we would want to minimize our involvement and possibly have the event organizer place the cones where they want them.

Councilman Rice thought at the very least the business owners should be contacted but we don't necessarily need their approval.

Mr. Calder said that would be pleasure of the Council. In the past, for events that took place in the downtown area, there was a requirement for the organizers to talk to all of the businesses around the corridor. For the most part, for the Motorcycle Jamboree for example, most of those businesses were in agreement. Those would come back to the council.

Councilman Schmidtlein asked if a majority of those parking areas are all participants.

Ms. Melton stated they are sponsors.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to grant the DBA's request to reserve 50 parking stalls on various City streets for September 8, 2018, from 3:00 pm to 7:00 pm.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible initiation to amend Title 8 Chapter 2, Conditions of Utility Occupancy of Public Roads and City Street Cuts and Repairs, and matters related thereto. **FOR POSSIBLE ACTION**

The principal objective of the proposed revision is to include Dig Smart requirements requiring the installation of conduits required for fiber optic installation in all roadway projects. Additional revisions are proposed to clarify other provisions of code. SAW

Scott Wilkinson, Assistant City Manager, explained included in the packet was a copy of the proposed changes. He has had conversations with the City Clerk and the City Attorney and business impact statements would be required if we include the Dig Smart provisions. The rest of the proposed revisions are to clarify the intent of the code.

Councilman Schmidtlein asked if this was mostly for new development.

Mr. Wilkinson answered if we have a street reconstruction project or new development, we would require that conduit to be put in. It can fall on City projects or development projects. A lot of communities across the nation are going this route.

Councilman Keener said in working with the Governor's Office regarding the Rural Broadband Initiative, it only makes sense to implement measures like this if we want to eventually be a connected community. It would make this community more attractive for investment.

Mr. Wilkinson said legal counsel has not reviewed this except for a cursory review to determine the requirement of a business impact statement. There may be additional changes by the time of the first reading.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to initiate a change to Title 8, Chapter 2, Conditions of Utility Occupancy of Public Roads and City Street Cuts and Repairs, as presented by staff, subject to legal review and approval.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible acceptance of a Deed of Dedication offered by Sierra Pacific Power Company, a Nevada Corporation, d/b/a NV Energy for a permanent non-exclusive right-of-way for a public street and utilities associated with a segment Statice Street, and matters related thereto. **FOR POSSIBLE ACTION**

Staff has been working with property owners to convert portions of Statice Street of record as easements to non-exclusive right-of-way for a public street and utility uses. NV Energy has offered the segment of roadway on its property for dedication of right-of-way. SAW

Mr. Wilkinson explained at the last meeting we had the City dedicate a right-of-way to itself adjacent to the well there. We have right-of-way existing where Kenworth was just constructed. Statice Street was established with an easement allowing for the use that exists but we would like to get that converted to right-of-way. NV Energy is in agreement with a dedication there on that parcel.

**** A motion was made by Councilman Schmidtlein, seconded by Councilman Keener, to accept the Deed of Dedication offered by Sierra Pacific Power Company, a Nevada Corporation, dba NV Energy for a permanent non-exclusive right-of-way for a public street and utilities associated with a segment Statice Street.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible approval of a request from the National Historic California Emigrant Trail Interpretive Center Advisory Board to submit a Letter of Support for the Bureau of Land Management (BLM) FY 2019 Budget Request, and matters related thereto. **FOR POSSIBLE ACTION**

On August 9, 2018, the National Historic California Emigrant Trail Interpretive Center Advisory Board voted to recommend that the City Council submit a Letter of Support for the Bureau of Land Management (BLM) FY 2019 Budget Request, which includes a line item request of approximately \$590,000 for the Interpretive Center. A draft letter has been included in the agenda packet for review. CC

Curtis Calder, City Manager, Jan Petersen, California Trail Advisory Board, and Connie Jacobs from the California Trail Center were present to answer any questions. The draft letter encompasses what we would like to send out. The intent of the letter is to get the request before the Congressional Delegation, especially Congressman Amodei who was advocating for the line item request with his efforts. The City of Elko is an investor in the Center and wants to see the success continue. They want to see the Trail Center open 7 days a week in the summer. They also need additional funding for landscaping.

Jan Petersen, California Trail Advisory Board, said they need the Council's support on this letter to increase the funding. This has been an ongoing issue since it opened. It has never had a line

item of funding and this is an encouraging step in the right direction. It is imperative for the center to be open 7 days a week during the summer for visitors.

Councilman Rice said it makes sense to back our cash investment.

**** A motion was made by Councilman Rice, seconded by Councilman Keener, to direct staff to complete the Letter of Support from this draft state to a final state and that it be sent to the those listed on the draft and that the members of Congress from this State be listed by name.**

The motion passed unanimously.

After the motion and before the vote, Mr. Calder said each member of Congress will receive a separate letter signed by the Mayor.

Mayor Johnson said Curtis, Jan and he attended a meeting at the BLM Office. What is happening is that the Elko Office is funding the Interpretive Center as best they can but they have to take money away from other maintenance needs. The biggest thing that needs to happen is that this Interpretive Center needs to be funded as it was promised in the beginning, along as the other interpretive centers as being funded.

Council voted on the motion.

VI. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Police Chief issuing a 30-day temporary Retail Liquor License and possible issuance of a Regular Retail Liquor License to Kathy Symes, dba Modz Arcade, located at 570 Commercial Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

See attached memo from Police Chief Ben Reed, Jr. BR

Chief Reed explained they got an application for a liquor license on August 6th. Kathy Symes and her husband have opened a unique business on Commercial Street called Modz Arcade. It is a split level design. They would like to have a small bar on the second level. He has met with them to make sure to go over all the issues with them. Ms. Symes passed her background investigation with flying colors. He recommended approval.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to ratify a 30-day temporary retail liquor license and issue a Regular Retail Liquor License to Kathy Simes, dba Modz Arcade, located at 570 Commercial Street, Elko, Nevada.**

The motion passed unanimously. (5-0)

VII. REPORTS

- A. Mayor and City Council
Councilman Keener was happy to see our new addition to the IT Department. He has worked with Ryan over the years and he will be a great

asset to the City. He was a guest speaker on a panel at the Switch Facility in Reno and the topic was broadband in rural Nevada. There were a lot of attendees from metropolitan areas and they were surprised we don't have modern internet connectivity. The Governor's Office is continuing to move forward with their recruiting efforts.

II. CONSENT AGENDA

- A. Review, consideration, and possible approval of the revised position description for Lead Mechanic, and matters related thereto. **FOR POSSIBLE ACTION**

The Lead Mechanic Position Description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

- B. Review, consideration, and possible approval of the revised position description for Mechanic I, and matters related thereto. **FOR POSSIBLE ACTION**

The Mechanic I Position Description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

- C. Review, consideration, and possible approval of the revised position description for Mechanic II, and matters related thereto. **FOR POSSIBLE ACTION**

The Mechanic II Position Description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

- D. Review, consideration, and possible approval of the revised position description for Mechanic III, and matters related thereto. **FOR POSSIBLE ACTION**

The Mechanic III Position Description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

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

The Welder Position Description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

**** A motion was made by Councilwoman Simons, seconded by Councilman Rice, to approve the Consent Agenda.**

The motion passed unanimously. (5-0)

VII. REPORTS (Cont.)

Councilman Rice recognized the service of John McCain who was a remarkable guy and a decent person. He came to Elko by himself on a commercial plane and met with people on the courthouse steps. That was the beginning of the revitalization of his campaign. He was proud to have met Mr. McCain.

Councilwoman Simons agreed that John McCain was an incredible man.

B. City Manager – Subdivision Code Workshop; Nevada League of Cities Conference

Curtis Calder said we have the League of Cities coming up and if anyone is interested in attending let him or Kim know. The Subdivision Code Workshop will be Sept 18th from 1:00 pm to 5:00 pm. We will hopefully have a revised draft out before the meeting.

C. Assistant City Manager

D. Utilities Director

Ryan Limberg went over some of the Capital Improvement projects. They have their two bores across the Railroad Tracks and one of the casings across the river for the Sports Complex. There is just one more to go and will hopefully be done next week. We are wrapping up the Environmental Assessment with BLM on the North 5th Street tank site. The WRF new generator has been delayed a month. We will be conducting water tank inspections starting in September. They will also be doing some rehab on Well 29 at the Golf Course this fall.

E. Public Works

Dennis Strickland said he and the Police Chief have some concerns about the car show downtown. He didn't believe they had insurance for the event. They are concerned about live traffic next to cars and pedestrians, and alcohol. A cone does not constitute a traffic control plan. Let's just hope that things run smoothly but he felt there was some liability. In other areas the event has to pay for the deployment of the special events signage and the traffic control that the City has to put up. It makes him nervous from that standpoint. He felt the organizers should look into purchasing the proper signage for these types of events.

Kelly Wooldridge reported the DBA does have insurance for this event.

Curtis Calder said Dennis made some great points. We aren't closing the parking, we are reserving it. We have no intent of towing people away. People will be walking around drinking anyway as part of the Wine Walk. If the event were to grow in the future, we may want to consider something different.

F. Airport Manager

G. City Attorney

H. Fire Chief

I. Police Chief

J. City Clerk

Kelly Wooldridge reported the City Clerk's Office is preparing a basket to be auctioned off at the League of Cities. This year we decided to do a train theme, "All aboard to Elko." If anyone had ideas or wanted to donate to the basket to let her know.

K. City Planner

L. Development Manager

M. Administrative Services Director

Jonnie Jund said the budget transfers were in front of Council. They weren't listed on the previous meeting and this should be it for FY 2018.

N. Parks and Recreation Director

James Wiley reminded Council that he promised to bring some pictures to this meeting. He was excited about the project and some pictures were on the overhead screen (Exhibit "C").

Councilwoman Simons asked what the next step was after the wetlands.

Mr. Wiley answered replanting and continuing on with construction.

O. Civil Engineer

Bob Thibault said the weekly Sports Complex meetings are at 2:00pm on Wednesdays.

P. Building Official

Councilman Keener and Councilwoman Simons said Flagview came out beautiful and they receive comments daily from citizens about it.

Dennis Strickland said we have had a busy year and will have final acceptance for the Micro Slurry by the next agenda and Cedar Street by the end of September. He is very proud of the team that worked on Cedar Street.

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

Kelly Wooldridge, City Clerk

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

SS September 11, 2018

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, September 11, 2018.

This meeting was called to order by Mayor Chris Johnson.

CALL TO ORDER

Mayor Johnson read a Proclamation by the Mayor in Recognition of Patriot Day September 11, 2018 and asked for a moment of silence.

ROLL CALL

Mayor Present: Chris J. Johnson

Council Present: Councilman John Rice *left at 6:14 pm*
 Councilwoman Simons
 Councilman Robert Schmidtlein
 Councilman Reece Keener

City Staff Present: Curtis Calder, City Manager
 Scott Wilkinson, Assistant City Manager
 Ryan Limberg, Utilities Director
 Kelly Wooldridge, City Clerk
 Dennis Strickland, Public Works Director
 Cathy Laughlin, City Planner
 Jack Snyder, Deputy Fire Chief
 Ben Reed Jr., Police Chief
 James Wiley, Parks and Recreation Director
 Candi Quilici, Accounting Manager
 Jim Foster, Airport Manager
 Bob Thibault, Civil Engineer
 Jeff Ford, Building Official
 Diann Byington, Recording Secretary

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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Lynette Vega, Facilitator for Survivors of Suicide Loss, explained she was presenting for Suicide Prevention Month. She invited all to attend some September events (Exhibits "A-D"). She discussed suicide statistics and the upcoming events.

Mayor Johnson read a proclamation acknowledging National Suicide Prevention Month and presented a copy of it to Lynette Vega.

APPROVAL OF MINUTES: August 28, 2018 **Regular Session**

Not approved

I. PRESENTATIONS

- A. Presentation by Josh Weber, Sam Castor and Ryan Cherry, Nevadans for Affordable Clean Energy Choices, regarding Question No. 3 "The Energy Choice Initiative", and matters related thereto. **INFORMATION ONLY-NON ACTION ITEM**

Ryan Cherry, consultant with SB Strategies working for The Energy Choice Initiative "Yes on Question 3", spoke in favor of Question 3 and handed out some documents (Exhibits "E & F"). He stated there is a lot of misinformation about Question 3. They want to address some of the myths included in Exhibit "E". They believe this will offer lower power bills. Nevada does have some of the lowest rates in the nation but they feel the rates should be lower. Clean energy has a potential of adding 35,000 jobs to the state of Nevada, with increases every year, to a total of 62,000 jobs. Whether or not this initiative passes, there will still be strict regulations protecting the customers' rights. There have been comparisons to California, and how they have failed in choice markets, but this is a different case.

Sam Castor, representing SWITCH and Yes On 3, added more to the discussion and stated many people have their opinions but they feel they can make this an opportunity that can benefit everyone.

Councilman Rice asked about the clean energy jobs.

Mr. Cherry said it is a combined number of construction and sustainable jobs.

Councilman Rice stated he is a fan of renewable energy. He is hearing that this is a de-regulation of the market. He compares that to the de-regulation of the airline market. It has worked in other communities but it hasn't worked in rural Nevada. He worries about those in rural areas that do not have the purchasing power the metropolitan areas and large companies have.

Mr. Castor said if this passes and the market is opened, there will be significant oversight to ensure there is a provider of last resort, that people have the opportunity to choose and that people will have the opportunity to aggregate services together because there are already substantive federal laws that protect those certain kinds of concerns. Nevada should have the cheapest power in the United States. There is a great capacity for solar energy and geothermal.

Councilman Keener asked, “why are you advocating for this.”

Mr. Castor answered they have saved money by leaving the NV Energy grid. They care because they see change coming. They see abuse happening and they feel they should try to stop it.

Councilman Keener felt this is a great program in the metropolitan areas. There are about 150,000 people that reside in rural Nevada and he felt they will be left with the provider of last resort.

Councilwoman Simons asked if this passes, who would be interested in coming in to serve us?

Josh Weber, Energy Attorney and representing Yes On 3, explained he helps companies like Switch find power. In large states that have restructured, there are 200-250 viable competitors in their markets. He thought they could do better in Nevada, meaning fewer competitors. He can't name the companies but all of the large companies that do retail are very interested and ready to start serving in Nevada. We will see a strong market. There is an opportunity to see companies based here in Nevada.

Councilwoman Simons asked where are those large companies based.

Mr. Weber answered the bigger energy companies are usually based in Houston, Texas. He is pushing for some to be based here. Co-ops are good. There will be more than one company in Nevada participating. What about folks in rural locations at the end of the line? The electric industry works differently. There is no more power to send electricity to someone at the end of the line, the rural consumer, than someone in the city. Technology has changed.

Councilman Keener stated, in respect to Question No. 3, if the voters vote no, nothing changes, but if they vote yes, they are voting on the concept of de-regulation. It would then be up to the Legislature.

Mr. Cherry said with the vote of Yes on No. 3, you are enshrining your rights that will govern the legislature's actions moving forward. That is why he provided the language of the Initiative. It lines out what needs to be considered in terms of the creation of that market. The legislature will have strong guidance around what they have to do over the next five years.

Mr. Castor added that is why they want to make sure they are understanding what the Council wants. They are going to advocate for good laws. We can't guarantee it since it is a legislative process, but that is the job of the legislature. Battery technology is the billion-dollar question. If we had sophisticated batteries, Council wouldn't need to be worrying about the last mile anymore. We should be incentivizing battery innovation and how people think about power. There is a way to make this a win-win for everybody.

**B. Presentation by Vitality Unlimited Center, Chief Executive Officer, Ester Quilici regarding the new Behavioral Health Clinic, and matters related thereto.
INFORMATION ONLY – NON ACTION ITEM**

Ester Quilici, Vitality Unlimited Center, gave a presentation (Exhibit “G”). They applied for federal funding and were just awarded a \$2 million grant to expand their services to Carson City

and Lyon County (Exhibit "H"). The funding for certified behavioral health clinics is the wave of the future.

Councilmembers congratulated Ms. Quilici on receiving the grant.

Councilman Keener acknowledged the services that Vitality has provided to the community. He then asked, "Are there any more plans for affordable housing?"

Ms. Quilici answered they were approached to address an affordable housing development in Carlin. They don't have any more land in Elko. If they had an opportunity, they would do more in Elko.

Councilman Keener asked with the State Licensing Boards, was she able to get some leeway from them in recruiting professionals from outside the state, because they were going to underserved areas and counties.

Ms. Quilici answered no, not at all. What they were able to do as an inducement to bring people to our area is becoming a certified site for loan payback. That is an important issue for students that are carrying a lot of debt. We are recognized at the state level and have an application in for the federal level. We should hear more in two to three months.

Curtis Calder, City Manager, asked if they are part of the network for employee assistance programs.

Ms. Quilici answered they are open to do that. She thought they had some already such as Golden Health. We don't seek them but will try to interest them in their services.

- C. Presentation by Larry Hyslop regarding a proposed Bicycle Path between the City of Elko and the California Trail Interpretive Center, and matters related thereto.
INFORMATION ONLY – NON ACTION ITEM

Larry Hyslop, California Trail Heritage Alliance, spoke about the proposed bike path that will start at Exit 298 and go all the way to the California Trail Center. It is being done on NDOT land by NDOT. It is in the scoping and risk assessment phase. According to NDOT it is going to happen. There will be a kick-off meeting in another month or two and they want all the stakeholders to attend. He then discussed the route the bike path will travel.

IV. NEW BUSINESS

- E. Review, discussion, and possible action to donate \$1,000 from the Community Support Account/General Fund for the Elko High School Homecoming Parade, for the purpose of paying for the 2018 Homecoming Parade Permit, and matters related thereto. **FOR POSSIBLE ACTION**

Annually, the City of Elko donates money to various organizations through the Community Support Account. Although the Homecoming Parade was not included in the FY 2018/2019 Budget, adequate revenues exist to cover the

expenditure. A budget augmentation will be required prior to the end of the fiscal year. CC

Councilman Rice disclosed that his daughter is the Senior Class President and may be addressing the Council but he does not need to recuse himself.

Curtis Calder, City Manager, said the money is available and there will need to be a budget augmentation or transfer. If Council decides to include the Homecoming Parade donation to the Community Support donation list, it will need to be addressed at the next budget process.

Bob Thibault, Civil Engineer, showed the parade route on the overhead screen.

Kim McKnight, Elko High School said last year they had to alter the route with everything happening with the tower. Since then she spoke to the Chief and he said they can go back to this route.

Olivia Rice was there representing the Elko High School Student Body. She thanked the City for supporting the long standing tradition of having their Homecoming Parade through downtown Elko. They want to show the local business owners appreciation for their support for their traditions and activities. They also learn a sense of community by including the community of Elko in their activities. The crowds they have at their games, the fans at the pep rally and parade, and other activities are larger than many of their rival schools get at their activities. The parade is their best effort to go out into the community for exposure to the businesses. She thanked them again for helping to continue this tradition.

Jim Winer, 700 Idaho Street, stated he saw this on the agenda and thought it appeared dysfunctional that there is a fee and the City will agree to pay for it. There are some businesses in the community that would be willing to share the fee of the parade if need be. The fee was set to offset police fees and whatnot. A lot of folks are saying it is a small parade, ten floats and it is a tradition, maybe the City can look at how this is handled in the future. The language to the policy is tricky but the business community is out there willing to do a temporary help. He wanted the City to look at fees for parades differently depending on the tradition and what it brings forth to the community, etc.

Councilwoman Simons stated that in one year we had 17 parades. When you have 12 or 17 parades it adds up. When taxpayers give them their money and expect it to go to roads, fire services or something, and then we say we are spending thousands of dollars on parades, we felt that was hard to justify to the constituents. Not everyone wants their tax money to go to parades. That was why they sat down and looked at what it costs to pay overtime policemen and the Street Department, and that is why they started charging. The hiccup in the plan was the Homecoming Parade because it is different. We did look at ways to word the code but could not come up with a way they could word it for that. It does seem backwards but she thought this was something they could do to help. If they just keep up with that request then it will work out, hopefully perpetually, and Jim would not have to scramble every year to see if people will help. This is probably the best plan.

Councilman Rice thanked Jim Winer for his help. This is a remedy they have for the time being and maybe they can come up with another plan in the future.

Councilwoman Simons said the legal counsel said we, as a local government, are not allowed to give something of value away. There are some rules and that is why we can't just say they are exempt. There is now a value to this and we are not permitted to just give this to them.

**** A motion was made by Councilwoman Simons, seconded by Councilman Keener, to approve a donation of \$1,000 from the Community Support Account General Fund for the Elko High School Homecoming Parade, for the purpose of paying the 2018 Homecoming Parade permit.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible action to initiate an Off Highway Vehicle (OHV) Ordinance, pursuant to NRS 490, by amending Title 7 of the Elko City Code, and matters related thereto. **FOR POSSIBLE ACTION**

NRS 490 allows cities and/or counties to designate paved roadways for limited Off Highway Vehicle (OHV) use. Information has been included in the agenda packet for review. CC

Curtis Calder, City Manager, explained there was quite a bit of information in the packet. This is just the initiation phase and we do not have a draft ordinance yet. There is a matrix in the packet that shows what other Nevada communities have done. Ultimately we need to keep in mind the way our community is laid out. There is a lot of NDOT right-of-way and there are bridges. There is an ordinance regarding OHV usage around the homes, 300 ft. distance requirement. In the summer, spring and fall months, the City receives complaints about OHV around the City. These are things to keep in mind.

Councilman Keener asked if it is possible to cross NDOT right-of-way but not travel on it.

Mr. Calder answered that was his understanding. There are other things to keep in mind such as OHV registration and age limits. These vehicles are not made for pavement use and handle differently on pavement than dirt. We have folks in the audience that would like to speak on this matter.

Clair Morris, 3131 Midland Drive, said when he travels he looks for areas that have golf courses and are ATV friendly. They are just as safe, or safer than riding a motorcycle. Irresponsible drivers do make it bad for people who are responsible. They do create dust. From a tourist aspect, this can bring people to Elko. Years ago we had an ATV convention here. He was the Police Chief at the time and they had to escort the drivers out of town to get to the trails. That would not be necessary of an ordinance is passed.

John Glenn, 420 30th Street, said the legislature asked the OHV division to go out to communities that would have skin in the game and find out who may be for it. They did a questionnaire on it. The OHV commission is planning on bringing the OHV trail to Elko County and connect with Utah and Arizona. There will be a lot of tourism coming in. Utah has increased their tourism by adopting this. You can wait to see what the recommendation would be from the OHV division. Another option would be to look at what other states are doing.

Councilman Keener asked if we are waiting for some guidelines coming out from the state.

Mr. Glenn answered a survey was completed and we will see the results of the survey. There is money available through the OHV Commission via grants. You will get signage and money help.

Mr. Calder said another thing that is popular is GPS based tracks. If you were to ride into Elko on the Nevada BDR, which Elko is part of, you are following a GPS track and it brings you right over the mountains to the south into Hamilton Stage and then you ride into town and it takes you to gas stations and hotels or wherever you want to go. You have a guide programed on the GPS. Maybe the OHV can help us come up with GPS Tracks that can be downloaded from our website. A lot of the side-by-sides come with GPS already. That is another way to help guide people to where they need to go.

Mr. Glenn said you can go from one end of the state to another without touching paved roads but you still need to get gas and have a place to stay.

Councilman Schmidlein said the OHV is justified but he would like to know what the designated routes are going to be. It is the way of the future. He is on the fence a bit and wants to see what the commission comes back with. We need to be careful and have designated routes.

Councilman Keener thought it would be helpful to have a committee formed and have them bring guidelines back to Council.

Mr. Glenn said if we are going to do it, do it right. The Spring Creek Association didn't do it right.

Mayor Johnson is in support of different types of use. He would like to leave his house and go to trails. We should look at Utah and Arizona to see what they implemented. We won't have all the answers tonight but if this sounds conceptually something that could be for Elko, we will move this on to the next step.

Chief Reed said he spent some time looking at this. He owns three ATV's and he runs them around his ranch almost every day. Every time he tears one up Mr. Shippy has to fix it. For our troops, they will get the conflicts and the calls. The ordinance needs to be clearly defined to avoid conflicts. We talked today about doing a one year review to see if anything needs to be corrected. Most of us are responsible riders but Elko is a bigger city than some other places. The OHV Commission sends him stuff everyday asking how they can help. He goes to other parts of the state and sees these trails and maybe it is time to get this going in the city. Maybe those in the city need somewhere to ride to? There is money available for that.

Terry St. Louis, representing Ships Cycles, handed out copies of designated routes from a couple of areas in the state (Exhibit "I"). Logandale, Nevada was the first ATV friendly town in Nevada and in Clark County. The ATV's have their own little lane where they can drive. Logandale has benefited from the ATV folks that live there and visit.

Doug Shippy wondered if instead of designated routes, should we make routes we cannot use? He is thinking that needs to be specified. That way everyone in the city can get gas and then ride out of town.

**** A motion was made by Councilman Keener, seconded by Councilman Rice, to direct the City Manager's Office to oversee the formation of a committee to draft guidelines and recommendations allowing Off Highway Vehicle usage within the City of Elko, and this will be a committee consisting of our Elko Police Department and any other entities of law enforcement that he feels are necessary, Elko Convention and Visitors Authority, and other stake holders and concerned citizens.**

The motion passed unanimously. (5-0)

II. CONSENT AGENDA

- A. Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 2.10 Drug-and Alcohol-Free Workplace, and matters related thereto. **FOR POSSIBLE ACTION**

The Federal Department of Transportation (DOT) issued a Final rule which requires covered employers to make changes to their DOT drug-testing program. The new rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Drug and Alcohol Free Workplace Policy (Chapter 2.10) has been updated to reflect these changes. AB

- B. Review, consideration, and possible approval of the revised City of Elko Personnel Policy, Chapter 13 Vehicle Operators Drug and Alcohol Policy, and matters related thereto. **FOR POSSIBLE ACTION**

The Federal Department of Transportation (DOT) issued a Final rule which requires covered employers to make changes to their DOT drug-testing program. The new rule added four semi-synthetic opioids to the existing testing panel, which are classified by the Controlled Substance Act as Schedule II drugs and are: hydrocodone, hydromorphone, oxymorphone, and oxycodone. This new rule is in addition to the current DOT's standard five-panel drug-testing program which includes amphetamines, cocaine, marijuana, phencyclidine, and opiates (now referred to as opioids). This rule applies to all employers in DOT-regulated industries subject to 49 Code of Federal Regulations (CFR) Part 40. The Vehicle Operators Drug and Alcohol Policy (Chapter 13) has been updated to reflect these changes. AB

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

The motion passed unanimously. (5-0)

III. APPROPRIATIONS

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

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

The motion passed unanimously. (5-0)

- C. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Great Basin Engineering warrants.**

The motion passed. (4-0 Councilman Schmidtlein abstained.)

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

**** A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to approve Print 'N Copy warrants.**

The motion passed. (4-0 Councilman Keener abstained.)

IV. NEW BUSINESS (Cont.)

- A. Review, consideration, and possible authorization to solicit Statements of Qualifications for the Exit 298 Lift Station and Sewer Design, and matters related thereto. **FOR POSSIBLE ACTION**

This capital project is budgeted for in the current fiscal year. The design work would consist of designing a lift station and a sewer force main back to the Water Reclamation Facility. If authorized, Staff will bring back a ratings sheet to Council for possible award at a future meeting. RL

Ryan Limberg, Utilities Director, explained this is an item that was brought to council over a year ago. He was directed to hold off until there is more development in the area. We now have more players. He would like to solicit SOQ's for this.

Councilman Schmidtlein asked how soon will Komatsu break ground.

Scott Wilkinson, Assistant City Manager, answered in the next 30 days or so they will start grading the property. They are working with management in Japan to finalize the size of the project. They also have to be actively developing the property to annex into the city.

**** A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to authorize soliciting Statements of Qualifications for the Exit 298 Sewer Design Lift Station.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible approval to grant a Utility Easement to Sierra Pacific Power Company, a Nevada Corporation, d/b/a NV Energy across property owned by the City of Elko along Bullion Road on APN 006-090-059 and matters related thereto. **FOR POSSIBLE ACTION**

NV Energy is requesting the City grant an easement over the location of an existing pole line. This land was formerly owned by the BLM. The BLM had granted an easement for the pole line, but the location of the former easement was not clearly defined. The granting of this easement clarifies the rights of NV Energy to operate and maintain the utility in the existing location. City Staff supports this request. BT

Bob Thibault explained where the parcel was. This is land given to us from the BLM some years ago. Legal counsel has reviewed this request and has approved moving forward.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, to approve the granting of an easement to NV Energy across a parcel of land identified as APN: 006-090-059, owned by the City as described in the Grant of Easement document.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible nomination of a new Chairperson for the Storm Water Advisory Committee, and matters related thereto. **FOR POSSIBLE ACTION**

Due to a Staff member resignation, the Chairperson position is currently vacant. Article III, Section 1 of the committee bylaws states that the City Council shall nominate the Chairperson. BT

Mr. Thibault said he brought this to Council as the Vice Chairman of the Storm Water Advisory Committee. He recommended appointing Dennis Strickland to this position.

**** A motion was made by Mayor Johnson, seconded by Councilman Keener, to appoint Dennis Strickland as Chairman of the Storm Water Advisory Committee.**

The motion passed unanimously. (5-0)

- F. Review, consideration, and possible approval of a request from the Elko City Recreation Department to close the parking lot between the City Pool and Ernie

Hall Field for the Trunk or Treat Event, scheduled for October 26, 2018 from 5:00 p.m. to 8:00 p.m., and related matters thereto. **FOR POSSIBLE ACTION**

The Recreation Department is having their second annual Trunk or Treat Event and would like to utilize the parking lot to set up the event. KW

James Wiley, Parks and Recreation Director, explained this would be the second Trunk or Treat event. We didn't do it last year due to turnover. There are several of these that take place throughout the area. Our event won't interfere with other Trunk or Treats. There is another event that night at the pool, the Pumpkin Bob, where you can go into the pool and take a pumpkin home. We have considered combining these events and close the area to traffic. He also invited Council to help out with the events.

**** A motion was made by Councilman Schmidtlein, seconded by Councilman Rice, to authorize the Elko City Recreation Department to close the parking lot between the City Pool and Ernie Hall Field for the Trunk or Treat event.**

The motion passed unanimously. (5-0)

V. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Hunt Convenience Stores, located at 275 12th St, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Reed explained earlier this year, Al Park Petroleum sold to the Hunt Brothers. They have recently come forth asking for regular liquor licenses at both of their locations. This will change the classification of their license. He recommended approval.

**** A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, ratify the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, dba Hunt Convenience Stores, located at 275 12th Street, Elko.**

The motion passed unanimously. (5-0)

- B. Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Packaged Beer and Wine License, to Joshua and Joseph Hunt, DBA Idaho Street Station, LLC, located at 1600 Idaho St, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to ratify the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, modifying the current Package Beer and**

Wine License, to Joshua and Joseph Hund, dba Idaho Street Station, LLC, located at 1600 Idaho Street, Elko, Nevada 89801.

The motion passed unanimously. (5-0)

VI. REPORTS

A. Mayor and City Council

Councilman Keener was at the Planning Commission last week and there was a sad case of a person building a shed in his backyard and the City shut them down. This man had put some serious money into it and he checked with the Building Department regarding building permits but didn't check into setbacks. We really need to look further into storage sheds. Cathy Laughlin said they received the appeal today and this will be on the next agenda. She will also take a look at this.

Councilman Rice left at 6:14.

Mayor Johnson said the letter went out regarding the BLM funding the California Trail Center. Curtis Calder said he hasn't heard back from the BLM but they are happy for the support.

B. City Manager

Curtis Calder said this is the last chance for anyone that wants to go to Nevada League of Cities (NLC). He needs to know right now. Scott Wilkinson will be on a panel at the regarding our homeless camp. He has been contacted by a lady from Topeka, KS regarding the homeless camp because they may be looking at starting one too. The monthly Government Affairs Committee meeting was held on Monday. They are discussing the date for candidate forums. They said they are shooting for mid-October. September 18 will be our Joint Workshop regarding the subdivision code, and will be held at the Convention Center.

C. Assistant City Manager

D. Utilities Director

E. Public Works

F. Airport Manager

Jim Foster said we are 15 days into the Fence Relocation Project. They are getting ready to begin the Vault Project on September 17.

G. City Attorney

H. Fire Chief

I. Police Chief

Ben Reed reported he is maybe 80-90% completed with the Brothel Ordinance he was asked to review. They are making great progress with just a few changes. He is also contacting the brothel owners for their suggestions.

J. City Clerk

K. City Planner

L. Development Manager

M. Administrative Services Director

N. Parks and Recreation Director

James Wiley updated Council on the Sports Complex. Significantly more progress on the grading has been done. They are close to having the rough grading completed. Utilities are mostly in. The utilities coming across the

river are now across. The river is open and no longer dammed up. He and Bob met with Granite regarding the concession stand. They want to begin work on that. He thinks we will see progress on that building ahead of schedule.

O. Civil Engineer

Bob Thibault said Granite also bid on the parking lot and they want to get that paved this season as well.

P. Building Official

Councilman Keener asked if Komatsu has come in. Jeff Ford answered and we may see a grading plan this week. They are ready to get started. Scott Wilkinson said Jeff is contracted with WC3 to assist us in our Building Code updates. In the next 2 to 3 months, we will see those code amendments presented to council.

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**

Thad Ballard, Wells Rural Electric Company and representing No On 3, said if we deregulate the electricity market, we will not be paying wholesale prices. There are a lot of steps for the industry and the consumer. NV Energy was forced to purchase renewable electricity at its current development cost. Because you can buy renewable energy at 4.6 cents, when it's being offered by NV Energy at 16 cents, underscores the point that they made several weeks ago. There is going to be a stranded cost out there and someone will get stuck with it. All of the costs that NV Energy is trying to recoup will still be paid by us. The end cost for the consumer will be more than we are paying right now.

Garrett Hilton, Wells Rural Company, said unfortunately there are things that are based on fact and some things that have been said on the record, that makes it really hard for them to agree. At the end of the day, we are asked to believe in a concept. The big push is for renewable energy but there is no correlation between restructuring electricity markets and increased renewables. Question 3 does not explicitly require that more renewables are integrated onto the grid. New solar generation projects may come online irrespective whether a majority of Nevada voters approve question 3. Residential consumers unfamiliar with the energy choice structure can be disadvantaged under restructured markets in the absence of strong consumer protection regulations. Putting this in the State Constitution is not the way to handle this. We are talking about the right way to do this. He agrees that they want flexibility but a constitutional amendment is not how you address flexibility. We want cheap prices for Nevadans. He is a millennial and would love renewable energy to be more widely used. Looking at released studies, they show that is not going to be the impact for the first ten years. Every state that has done this have seen rate increases. The guarantees for lower rates has not been made.

Enoch Dahl, Wells Rural Electric, explained his primary role at the company is power supply and finance. It was mentioned was that the grid that exists is already paid for but that is not

correct. There are service territories in State of Nevada. We have heard people say they are in favor of Question 3 because then we can buy cheap electricity from Wells Rural Electric. That is not true. If you do not live within their service territory, you cannot buy their cheap power. The power may be cheaper, the people that own those poles and wires will be charging those using them. Those systems cost money to install and maintain. It would be nice if they were all free and everyone could use it. All these things sound good but you have to look closer at what is really going on there.

Ryan Cherry with Yes On 3, rebutted to the statements made by Wells Rural Electric. They believe in the protections that are put in place for the rural co-ops. We believe when offered choice, folks are not going to be leaving services or choosing it because they already have some of the cheapest power you can get. He suggested that NV Energy has made this issue political.

Councilman Keener asked why did he think the Nevada Mining Association has taken a position of no on Question 3.

Mr. Cherry with Yes On 3, answered he struggles with that. He asked to present to them and was denied the chance to present their case. He does not know why they take that stand.

Sam Castor, SWITCH, said it was because NV Energy sat on the board and they had a direct conflict of interest. What you see is a company that has \$200 billion of revenue that is doing everything they can to keep that revenue coming in. When SWITCH started their exit process in 2014, they were willing to pay the fee to be taken off the grid. The first time they applied, the PUC said they were too unique and too valuable to leave. They sued them and won. The PUC was later exposed as maintaining a social media account to attempt to block SWITCH from going public. They agreed to pay the fee because they did not want anyone to get hurt. You cannot rely on the PUC because they are biased. Regarding the co-op issue, they love co-ops and want to protect them and their customers. The issues here are at the very core of how democracy works. It is sensitive but choice in competition are things that keep people honest.

Mr. Ballard, Wells Rural Electric, said they had a lengthy discussion about this before coming up here because they didn't want it to become a debate. He attended the PUC hearings and you can criticize the process because it wasn't the traditional investigatory docket but it was an open forum where anyone and everyone could get up and say what they wanted. There was a representative from the Retail Energy Supply Association and he was asked if he could assure that consumers will see lower rates. He said we need to be realistic about what could happen here. Even a guy that was paid to be a proponent of it was unwilling to say consumers are going to get a better deal. He grew up with Wells Rural Electric. This is life and blood and what he does every single day. When they say they will aggregate the loads and get everyone a better deal, it sounds like they want to be your power company. Maybe it will be a great deal or maybe it won't.

Councilman Keener thought that was the most public comment we've ever had at the end of the meeting for the record.

Councilman Schmidlein thought it was a great dialog and there were great points from both sides.

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

Mayor Chris Johnson

Kelly Wooldridge, City Clerk

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible final acceptance of the Public Works Department Preventive Maintenance Project 2018 to apply Micro Slurry Seal to select City streets, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 11, 2018**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **At their June 12, 2018 meeting, the Council awarded the Bid for the Preventive Maintenance Project 2018 to Sierra Nevada Construction in the amount of \$527,507.00 plus additive alternate 1 in the amount of \$4,500.00, for a total of \$532,007.00. Micro Slurry Seal was also placed on Airport and Landfill facilities. Sierra Nevada Construction has satisfactorily completed the work. DS**
6. Budget Information:

Appropriation Required: \$522,012.95
Budget amount available: \$522,012.95
Fund name: General Fund: Public Works Department - \$499,812.95; Airport Fund - \$15,200.00; Solid Waste Fund - \$7,000.00
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Certificate for Payment from Sierra Nevada Construction.**
9. Recommended Motion: **Approve final acceptance of the Preventive Maintenance Project 2018 to Sierra Nevada Construction in the amount of \$522,012.95.**
10. Prepared By: **Dennis Strickland, Public Works Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Sierra Nevada Construction**
Alex Faust, Contractor
afaust@snc.biz

A.M. Engineering
Aaron Martinez, Owner
aron@amengineering.pro

Mike Hess, Solid Waste Department
mhess@elkocitynv.gov

James Foster, Airport Director
jfoster@elkocitynv.gov

Application and Certificate For Payment

Page 1

To Owner:	CITY OF ELKO 1751 COLLEGE AVENUE ELKO, NV 89801	Project:	ELKO MICRO SLURRY 2018 VARIOUS STREETS ELKO, NV	Application No:	1	Date:	08/21/2018
From (Contractor):	SIERRA NEVADA CONSTRUCTION P.O. BOX 50760 2055 EAST GREG STREET SPARKS, NV 89435	Contractor Job Number:	56696	Period To:	08/21/18	Architect's Project No:	
Phone:	775 355-0420	Via (Architect):		Contract Date:	06/26/18		
		Contract For:					

Contractor's Application For Payment

Change Order Summary	Additions	Deductions
Change orders approved in previous months by owner		
	Number	Date Approved
Change orders approved this month		
Totals		
Net change by change orders		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor:

By:

Date: 8-24-2018

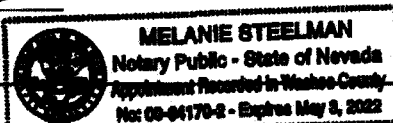
State of:

County of:

Subscribed and sworn to before me this 24th day of August 2018 (year). Notary public

My commission expires

May 3, 2022



Architect's Certificate for Payment

In accordance with the Contract Documents, based on off-site observations and the data comprising the above application the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

Amount Certified: \$ ~~26,100.65~~ 522,012.95
By: [Signature]

Original contract sum	532,007.00
Net change by change orders	0.00
Contract sum to date	532,007.00
Total completed and stored to date	522,012.95
Retainage	
5.0% of completed work	26,100.65
0.0% of stored material	0.00
Total retainage	26,100.65
Total earned less retainage	495,912.30
Less previous certificates of payment	0.00
Current sales tax	
0.000% of taxable amount	0.00
Current sales tax	0.00
Current payment due	495,912.30
Balance to finish, including retainage	26,100.65

Architect:

By:

Date: 8-24-18

This Certification is not negotiable. The Amount Certified is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Application and Certificate For Payment -- page 2

To Owner: CITY OF ELKO
 From (Contractor): SIERRA NEVADA CONSTRUCTION
 Project: ELKO MICRO SLURRY 2018

Application No: 1 Date: 08/21/18 Period To: 08/21/18
 Contractor's Job Number: 56696
 Architect's Project No:

Item Number	Description	Unit Price	Contract Quantity	UM	Scheduled Value	Work Completed Previous Application		Work Completed This Period		Completed and Stored To Date			Retention	Memo
						Quantity	Amount	Quantity	Amount	Quantity	Amount	%		
00														
001	MOBILIZATION/DEMOLITION	25,000.0000	1.000	LS	25,000.00	0.00	0.00	100.00	25,000.00	100.00	25,000.00	100.0	1,250.00	
002	CITY STREETS TYPE 3 MICRO	1.6500	204,557.000	SY	337,519.05	.000	0.00	198,500.000	327,525.00	198,500.000	327,525.00	97.0	16,378.25	
003	LANDFILL APPLICATION OF TYPE 3 MICRO	2.0000	3,500.000	SY	7,000.00	.000	0.00	3,500.000	7,000.00	3,500.000	7,000.00	100.0	350.00	
004	DOWNTOWN CORRIDOR TYPE 3 MICRO	1.7500	10,770.000	SY	18,847.50	.000	0.00	10,770.000	18,847.50	10,770.000	18,847.50	100.0	942.38	
005	AIRPORT PARKING LOT TYPE 3 MICRO	2.0000	7,600.000	SY	15,200.00	.000	0.00	7,600.000	15,200.00	7,600.000	15,200.00	100.0	760.00	
006	PRE-LEVELING APPLICATION OF TYPE 3 MICRO	1.7500	4,588.000	SY	7,994.00	.000	0.00	4,588.000	7,994.00	4,588.000	7,994.00	100.0	399.70	
007	4" SOLID WHITE STRIPING	0.3000	2,899.000	LF	869.70	.000	0.00	2,899.000	869.70	2,899.000	869.70	100.0	43.49	
008	4" BROKEN WHITE STRIPING	0.2200	12,509.000	LF	2,751.98	.000	0.00	12,509.000	2,751.98	12,509.000	2,751.98	100.0	137.60	
009	8" SOLID WHITE STRIPING	1.0000	1,500.000	LF	1,500.00	.000	0.00	1,500.000	1,500.00	1,500.000	1,500.00	100.0	75.00	
010	4" DBL SOLID YELLOW STRIPING	1.0000	867.000	LF	867.00	.000	0.00	867.000	867.00	867.000	867.00	100.0	43.35	
011	4" DBL SOLID & BROKEN YELLOW STRIPING	0.3600	11,050.000	LF	3,978.00	.000	0.00	11,050.000	3,978.00	11,050.000	3,978.00	100.0	198.90	
012	PREFORMED ALL DIRECTION PAVE MENT MARKINGS	275.0000	84.000	EA	23,100.00	.000	0.00	84.000	23,100.00	84.000	23,100.00	100.0	1,155.00	
013	PREFORMED PAVEMENT MARKINGS "ONLY" THERMO	400.0000	2.000	EA	800.00	.000	0.00	2.000	800.00	2.000	800.00	100.0	40.00	
014	PREFORMED YIELD SHARK TOOTH THERMO	35.0000	61.000	EA	2,135.00	.000	0.00	61.000	2,135.00	61.000	2,135.00	100.0	106.75	
015	24" SOLID WHITE STOP BAR THERM	12.0000	149.000	LF	1,788.00	.000	0.00	149.000	1,788.00	149.000	1,788.00	100.0	89.40	
016	24" SOLID WHITE CROSS WALK THERMO	11.0000	1,460.000	LF	16,060.00	.000	0.00	1,460.000	16,060.00	1,460.000	16,060.00	100.0	803.00	
017	PLACEMENT & MAINTENANCE OF TRAFFIC CONTROL	62,096.7700	1.000	LS	62,096.77	0.00	0.00	100.00	62,096.77	100.00	62,096.77	100.0	3,104.84	
Total					527,507.00		0.00		517,512.95		517,512.95		25,675.66	
01 ALTERNATE 1														
001	REMOVAL OF EXISTING THERMO TRAFFIC MARKINGS	25.0000	180.000	SY	4,500.00	.000	0.00	180.000	4,500.00	180.000	4,500.00	100.0	224.99	
Total ALTERNATE 1					4,500.00		0.00		4,500.00		4,500.00		224.99	
Application Total					532,007.00		0.00		522,012.95		522,012.95		26,100.65	

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, discussion, and possible action to direct Staff to develop alternative dark fiber pricing models, including authorization to obtain feedback from broadband providers regarding the viability of such models, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 25, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **City Staff has been in communication with the Governor's Office of Science, Innovation and Technology concerning the possibility of leasing or licensing to various companies, such as Syringa Networks, the use of dark fiber owned by the City. The City has different options at this point, to include setting pricing for the use of dark fiber. The City also has the option of leasing dark fiber through an agreement that gives the lessee exclusive use of specific strands of fiber for a term, typically 20 years, versus the option of licensing the use of strands of fiber under certain terms and conditions. A lease would guarantee exclusive use during the term while a license would not. Typically, dark fiber is leased through an "indefeasible right to use" contract. However, since those contracts are actually leases in most cases, the requirements of NRS 268.059, et seq. would apply and the City would likely have to go through a public auction process before entering into the contract. City Staff needs direction from the Council in terms of how to proceed. CC**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Instruct Staff to develop alternative dark fiber pricing based on an indefeasible right to use versus a license, and to directly approach potential lessees and licensees, to include Syringa Networks, to gather additional information about the viability of different pricing schedules, forms of leases and licenses, and the impact on going through the public auction process on their level of interest in making an investment.**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review: **David Stanton, City Attorney**
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, discussion, and possible adoption of Resolution No. 26-18, a resolution which opposes Question 3, “The Energy Choice Initiative” for the 2018 General Election, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 25, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **A copy of the proposed Resolution has been enclosed in the agenda packet for review. CC**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Draft Resolution No. 26-18**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Upon introduction and motion by _____ and seconded by _____
The following Resolution and Order was passed and adopted.

**CITY OF ELKO
RESOLUTION NO. 26-18**

**A RESOLUTION OPPOSING BALLOT QUESTION 3, THE ENERGY CHOICE
INITIATIVE.**

WHEREAS, Ballot Question 3, otherwise known as The Energy Choice Initiative, is an initiated constitutional amendment designed to guarantee energy customers the right to choose their own energy providers and produce their own for resale; and

WHEREAS, if passed, Ballot Question 3 would dismantle Nevada's existing electricity system, one of the most reliable and affordable in the nation-and replace it with a new, unknown system established by the legislature and the courts; and

WHEREAS, if passed, Ballot Question 3 would deregulate the existing electricity market without having a wholesale electricity market in place; and

WHEREAS, if passed, Ballot Question 3 would shut down Nevada's current rooftop solar program, which serves over 23,000 homes and small businesses across Nevada and is rapidly growing; and

WHEREAS, if passed, Ballot Question 3 doesn't guarantee lower electricity prices, as demonstrated by 14 other deregulated states with an average residential electricity rate 30% higher than Nevada's; and

WHEREAS, if passed, Ballot Question 3 would cost Nevada consumers and taxpayers billions of dollars, cause the loss of good-paying jobs, and disrupt Nevada's progress toward a renewable energy future; and

WHEREAS, The Energy Choice Initiative is especially risky because it's a Constitutional Amendment, requiring great effort to repeal; and

NOW, THEREFORE, the City Council of the City of Elko declares its opposition to Ballot Question 3, The Energy Choice Initiative for the 2018 General Election.

IT IS FURTHER RESOLVED, that upon adoption of this Resolution by the City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect.

PASSED AND ADOPTED this 25th day of September, 2018.

CITY OF ELKO

CHRIS J. JOHNSON, Mayor

ATTEST:

Kelly C. Wooldridge, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-22(H), appealing the Elko City Planning Commission's decision to deny Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, located generally on the north side of Benti Way, approximately 257' east of Spruce Road (927 Benti Way), and matters related thereto. FOR POSSIBLE ACTION**

Pursuant to Elko City Code 3-2-25, the Council may affirm, modify or reverse the decision of the Planning Commission.

2. Meeting Date: **September 25, 2018**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **15 Minutes**
5. Background Information: **The Planning Commission considered the subject variance on September 6, 2018 and took action to deny the variance. Subsequently, the applicant appealed the Planning Commission's decision. CL**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Appeal letter, P.C. Action Report, draft September 6, 2018 P.C. Minutes, Staff Reports, and application**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review: **Planning Commission**
12. Council Action:
13. Agenda Distribution: **Moises Luna
927 Benti Way
Elko, NV 89801**



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

CITY OF ELKO PLANNING COMMISSION ACTION REPORT Special Meeting of September 6, 2018

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on September 6, 2018 under Public Hearing format, in accordance with notification requirements contained in Section 3-2-22 D.1 of the City Code:

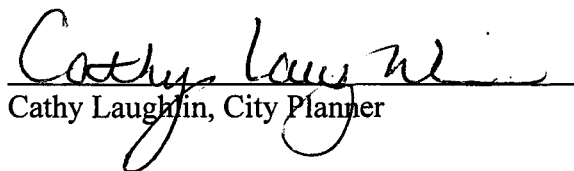
Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto.

The subject property is located generally on the north side of Benti Way, approximately 257' east of Spruce Road. (927 Benti Way - APN 001-621-015)

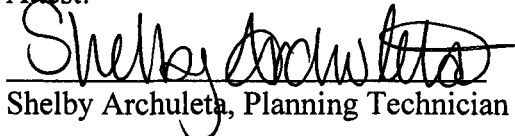
NOW THEREFORE, upon review and consideration of the application, supporting data, public input and testimony, the Planning Commission denied Variance No. 9-18 subject to the findings in the City of Elko Staff Report dated August 23, 2018.

The Planning Commission's findings to support its recommendation are that it does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity. It appears that the FEMA floodway would present a higher level of hazard for the structure or contents within the structure if it was located in the northeast corner. Granting of the variance does not appear to be detrimental to the interest, health, safety and general welfare of the public. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. It appears that the features or conditions of the property result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

The applicant is advised of the right to appeal this decision to the City Council within 10 days of the date of approval as stated above.


Cathy Laughlin, City Planner

Attest:


Shelby Archuleta, Planning Technician

CC: Applicant
Kelly Wooldridge, City Clerk

To the City Council:

I do not agree with the planning commission's decision and I am appealing their decision.

This proposal letter is to request and substantiate the grant of a variance for an accessory building. The variance requested is relatively minor, if granted this variance will not violate or affect property fence or neighbor's fence.

I as an applicant wish to build the accessory building with zero set back. The lot measurements are already developed from setback to setback due to it being a smaller lot with a larger home. Zero setbacks will not affect the park that is adjacent to my property.

One of the reasons for building my accessory building in the back yard is so that I do not have limited space in my car garage as it is being used as storage right now and not allowing me to be in compliance with code 3-2-17, forcing me to park my vehicles in the street.

Most residential lots in the city of Elko do not have much property to meet Elko setbacks for accessory buildings causing many homes in Elko to not meet code requirements with their own accessory buildings.

I am not trying to bypass any of the Elko City codes. I had previously called before I started constructing and was told that as long as it was not over 200 sq. ft. a permit was not required. I was never told about any of the setback requirements and I was not aware this would be a problem due to many homes in Elko having their accessory buildings close to their fence line. Therefore I went ahead and started constructing my accessory building. When I was about 90 percent done with the accessory building I received a notification on my door from the City of Elko and stopped all construction until further notice. At the previous meeting with the planning commission I was told if the shed was from Home Depot it would be different, insinuating it may be approved. That would still not meet code. I would like a clear and valid reason as to why I was denied the variance the first time when many homes in the city of Elko clearly don't meet code.

I have spoken to neighbors and they are ok with me building my accessory building where it is right now as it is not affecting their views or their property because my property sits lower than theirs.

I would please like for you to take this variance into consideration as I have already invested a big amount of time and money with the construction as I had to add extras.

Mayra Luna
Mayra Luna

RECEIVED

SEP 11 2018

Shelly Andrews

Code. Based on the modification of standards for lot dimensions granted under the preliminary plat application, the proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(E), 3-2-5(G) and 3-2-17 of City Code. The proposed development is in conformance with Section 3-8 of City Code. The subdivision is in conformance with 3-8 Floodplain Management.

Moved by Stefan Beck, Seconded by John Anderson.

****Motion passed unanimously. (4-0)***

A. PUBLIC HEARING

1. Review, consideration, and possible action on Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of Benti Way, approximately 257' east of Spruce Road. (927 Benti Way - APN 001-621-015)

Ms. Laughlin went over the City of Elko Staff Report dated August 23, 2018. Staff had two different recommendations, if it is denied why, or if it is conditionally approved there are conditions listed in the Staff Report. She then she showed some photos and explained them. The property owner did put in a drain between the shed and the fence to capture any drainage, but the roof of the shed does shed water towards the property owner's property and the Peace Park. She explained that there were two windows on the rear of the house, that if the shed was located within the setbacks they would be blocked, restricting egress.

Commissioner Stefan Beck asked if it was enough of a violation of any codes that that could not be allowed.

Ms. Laughlin explained that that's why there was a Variance application. A Variance would bring the property into conformance with the Elko City Code, if approved. If the Variance is denied the applicant will be required to remove the shed. The setback of the rear, towards the Peace Park, is 10 feet, and side setback is 5 1/2 feet. The Fire Department recommended denial and had the same concerns that the rest of staff had. If approved the shed would be required to comply with fire rating standards.

Mr. Thibault recommended denial based on the shed being on an existing easement. There can't be structures on easements. Alternatively, if the Planning Commission were to approve the Variance, the applicant would be required to vacate the easement.

Mr. Wilkinson stated that the City Manager had a recommendation for denial based on staff report findings.

Commissioner Tera Hooiman asked if the applicant turned the shed to face the back of the house if he would lose the two bedrooms.

Ms. Laughlin explained that there would be two feet between back of the house and the front of the shed.

Commissioner Hooiman said that wouldn't work.

Ms. Laughlin explained that the windows were bedroom windows, they are required to have an egress out of the bedroom, and there is a clearance required by Building Code. If the applicant were to build the shed on the other side of the property it would be close to the flood zone. She stated that it was unfortunate that lot is 6,600 square feet. The minimum lot size in the R Zone is 6,000 square feet. The lot is a little more than the minimum lot size and it's a large size house, so it is built setback to setback. There was a different application not too long ago for a shed and there were other locations on the property that the shed could have been placed. This one they are built out to the setbacks. The only difference is accessory buildings can be as close as 10 feet from the rear property line.

Mr. Wilkinson added that a smaller shed could always be built to meet the setbacks.

Commissioner Beck suggested changing the geometry of the shed.

Ms. Laughlin explained that there was 20 feet between the back of the house and the back lot line. If we are requiring a 10 foot setback, and there needs to be room for the egress from the bedroom windows, that would leave about 6 feet.

Commissioner Beck said the shed could be 6 feet deep and then the length could be expanded.

Mr. Wilkinson said then the question would be if a narrow shed would be practical. That would be something to take into consideration.

Vice-Chairman Jeff Dalling added that there was always the option for a storage unit.

Ms. Laughlin pointed out that the applicant had arrived. She thought that the applicant needed to answer questions and discuss the six items that a Variance needs to be in conformance with.

Vice-Chairman Dalling explained to the applicant that he had missed most of the discussion on his item, and that they had moved his item to the end to try to help him out on time. He asked if the applicant would like to come and address the Commission.

Moises Luna, 927 Benti Way, explained that he didn't know it was going to be a problem putting his shed there, because he looked around and everyone has sheds like that. He explained that when he did his awning he called the Building Department and asked if he needed permits. They told him as long as the awning wasn't touching the house he didn't need it. He sees sheds all over town like this, so he didn't think it would be a problem. To meet the setbacks, like the Commission said, it would have to be about 5 feet wide, and take up the yard, and he wouldn't have any yard for his kids to play in. He stated if he could meet the requirements he would, but where ever he sets the sheds he couldn't meet the setbacks.

Commissioner Beck asked if the applicant didn't know there were certain rules and regulations. He asked if the applicant put a lot of time and effort into building the shed.

Mr. Luna stated that he put a lot of time, money, and work into it. He even put extra drainage on the side, so that when the water would come off the shed it would go down into the grading. He never knew there was setbacks, because when you look around town everyone has sheds against their fences, because everyone wants to take advantage of their small lots.

Vice-Chairman Dalling said it made sense that he built it in the corner. Mr. Dalling stated that he liked big lots better, especially in Elko, because everyone has toys. Unfortunately, the City does have setback requirements. The last one the Commission denied already had stucco on it.

Mr. Luna explained that he stopped construction as soon as he got the stop work notice. He said he wanted to do everything right.

Vice-Chairman Dalling asked Mr. Luna if he had considered having a storage shed, if the Commission denied his request.

Mr. Luna said the thing was he had already put a lot of money into the shed. It made it hard on him, and he would have to tear it all down.

Reece Keener asked if the shed was sitting on a concrete slab.

Mr. Luna said he put the corner posts in with cement, so he can't move it. He stated he would have nowhere to put his stuff if this was denied, because it's all in his garage now and he doesn't have very much room to park his cars. He said he was breaking the off-street parking code, because he couldn't park his cars in the garage.

Commissioner Beck said he was going to have to side on the rule and the Zoning Ordinance. In the Staff Report under Findings it states that granting the variance will substantially impair intent or purpose of the Zoning Ordinance. He asked if it would be a big deal if they made an exception here, would it open a can of worms. Would it be a real issue to make an exception? Would that make things more difficult down the road?

Mr. Luna added he spoke with his neighbors, and they are ok with him leaving the shed where it is. He said the shed is not blocking his next door neighbor's view, because his lot is lower.

Mr. Wilkinson thought, in this circumstance, they probably had enough information that they've determined, the other corner of the property is not a suitable location. This is a normal size lot. People build big homes on lots that create these issues. The Commission has heard testimony that we have this across the community. Typically they are purchased from Home Depot, across the street on Idaho, they move them in and no one even knows and you don't have to have a building permit. Here you are having one constructed, which is a little different. He thought the Commission could also determine that meeting the setbacks would result in a shed configuration that would not be practical. That's another finding. Whether or not that gets the Commission to a hardship would be up to the Commission as they deliberate. Asking for forgiveness after you

start something probably isn't a hardship, but the applicant did call the Building Department and asked if he needed a building permit, so he made an effort to do that. Technically, he didn't need a permit because of the size. What didn't get conveyed was that it couldn't put it in the setbacks. These sheds that are purchased at Home Depot don't need a building permit. People just have them delivered and set in the backyard. Those are a little different because they could be relocated pretty easily if there were any complaints. Setbacks are important. They address safety issues, such as fire and things like that. Maintaining setbacks maintain the integrity of neighborhoods and they address the fire issues.

Commissioner Beck read the findings listed in the Staff Report. The applicant did make a good faith effort to at least contact the Building Department.

*****Motion: Conditionally approve Variance No. 9-18 based on the facts, findings, and conditions in the City of Elko Staff Report dated August 23, 2018.**

Moved by Stefan Beck.

After the motion Mr. Wilkinson explained that to grant a variance you have all six findings. On the fourth finding, Mr. Wilkinson thought the Planning Commission would have to have a finding that states granting of the variance will not substantially impair. Staff has a finding that they believe it will impair the intent and purposed of the Zoning Ordinance. He thought if the Commission was going to consider a conditional approval of the variance, you have to state for the record that the Planning Commission has determined that granting the variance will not substantially impair the intent or purpose of the Zoning Ordinance. If you have a finding that it will, you should not grant a variance.

Commissioner Beck asked, specific to Mr. Luna's situation, how it was going to impair the general concept of the Zoning Ordinance.

Mr. Wilkinson explained that was what the Commissioners were deliberating. If you have a finding that it will impair, you shouldn't grant the variance. You have to have these six findings, but one of them can't be that you're going to impair the intent of the Zoning Ordinance. You will have to reconsider staff's finding No. 4. If you are recommending a conditional approval your finding should be based on that granting of the variance will not substantially impair the intent of the Zoning Ordinance.

Commissioner Beck said that the Zoning Ordinance was a broad brush.

Mr. Wilkinson said to grant the variance the Commission would have a finding that by granting this variance it will not substantially impair the Zoning that applies under the broad brush that Commissioner Beck has talked about. If granting this variance impairs the broad brush zoning, then we shouldn't grant the variance. All he was saying was that the finding needed to be adjusted to be consistent with the recommendation.

Commissioner Beck thought that was why they had these meetings, to address each individual situation.

Mr. Wilkinson stated that he wasn't disputing that, he was just stating that there needed to be a different finding than what was read into the record before.

***** Commissioner Beck amended finding No. 4 to state that granting of the variance will not impair the intent or purpose of the Zoning Ordinance.**

The motion died for lack of second.

*****Motion: Recommend denial of Variance No. 9-18 based on findings that not all six of the findings are met, and including the findings listed in the City of Elko Staff Report dated August 23, 2018, listed as follows:**

It does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity. It appears that the FEMA floodway would present a higher level of hazard for the structure or contents within the structure if it was located in the northeast corner. Granting of the variance does not appear to be detrimental to the interest, health, safety and general welfare of the public. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. It appears that the features or conditions of the property result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

Moved by Tera Hooiman, seconded by John Anderson.

**Motion passed (3 - 1, Commissioner Beck voted no).*

Vice-Chairman Dalling informed Mr. Luna that he had the right to an appeal and to see Ms. Laughlin for information on how to file an appeal.

Mr. Luna asked if it was denied.

Vice-Chairman Dalling explained that it was denied at the Planning Commission level, if appealed it would go to the City Council for their review.

Mr. Thibault explained that Ms. Laughlin was checking to see if a majority of the Planning Commission members was required to approve, or deny, or if it was just a majority of the quorum.

Mr. Wilkinson stated that staff would double check with the City Attorney and the NRS to see what decision was made. If this action doesn't stand then another hearing will need to be set up.

Vice-Chairman Dalling explained to Mr. Luna that at the moment the variance request was denied, but staff was going to look into if there would need to be another hearing with more members present.

Mr. Luna asked if he would have to wait until the next Planning Commission Meeting.

Vice-Chairman Dalling explained that Ms. Laughlin would get in touch with him on the official decision and what his rights are on an appeal.

Mr. Luna asked if he could start reporting people that have their sheds right next to their fences.

Mr. Wilkinson explained that he could make those complaints to the City.

Mr. Luna said he was going to start reporting people and he wanted to see someone start doing something about it.

II. REPORTS

- A. Summary of City Council Actions.
- B. Summary of Redevelopment Agency Actions.

Ms. Laughlin reported that there would be an RDA Meeting on Tuesday at 3pm.

- C. Professional articles, publications, etc.

- 1. Zoning Bulletin

- D. Preliminary agendas for Planning Commission meetings.

- E. Elko County Agendas and Minutes.

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

Commissioner John Anderson said when the 8 Mile Subdivision housing development was first put in this room was packed. One group wanted the Peace Park, and the other group wanted this development. The main argument was the fence line. One group said the Peace Park would fill up with little kids and they would be putting holes in the fence getting in the Peace Park destroying it. The other people said no, because of the setbacks. The setback was a big deal they put in to keep stuff away from the fence. That is what the Planning Commission stood for. They can't come in now and say despite trying you made an honest mistake. The Planning Commission has stood for that original decision throughout the town, they can't go through now and change their minds. The applicants argument that there are so many like that, most of them were built before there were setbacks in place. If anyone comes in now and wants another one they will get denied, just like Mr. Luna did. He said the shed could have been cut in half and each one would be in compliance.

Ms. Laughlin said no, that the shed would have to be 10 feet away from the fence, no matter what.

Commission Anderson said if there was one shed and it would fit within the one you put up against the fence.

Ms. Laughlin explained that you can't put a shed up against a fence, no matter what size it is.

Commissioner Beck said what turned him was when the applicant said he had tried to get a building permit.

Vice-Chairman Dalling thought the applicant had only tried to get a permit for the canopy.

Ms. Laughlin explained that the applicant had tried to get a permit for both the shed and the canopy structure. The canopy structure was not required a building permit because it wasn't attached to the house. The Building Department asked him how big the shed was, it was under 200 square feet, so it didn't require a building permit. There has been some turnover in the Building Department, so it could have been an error, but they are now aware that accessory structures need to meet the setback requirements even if they aren't required a building permit. The applicant came in and got an electrical permit for the awning. The applicant has complied with our requirements, just when we told him to stop and come in for a variance he did.

Commissioner Beck said he learned a lesson. He sees why the rules are in place and why they need to be followed.

Reece Keener said they were small lots. He asked if there were any CC&R's that prohibit accessory structures.

Mr. Wilkinson explained that this area was not under a Development Agreement. The lot actually exceeds the minimum lot size required in Code. The issue we have, that is across the City, is that builders are building homes from setback to setback, and it's not leaving anyone any room for storage. People should understand when they are buying a property like that, they are buying a house with very small yard area. Setbacks are intended to preserve yard areas, it has to do with the clutter and density of neighborhoods; more importantly, especially with storage sheds where you store gasoline, if they aren't fire rated and a fire breaks out, it will encroach into the neighbor's property readily. It's really important from that perspective that people are truly meeting a hardship when we look at variances. 98 or 99% of variance applications are not justified. A Variance is meant to get someone the same use of their property as everyone else in that Zoning District, it is not to get them more use than everyone else.

Mr. Keener said it was a tough call, but he thought the Board made the right decision. He thought if they would have approved it they would have set themselves up for the same exact scenario in every one of the yards in the area.

Commissioner Hooiman felt as a board they try to be super consistent with stuff like this, because they don't want to open a can of worms for everyone else. She felt that if they approved one it would open Pandora's Box.

Vice-Chairman Dalling said it was a tough call and he thought they did the right thing. He felt as a property owner you should look into options.

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.

Jeff Dalling, Vice-Chairman

Tera Hooiman, Secretary

DRAFT

Variance 9-18 Appeal - Luna

YPNO	PANAME
001621020	AGUILAR, JOSHUA S
001621013	ARTISAN EAST LLC
001621012	ARTISAN EAST LLC
001621009	ARTISAN EAST LLC
001621008	ARTISAN EAST LLC
001621018	ARTISAN EAST LLC
001621016	ARTISAN EAST LLC
001621017	ARTISAN EAST LLC
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001972034	DAME, RICHARD S
001621010	DE CARLO, WILLIAM J & VALERIE J
001620069	ELKO, CITY OF
001620035	ELKO, CITY OF
001972030	FONDA, LOYD HENRY
001621005	FRANKS, RAYMOND & AMBER
001621014	GRISWOLD, CARL S
001972028	HAGGARD, KADIN
001838025	HEADLEY, GEORGE & MARY
001621015	LUNA-BECERRA, MOISES ET AL
001621019	PENROD, ZACHARY D & LANI
001972029	POLKINGHORNE, OWEN M & MARKI A
001838012	SIROTEK, TIMOTHY R & TERRI TR
001972032	STONE, SHALUM J & CANDICE L
001621011	TESTOLIN, BARBARA A
001838011	VILLEGAS, JOSE M & MARTHA G
001972033	WILSON, MICHAEL M

1 p.c

NO P.C

PMADD1	PMADD2	PMCTST	PZIP
	967 BENTI WAY	ELKO NV	89801-3411
	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
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	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
	10630 MATHER BLVD	MATHER CA	95655-4125
	PO BOX 323	ELKO NV	89803-0323
	643 SPRUCE RD	ELKO NV	89801-4535
	631 SPRUCE RD	ELKO NV	89801-4535
	930 BENTI WAY	ELKO NV	89801-3411
	1755 COLLEGE AVE	ELKO NV	89801
	1755 COLLEGE AVE	ELKO NV	89801
	647 SPRUCE RD	ELKO NV	89801-4535
	970 BENTI WAY	ELKO NV	89801-3411
	919 BENTI WAY	ELKO NV	89801-3411
	655 SPRUCE RD	ELKO NV	89801-4535
	3105 UNIVERSITY CT	ELKO NV	89801-5055
	927 BENTI WAY	ELKO NV	89801-3411
	959 BENTI WAY	ELKO NV	89801-3411
	651 SPRUCE RD	ELKO NV	89801 4535
	935 MITTRY AVE	ELKO NV	89801-5086
	639 SPRUCE RD	ELKO NV	89801-4535
	922 BENTI WAY	ELKO NV	89801-3411
	971 MITTRY AVE	ELKO NV	89801-5086
	55-550 NANILOA LOOP	LAIE HI	96762-1238

19

mailed 9/13/18

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Council will conduct a series of public hearings on Tuesday, September 25, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-22(H), appealing the Elko City Planning Commission's decision to deny Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, located generally on on the north side of Benti Way, approximately 257' east of Spruce Road (927 Benti Way), and matters related thereto.

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY COUNCIL

2014-125

CITY COPY

RECEIVED

APR 03 2014

City of Elko
Building Department

REVIEWED FOR CODE COMPLIANCE
City of Elko Building Dept.

JUL 15 2014

APPROVED BY:
THE DEPARTMENT SHALL NOT BE HELD RESPONSIBLE FOR LIABILITY BY
REASON OF ISSUANCE OF ANY PERMIT UNDER THE BUILDING CODE

OFFICE: SAW DEPT.

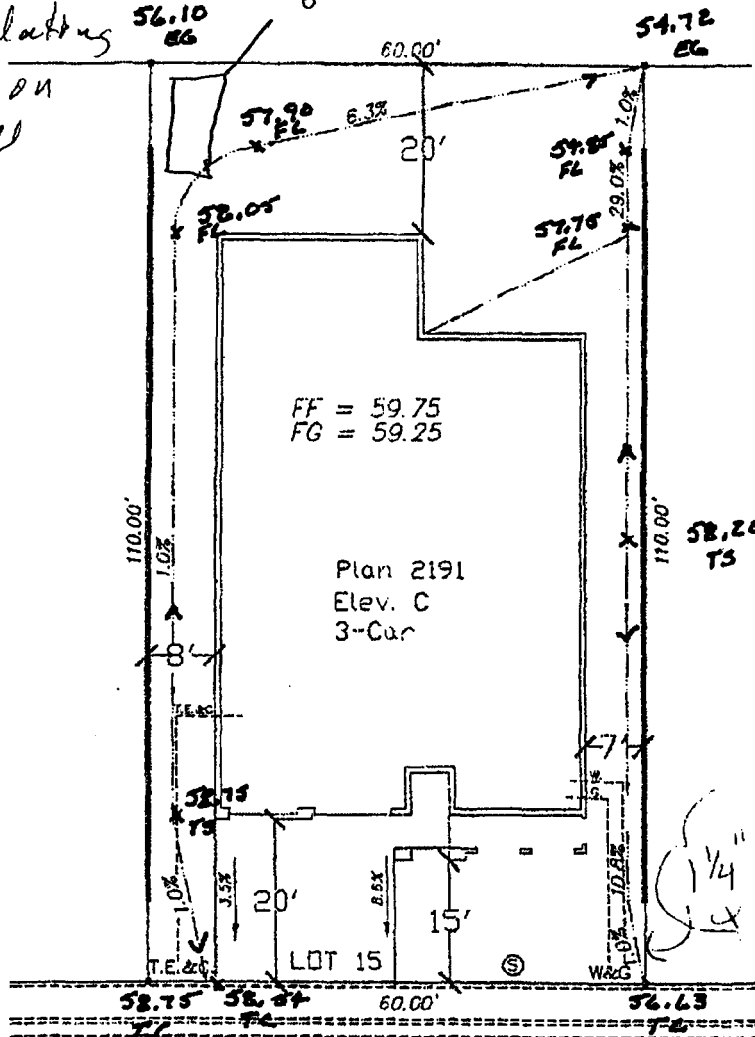
SAW

4/9/14

Shed 8x14
set back Requested

- Pressure Regulating
Valve Reg'd. on
Water Service

ELKO CITY PLANNING DEPARTMENT
APPROVED
City Planner: R. MAGNETH
Date: 4/10/14 PM



1/4" water line
4" water meter

RECEIVED

AUG 13 2018

C/L BENTI WAY

APPROVED BY: [Signature]
Engineer

1 BUILDING PAD

ARTISAN COMMUNITIES LLC
9533 GATEWAY DR.
RENO, NEVADA 89521
(775) 742-8202
FAX (775) 355-5702

8 MILE ESTATES
PLAN INFO: 2191C, 3 BEDROOM, 2 1/2 BATH, 3 CAR GARAGE
ADDRESS: 927 BENTI WAY
ELKO, NV
APN: 001-821-015

REQUIRED SETBACKS
FRONT: 15'
(20' FOR GARAGE)
INTERIOR SIDE: 5.5'
EXTIOR SIDE: 13'
REAR: 20'

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 9/6

Do not use pencil or red pen, they do not reproduce

Title: Variance 9-18

Applicant(s): Moises Luna

Site Location: 927 Benti Way - APN 001-621-015

Current Zoning: R Date Received: 8/13/18 Date Public Notice: 8/22/18

COMMENT: This is to allow for a reduction of the required interior side yard setback from 5'1/2' to 0' and the rear yard setback from 10' to 0'.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 8/24/18

Recommend the P.C. Review the FEMA information, findings when considering the application

SAW

Initial

City Manager: Date: 8/24/18

Recommend denial based upon Staff Report Findings.

CC

Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	August 23, 2018
PLANNING COMMISSION DATE:	September 6, 2018
AGENDA ITEM NUMBER:	I.A.1
APPLICATION NUMBER:	Variance 9-18
APPLICANT:	Moises Luna
PROJECT DESCRIPTION:	927 Benti Way, Elko

A Variance request to reduce:

1. Allow accessory building to remain within the existing side and rear yard setbacks by reducing the side yard setback to 0" and the rear yard setback to 0" for the accessory structure



STAFF RECOMMENDATION:

RECOMMEND DENIAL, subject to findings of fact.

PROJECT INFORMATION

PARCEL NUMBER: 001-621-015

PARCEL SIZE: 6,600 sq. ft.

EXISTING ZONING: (R) Single Family and Multiple Family Residential

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Residential

BACKGROUND:

2. The applicant is the property owner.
3. The property is fully developed as a residential land use.
4. The area proposed for variance fronts Benti Way and the rear property line abuts the Peace Park.
5. The property was developed in approximately 2014.
6. The lot area is approximately 6,600 square feet and meets the area requirements stipulated in code.
7. The property, as developed, is built to the maximum extent of the parameters outside of setback requirements.
8. The parcel was created with 8 Mile Estates Subdivision Final Map, file number 682116, recorded with Elko County Recorder on December 18, 2013
9. 8 Mile Estates Subdivision Final Map states easements along street frontage of 7.5' and side lines of 5' for Mr. Luna's parcel. There are no rear easements on Mr. Luna's property as shown on file number 682116. There is a 15' slope and drainage easement located on the Peace Park parcel abutting Mr. Luna's parcel.
10. City of Elko Building Department put a stop work ticket on the door of the residence on 8/1/2018 when they noticed the accessory building being built. The property owner has stopped all work on the accessory structure.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

North: Public, Quasi-Public (PQP) / Developed as Peace Park

West: Single Family Residential (R) / Developed; Residential use

South: Single Family Residential (R) / Developed; Residential use

East: Single Family Residential (R) / Partially Developed; Residential use

PROPERTY CHARACTERISTICS:

The property is currently developed with a single family use.

The property is generally flat.

The property is accessed from Benti Way

The property is several feet lower in elevation than the adjacent property to the west.

The parcel to the east has not been developed

APPLICABLE MASTER PLAN AND CITY CODE SECTIONS:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Code – Section 2-1-4 Permits
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-5 Residential Zoning Districts
- City of Elko Zoning – Section 3-2-22 Variances
- City of Elko Zoning – Section 3-3-25 Easement Planning
- City of Elko Zoning – Section 3-8 Flood Plain Management

MASTER PLAN - Land use:

1. The Master Plan Land Use Atlas shows the area as Residential Medium Density.
2. R- Single Family and Multiple Family Residential zoning district is listed as a corresponding zoning district for Residential Medium Density.
3. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.
4. Objective 8: Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The proposed variance is in conformance with the Land Use Component of the Master Plan.

MASTER PLAN - Transportation:

1. The area will be accessed from Benti Way
2. Benti Way is classified as a local.

The proposed variance is in conformance with the Transportation Component of the Master Plan.

ELKO REDEVELOPMENT PLAN:

The property is not located within the redevelopment area and consideration of the plan is not required.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is located within the 20 year capture zone for several City wells.

The existing use of the property does not present a hazard to City wells.

SECTION 2-1-4(G) PERMITS:

Permit Exemptions: The following buildings, structures and other improvements to property are exempt from any permit requirements contained in this title:

1. Buildings And Structures: Except as otherwise provided in this subsection, no permit shall be required for the construction or installation of any of the following:
 - a. A single one-story detached accessory structure used as a tool or storage shed, playhouse or similar use, or a patio cover, carport, garage or similar use, provided the

floor area does not exceed two hundred (200) square feet and further provided the structure is not occupied, except as follows:

(1) Permits are required for the following:

- (A) Additional detached accessory buildings or structures of any size when built in conjunction with a building or structure that is classified as a Group R, Division 3 one-family or two-family dwelling; or
- (B) Any one-story detached accessory structure located on any parcel used or zoned for any purpose other than single-family residential.

Notwithstanding the foregoing exceptions, accessory structures shall meet all setback requirements set forth in the Zoning Code.

As stated in this section of code, the accessory building is under 200 square feet and therefore is exempt from the requirement of a building permit, however, the structure shall meet all setback requirements set forth in the Zoning Code.

The proposed accessory building is not in conformance with Elko City Code 2-1-4(G)

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS:

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
 - No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
 - No building or other structure shall hereafter be erected or altered:
 - a. To exceed the heights required by the current City Airport Master Plan;
 - b. To accommodate or house a greater number of families than as permitted in this chapter;
 - c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.
 - No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
 - No yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The accessory structure, as located on the property does not conform to the rear and interior side yard setbacks.

The property does not conform to Section 3-2-4 of City Code. Approval of the variance application is required to bring the property into conformance.

SECTION 3-2-5(E)(7) RESIDENTIAL ZONING DISTRICTS:

1. Property Development Standards For Accessory Buildings:

- a. Building Height: The maximum building height shall not exceed twenty five feet (25'), or requirements contained within the city airport master plan, whichever is the most restrictive.
- b. Building Setbacks: Any detached accessory building that is erected shall conform to front and side yard setback requirements. A minimum rear yard setback of ten feet (10') shall be required, which may be reduced to zero feet (0') if the rear lot line abuts a public alley.
- c. Building Area: A detached accessory building shall be limited to a maximum area of one thousand (1,000) square feet or ten percent (10%) of the lot area, whichever is greater, but not to exceed one thousand two hundred (1,200) square feet.

The property, as developed with the principal structure, meets all requirements of Elko City Code 3-2-5. The proposed accessory structure does not meet setback requirements for the rear or interior side yard.

If the accessory structure was to be located outside of the rear yard setback, it would be within 2 feet of the rear wall of the residence and therefore block necessary egress windows. This would be a safety concern.

Setbacks requirements are important for drainage purposes, easements as well as required for fire separation.

SECTION 3-2-22 VARIANCES:

B. Procedure: Any person requesting a variance by the planning commission shall include:

Application Requirements

- 1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.

Mr. Luna stated in the application that the property is already developed from setback to setback due to it being a smaller lot and larger home. Area behind will not have neighbors due to it being the Peace Park. The property is lower than the neighbors to the west so the accessory building will not interrupt his neighbors view.

2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.

Mr. Luna stated in the application that the property is a smaller parcel. There is no additional room for an accessory building. In order for him to comply with code 3-2-17, they park in garage which doesn't have any room for the items they want to store in the accessory building.

With the FEMA flood zone as mapped, the northeast corner of the property is a lower elevation than the northwest. There is a greater possibility of exposure to the structure and contents to flooding in the northeast corner.

3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.

Mr. Luna stated in the application that most subdivisions don't have park space abutting their rear property line like his does.

FEMA floodway appears to come within a foot of the back property line of Mr. Luna's property.

4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.

Mr. Luna stated in the application that he spoke with his neighbor and there are no issue that will result in any material damage or affect their property or view.

Due to the elevation change between Mr. Luna's property and the property to the west, the top of the accessory structure is within a foot of the height of the fence which separates the two properties.

5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.

Mr. Luna stated in the application that if there are zero setbacks it will not affect his neighbor or the park. It will not block any visibility. Land use to remain R- Residential and accessory buildings are allowed in that classification.

6. The granting of the variance will not substantially impair affected natural resources.

Mr. Luna stated in the application that there will be no drainage to adjacent properties and will not affect the park adjacent to the property.

The Peace Park along the rear property line has a 15' drainage and utility easement running parallel to Mr. Luna's property.

SECTION 3-3-25 EASEMENT PLANNING:

A. Utility Easements:

2. Along side lot lines where required for distribution facilities, utility easements five feet (5') wide on each side of side lot lines; where service to street lighting is required: one foot (1') on each side of such lot lines, or as required by the utility company.

As shown on 8 Mile Estates Subdivision Final Map, the proposed accessory structure would be placed over the side lot line utility and drainage easement.

SECTION 3-8 FLOODPLAIN MANAGEMENT:

1. FEMA floodway, as mapped, is not located on the lot but appears to be on the lot line. As FEMA mapping is approximate, locating the accessory structure on the northeast corner of the property could expose the structure and its contents to flooding. There is an elevation difference between the northwest corner and northeast corner with the northeast corner being lower in elevation.

FINDINGS

1. It does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity.
2. It appears that the FEMA floodway would present a higher level of hazard for the structure or contents within the structure if it was located in the northeast corner
3. Granting of the variance does not appear to be detrimental to the interest, health, safety and general welfare of the public.
4. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance.
5. Granting of the variance will not impair natural resources.
6. It appears that the features or conditions of the property result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

STAFF RECOMMENDATION:

If **denied**, based on the findings and facts presented in this Staff Report.

If **conditionally approved**, staff would recommend the following conditions:

Planning Department:

1. Compliance with all staff recommendations.
2. Commencement within one year and completion within eighteen (18) months.
3. Vacate drainage and utility easement along the west property line.

Building Department:

1. Please see Elko City building code amendments table R302.1 regarding Exterior walls
 - Walls: < 5 feet require 1 hour fire rating
 - Projections: 2 feet to <5 feet require 1 hour on underside. 0 to 2 feet not allowed
 - Openings: 3 feet to 5 feet allowed at 25% maximum of wall area or less
 - Penetrations : < 5 feet must comply with section R317.3
2. Obtain an electrical permit for any electrical work to be completed.



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@ci.elko.nv.us

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7119

August 27, 2018

Moises Luna
927 Benti Way
Elko, NV 89801

Re: Variance No. 9-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures

CC:

Variance 9-18 Luna

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001621020	AGUILAR, JOSHUA S		967 BENTI WAY	ELKO NV	89801-3411
001621013	ARTISAN EAST LLC		10630 MATHER BLVD	MATHER CA	95655-4125
001621012	ARTISAN EAST LLC		10630 MATHER BLVD	MATHER CA	95655-4125
001621009	ARTISAN EAST LLC		10630 MATHER BLVD	MATHER CA	95655-4125
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001972034	DAME, RICHARD S		631 SPRUCE RD	ELKO NV	89801-4535
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001972030	FONDA, LOYD HENRY		647 SPRUCE RD	ELKO NV	89801-4535
001621005	FRANKS, RAYMOND & AMBER		970 BENTI WAY	ELKO NV	89801-3411
001621014	GRISWOLD, CARL S		919 BENTI WAY	ELKO NV	89801-3411
001972028	HAGGARD, KADIN		655 SPRUCE RD	ELKO NV	89801-4535
001838025	HEADLEY, GEORGE & MARY		3105 UNIVERSITY CT	ELKO NV	89801-5055
001621019	PENROD, ZACHARY D & LANI		959 BENTI WAY	ELKO NV	89801-3411
001972029	POLKINGHORNE, OWEN M & MARKI A		651 SPRUCE RD	ELKO NV	89801 4535
001838012	SIROTEK, TIMOTHY R & TERRI TR		935 MITTRY AVE	ELKO NV	89801-5086
001972032	STONE, SHALUM J & CANDICE L		639 SPRUCE RD	ELKO NV	89801-4535
001621011	TESTOLIN, BARBARA A		922 BENTI WAY	ELKO NV	89801-3411
001838011	VILLEGAS, JOSE M & MARTHA G		364 MAPLE ST	ELKO NV	89801-3148
001972033	WILSON, MICHAEL M		55-550 NANILOA LOOP	LAIE HI	96762-1238

1 p.c.

NO P.C.

185

mailed 8/23/18

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Thursday, September 6, 2018 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.
The specific item to be considered under public hearing format is:

Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory structure within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto.

The subject property is located generally on the north side of Benti Way, approximately 257' east of Spruce Road. (927 Benti Way - APN 001-621-015)

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7219 fax

APPLICATION FOR VARIANCE

APPLICANT(s): Moises Luna
MAILING ADDRESS: 927 Bent Way
PHONE NO (Home) 775-762-7218 (Business) _____
NAME OF PROPERTY OWNER (If different): _____
(Property owner's consent in writing must be provided.)
MAILING ADDRESS: _____
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):
ASSESSOR'S PARCEL NO.: 001-421-015 Address 927 Bent Way
Lot(s), Block(s), & Subdivision 8 mile estates
Or Parcel(s) & File No. _____

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$500.00 non-refundable fee must be paid. If in conjunction with a Rezone Application a \$250.00 non-refundable fee must be paid.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

Elevation Plan: Elevation profile of all proposed buildings or alterations in sufficient detail to explain the nature of the request must be provided.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this Variance application.

The APPLICANT requests the following variance from the following section of the zoning ordinance:

3-2-5(E)7

1. The existing zoning classification of the property R

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

- a) Identify any special circumstances, features or conditions applying to the property under consideration. i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions

Property is already developed from setback to setback due to it being smaller lot & larger home. Area behind will not have neighbors due to it being the Peace Park. My property is lower than my neighbors so the accessory building will not interrupt my neighbors view.

- b) Identify how such circumstances, features or conditions result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

The property is a smaller parcel. There is no additional room for accessory building. In order for us to comply with code 3-2-17 we park in garage which doesn't have any room for the items we want to store in accessory building.

- c) Indicate how the granting of the variance is necessary for the applicant or owner to make reasonable use of the property.

I have limited space to store my personal items.

- d) Identify how such circumstances, features or conditions do not apply generally to other properties in the same Land Use District.

Most subdivisions don't have park space abutting their rear property line like mine does.

- e) Indicate how the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.

I spoke with my neighbor there are no issues that will result in any material damage or affect their property or view.

- f) Indicate how the variance will not be in conflict with the purpose or intent of the Code.

There are zero set backs it will not affect my neighbor or the park. It will not block any visibility.

- g) Indicate how the granting of the variance will not result in a change of land use or zoning classification.

Land use to remain R-residential. Accessory building allowed in that classification.

- h) Indicate how granting of the variance will not substantially impair affected natural resources.

There will be no drainage to adjacent properties & will not affect the park adjacent to the property.

3. Describe your ability (i.e. sufficient funds or a loan pre-approval letter on hand) and intent to construct within one year as all variance approvals **must** commence construction within one year and complete construction within 18 months per City Code Section 3-2-22 F.1.: _____

I have been working on my property doing improvements.

The salary I make supports these improvements.

(Use additional pages if necessary to address questions 2a through h)

This area intentionally left blank

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspecting said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

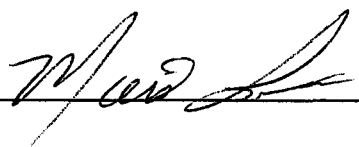
☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent Moises Luna
(Please print or type)

Mailing Address 927 Benti Way
Street Address or P.O. Box
Elko, NV 89801
City, State, Zip Code

Phone Number: 775-762-7218

Email address: MOYLBECERRA@HOTMAIL.COM

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 9-18 **Date Filed:** 8/13/18 **Fee Paid:** \$ 500 **CX#** 270

RECEIVED

AUG 13 2018