

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

SS      December 10, 2019

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, December 10, 2019.

This meeting was called to order by Mayor Reece Keener.

## **CALL TO ORDER**

## **ROLL CALL**

**Mayor Present:**       Reece Keener

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

**City Staff Present:**  Curtis Calder, City Manager  
                          Scott Wilkinson, Assistant City Manager  
                          Dale Johnson, Utilities Director  
                          Kelly Wooldridge, City Clerk  
                          Michele Rambo, Development Manager  
                          Candi Quilici, Accounting Manager  
                          Jan Baum, Financial Services Director  
                          Karen Walther, Animal Shelter Manager  
                          Dennis Strickland, Public Works Director  
                          Bob Thibault, Civil Engineer  
                          James Wiley, Parks and Recreation Director  
                          Cathy Laughlin, City Planner  
                          Jim Foster, Airport Manager  
                          Jeff Ford, Building Official  
                          Matt Griego, Fire Chief  
                          Jack Snyder, Deputy Fire Chief  
                          Dave Stanton, City Attorney  
                          Ty Trouten, Police Chief  
                          Diann Byington, Recording Secretary

## **PLEDGE OF ALLEGIANCE**

## **COMMENTS BY THE GENERAL PUBLIC**

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

*There were no public comments.*

**APPROVAL OF MINUTES: November 26, 2019 Regular Session**

*The minutes were approved by general consent.*

**I. PRESENTATIONS**

- B. Presentation of Integration of potential fire department portable radios into the self-contained breathing apparatus worn by fire department personnel, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko Fire Department has applied for a grant for portable radios and looking to replace them in the next year if grant funding does not happen. These radios integrate into the current self-contained breathing apparatus via Bluetooth and will increase firefighter safety and enhance communication between responders and the incident commander. JS

Jack Snyder, Deputy Fire Chief, explained they want to demonstrate what potential grant funds would go towards. They have been unsuccessful in the past obtaining grants for this. With new radios, they can talk into the radio and sound crystal clear. They also integrate with the Bluetooth included in the headset. He also discussed all the built in safety features the radios have. With the help of some of the fire fighters, he demonstrated how the radio sounds when connected to the Bluetooth. These are the radios they are hoping to purchase in the future. They are rated for fires up to 500 degrees.

Mayor Keener reminded him to circle back to the U.S. Senator's office to get a letter of support for the grant application.

Mr. Snyder said they would do that as soon as the grant process opens up. Right now they just wanted to demonstrate the radios. If they cannot get the grant they will be looking at making a capital equipment purchase to replace the portables and may combine with the Police Department and possibly save over \$40,000.

- A. Presentation by Mark Robison, Senior Consultant with the Humane Network and Co-Executive Director of Maddie's Pet Project regarding Trap-Neuter-Return (TNR) programs, including possible action to initiate amendments to Title 5, Chapter 3 of the Elko City Code to allow for TNR within the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

Mark Robison, Humane Network, gave a presentation (Exhibit "A").

Mayor Keener asked what the average cost is to neuter a cat.

Mr. Robinson answered it depends on a few things. In general, he guessed it would cost around \$40 per cat.

Councilwoman Simons asked how long that \$70,000 will last before we need to start fundraising.

Karen Walther said she didn't have an answer for that. We have a small facility and may need to expand it. The money would last a while.

Mr. Robison said they do this in Carson City and that clinic is only open one day a week. It is working out well there.

Councilman Stone said one thing we struggle with here, we are a city facility but dealing with a large county. Getting a vet in to do the spay/neuters is difficult. Was he saying there are groups that will do this for us? We don't have a lot of space in the shelter for the animals so where will they go?

Dr. Diana Lucree, Humane Network, said the animals come into the clinic in the trap and leave in the trap. They held a clinic in Battle Mountain two weeks ago and had 93 cats. It was all volunteers and trappers from all over.

Curtis Calder, City Manager, said this is different than what LASSO does. LASSO does the spay/neuter for animals that are adopted out. Feral cats are not adopted out. We track the statistics closely and have plateaued on the intake number of animals that are spayed/neutered. The feral cat numbers are not going down under the current policy. He didn't think we have anything to lose but the current code does not allow this option. This would be an alternative if we changed the code to allow this type of program.

Karen Walther, Animal Shelter Manager, said her thoughts on this were concerning logistics and planning. There are many variables. We have a small shelter and spay/neuter clinic. There is a cat problem. She thought it could work but there are some issues to work through.

Connie Manly, Animal Control Officer for Elko County Sheriff's Office, said some years she spearheaded a similar program in Jackpot. They spent three days working there and then the city dropped the ball. There is a cat problem in Jackpot again. She felt it had been a waste of time.

Mr. Calder asked if Elko County had any codes similar to Elko City.

Ms. Manly answered there were no codes regarding cats other than they need to be vaccinated for rabies.

Meadow Stahl, Animal House, said they are looking for the opportunity to help animals. They are asking the City to change the code so people can help animals with programs such as this one. She is very passionate about TNR and other animal programs.

Sarah Ferlisi, Spring Creek, Elko Feline Fix Project, said they have people approaching them all of the time about fixing cats. They are asked to take the cats in but they are not a shelter. People are desperate for help. They are just two people and cannot meet the need themselves. If we had these bigger programs to come in and do this, it will help out tremendously.

Dana Champion, Elko City Animal Control Officer, went over some of her concerns. A program as this would be managed by volunteers and it is hard to keep volunteers. Another concern

would be funding. What if some of these cats are harboring illnesses and possibly spread those illnesses in the community?

Mr. Robison said it may seem like the costs are high. In doing a program like this, much of the shelter costs go away with a TNR program. The diseases are already being spread into the community. With the TNR program, the cats are being vaccinated before they are released.

Mayor Keener didn't see any harm in allowing a code change that would facilitate a TNR program.

Mr. Calder said code changes would be minor and Council could direct staff to bring something back to the next meeting.

**\*\* A motion was made by Councilman Stone, seconded by Councilwoman Simons, to initiate amendments to Title 5, Chapter 3 of the Elko City Code to allow for TNR within the City of Elko and to bring it back for a first reading.**

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

Mayor Keener noticed that Sheriff Narvaiza was present in the audience and asked him what item on the agenda he was here for.

Sheriff Narvaiza answered that he was present for the TNR item.

## **II. CONSENT AGENDA**

- A. Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the United States Marshal Service, and matters related thereto. **FOR POSSIBLE ACTION**

The purpose of this MOU is to delineate the responsibilities of the U.S. Marshal Service personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT

- B. Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation, Northern Nevada Safe Streets Task Force (SSTF) for operational support, and matters related thereto. **FOR POSSIBLE ACTION**

The purpose of this MOU is to delineate the responsibilities of the Federal Bureau of Investigation Northern Nevada SSTF; formalize relationships between

participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, 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 Councilwoman Simons, seconded by Councilman Hance, to approve the general 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 Councilwoman Simons, seconded by Councilman Schmidlein, to approve the Print 'N Copy warrants.**

*The motion passed. (4-0 Mayor Keener abstained.)*

### **IV. UNFINISHED BUSINESS**

- A. Review, consideration and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications Incorporated for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

At the November 26, 2019 Council Meeting, City Council tabled this item and directed Staff to bring the item back at the December 10, 2019 City Council meeting. The proposed term of the agreement is 10 (ten) years and provides for a 5 (five) year renewal provided the terms and conditions remain the same. The proposed franchise fee is 5 (five) percent of the gross revenues actually collected from customers located within the corporate limits of the City. SAW

Scott Wilkinson, Assistant City Manager, explained there were representatives present from White Cloud. The Franchise Agreement is patterned after the Level 3 Agreement that was approved most recently. It was reviewed by Legal Counsel and White Cloud.

Dave Skinner, White Cloud Communications, explained they have 100-gig breakout at the Airport and would like to bring that in to the City for people that need it.

Councilwoman Simons asked if they are offering residential services. How soon until they be offering services.

Mr. Skinner answered yes. Their hope is to have services available in about six months. They have an engineer working on it right now.

Mayor Keener said we love broadband and look forward to learning more about their services.

Mr. Wilkinson said they would be exploring the potential lease of space on a City owned tower at the airport. They have had some brief discussions with White Cloud regarding the possible use of conduit that we already have in place. This would most likely include a revocable permit to utilize existing conduit. If this is approved, we will move forward with exploring what we need to bring back to Council.

Mr. Skinner added that if they can use the existing conduit it would speed up the process of them getting bandwidth into Elko. They are excited to move forward with this.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications, Inc., for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko.**

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

- B. Status update on the Public Nuisance complaint regarding 403 Pine Street, and matters related thereto. **INFORMATION ITEM ONLY – NON ACTION ITEM**

Based upon City Council action on November 27, 2019, Staff is providing a status update with regard to 403 Pine Street. MR

Michele Rambo, Development Manager, stated the Elko Daily Newspaper reported that the house is sold but that is not the case. There is no contract pending for the house as of this afternoon. There are two interested parties that they are expecting to make offers next week but at this point we are still without a buyer. Until there is a buyer, there is still December 22, when the City will take over abatement.

Mayor Keener said he spoke to one of the buyers right before the meeting and they are out. Hopefully the other interested party is still interested.

## **V. NEW BUSINESS**

- A. Review, consideration, and possible action to accept a letter of resignation from Mr. Ian Montgomery from the Planning Commission, and to further authorize Staff to commence with the standard recruitment process to fill the vacancy on the Planning Commission, and matters related thereto. **FOR POSSIBLE ACTION**

This resignation is a result of Mr. Montgomery's work schedule conflicting with the Planning Commission meetings. CL

Cathy Laughlin, City Planner, explained the letter of resignation was included in the packet. If this letter is accepted she requested that they be given an additional week to advertise the vacancy due to the holidays.

**\*\* A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to accept the resignation of Planning Commission Member Ian Montgomery, and direct staff to begin the recruitment process and allow for one additional week of advertisement through the 5<sup>th</sup> of January.**

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

- B. Review, consideration, and possible approval of the First Amendment to the Agreement to Install Improvements and Provide Maintenance Guaranty with DDS Properties, LLC for the Humboldt Hills Subdivision, and matters related thereto.  
**FOR POSSIBLE ACTION**

As required by Elko City Code 3-3-21, the City and DDS Properties, LLC entered into an agreement to install improvements for the Humboldt Hills Subdivision on February 12, 2019. The agreement to install improvements stated that the developer would construct the subdivision improvements with its own resources. However, in some cases, the developer may decide to post a performance guaranty, then record a final map and begin construction prior to the completion of the subdivision improvements. In this case, DDS Properties has completed some of the subdivision improvements for the Humboldt Hills Subdivision, but has chosen to post a performance guaranty in accordance with Elko City Code 3-3-22 and Section 1.A of the agreement to install improvements for the remainder of the work. To accomplish this, staff has determined that the City and the developer need to revise language in the agreement to install improvements that is inconsistent with posting a performance guaranty for the remaining work. To permit the developer to post a performance guaranty while staying in compliance with the agreement to install improvements, staff is recommending the proposed First Amendment. MR

Michele Rambo, Development Manager, explained the developer entered into a performance agreement. Section 1A allows for bonding of either all or part of the work. The intent was to allow the developers to record the final maps and begin building and then fill in the improvements as they get money from the houses they sell. This is the first request to bond that they have received so they went back over the performance agreement and reviewed all the steps that need to take place. They discovered that some parts of the agreement were in conflict and did not allow a bond. This amendment will allow the developer to post the bond and move forward with the agreement.

Councilman Schmidtlein asked if the developer was good with the agreement amendment.

Ms. Rambo answered yes. She had an email from him stating he was good with it and the amount.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the First Amendment to Agreement to Install Improvements and Provide Maintenance Guarantee for the Humboldt Hills Subdivision.**

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

- C. Review, consideration and possible approval of a lease agreement between the City of Elko, Elko Regional Airport and Nevada Gold Mines, LLC at the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

Nevada Gold Mines wishes to enter into a two (2) year lease agreement with the Elko Regional Airport for the lease of 20 parking spaces located at the airport terminal. The current lease will expire on December 31, 2019. JF

Jim Foster, Airport Manager, said this is similar to the agreement they had earlier. It has a 20% reduction in price but a longer-term agreement.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Schmidtlein, to approve a Lease Agreement between the Elko Regional Airport and Nevada Gold Mines LLC.**

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

- D. Review, consideration and possible approval of a Hangar (C6 and D3) Lease Agreement with Mark and Kim Hooper, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Hooper recently purchased Hangars C6 and D3 from Ann Barron and Ron Privasky and a new Lease Agreement needs to be completed with Mark and Kim Hooper. Additionally, airport ground leases of less than one-half an acre are no longer subject to appraisal/auction process for cities whose population is less than 25,000 (NRS 496.80) JF

Mr. Foster said the lease is the typical lease agreement they do. This one of those big buildings that has six hangars in it. There will be another lease for the other four hangars in the building coming to Council at a later date.

**\*\* A motion was made by Councilman Schmidtlein, seconded by Councilman Hance, to approve a T-Hangar (C6 and D3) Lease Agreement with Mark and Kim Hooper.**

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

- E. Review, consideration, and possible appointment of Jan Baum, Financial Services Director, City of Elko, as Property and Equipment Officer, and matters related thereto. **FOR POSSIBLE ACTION**

2019 Hinton Burdick Audit Finding/Recommendation:

2019-004      Property and Equipment Officer

Finding

We noted that with the separation of the previous Administrative Services Director, the State had not been notified of the change in the Property and Equipment Designated Officer required under NRS 354.625. We did not note anywhere in the minutes of the City where the designation took place during a council meeting.

Recommendation

We recommend that the City designate a Property and Equipment Designated Officer as required by NRS 354.625. JB

Jan Baum, Financial Services Director, explained it was her understanding that this was part of her job description.

**\*\*      A motion was made by Councilman Stone, seconded by Councilwoman Simons, to appoint Jan Baum, Financial Services Director, as the City of Elko Property and Equipment Officer.**

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

**BREAK**

**VIII. 5:30 P.M.      PUBLIC HEARINGS**

- A.      Second reading, public hearing, and possible adoption of Ordinance No. 846, an ordinance amending Title 9 Chapter 1, section 3 adding a definition of fire protection service line and section 29, adding a Fire Protection Service Fee, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases at the September 9, 2019 Council Meeting. At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Ordinance No 846 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. First reading of this ordinance was held on November 26, 2019. KW

Kelly Wooldridge, City Clerk, explained this is second reading and she has not received any comments.

Mayor Keener said we are supposed to disclose, for the record, that we are all customers of the City of Elko Water Department. He called for public comment without a response.

**\*\* A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to conduct second reading, public hearing and adopt Ordinance No. 846.**

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

## **VI. RESOLUTIONS AND ORDINANCES**

- A. Review, consideration, and possible adoption of Resolution No. 19-18, a resolution amending the Water User Meter Fees pursuant to Elko City Code Title 9, Chapter 1, and Section 29, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-18 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the Water User Meter Fees 5% per year over the next three years. KW

Ms. Wooldridge explained she had the numbers transposed on the original agenda. She consulted with legal and he felt they were okay since the numbers were corrected mostly on the action sheets. The intent was the same and we can move forward with this. This Resolution is specific to the water meter rates.

Mayor Keener called for public without a response.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Hance, to adopt Resolution No. 18-19.**

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

- B. Review, consideration, and possible adoption of Resolution No. 19-19, a resolution amending the water flat rate user fees pursuant to Elko City Code Title 9, Chapter 1, and section 29, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the Water Study completed by Farr West Engineering and directed staff to complete a business impact statement on water rate increases at the September 9, 2019 City Council Meeting. At the November 12, 2019 meeting City Council accepted the business impact statement and found that Resolution 19-19 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the water flat rate user fees 5% per year over the next three years. KW

Ms. Wooldridge explained this is for the flat rate. All of these resolutions will be effective January 1, but the first billing will not go out until February.

Mayor Keener called for public without a response.

**\*\* A motion was made by Councilman Hance, seconded by Councilman Schmidtlein, to adopt Resolution No. 19-19.**

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

- C. Review, consideration, and possible adoption of Resolution No. 19-20, a resolution setting the fees for Fire Protection Services Line pursuant to Elko City Code Title 9, Chapter 1, Section 29, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-20 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution establishes a fee for the Fire Protection Service Line Pursuant to Ordinance No. 846. KW

Ms. Wooldridge explained this resolution establishes the rate for Fire Service Protection Line.

Mayor Keener called for public comment without a response.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Hance, to adopt Resolution No. 20-19.**

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

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

- A. Ratification of the Police Chief issuing a 30-day Temporary Retail Wine and/or Beer License and recommended denial of the request to issue a Regular Retail Wine and/or Beer License, to Jorge, DBA Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Trouten explained the applicant was present. Jorge was present and a friend, Jonathan, was present to translate since Jorge did not speak English.

Mayor Keener said to Jonathan, it is not typical for the Police Chief to recommend denial. The odds of Council overcoming this recommendation is very low. Does Jorge still wish to move forward with the full hearing on this?

Jonathan answered in the affirmative.

Chief Trouten pointed out that under City Code 4-5-6, Section A, no license shall be issued unless the person is of good moral character and satisfactory business responsibility. The items he will be discussing fall under good moral character. Also under 4-5-13 includes instances in which City Council may suspend, restrict, terminate or condition any license, and grounds and procedures. Item number 2 does discuss the misrepresentation of any material fact by the applicant in obtaining a license under this chapter. October 31, 2019, Jorge Contreras, aka Jorge A. Contreras Perez, and Lucero Bravo came to the Police Department and submitted an application for a liquor license for beer and wine. Mr. Contreras submitted a TIPS training certificate. The completion date was October 30, 2019, one day prior to them coming in. They completed the application and he issued a temporary retail beer and wine license. November 1, Lt. Pepper and himself met with Jorge and Lucero at the Police Department and gave them copies of the Elko City Bar Guide and the Elko City Liquor Code. Lucero was acting as a translator for Jorge. There was an incident that occurred on November 10 at Mr. Shrimp. It involved Jorge as a suspect and a complaint has been filed in court, wherein three misdemeanor offenses are alleged to have been committed by Mr. Contreras. The due process has not been completed and he has not been convicted of any of these items. This incident occurred in his business at 5:45 a.m. They look to liquor license holders to assist us in minimizing some of these types of crimes and do not expect them to commit them on their premises. On November 19, Ms. Bravo asked to be removed from the temporary liquor license and the application. She explained someone else took the TIPS training for Jorge. She signed an affidavit saying that. Mr. Contreras does speak Spanish and the online TIPS training is available in Spanish and there is no reason he was not able to complete the training himself. There was another report in which it was alleged that employees were serving alcohol without the appropriate TIPS training. The temporary liquor license expired on November 30. The restaurant was told by an officer to remove the alcohol from the bar. The officer witnessed that the bar was serving more than just beer and wine. That officer took pictures of what appears to be a fully functional bar (Exhibit "B"). He had a conversation with Mr. Contreras and shared his concerns. The investigation of his background is limited because the fingerprint information is only what occurs in Nevada. Mr. Contreras was a resident of California until recently. He has been asked to make a judgement on Mr. Contreras' character based on very limited information. The moral character of the applicant is in question due to the fraudulent TIPS certificate submitted, a fully functional bar in a business that has not been approved for a liquor license, and the acts committed in the criminal complaint.

Councilman Stone asked if anyone else was on the liquor license.

Chief Trouten answered no. Because Ms. Bravo was a manager she did not have to be on the license. She has been removed and has nothing more to do with the business.

Mayor Keener called the applicant up to rebut the charges.

Jonathan Vasquez, translating for Mr. Contreras, explained the bottles were already there. He only met Mr. Contreras a little while ago and was trying to understand everything. He didn't think Ms. Bravo was very clear and liquor code was explained to him completely. The alcohol was there from previous businesses. He didn't think he needed to remove it. When the incident happened, they were living upstairs because there are rentals upstairs. He was unaware TIPS is available in Spanish. He wanted to know if there was anything he could do to make this better.

In this type of restaurant it is a necessity to serve alcohol. If you don't have alcohol, beer wise, it doesn't really go together. He wants to be able to show that he is responsible.

Mayor Keener asked why would several hundred dollars worth of liquor be left behind.

Mr. Vasquez answered he honestly doesn't know. They were more of a mixer than liquor. None of it had been served. You don't really serve that stuff with seafood.

Councilman Schmidlein asked what is the thought process of where we are going. Falsifying documents, as the Chief brought up, what is his disposition standpoint on doing that?

Mr. Vasquez answered Mr. Contreras blamed it all on Ms. Bravo, who was translating for him previously. She offered to help him with his business because he was back and forth from California. She offered to get all the licensing. He didn't realize that was a personal requirement and was not fully told. When he told her to get very specific with him, she wasn't very clear on what he needed to really do.

Councilman Schmidlein pointed out the test was put in Jorge's name. When you submit that test result on TIPS, his drivers license was being utilized on it, correct?

Mr. Vasquez answered yes.

Councilman Schmidlein said item number 2, do you realize a liquor license/beer and wine license is a privilege?

Mr. Vasquez answered yes, he does.

Councilman Schmidlein asked, do you think you abused the right of the liquor license/beer and wine license.

Mr. Vasquez answered no because Ms. Bravo wasn't clear on everything she needed to tell him. If he was to take the TIPS test again, he was sure he would personally complete it. She had all of his personal information; driver's license and social security number. He was still living in California at the time all of the licensing was going through.

Councilman Stone asked if these misdemeanors are convictions, does that preclude him from having a beer and wine liquor license.

Chief Trouten answered no, only felony convictions would keep him from holding a liquor license.

Mayor Keener asked Chief Trouten if he realized the alleged incident was actually in the apartment dwelling and not actually in the business itself.

Chief Trouten answered according to the statements he has, it was downstairs in the business. One of the subjects was in the restroom and came out and this occurred in front of the bar downstairs. They may have been living upstairs but that was the statement as provided to them.

Mayor Keener asked Jorge if the incident occurred in the restaurant area.

Mr. Vasquez answered it happened inside when they went inside for something. It was after they went to a dance.

Councilman Hance said he has a bar card issued by the Chief. He went through the tests and everything that Jorge should have gone through. This is not something to be taken lightly.

Mr. Vasquez says Jorge apologizes and wants a chance to get the license back.

Councilman Stone said in his mind there is no choice but deny the permit. Is it possible in three months to reapply once the misdemeanor things are done and he has done his TIPS training? Mistakes happen but he broke the rules. What is our policy on reapplying.

Dave Stanton, City Attorney, said he thought there was a limitation. He was trying to find it in City Code. It would be something that would be a code requirement. There is no process for a conditional denial. If there is a way for him to come back it would be permitted under the code.

Mayor Keener felt the way this went down does not bode well for the future of this establishment.

Councilman Schmidlein agreed on that. In the past, when people have been put on probation, second chances, they always end up back here at the end of the day. It becomes a long, drawn-out process and we revoke the license after it has been issued.

Councilwoman Simons agreed that they need to deny it and let him know when/if they can reapply. By then, hopefully the Justice Court hears these allegations and we can have a cleaner picture. Part of it is the history of Elko. We have had too many people not take these seriously. We don't cut slack anymore.

Councilman Hance agreed with a denial.

Mayor Keener felt there was ample justification. He asked Mr. Stanton what he wanted to see in ways of findings in a motion.

Mr. Stanton said he would like to see in the motion, the Police Chief gave Council a report with some specific facts, and the motion should say, "based on these facts, we arrive at this finding..." and use the terminology in the code regarding that.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Hance, for ratification of the Police Chief issuing a 30-day temporary retail wine or beer license, going with the Police Chief's recommendation of denial of the request to issue a Regular Retail Wine and Beer License to Jorge Contreras, dba Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, Nevada, and this request for the beer/wine license will be denied per section 4-5-6 of the City Code, "which a liquor license is required all must be persons of good moral character," was not established. Also, per section 4-5-13-A-2, the misrepresentation of any material fact by the applicant in obtaining a license under this chapter, basically, it was brought to us that another constituent completed the TIPS test**

and it was not completed by the actual applicant, and gives us basis. Also, in section 4-5-9A states the Council may deny an application that fails to comply with the requirements of this chapter, or that the City Council determines is reasonably likely to result in a violation of this chapter, he did violate several things by abusing the privilege of a beer/wine license. The facts that the Chief presented to Council shows liquor that was in the establishment, more than most likely was being served and it wasn't properly licensed to do so; falsifying documents; an arrest took place of the licensee which shows the licensee is not in good moral character to run a business.

After the motion, there was discussion about if/when the applicant can apply again.

Mr. Stanton stated he and Chief Trouten will work on that. If there is nothing in the code, he can just come back.

Councilman Hance seconded the motion.

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

Councilman Schmidtlein stated we have a responsibility to protect the safety and well-being of the citizens of Elko.

## **IX. REPORTS**

### **A. Mayor and City Council**

*Mayor Keener said it has been a busy couple of weeks. The Foundation Assisting Seniors sent him a letter regarding a senior citizen of the year award and looking for nominations. He and Curtis had an opportunity to look at some real estate for sale, the old surgical center across from the old Police Station. It is a gigantic maze but would be good for City office space. We need to put that on a future agenda to talk about. He will not be attending the Christmas Party on Friday and hopes that everyone has a good time. He asked if they could get some good matching chairs for the table below the dais. He had a question on the payables. Dennis answered that was for an independent consultant that the Landfill has used for many years.*

*Councilwoman Simons will not be able to do the radio show next Tuesday. Councilman Schmidtlein volunteered to take her place. She will not be at the Christmas Party.*

*Mayor Keener thanked staff for all the extra work they did over the last year.*

*Councilman Schmidtlein will not be at the Christmas Party and wished everyone a Merry Christmas. He will also be missing the first meeting in January.*

*Council members Stone and Hance will be at the Christmas Party.*

*Councilman Stone reported tomorrow the ECVA marketing will be meeting. Elko High School is building a new facility with a theatre and ECVA is worried about losing some revenue.*

B. City Manager

*Curtis Calder reminded them that if they have not RSVP'd for the Christmas Party, they need to. It will be Friday and the kids will have their own party. In looking at Sales Taxes, the projection in the budget is within 1%. We anticipate that we will continue to see good sales tax but it will taper down once the Komatsu project nears completion.*

*Councilman Schmidlein corrected his previous statement and will be at the first meeting in January.*

C. Assistant City Manager

*Scott Wilkinson thanked Dennis Strickland and the Street Department crews for their cleanup at the humanitarian camp. It costs \$15,000 to \$20,000 to keep that camp clean annually. There is a volunteer that works through FISH that would like to present to Council in January of the possibility of a needle exchange program at the camp.*

*Councilman Schmidlein asked about setting up surveillance at the camp.*

*Mr. Wilkinson said he had that discussion with IT last year and the decision was that it would be cost prohibitive.*

D. Utilities Director

*Dale Johnson reported they were able to get the 18-inch valve installed on Spruce Road. The shop plans were delivered to Jeff this week.*

E. Public Works

*Dennis Strickland reported leaf collection was down 400 bags.*

E. Airport Manager

*Jim Foster said he will be reaching out to get the trip to Sky West scheduled for those that are interested. At the next meeting, he will be introducing the newest employee to Council.*

G. City Attorney

*Dave Stanton said dummy cameras have proven to be effective sometimes in situations such as the homeless camp. Eventually people figure out they are dummies but they can discourage bad behavior. He wished everyone a Merry Christmas.*

H. Fire Chief

I. Police Chief

*Chief Trouten thanked the Fire Department for responding to another fire alarm at the Police Department in the middle of the night. Hopefully, the problem behind the issue is corrected now. Looking forward, he hopes to have two new officers to introduce to Council next year. Regarding cameras, there are some just sitting on their shelves that can be utilized somewhere.*

J. City Clerk

*Kelly Wooldridge reported that she got a request from the Free Press last week regarding room tax. According to State Law, we do not release the actual number that is collected in room taxes but they were asking about room taxes for the calendar year. Room taxes were up for the fiscal year according to the audit we heard last week, but when she looked at calendar year numbers, room tax collection was down about 8%. This is the first time it has gone down since 2016.*

K. City Planner

L. Development Manager

- M. Financial Services Director
- N. Parks and Recreation Director

*James Wiley said they sent the goats back to Utah for Christmas and will be returning in May. The Pool is closed for maintenance and repairs. They just finished up with the Festival of Trees. Parks has been heavily involved with the Christmas Party and the Snowflake Festival. The SnoBowl is doing well and waiting for snow to open up.*

- O. Civil Engineer

*Bob Thibault reported that the Sports Complex is wrapping up with just one issue they are working on. Everything else is done. Great Basin Engineering Contractors is hoping to do some concrete work this month. General Fence will be installing some fencing around the hot hole. Parks has been busy installing benches and such in the dugouts.*

- P. Building Official

### **COMMENTS BY THE GENERAL PUBLIC**

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

*There were no public comments.*

There being no further business, Mayor Reece Keener adjourned the meeting.

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Mayor Reece Keener

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Kelly Wooldridge, City Clerk



# Outdoor Cats in Elko

Effective  
Management



Dr. Diana Lucree  
Veterinarian



Mark Robison  
Humane Network



Feral cats  
have lived  
alongside  
human  
populations  
for more  
than 10,000  
years.

# Government Goals

- Resolve citizen concerns
- Use taxpayer funds effectively
- Minimize public health concerns
- Reunite lost cats with owners





# 3 Ways Communities Deal With Feral Cats

- Ignore them
- Try to exterminate them
- Humanely control them



Ignoring the  
cats is not a  
humane  
solution for  
cats or people.

The second approach is trying to exterminate them.

Cats are trapped and killed.

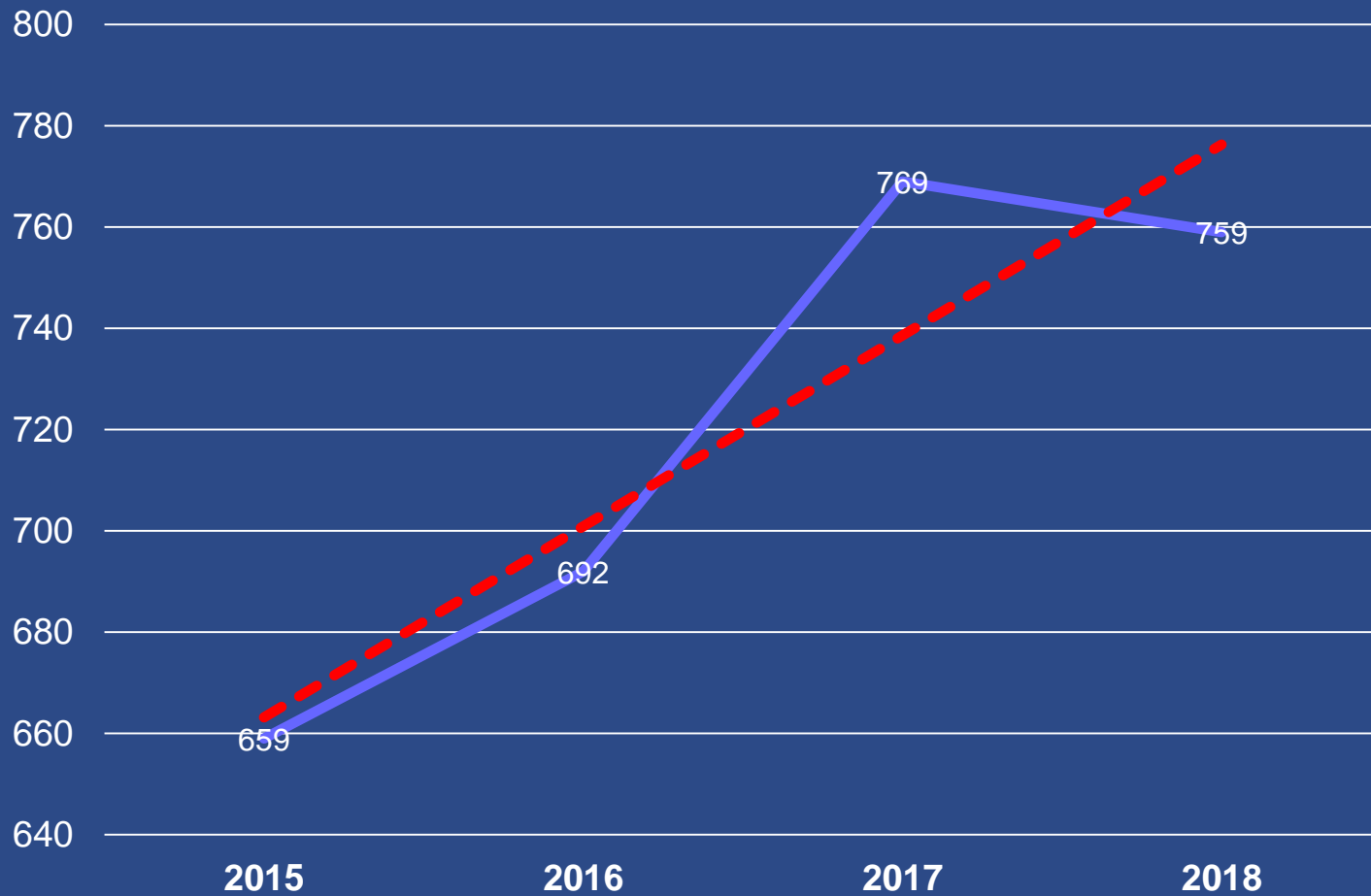


# The Vacuum Effect

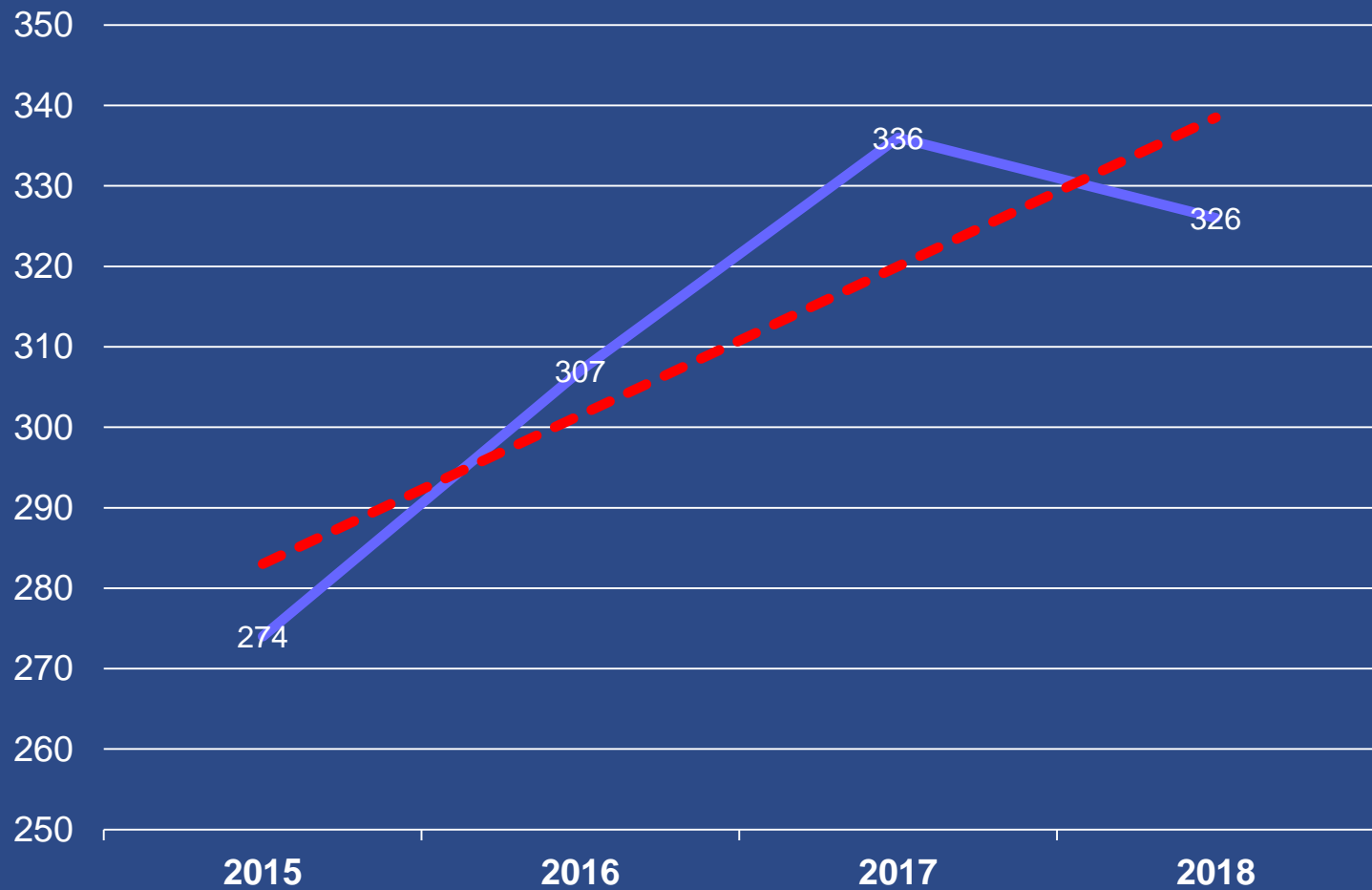
When cats are removed, new ones move in.



# Elko stray cat admissions at shelter



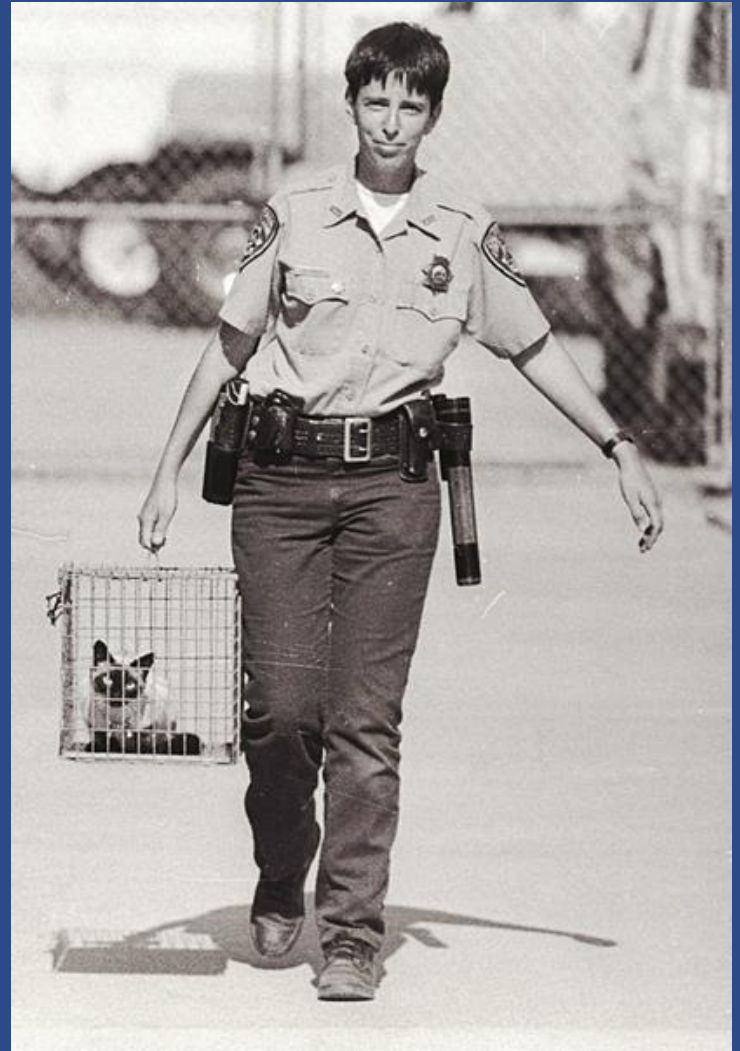
# Elko feral cats euthanized at shelter



# Trap and remove does not work

“There is no biologically plausible basis to suggest that shelter euthanasia ... benefits birds or other wildlife, reduces public health risks, or decreases cat abandonment or suffering.”

– **Dr. Kate Hurley**, UC Davis Koret Shelter Medicine Program (and former animal control officer)



# Benefits of Trap-Neuter-Return



- Reduces citizen complaints over time
- Cost effective
- Stops cats from breeding and related issues
- Protects public health
- Controls rodent populations
- Reduces cat populations
- Prevents removal of pets
- Popular with citizens



# Trap-Neuter-Return in Action

A veterinarian examines the cats, neuters, vaccinates, and eartips them so it's obvious from a distance they've been spayed or neutered.





Many communities in Nevada embrace Trap-Neuter-Return including:

- Mesquite
- Boulder City
- Ely
- Reno
- Las Vegas

# TNR Is the Norm

# Funding Available to Implement TNR

- \$70,000 from Dave & Cheryl Duffield Foundation for Elko to implement TNR
- Potential future funding from:
  - Dave & Cheryl Duffield Foundation
  - Petco Foundation
  - PetSmart Charities



# Government Goals Revisited

A Trap-Neuter-Return policy will be more effective at meeting these goals than the current policy of Trap-Euthanize.

- ✓ Resolve citizen concerns
- ✓ Use taxpayer funds effectively
- ✓ Minimize public health concerns
- ✓ Reunite lost cats with owners



# Questions?



Dr. Diana Lucree  
Veterinarian



Mark Robison  
Humane Network  
[mrobison@humanenetwork.org](mailto:mrobison@humanenetwork.org)

officers, directors, stockholders and the person or persons who shall have the management of the business for which or in connection with which the license is desired, together with an investigation of the location of the proposed place of business, and of such other matters as may be necessary to the protection of the public good, welfare, safety, health and morals of the inhabitants of the city. Upon completion of the investigation, the chief of police shall render a report of the investigation to the city council. (Ord. 777, 9-10-2013)

#### **4-5-5: REFERRAL BY POLICE CHIEF TO CITY COUNCIL:**

The police chief or the police chief's designee shall present each application to the city council at its first regular or special meeting after the filing of the application, completion of the investigation and submission of all other data as required in section 4-5-4 of this chapter. (Ord. 777, 9-10-2013)

#### **4-5-6: CHARACTER AND BUSINESS RESPONSIBILITY:**

- A. Required: No liquor license, except as otherwise provided in subsection 4-5-3D of this chapter, shall be issued to any person unless such person has an established place of business, or in the case of a special events license, a specific location under the control of such person for the period of the license, within a zone or area permitting such type of business, activity or license under this and all other ordinances of the city and unless each applicant is a person of good moral character and satisfactory business responsibility. In the event the applicant shall be a corporation or association, the officers, directors, managing agent and all persons who shall be active in the conduct of the business for which a liquor license is required all must be persons of good moral character and satisfactory business responsibility.
- B. Felony Conviction: No liquor license shall be issued hereunder to any person who has within ten (10) years from the date of the application been convicted of a felony either in this state or in any other state of the United States, or of any crime in any other state which is considered a felony under the laws of the state; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In the case of any such conviction occurring after the license has been issued and received, the license may immediately be revoked, if such convicted felon be an individual licensee, and, if not, the partnership, corporation or association with which he is connected shall immediately discharge him, upon request of the city council, or their license may be revoked.
- C. Employee Felony Conviction: No person shall work or be employed in or in connection with the liquor business of a licensee hereunder who has been, or during employment is convicted of a felony unless the chief of police approves such employment. If the licensee fails to discharge such employee upon request by the chief of police, its license may be revoked. (Ord. 777, 9-10-2013)

#### **4-5-7: LIQUOR SALE LOCATION:**

- A. Except as otherwise provided in this chapter, it shall be unlawful for any person or association to sell, serve, give away or distribute liquor within one hundred feet (100') of any existing

Each license shall:

- A. Be posted in a conspicuous place in the premises for which it was issued.
- B. Be nontransferable, except that upon prior written consent of the city council, the location of the premises for which it was issued may be changed, provided there is no change in licenses.
- C. Be authority for the person or persons specifically named as licensees to transact the business or activity licensed thereunder. (Ord. 777, 9-10-2013)

#### **4-5-12: SCHEDULE OF FEES:**

- A. **Payment Of Fees; Refunds:** All fees may be paid up to one year in advance; but in no event shall a fee be for less than a quarter. No refunds of any portion of a license fee paid in advance shall be made nor shall any portion of a fee paid in advance be transferable.
- B. **Sales Of Soft Drinks:** A valid license under this chapter authorizes the licensee to sell soft drinks in connection with the business for which the license is issued.
- C. **Amount Set By Resolution:** The schedule of fees to be paid for licenses shall be set by resolution of the city council.
- D. **When Payable:** License fees shall be due and payable January 1, April 1, July 1 and October 1 of each year for each following quarter. Any license fee which has not been paid on or before the fifth day of the month in which it becomes due shall be increased by a penalty of ten percent (10%), which shall be added to the fee and collected with the fee prior to the issuance of any license hereunder. When any license fee is paid by mail, the postmarked date on the envelope shall be presumed to be the date on which the license fee was paid. If the license fee and penalty have not been paid on or before the fifteenth day of the month in which the license fee becomes due, any right to renew a license without application to the city council shall be forfeited and shall forthwith terminate at the time of the close of the city office on the fifteenth day of such month, and at such time the liquor license for the business to which the delinquent license fee relates shall be automatically revoked and the business shall immediately cease all liquor sales. This provision shall not be construed to permit the operating of any business to which this chapter applies for any length of time whatever without having in full force and effect a proper license issued by the city with all fees therefor fully paid, nor shall it be construed to extend the expiration date of any license, nor to prevent the city council from taking any action to suspend, restrict, condition or terminate the license for any reason permitted under this chapter, including nonpayment of fees. (Ord. 777, 9-10-2013)

#### **4-5-13: CITY COUNCIL MAY SUSPEND, RESTRICT, TERMINATE OR CONDITION ANY LICENSE; GROUNDS; PROCEDURE:**

- A. Authority Of City Council:** The city council may, upon its own motion, and shall, upon the written complaint in writing of any person, investigate the action of any licensee under this chapter. The city council shall have power to suspend for such a period of time as they deem advisable or terminate a license or place such restrictions and conditions upon a license as they shall deem necessary or advisable, for any one of the following acts or omissions:
1. The failure to make timely payment of license fees and penalties, or either of them; provided, however, no action by the city council shall be necessary in the event of nonpayment of license fees and penalties on or before the fifteenth day of the month in which they came due as provided in this chapter; or
  2. The misrepresentation of any material fact by the applicant in obtaining a license under this chapter; or
  3. If any one of the licensees named in a license violates or causes or permits to be violated any of the provisions of this chapter; or
  4. If any one of the licensees named in a liquor license violates or causes or permits to be violated any provision in this code which adversely affects the licensee's fitness to fulfill the requirements of the liquor license or this chapter; or
  5. If any manager, bartender, agent, servant, officer or employee of a licensee hereunder violates or causes or permits to be violated any of the provisions of this chapter, while acting in any way in connection with the licensee's business; or
  6. If any one of the licensees named in a license commits any act which would be sufficient ground for the denial of an application by such licensee for a license under this chapter; or
  7. If any one of the licensees named in a license or any manager, agent, bartender, servant, officer or employee of a licensee refuses to permit the chief of police, or any police officer, or any other duly authorized representative of the city, to visit and reasonably inspect every part and portion of the licensee's premises, or refuses or fails to furnish the chief of police, or any police officer or officer of the city, upon request with all facts and information within his knowledge concerning any offense committed in or about the premises and the parties involved and the witnesses thereto; or
  8. If any one of the licensees named in a license violates any of the agreements, conditions or terms contained in the application for a license, this chapter or the license issued pursuant hereto; or
  9. If any one of the licensees named in a license violates or causes or permits to be violated any ordinance of the city or any law of the state or of the United States Of America regulating the sale, serving or dispensing of liquors or pertaining to the operation of the licensed business; or
  10. If the licensee or any agent or employee thereof makes, causes or permits a sale or sales of any kind of liquor other than that authorized by the class of license the licensee holds.
- B. Citation To Appear:** Except in cases of the automatic cancellation or revocation of a license as in this chapter provided, upon the filing with the city council of a verified complaint charging a licensee with the commission, within one year prior to the date of filing the complaint, of any act or omission which is cause for cancellation, suspension, revocation, restriction or conditioning of a









