

**MINUTES OF THE
FERNLEY CITY COUNCIL MEETING
MARCH 15, 2023**

Mayor Neal McIntyre called the meeting to order at 05:00 PM at Fernley City Hall, 595 Silver Lace Blvd., Fernley, NV 89408.

1. INTRODUCTORY ITEMS

1.1. Roll Call

Present: Mayor Neal E. McIntyre, Councilman Albert Torres, Councilwoman Felicity Zoberski, Councilman Ryan Hanan, Councilman Stan Lau, Councilwoman Fran McKay. Staff: City Clerk Kim Swanson, Administrative Specialist I Sandy Harris, Building Official Charity Birkel, Human Resource Manager Jacki Moxley, City Attorney Brandi Jensen, Deputy City Attorney Aaron Mouritsen, City Engineer Derek Starkey, Assistant to City Manager Trisha Conner, City Treasurer Denise Lewis.

1.2. Public Forum

Fernley City Resident, Leroy Goodman would like an update on Miller Lane, a status report on the effort to get a fair share of consolidated tax, and a report, if any, on what the council or City did concerning the Tesla project and tax break funding.

Fernley Resident, Tammy Dittman wanted to make the council aware that with the change in the landscaping and flooding there are missing posts and fencing. The horses are on the wrong side of the fence.

Fernley City Resident, Jason Nichol thanked employees Goldie Henderson with Utilities, Ray Lowery with Public Works, and Brandi Jensen, City Attorney. He stated that the jobs these three people hold are not easy, nothing is cut and dry or black and white, but they do their absolute best to navigate the pitfalls. They are always in front of us and they do it with grace, aptitude, and represent the city well.

Fernley City Resident, Don Maquin would like to know when the next road rehabilitation is going to happen. He also wanted to know if there could be a water truck accompanying the sweepers because they were making too much dust.

Fernley City Resident, Jan Gaumont apologized for being so rude when she first moved to town. She stated the infrastructure sucks and that there is nothing here for older people. Councilwoman Felicity Zoberski helped her get the water assistance bill signed.

1.3. (For Possible Action) Approval of Agenda

Motion: MOTION TO APPROVE THE AGENDA. **Action:** Approved, **Moved by** Councilman Lau, **Seconded by** Councilman Hanan. **Vote:** Passed, **Summary:** Yes 5. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

2. CONSENT AGENDA

2.1. (Possible Action) Approval of the Voucher Report

2.2. (For Possible Action) Approval of Minutes

2.3. (Possible Action) Approval of Business Licenses

2.4. Possible action to accept new public water, sewer, streets and storm drain infrastructure constructed by new development projects within the City of Fernley.

Motion: MOVE TO APPROVE THE CONSENT AGENDA AS STATED. **Action:** Approved, **Moved by** Councilman Hanan, **Seconded by** Councilman Lau. **Vote:** Passed, **Summary:** Yes, **Yes:** Councilwoman Zoberski, Councilman Stan Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

3. REPORTS - this item is for various public entity representatives to provide general information to the Council and public. No action will be taken.

Fire Department Chief Jason Nichol stated that Jay Rodriguez had been appointed a member of the Fire Board. The fire service and emergency services have several bills in the process in the Legislature. One of those BBR's is BBR40-859. The intent of that BBR is to take the Bureau of Emergency Medical Services, which regulates all of our paramedic and EMT licenses and regulates the ambulance services in the state, and move it from the Department of Health into the Department of Public Safety. Approximately 80% of all the EMS (emergency medical services) providers in the state are provided through fire departments. Moving everything into one house will build efficiencies into the system that does not exist right now. The Northern Nevada Fire Chiefs Association, as well as the Nevada State Fire Chiefs Association, has come out in support of BBR40-859. Fire Chief Jason Nichol asked for a letter of support from the Council to be sent to our legislature or lobbyist asking for the passage.

Councilman Torres asked if this would put a financial burden on the fire districts. Chief Nichol explained it would not. The BBR just moves everything and all funding mechanisms from the Department of Health into the Department of Public Safety, then it would put EMS into the State Fire Marshall's office, which already runs all of the certifications and training.

Mayor Neal McIntyre stated that with the Council's approval he would get with the city staff and draft a letter for the Council's approval if they wish to do so.

3.1. Reports by City Staff, City Council, and the Mayor, including but not limited to monthly statistical reports by city departments.

Associate Planner League reported that the Planning Department has 1 day a month for submissions. This month they took in 4 applications: a boundary line adjustment for the Fernley Business Park; a boundary line adjustment for Panda Express next to Wells Fargo; a final subdivision map for Green Valley Ranch

phase 6, which is a 49 single family home subdivision on Ricci Lane; and an administrative review for the Grace Baptist Church tower, the intent to build a 90 foot telecommunication tower on Farm District Road.

Deputy City Manager Altick explained the city and state emergency declarations. The state will provide two types of assessments, individual and public. She wanted to let the public know if they have a claim to take lots of pictures and to get in touch with her.

Council reports:

Ward 2 - Councilwoman Zoberiski commented on the flooding on Sage and thanked the Public Works department for immediate response. She also wanted to make everyone aware of the sand bag location at the Fernley Out of Town Park and that Lyon County established an emergency hotline in regards to flooding and weather concerns, and you can find that on the City of Fernley's website and Facebook page.

Ward 3 - Councilman Lau reported that there is water in the canal.

Ward 5 - Councilwoman McKay announced that Wednesday, March 22, from 4pm -9pm, the North Lyon Fire Fighters will be serving dinner at Black Bear to raise funds for Nevada Children's Cancer Foundation.

3.2. State of Nevada Legislative update.

Mayor Neal McIntyre, along with Deputy City Attorney Aaron Mouritsen, presented to the legislature on SB18 which has to do with planning commissions not having to have meetings every month if there is nothing on the agenda. They also presented to the state a report on Fernley's partnership with Mark IV and the RRC project.

4. PROCLAMATIONS BY THE MAYOR

There were none.

5. ORDINANCES

5.1. First Reading, Introduction of Bill #325 .

Bill # 325 as an ordinance amending title 16 Chapter 1 of the Fernley Municipal Code, Parking and Storage of junk vehicles.

Building Official Birkel gave the first reading of Bill #325 on ordinance amending Title 16, Chapter 1 of the Fernley Municipal Code, Parking and Storage of junk vehicles. Staff will place this on the April 5th agenda unless the council objects.

Councilwoman Zoberiski asked that a section be added to the amendment in regards to antique and restored vehicles. She requested that a 12 month time period be placed for restoration of antique vehicles, but still be shielded from public view.

Building Official Charity Birkel clarified that vehicles cannot be worked on in the front yard setbacks.

Councilman Hanan asked for clarification on whether there should be an application for the 12 month exemption if there are more than 2 vehicles.

Deputy City Attorney Aaron Mouritsen suggested the Council discuss any changes they would like to see

now, so the changes can be made before the next reading. He asked for clarification before getting a motion. It would be to create another exception under Section 16.01.04, that would be an exception from the 2 vehicles for additional vehicles that are currently being worked upon for a maximum of 12 months as long as they are shielded from view.

Motion: MOTION TO APPROVE THE BILL INTRODUCTION AND DIRECT STAFF TO AMEND AND ADD THE RESTORATIVE ASPECT AS WELL AS THE ANTIQUE VEHICLE TO THE TWO CAR SHIELDED FROM VIEW.

Action: Approved, **Moved** by Councilwoman Zoberski, **Seconded** by Councilman Lau.

Vote: Passed, **Summary:** Yes 3, No 2. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres,

No: Councilwoman McKay, Councilman Hanan.

6. PUBLIC HEARINGS

6.1. (For Possible Action) ZMA22009 River Ranch Apartments

Consideration and possible action on Bill # 324, an ordinance associated with a zoning map amendment request by ERGS, Inc., to change the zoning designation of a ±20.80-acre project site located at approximately 501 River Ranch Road (APNs: 021-281-03, 021-281-10, and portions of 021-281-04 and 021-281-09) from Industrial (I), Employment Center (EC), and General Commercial (C2) to Mixed Use (MU) to facilitate the construction of a 320-unit multi-family project.

Associate Planner Shay League gave a presentation on River Ranch Apartment amendment. She commented that from the staff's point of view, this item comes down to a policy decision by the council. This has two parts of the master plan, one that one it agrees with and one that it contradicts. If this cannot all be in compliance with the master plan exactly as it is written, then it would be a policy decision between is this part of the master plan, being the transportation plan, more important to Council and Mayor; or is the land use portion more important to Council and Mayor.

Melissa Lindel, planning representative for ERG's, Inc., gave the presentation on the site. She stated that Pioneer Crossing Casino and the storage units are existing conditions and are constraints for River Ranch Road. River Ranch Road was developed adjacent to these properties with a 50ft right-of-way. There is currently a curb, gutter and sidewalk on the Pioneer Crossing Casino side and no curb, gutter or sidewalk on the storage unit side. The storage unit buildings abut River Ranch Road and are really close to the right-of-way and if the right-of-way was extended in that area, the properties would be damaged and there would have to be some kind of eminent domain action with damages because it would render these buildings inoperable. The Planning Commission recognized the constraints and determined by virtue of approving the modified conditions that our solution for the 290ft constrained area is in substantial compliance with the master plan. The Planning Commission asked if they could help mitigate the existing flooding on the corner and ERG's said yes and it was included in the revised modified conditions which they accepted and are relying on.

Fernley city resident, Don Maquin, agrees the city needs more housing but is concerned about traffic, schooling and busing.

Larry Rossborough, General Manager of Pioneer Crossing Casino, stated he was in support of the project.

Kelly Flodman, co-owner of 3C Storage, stated that she is very familiar with the property and the use of a

sidewalk on the 280 feet seems a moot point. A crosswalk would direct the foot traffic to the west retail side and not to Highway 50.

Councilwoman McKay stated that she thinks it is a great plan.

Councilwoman Zoberski asked for clarification on which conditions of approval were recommended by the Planning Commission, which ones were recommended by the Staff and where we are at with the conditions of approval. She stated that she has concerns about the crosswalk due to the hill. Associate Planner, League, explained what was approved for the conditional use permit by the Planning Commission.

Melissa Lindel clarified that they will have a curb and gutter down River Ranch from the storage units to HWY 50, but no sidewalk.

Greg Peak, President of ERGS Properties, stated the conditions of approval of condition 39 Paragraph 2, clearly state curb and gutter.

Motion: MOVE TO APPROVE THE ZONING MAP AMENDMENT ASSOCIATED WITH ZMA22009, BASED ON FINDINGS Z1 TO Z3, AND THE FACTS SUPPORTING THOSE FINDINGS AS SET FORTH IN THE STAFF REPORT.

Action: Approved, **Moved** by Councilwoman McKay, **Seconded** by Councilman Lau.

Vote: Passed, **Summary:** Yes 5. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

Mayor Neal McIntyre called for a break: 6:19 to 6:38

7. STAFF REPORTS

7.1. Discussion and Possible Action to approve the City Attorney, Brandi Jensen's past year's employment performance, and the City Council and Mayor's satisfaction with the City Attorney's employment performance including but not limited to:

- a. City Attorney Contract Compliance**
- b. General Performance as the City Attorney**
- c. Compensation**

HR Manager, Jacki Moxley, explained the statutory evaluation for Brandi Jensen, City Attorney. The annual evaluation date is March 15, 2023, the anniversary date is March 22, 2023, and notice of open meeting law was given on February 9, 2023. Scores are averaged by the scores given by the Mayor and Council. Ms. Jensen received exceeding expectations with an overall score of 51.58.

City Attorney Brandi Jensen thanked the council for her evaluation statements and comments. She is capped out at the top of the range for compensation. She asked the council to consider taking her 3% and split it between the two legal secretaries.

Councilman Torres questioned if this would cause an issue for other employees as they go into union negotiations. He was also concerned about the amount of money spent on conflict attorneys.

HR Manager Jacki Moxley stated for consistency that there are other employees that are at cap.

Councilwoman McKay asked about giving a bonus instead of a raise.

Councilwoman Zoberski asked why we deal with raises or anything monetary during evaluations and not during the budget cycle. City Treasurer, Denise Lewis, explained that the COLA is done on July 1st and the merit increase is done the anniversary date.

Motion: MOVE TO APPROVE THE CITY ATTORNEY, BRANDI JENSEN'S EVALUATION.

Action: Approved, **Moved by:** Councilwoman McKay, **Seconded by:** Councilman Hanan.

Vote: Passed, **Summary:** Yes 5. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

Motion: MOVE TO APPROVE TAKING THE AMOUNT EQUAL TO THE INCREASE FOR THE CITY ATTORNEY AND DIVIDE IT IN TWO AND GIVE EACH OF THE GIRLS A BONUS INSTEAD OF A PAY RAISE SO THAT HOPEFULLY IT WILL CURTAIL SOME POSSIBLE CONFLICTS WITH THE OTHER FOLKS.

Action: Approved. **Moved by:** Councilwoman McKay, **Seconded by:** Councilman Hanan. **Vote:** Passed,

Summary: Yes 4, No 1 **Yes:** Councilwoman Zoberski, Councilman Lau, Councilwoman McKay, Councilman Hanan, **No:** Councilman Torres

7.2. Discussion and Possible Action to approve moving forward with local, state and federal grant funding requests and to commit \$4M in City funds for the construction of the Community Response & Resource Center project.

Assistant to City Manager, Trisha Conner, reported the Community Response & Resource Center (CRRC) project is moving along. On February 15, 2023, council approved the design documents and they expect the construction documents to be completed in June 2023. The construction documents will be submitted to the City of Fernley for initial plan review in June 2023. The GMP will begin from June 2023 through November 2023. The expected date to receive the building permits is in the fall and the GMP will be presented to City Council in November 2023. The Youth Services estimate is \$18,286,205; the #A Early Learning Center estimate is \$3,604,829; and the #B Gymnasium estimate is \$8,643,953. The total construction cost of the project is \$30,534,987. The City has set aside \$12 million in ARPA funding, \$1 million from the transient lodging tax fund, and \$300,000 from the County (ARPA funds) thus far and has obligated \$2,916,902 for the development of the project. The total project funding gap is \$20,151,889. A grant application was submitted to the State CDBG program in the amount of \$750,000. for construction costs of the Community Response & Resource Center. If the project is allocated funding, staff will bring back the funding agreement to the Council for approval. Staff is looking for more funding opportunities through Community Project Funding and Congressional Directed Spending. Some of these federal funds do ask for 15% match of the total project costs.

City Treasurer, Denise Lewis, stated that there may be a funding gap for Phases 1 and 2, so for good faith and to meet any matching requirements, staff asks City Council to commit up to \$4M more in funding for the CRRC. She presented different options and asked for City Council support.

Councilman Hanan expressed concern about spending money and borrowing money from outside sources.

He did state that he would be in favor of borrowing money that we have and repaying it back with the same interest structure as if it were a bank loan.

Councilman Lau stated that he agrees with Councilman Hanan as long it is not from the streets fund.

Mayor McIntyre clarified that this project is not just for kids. This place is in case of a catastrophe for the citizens of Fernley. This is a resource center. We have to show we have skin in the game and put some money towards this.

Councilman Torres clarified that he does not want to use funds from ARPA which is marked for water, road funds and no loans. He is not opposed to borrowing from other funds that were listed in the options in the Agenda report.

Motion: MOTION TO APPROVE AND DIRECT STAFF TO MOVE FORWARD WITH LOCAL, STATE AND FEDERAL GRAND FUNDING REQUESTS AND COMMIT \$4MILLION IN CITY FUNDS FOR THE CONSTRUCTION OF THE COMMUNITY RESPONSE & RESOURCE CENTER PROJECT WITHOUT USING ARPA FUNDS THAT ARE MARKED FOR WATER, ROAD FUNDS, AND NO LOANS, AND SEE IF WE CAN MAKE OUR GOAL WITHOUT TAKING THOSE FUNDS OUT OF THOSE PROJECTS. **Action:** Approved, **Moved by:** Councilman Torres, **Seconded by:** Councilman Hanan. **Vote:** Passed, **Summary:** Yes 5. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

7.3. Discussion and Possible Action to approve a Memorandum of Understanding (MOU) between the City of Fernley and Mark IV concerning the RAISE Grant Administration.

Deputy City Manager Lydia Altick summarized the steps that need to be taken and the current phase of the Memorandum of Understanding between the City and Mark IV Capital that was approved by City Council on February 21, 2021, for the specific purpose of seeking grand funding for Nevada Pacific Parkway. On September 6, 2022, The City of Fernley received RAISE Grant award letter from the U.S. Department of Transportation for the Victory Project. The RAISE Grant funding is for \$25,000,000, with an estimated total Victory Project cost of \$52,410,060. The Victory Project will complete the planning, environmental studies, engineering design and construction for the Victory Project, which will complete the remaining 3,100 feet of Nevada Pacific Parkway from I-80 to Highway 50. Specifically, the Victory Project will fund the Nevada Pacific Parkway roadway and bridge component, including a new switch off the Union Pacific mainline railroad (Segment 1a) and the segment of lead rail from the new switch to the point of connection of the first switch (Segment 1b) of three that will create a "rail switching yard". Once a grant agreement is in place, a future binging agreement will be negotiated with Mark IV Capital with very clear terms and conditions addressing grant guidelines, and with provision in place for reimbursement.

Councilman Torres stated that he would like to see a project calendar with start dates and steps of completion brought to the Council by-weekly until completed.

Motion: MOVE TO APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FERNLEY AND MARK IV CAPITAL FOR THE SPECIFIC PURPOSE OF WORKING COLLABORATIVELY TO SECURE THE FUNDING OFFERED BY THE AWARD OF THE RAISE GRANT FOR THE VICTORY PROJECT. **Action:** Approved, **Moved**

by: Councilman Torres, **Seconded by:** Councilwoman McKay. **Vote:** Passed, **Summary:** Yes 5. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

7.4. Discussion and possible action regarding the design and construction of improvements for the surface water conveyance project and surface water treatment projects at the City's water treatment plant and the ratification of the current change orders for the surface water conveyance project.

City Engineer Derek Starkey gave a presentation regarding the surface water conveyance project and summarized the progress and costs of the project to date and gave the total amount of change orders that the project incurred so far during construction. He also discussed the next steps the City will need to take to be able to treat and serve surface water. During construction, several changes occurred which changed the cost to deliver the project. The largest changes in cost, \$261,103.00 are attributed to new or additional requirements from the USBR that impacted construction schedule and methods. This included additional time for sheet pile installation to accommodate additional inspection, special inspections during sheet pile installation, modification to the outtake structure and purchase of sheet piles, and additional metering at the outtake structure. Others were due to the field conditions that differed from the approved plans and required extra work or design modifications to complete the work. The largest field change, \$169,480.00, was due to a conflict between the existing electrical conduits for the plant and the new conveyance pipeline. The existing conduit pipes were concrete encased, which was not shown on record drawings for the plant. The new pipeline had to be relocated and additional time and labor was needed to work around the existing electrical lines and concrete encasement. He went into the explanation of the next phase of completion.

Motion: MOVE TO RATIFY THE CURRENT CHANGE ORDERS 1-12 IN THE AMOUNT NOT TO EXCEED \$522,041.81 FOR THE SURFACE WATER CONVEYANCE PROJECT. **Action:** Approved, **Moved by:** Councilwoman McKay, **Seconded by:** Councilman Torres. **Vote:** Passed, **Summary:** Yes 5, **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilwoman McKay, Councilman Hanan.

8. ITEMS REQUESTED BY MAYOR OR CITY COUNCIL MEMBERS

8.1. Possible action to request a future agenda item to direct staff to find grants to help Fernley residents Zeroscape property. (Councilman Lau)

Councilman Lau would like to see staff find relief grants for residents to Zeroscape property.

Mayor McIntyre stated that he will take the Zeroscape project on, and come back with information.

Councilwoman Zoberski stated that there are several on-line services with rebate programs for zeroscaping lawns.

Councilman Hanan would like to have different programs on our website.

8.2. Possible action to request a future agenda item to continue the discussion on decreasing the water rates. (Councilman Hanan)

Councilman Hanan would like to direct staff to start looking at doing different multiplier equations for how

we calculate our water rates. For example, we have some ARPA funds remaining if we applied some of those ARPA funds to some of the infrastructure projects that are listed in our equation to create that rate, how would that change the rate. Would like to create an impact fee and how impact fees would impact the calculation to determine water rates. He stated apartments were not included in the equations and would like to figure out what the calculation is for apartments and calculating those. Would also like to see a report for what our projection is and what our actual is for last year and previous year.

Mayor McIntyre state that he would sit down with Councilman Hanan and put it all together to do a presentation.

9. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS

Councilman Torres would like an update on the efficiency report to see where we are at.

Councilman Lau would like to have a stop sign at Jennys & Rappaport.

Councilman Hanan would ask PW if there are any other streets with stop sign concerns, that they incorporate them all at one time.

10. PUBLIC FORUM

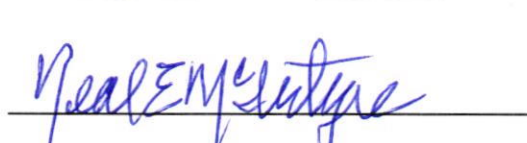
Fernley City Resident, James Robertson, commended the Council, City Attorney Brandi Jensen and the Planning Commission for the job they are doing.

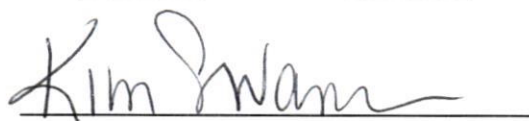
11. ADJOURNMENT

There being no further business to come before it, the Fernley City Council meeting adjourned at 8:14.

Approved by the Fernley City Council on April 5, 2023, by a vote of:

AYES 5 NAYS: 0 ABSTENTIONS: 0 ABSENT: 0


Mayor Neal McIntyre


Kim Swanson, City Clerk