

**MINUTES OF THE
FERNLEY CITY COUNCIL MEETING
APRIL 2, 2025**

Mayor Neal E. McIntyre called the meeting to order at 5:00 pm.

1. INTRODUCTORY ITEMS

1.1. Pledge of Allegiance

1.2. Roll Call

Present: Mayor Neal E. McIntyre, Councilman Ryan Hanan, Councilwoman Felicity Zoberski, Councilman Stan Lau, Councilman Albert Torres, City Manager Ben Marchant, City Attorney Aaron Mouritsen, City Clerk Kim Swanson, Administrative Specialist I Sandy Harris, City Treasurer Robert Carson, Building Official Charity Birkel, Public Works Director Barry Williams, City Engineer Maria Paz Fernandez, Utilities Director Seong Kim. **Absent:** Councilman Joe Mendoza.

1.3. Public Forum

None

1.4. (For Possible Action) Approval of Agenda

Motion: I MOVE TO APPROVE THE AGENDA WITH ITEM 7.1 TO BE HEARD AT THE APRIL 16TH MEETING. **Action:** Approved. **Moved by:** Councilman Stan Lau, **Seconded by:** Councilman Albert Torres. **Vote:** Passed, **Summary:** Yes 4. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilman Hanan.

2. CONSENT AGENDA

2.1. (Possible Action) Approval of Voucher Report

2.2. (Possible Action) Approval of Minutes

2.3. (Possible Approval) Approval of Business Licenses

City Clerk Kim Swanson read the new business licenses

2.4. Possible Action to approve the Will Serve request from the City of Fernley for .29 ERCs for Water and 1.16 ERCs for sewer for Lyon County Parcel(s) 021-103-56 located in Fernley, NV.

2.5. Possible Action to Approve the Will-Serve Request from TMAI Building F for 1.31 ERCs for water and 5.25 ERCs for sewer for Lyon County Parcel 020-341-12 located at 1040 Inglewood Dr, Fernley, NV 89408.

2.6. Discussion and Possible Action to Approve Agreement with DOWL for on-call Engineering Services

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

Chief Deputy Mitch Brantingham, Lyon County Sheriff's Office, reported that the department is currently in budget discussions and finalization. April is a very busy month for the department. National Donate Life Month - they

work with the organ donor network to try and boost organ donor numbers in the State of Nevada, particularly here in Lyon County. Also, National Sex Assault Awareness, where they are trying to raise awareness of sexual assaults and sexual abuse in the communities. There are a lot of resources for counseling and post-traumatic stress disorder. April is also Prevent Child Abuse Nevada Month. The Chief Deputy also reported that crime is picking up with the increase in temperatures. There have been several run-ins with people stealing around the county, but particularly here in Fernley. Last Friday, we arrested a whole crew of guys that were out vandalizing vehicles. Drugs are stabilizing around the city. We're still seeing some of the methamphetamine and some of the fentanyl, and those things come through, but the very large amounts that we were seeing through the winter have tapered off as anticipated.

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

Ben Marchant, City Manager, reported that the Citizens Leadership Academy is in session. It's a very robust and involved group that has remained engaged. There will be a budget work session tomorrow night instead of the Citizens Leadership Academy.

Councilman Hanan thanked the city staff and Barry Williams, Public Works Director, for the rapid response to the cleanup of graffiti.

Councilwoman Zoberski stated the reason why Councilman Mendoza is not here is because North Lyon Fire is doing a takeover at Black Bear. So, if you are hungry after this, and you want to go out and grab some food, I would suggest going to Black Bear.

Councilman Torres stated that on April 7th the Fernley Senior Citizens Advisory Committee would be taking a tour of the legislative building. The Fernley Senior Citizens Advisory Committee meeting will be April 11th at 9:30 am.

Mayor McIntyre reminded everyone that the Mayor's Cleanup is April 12th and will be meeting at the Out of Town Park at 7:30 am. We are still looking for a few more donations. He is expecting 50 to 100 people. He also had the opportunity to throw out the first pitch of the little league last Saturday. Councilman Torres and himself presented in front of the Senate on Bill SB364, which has to do with the rail spurs.

3.2. State of Nevada Legislative update

We will not have a State of Nevada legislative update tonight. Our lobbyist is in session right now. We will get an update on the April 16th meeting.

4. PROCLAMATIONS BY THE MAYOR

Mayor Neal E. McIntyre presented four proclamations for the month of April: Donate Life Month, National Child Abuse Prevention Month, Prevention of Cruelty to Animals, and National Animal Care & Control Officer Appreciation Week from April 13th through April 19th.

5. PRESENTATIONS

5.1. Presentation by Lyon County Human Services on Prevent Child Abuse Nevada Month.

Shayla Holmes, Director of Lyon County Human Services; Jenna Dykes, Children's Services Division Manager, and Misty Crank, Home Visitor for Lyon County Human Services, along with Area Manager for Division of Child and Family Services Candy Mortensen and Anna Mesa, case coordinator for Lyon County CASA (Court Appointed Special Advocates) for children gave a presentation on the numerous programs and services provided by Lyon County Human Services in recognition of Prevent Child Abuse

Nevada Month. Pinwheel planting will be at In Town Park. They have coloring contests going on in any of their offices. You can pick up coloring pages. They've got a social media campaign going on.

5.2. Presentation by Waste Management regarding Fernley Waste and Recycling

Kim Fleming, Northern Nevada Contract Manager with Waste Management, presented some options for changes in service, which would include recycling as well as some other potential options for changes that they could provide. Option 1 is the current service, a 96-gallon trash cart that is serviced weekly. There are an allowable 7 bags that can be put out each week outside the cart. Each resident is also allowed one transfer station voucher. Option 2 would be the trash and the added every other week recycling. In this case, the additional bags that are allowed every week outside the cart would be removed but would increase the number of transfer station vouchers to two. Option 3 is the weekly trash service, the added recycling every other week. We would eliminate the weekly bags outside the cart, but we would add a sticker program. For those that are unaware of what a sticker program is, we will send out 20 or 25 stickers once a year to each resident, and the resident would put a sticker on that extra bag that they would want to put out that week. The current transfer station hours are Tuesday through Saturday, from 8 am. to 4:30 pm. WM is looking at extending to 7 days a week, 8 am to 6 pm.

Councilman Hanan stated that he put a poll on Facebook. There were over 1,600 people that responded to the poll. He inquired about what process will be taken in order to safeguard the citizens from unnecessary increases next year. He also inquired about where the sorting facility would be located.

Kim Fleming stated it's whatever the Council would deem fair, whether that's a CPI index or however we decide to implement it. But that is up for discussion, and to make sure that it's in writing as to what that would look like each year. All the materials for the city would be brought to our existing transfer station, and they would then be transferred from Fernley to our material recovery facility in Reno.

Mayor McIntyre asked if this council decides this is what they want to do, when does this program start, or do we have to wait until 2028.

Kim Fleming stated that as soon as we come to an agreement as to what it looks like, we can implement it as soon as we get everything ordered and get an agreement in place.

Councilwoman Felicity Zoberski clarified we can start the services as soon as we come to an agreement on signing another 10-year contract.

Kim Fleming stated that it would be a new contract that would go beyond what we're currently doing. If the 10 years of going beyond our existing term, the team is not comfortable with we can certainly look and adjust that. A 5-year term may not give as large of a cost savings per customer.

Councilman Torres asked to have a survey done for people who don't do social media.

Kim Fleming stated that there's a potential for WM to put either a link or an option for folks to fill out a survey in their next billing insert to get further insight from the community.

Mayor Neal E. McIntyre called for a break: 6:13pm - 6:19pm

6. STAFF REPORTS

6.1. Discussion and possible action to hear an appeal requested by Ms. Skinner, Desert Rose RV Park, to overturn the Building Officials' decision to reject the permit documents.

Aaron Mouritsen, City Attorney, gave a brief introduction. In Code Section 8, the 2018 International Building Code was adopted as part of that building code. There is a section that creates a Board of Appeals. The appeals are rare in the city of Fernley regarding building code requirements, and so no Board of Appeals exists. That authority has been given to the Council as the governing body, in order to

handle appeals. Specifically, you're going to be looking at whether or not the appeal is based on the claim that the true intent of the code, or rules legally adopted there under have been incorporated, incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If it was improperly interpreted, it is the obligation of this Council to overturn the decision of the Building Official. Additionally, the Board shall not have the authority to waive the requirements of the code. The code itself must be applied.

Debbie Skinner and Cami Skinner stated they appreciated the Council taking the time to listen to their concerns. There's been a little bit of frustration in this whole process, and so we would like to have a resolution. We have spent a year and a half going through this process with the hope and with the excitement of being able to open and extend services which are within our code. When we started this, we talked to planning. We are commercial and tourist zoned. We've had countless meetings with different officials in the city. It was never the intention to backdoor the system. They felt they had not received resolutions, and we have not got answers for the simple fact that there is a problem with our application. The only response that we received from the building department and from Charity was a simple email prior to our meeting on March 6th that simply said, this is the letter please refer to the 2020 Blue Book Code. When Cami Skinner came in on Wednesday, the 5th of March, to see what the status of the application was that was submitted on the 27th of February, she was told that the contractor that we had in place to do the work was not licensed in the State of Nevada. The contractor is Gopher Construction, who is Don Tibbles, who has been in this community for years. He has carried a license with the State of Nevada for over 40 years. We were under the impression from our meeting in October that when we presented the idea of doing a she-shed conversion or doing some type of modular unit, something to be able to allow these amenities that as long as it was private, and to the guests that we were under the impression that, as a courtesy we would allow an invite to the building department to do a walkthrough, just to make sure that it was safe for the community as well as for our guests, and as a courtesy to ask the fire department as well. There was not anything mentioned about a permit. There was not anything mentioned about square footage. We were adding electricity and the utilities that we needed to make a plug-and-play unit, just like you would an RV building or a cabin that would come in. It would tie into our existing sewer; it would plug into our pedestal. It is a temporary building; it is on skids. It is not on a permanent foundation. When Charity came out on the 18th of February, she stated we needed to stop and desist work. We stopped working. We went through her letter. We addressed the things that were listed. We got hold of West Builders, and they sent over the plans. There is a habitable plan, and there is a non-habitable plan. They are in the process of working on the habitable plan, because of the consensus that I got from the meeting that there was a problem with the floor load system. We addressed everything that was in the letter when we had the meeting on the 6th. We were simply told, in a lack of better terms, that there were more things on this issue that had to be resolved, and they were not going to be approved. We asked about those conditions, those concerns. She had a list that she showed Mr. Mouritsen. Mr. Mouritsen stated let's go through this and Charity said she was not prepared to release them. Those were her notes. We made a public records request to request everything that was in our file. Those were not included, nor was anything else. It is also our understanding with the city clerk's office that, in addition to being a mobile or being temporary, because it is a State-mandated license that the State Cosmetology Board can come out and give us approval, and that will be that. We're looking for accountability of the department heads, and we're looking for communication. We have not once been told what we need to do to rectify this. We're not asking you to overturn the building department. We're just asking for directions on how we can provide this service. For general purposes, it is 360 square feet, 14 by 24, with an 8-foot porch. The max capacity that we would have there at any time would be 5 people. According to the State Cosmetology Board, it is not required to have a restroom in it, because it is within 100 feet of the restroom to the office.

Charity Birkel, Building Official, gave a presentation. The section out of the International Building Code section 104.3 notices and orders states the building official shall issue necessary notices or orders to

ensure compliance with this code. The Commercial Building permit submittal was an application to use an Out West building as a commercial nail salon. We've had several meetings like Ms. Skinner mentioned with the development team to discuss this project. All aspects of this project and the concerns were discussed. April 2nd, October 8th, the stop work order was placed on the building for work with no permit on February 18th; and the Commercial Building permit application on March 3, 2025. The written rejection letter was emailed on March 5, 2025. The permit submittal date was March 3rd, and a cursory review of the plans determined that the application lacked sufficient data, details, and compliance with applicable codes to be considered further. Notification that the application had been rejected for these deficiencies was sent by email on March 5, 2025. Every commercial building permit application that we hand out to the public, or that they can get from the website includes a submittal checklist.

During the initial review of the submittal documents, this is also the basis for the denial, sheet S001 of the plans prepared by Brett McElhaney, Civil Engineer, stated the general requirements for the Out West building are risk category 1. A risk category 1 building is used for agriculture and certain temporary facilities and minor storage. This building, for its intended use as a commercial nail salon would require its design to meet category 2 risk requirements. This requirement comes from the 2018 International building code section 1604.5 and table 1604.5. Sheet S001 also states Non-Habitable Structure. That is the reason that my review was concluded, because, with the plans that were submitted, there was no way to get to an approval with the plans that were prepared by Mr. McElhaney. The 2018 International Building Code section 105.3: To obtain a permit, the applicant shall first file the application. This goes through and tells you exactly what needs to be on the application for permit. The application that was submitted was presented, and it was severely incomplete. I had to reach out to the applicant to ask them what the intended use was because on the application there was no information on what it was going to be used for. Every commercial building permit application includes a site plan checklist. 2018 IBC section 107.2.6 Site Plan: The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of the construction and existing structures on the site, distances from lot lines, the established street grades and proposed finished grades and as applicable flood hazard areas, floodways, and design flood elevations, and it shall be drawn in accordance with an accurate boundary line survey. Section 1053.1 Action on Application: The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons, therefore. The meeting that we had on March 6th was to go over the notes that I had taken on the submittal. The very first thing I saw when I opened this permit submittal to do the review was that Mr. McElhaney's plans stated right on the front, that they are not for habitable use. It could have been rejected right there, but instead, I took the time to go through it, so I could compile a list of talking points so that we could sit in a room, and that I could have these conversations with them and let them know what would be required for this permit to go through. I advised the applicant that this Out West building would be inappropriate and not meet the code for a commercial nail salon. I recommended in this meeting that Ms. Skinner reaches out to Mr. McElhaney, of McElhaney Structural Engineers, to get some design assistance. I reached out to Mr. McElhaney, and we talked about this project. He did say that he believes it can be done, but it is going to require the assistance of a design professional. In conclusion, the decision to reject the building permit was based on incomplete application and insufficient details in the plans which do not meet building codes and application requirements. The plans and submittal documents are not in compliance with the City of Fernley's adopted codes and lack the required details.

Ben Marchant, City Manager, stated that he was at that meeting in November in the absence of our Planning Director, Ms. Rambo. He did clarify that they were only talking about the planning and zoning permissibility of a nail salon at the RV Park, and we were not talking about what building structures,

where it would go, what it would look like. At that time, we were only discussing the feasibility of land use and planning, and so they were given the correct information at the time, and I think the misunderstanding was that there was an expectation that, because it was permitted in land use that that was all they needed. There was no discussion about building type and style and construction.

Aaron Mouritsen, City Attorney, stated that, in terms of the appeal, as he pointed out in Section 113, your purpose is just to uphold the decision that's been given, or to overturn that decision. If you also feel, though, that you want in some way counsel, or for staff to help and assist them or direct them on something specific, you can add that to your directions. That's separate, though, from the appeal issue.

Debbie Skinner stated that she is not looking to rebuttal anything. She is happy to appease and resubmit. I simply addressed the notice of correction violation letter that is in your packet that I submitted along with the whole packet that I had sent. It would have been very nice to see the items that Miss Charity presented today, so that we knew what we were looking for. This is the clearest of any direction that I've seen since the beginning of this has started. We were never told that there was going to be a fee that had to be paid when we gave it to the permit technician. During this whole time, because we were an established business and we were adding amenities, we were told that we could just make a simple site Plan. The plan said they were non-habitable, but we know that a lot of improvements are made, and that makes them habitable. At the March 6th meeting, we asked if the red notice could be removed so that we could move the building, and we were told absolutely. It could be removed tomorrow. The red tag is still on the building, and the building is still on site. We asked about it being temporary, and what would be required of that should we apply for a special use permit. The building is on skids and placed on a concrete pad, because my understanding is a temporary building has 180 days. Which could possibly be, that if it were rectified, it would become a habitable structure, and in my, in termination, a habitable structure is, if you're going to live or reside in it. This would have normal business operations. We have contacted the State Cosmetology Board. We have requested that they come do a walkthrough so that we can see before we invest any more time and money into this project.

Motion: I MOVE TO UPHOLD CHARITY BIRKEL'S APPEAL DENIAL. **Action:** Approved. **Moved by:** Councilman Stan Lau, **Seconded by:** Councilman Ryan Hanan. **Vote:** Passed, **Summary:** Yes 4. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilman Hanan.

7. RESOLUTIONS

7.1. Discussion and Possible Action to Approve Resolution 25-003 updating the City of Fernley Internal Agenda Process.

This item was moved to the April 16th meeting.

8. ITEMS REQUESTED BY MAYOR OR CITY COUNCIL MEMBERS

8.1. Possible Action requesting a future agenda item to discuss creating a policy that requires developers to dedicate resources to a group or project in Fernley. Councilman Torres.

Councilman Albert Torres stated he spoke with Michele Rambo, Planning Director, and this is a very common thing that comes into planning by any developer when they submit their initial plans for anything. They're advised that we have this, and she said the tracking of the different groups that are being supported and groups that aren't being supported would be nothing to add to the computer program.

Motion: I MOVE TO CONTINUE MOVING FORWARD WITH THIS PROCESS AND TO DIRECT STAFF TO BRING BACK A REPORT. **Action:** Approved. **Moved by:** Councilman Albert Torres, **Seconded by:** Councilman Stan Lau. **Vote:** Passed, **Summary:** Yes 4. **Yes:** Councilwoman Zoberski, Councilman Lau, Councilman Torres, Councilman Hanan.

9. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS

Councilman Albert Torres requested staff to work with Waste Management to get some type of survey out as far as what our citizens would like, and bring forward one of the four options that were presented tonight with any additional information requested by the Council as well.

10. PUBLIC FORUM

Councilman Stan Lau stated that there would be a Sports Commission meeting on April 15th. They are going to discuss the Victory Stadium that might be coming in a few years.

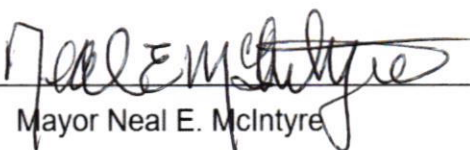
The next meeting will be April 16, 2025, at 5:00 pm.

11. ADJOURNMENT

There being no further business to come before it, the Fernley City Council meeting adjourned at 7:12 pm.

Approved by the Fernley City Council on April 16, 2025, by a vote of:

AYES 5 NAYS: 0 ABSTENTIONS: 0 ABSENT: 0



Mayor Neal E. McIntyre



ATTEST: City Clerk Kim Swanson