

**MINUTES OF THE
FERNLEY CITY COUNCIL AGENDA
May 3, 2017**

Mayor Edgington called the meeting to order at 5:04 pm at Fernley City Hall, 595 Silver Lace Blvd. Fernley, NV.

1. INTRODUCTORY ITEMS

1.1. Roll Call

Present: Councilman Dan McCassie, Councilwoman Sue Seidl, Councilwoman Shari Whalen, Councilman Stan Lau, Councilwoman Fran McKay. City Manager City Manager Daphne Hooper, City Attorney Brandi Jensen, Public Works Director Dave Whalen, City Treasurer Denise Lewis, City Clerk Kim Swanson, Senior Planner Tim Thompson, City Engineer Derek Starkey, Deputy City Attorney Brent Kolvet, Building Official Rick Kabele

1.2. Public Comment

There was none.

1.3. Approval of the Agenda

Motion: MOVE TO APPROVE THE AGENDA WITH ITEM 4.3 TO BE HEARD AFTER REPORTS, **Action:** Approve, **Moved by** Councilwoman Sue Seidl, **Seconded by** Councilman Stan Lau. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Fran McKay, Councilwoman Shari Whalen, Councilwoman Sue Seidl.

2. CONSENT AGENDA:

2.1. (Possible Action) Approval of Voucher Report.

2.2. (Possible Action) Approval of Business Licenses

2.3. Possible Action to award a Contract for Construction for the FY 16/17 PMP Maintenance Project, to Intermountain Slurry Seal, Inc., in an amount not to exceed \$379,726.48, plus a 5% contingency of \$18,986.32.

Motion: MOVE TO APPROVE THE CONSENT AGENDA, **Action:** Approve, **Moved by** Councilman Stan Lau, **Seconded by** Councilwoman Sue Seidl.

Councilwoman Whalen disclosed that she is married to Public Works Director Whalen.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Fran McKay, Councilwoman Shari Whalen, Councilwoman Sue Seidl.

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

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

City Manager Hooper reported on the Mayors Clean Sweep. She stated there were 107 volunteers, including the girl scouts. She stated Stericycle collected 15,000 pounds of hazardous waste, Lyon County Sheriffs provided a work crew, Sherwin Williams donated paint. She listed the sponsors and thanked everyone and especially Charity Birkel, who helped coordinate the clean-up. She also reported the Deputy City Clerk position is open, closing on Friday. She thanked Heather Watkins for putting together the Consumer Confidence Report. City Manager Hooper reminded City Council that immediately following the meeting there would be a FCTA meeting. She also reported the speed limit increased to 80 MPH between Fernley and Winnemucca.

Rick Kabele, Building Official reported the Building Department stats for the month of April.

Councilwoman Whalen reported there were 3 more Mondays left to the school year. She announced the Special Olympics will be held on May 17th and Graduation is May 26th. She announced promotion for the Middle School is May 25th. She reported the Batting cages at the In Town Park were beautiful and thanked the parks staff.

Councilman McCassie reported the In-Town Park looks great, and thanked the Parks Department.

Councilman Lau also thanked the staff for the efforts that have been put into the In-Town Park.

Councilwoman Seidl reported on the Nevada League of Cities Board Meeting in Carson City. She reported about the discussion on marijuana. She stated the lobbyist needs to give the City more information.

Councilwoman McKay reported the cemetery gazebo did not get completely painted by the Rotary Club on Saturday, during the Mayor's Clean Up.

Sheriff McNeil reported graffiti on private property. The individuals were arrested. Sheriff McNeil reported the 2017 Lyon County Sheriff's Office Annual Report (see attached).

Councilwoman Whalen expressed her concern with Sheriff McNeil on his report of the Lyon County stats comparing Fernley to other cities in our County. She stated as a Council member she feels it's our best interest to lobby for more money for the Sheriff's budget to provide services for different areas.

Sheriff McNeil explained with the decrease in crime, and a decrease in response times it makes it difficult to make a valid argument for increased patrol deputies on the streets. Lyon County Sheriff's office will be receiving new software, that compares workloads. He stated this will show that the lack of staff becomes a safety issue.

Mayor Edgington reported the Lyon County Sheriff's Office stats for the month of April. He reminded everyone that summertime is here. He reminded everyone to lock your car doors and the doors to your homes.

Mayor Edgington read a Proclamation into record proclaiming May as Wildfire Community Preparedness Month in the City of Fernley. Mayor thanked everyone who participated in the Annual Clean-up.

3.2. 2017 State of Nevada Legislative Update

City Manager Hooper reported the Legislative update.

4. PUBLIC HEARINGS

4.1. Discussion and Possible Action to adopt Bill 252, an ordinance amending the Fernley Municipal Code, adding Title 6, Chapter 7, False Alarm Reduction including duties of the alarm user; duties of the alarm company; prohibited acts; enforcement of provisions; appeals; confidentiality; government immunity; and other matters properly related thereto.

This item was heard after the break.

City Manager Hooper explained this bill was introduced to start including and addressing false alarms within the City as an effort to help the Lyon County Sheriff's office in responding to false alarms. She also made note of clerical corrections.

Councilwoman Whalen stated she was is in support of the bill. She expressed concern about having a fee and the customers not being notified in writing regarding implementing a fee. She would like a letter sent to each customer informing them of the fee.

City Manager Hooper stated the outreach can be accomplished, but even if the bill is adopted and implemented we do not have a fee schedule in place. City Manager Hooper stated the City Council will need to decide on what the fees. Sheriff McNeil stated the fees should not be the focus as much as cost recovery.

Councilman McCassie disclosed that he has a business with an alarm.

Councilwoman Seidl stated she had a problem with a City ordinance with language that states law enforcement will not respond to an alarm.

Councilwoman Whalen stated tough choices need to be made. She would support the bill the way it is proposed tonight.

Councilwoman Seidl asked how confidentiality applies to public records requests. Deputy City Attorney Brent Kolvet stated it is compatible with public record laws.

Sheriff McNeil explained the concept of a law mandating a Sheriff's Office responding to an automated alarm call. It's a service they provide. Because there is no contract or expectation they will respond because the alarm is sounding off.

- A. Discussion with City Council and Staff
- B. Public Input
- C. Additional Discussion with City Council and Staff
- D. Council Action or Director to Staff

Mayor Edgington called for public input. There was none.

Motion: ADOPT BILL 252, AN ORDINANCE AMENDING THE FERNLEY MUNICIPAL CODE, ADDING TITLE 6, CHAPTER 7, FALSE ALARM REDUCTION INCLUDING DUTIES OF THE ALARM USER; DUTIES OF THE ALARM COMPANY; PROHIBITED ACTS; ENFORCEMENT OF PROVISIONS; APPEALS; CONFIDENTIALITY; GOVERNMENT IMMUNITY; AND OTHER MATTERS PROPERLY RELATED THERETO, WITH CLERICAL CHANGES, **Action:** Approve, **Moved by** Councilman Stan Lau, **Seconded by** Councilman Dan McCassie. **Vote:** Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Fran McKay, Councilwoman Shari Whalen. **No:** Councilwoman Sue Seidl.

4.2. Discussion and Possible Action to Adopt Bill #254; An ordinance adding section 14 to chapter 3 in Title 7 prohibiting the possession or consumption of marijuana in vehicles on public roadways and/or highways; penalties; definitions, etc.

- A. Discussion with City Council and Staff
- B. Public Input
- C. Additional discussion with City Council and Staff
- D. Council Action or Direction to Staff

City Attorney Jensen and Sheriff McNeil presented the adoption of Bill #254. City Attorney Jensen suggested adding a line that says "in the trunk of the vehicle a locked container not readily accessible. She provided a definition for a "locked container"

Councilwoman Seidl felt "public road" needed to be added to Section 7.03.14. City Attorney Jensen stated that language could be added.

Motion: MOVED TO ADD UNDER SECTION 7.03.14 "PUBLIC ROADWAYS" AND OR HIGHWAYS. **Moved by** Councilwoman Sue Seidl. **No second**

Councilwoman Whalen inquired if a compartment that locks inside the vehicle would be acceptable. Sheriff McNeil stated no. Mayor Edgington stated if the product is in its original container it does not have to be locked up.

Motion: MOVE TO ADOPT BILL #254; AN ORDINANCE ADDING SECTION 14 TO CHAPTER 3 IN TITLE 7 PROHIBITING THE POSSESSION OR CONSUMPTION OF MARIJUANA IN VEHICLES ON PUBLIC ROADWAYS AND/OR HIGHWAYS; PENALTIES; DEFINITIONS, ETC. INCLUDING THE CHANGES ON THE TITLE TO SECTION 7.03.14 POSSESSING OR CONSUMING MARIJUANA IN VEHICLES ON PUBLIC ROADWAYS/HIGHWAYS. **Moved by** Councilman Stan Lau. **Seconded by** Councilwoman Sue Seidl

Councilwoman Whalen inquired about the language the City Attorney suggested changing to allow a locked container in the trunk.

Amended Motion: MOVE TO ADOPT BILL #254; AN ORDINANCE ADDING SECTION 14 TO CHAPTER 3 IN TITLE 7 PROHIBITING THE POSSESSION OR CONSUMPTION OF MARIJUANA IN VEHICLES ON PUBLIC ROADWAYS AND/OR HIGHWAYS; PENALTIES; DEFINITIONS, ETC. INCLUDING THE CHANGES ON THE TITLE TO SECTION 7.03.14 POSSESSING OR COMSUMING MARIJUANA IN VEHICLES ON PUBLIC ROADWAYS/HIGHWAYS; ALSO, ADDING LANGUAGE SUGGESTED BY THE CITY ATTORNING STATING "IN THE TRUNK OF THE VEHICLE A LOCKED CONTAINER NOT READILY ACCESSIBLE. **Moved by** Councilman Stan Lau. **Seconded by** Councilwoman Sue Seidl **Vote:** Motion carried by unanimous roll call vote

(summary: Yes = 5). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Fran McKay, Councilwoman Sue Seidl. Councilwoman Shari Whalen.
Action: Approve

Sheriff McNeil clarified a locked device.

4.3. Discussion and Possible Action to introduce Bill 251, an ordinance modifying Fernley Municipal Code Title 3 Business License Regulations, 3.01.02 Definitions including; Residential Landlords, Multifamily Dwellings, Peddlers & Solicitors, Title Loans, 3.01.03(C) Activities Required to Submit Annual Business Registration for Religious Activities, 3.01.17 adding Probationary Status

This item was heard after reports and combined with Item 5.1.

Councilwoman McKay disclosed that she is a real estate broker for a property management firm this matter does not affect her judgement. She will be voting on all items. Councilman McCassie disclosed that he is the owner of a Pawn Shop & Tractor Business. He will be voting on all matters.

City Clerk Kim Swanson presented the modification to the Fernley Municipal Code Title 3 Business Licenses. She explained the change is to remove the definition of “more than four” and add “four or more” properties. She stated the original intent at the time of adoption was to include owners with four or more properties. City Clerk Swanson stated definitions were added to the Peddlers & Solicitors, Recreational Vehicle Park, and Title Loan. Religious activity was removed from the requirements to obtain an annual business license registration.

- A. Discussion with City Council and Staff
- B. Public Input
- C. Additional discussion with City Council and Staff
- D. Council Action or Direction to Staff

Councilwoman Seidl would like the language in section “Manufactured/Mobile Home Parks”, to say a parcel of land upon which three (3) or more mobile or manufactured

homes are located. She stated this would exempt a home owner with an accessory dwelling from being considered a manufactured home park.

Planning Director Thompson explained the language in the resolution that is being proposed is consistent with the language included Chapter 28 of the Development Code.

Motion: MOVE TO INTRODUCE BILL 251, AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 3 BUSINESS LICENSE REGULATIONS, 3.01.02 DEFINITIONS INCLUDING; RESIDENTIAL LANDLORDS, MULTIFAMILY DWELLINGS, PEDDLERS & SOLICITORS, TITLE LOANS, 3.01.03(C) ACTIVITIES REQUIRED TO SUBMIT ANNUAL BUSINESS REGISTRATION FOR RELIGIOUS ACTIVITIES, 3.01.17 ADDING PROBATIONARY STATUS **Moved by:** Councilwoman Shari Whalen

5. STAFF REPORTS

5.1. Discussion and Possible Action to adopt Resolution #17-004 revising the Business License Fee Schedule by removing the tiered fees for Apartments and replacing them with fees for Residential Rental Dwellings.

This item was discussed with Item 4.3

City Clerk Swanson presented the changes to Residential Rental Dwellings, and Apartments included in the Resolution.

Councilwoman Seidl asked if somewhere in the code states someone could do more than one business within the City limits and only have one business license.

City Attorney Jensen explained if a business has more than one store front with the same name than they should only need one licensing with the City for that business. Her recommendation is to get one business license to conduct business within the City of Fernley.

City Clerk Swanson explained a business may use one corporate name and register multiple businesses doing business as under one dba.

Councilwoman Whalen asked if there is a legal way that the definition for separate licensing for businesses should read. City Attorney Jensen explained that there is nothing illegal with the way the City Clerk has written the code.

Councilwoman Whalen stated she is satisfied with the wording. She questioned why religious organizations in the City didn't need to register with the City of Fernley.

Mayor Edgington stated many of the churches in the City limits felt their rights were being violated therefore, he asked the City Clerk to change the code.

Councilwoman Whalen stated she had a concern of churches not registering as they City needs to know where they are located. She asked how are other municipalities require churches to register. City Clerk Swanson stated she researched other Municipalities and they do require all churches to register. She explained we have distance requirements for marijuana dispensaries and if a church is registered in the area the dispensary could not be there. Councilwoman Whalen stated she is not comfortable with not allowing churches to register.

Planning Director Thompson explained his understanding wasn't an opposition of getting a license but of having a business license inspection. There are other jurisdictions in other states that require any business to register. Mr. Thompson stated there are other zoning and use requirements, and knowing where these types of businesses are located is important from a zoning perspective.

Councilman Lau asked if an owner opens a second location doing the same business in both locations, do they need another business license for the second location? City Clerk Swanson responded they would need a license for each location.

City Manager Hooper explained each business need to keep separate bookkeeping for each location of the business. Having the same owner for more than one location, still requires the owner to have separate business licenses.

Councilwoman Seidl disclosed her daughter in law's father is a Pastor in Fernley. She received a call from him regarding business licensing for churches. She explained they are not a business and they are non- profit. The churches disagreed with getting a

business license. She explained to the Pastor the purpose of knowing the location of each church within the City.

Councilwoman McKay stated she agreed that churches should not have to register with the City. She explained the churches accept donations and are not paid for their work. They are not doing business nor making a profit.

Mayor Edgington opened public input.

Stephanie Nethers, with Cardin Realty Pros, on behalf of their owners were in favor of the resolution as written. She stated they are appreciative of all the work that was put into it. Ms. Nethers asked for clarification on business licenses are per owner and not per parcel, and business license inspections on a 4-plex.

City Clerk Swanson explained language was removed for a single parcel from multi-family dwellings.

Jim Nadu, Career Nevada, asked for clarification of the code.

City Manager Hooper explained the language per parcel was removed. It is cumulative and if a business is renting 4 or more, they will be charged the initial amount of \$100, and \$5 per additional unit.

Jim Nadu, Career Nevada, asked if the wording "duplexes" could be taken out of the language. He explained that most people who purchase a duplex are a retirement investment. City Manager Hooper clarified the language in the Ordinance does read to include all residential rental properties. She stated once you own 4 or more units of any type dwelling, you will need to apply for a business license.

Kellie Floodman, Cardin Realty Pros, stated she manages 452 units and has multiple owners for the units she manages.

Motion: TO ACCEPT PAGE 1 & 2 OF THE ORDINANCE, Action: Approved, Moved by Councilman Lau, Seconded by: Councilwoman Seidl, Motion carried unanimously.

Councilwoman Whalen stated churches are non-profit, and all other non-profit businesses must register with the City. She would like to know churches are safe, and know where they are located within the City. She wanted consistency with every business.

Councilwoman Seidl stated it's the United States Constitution that prohibits the City from regulating what the churches do. The churches feel they won't have any freedom because of the government trying to regulate them.

Deputy City Attorney Brent Kolvet explained he is not aware of any court in support of what the churches are claiming. The City is not regulating any content, nor telling them what to say in church. All the City is doing is requiring them is to register their location and where their facilities are located.

Motion: MOVE TO INCLUDE THE WORD RELIGIOUS IN SECTION C1 OF THE PROPOSED ORDINANCE., **Action:** Approved, **Moved by:** Councilwoman Whalen, **Seconded By:** Councilman Stan Lau, **Vote:** Motion passed (**summary:** Yes= 3, No= 2). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Shari Whalen, **No:** Councilwoman Fran McKay, Councilwoman Sue Seidl.

Councilwoman McKay asked if the language could include for registering the location only.

City Clerk Swanson suggested the business license be called an activity permit, or an activity registration, something different than a business.

Councilman Stan Lau agreed with the wording because it is more of an activity. Councilman Stan Lau asked to change the wording for 3.01.06 Duties of Licensees E4. He would like the wording to say "a separate permit", for a separate location.

Councilwoman Seidl asked to have the wording "The applicant is in default on any payments owed to the City" be included in the language of "Probation, Suspension or Revocation" Section B.

Motion: MOVE TO DUPLICATE THE LANGUAGE "THE APPLICANT IS IN DEFAULT ON ANY PAYMENTS OWED TO THE CITY" TO SECTION B PROBATION. **Action:** Approved, **Moved by:** Councilwoman Seidl, **Seconded by:** Councilwoman Whalen, **Vote:** Motion passed (**summary:** Yes= 5 No= 0). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Shari Whalen, Councilwoman Fran McKay, Councilwoman Sue Seidl.

Motion: MOVE TO ADOPT RESOLUTION #17-004 REVISING THE BUSINESS LICENSE FEE SCHEDULE BY REMOVING THE TIERED FEES FOR APARTMENTS AND REPLACING THEM WITH FEES FOR RESIDENTIAL RENTAL DWELLINGS. **Moved by:** Councilwoman Seidl, **Seconded by:** Councilwoman Whalen, **Vote:** Motion passed (**summary:** Yes= 5 No= 0). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Shari Whalen, Councilwoman Fran McKay, Councilwoman Sue Seidl.

Break 7:14-7:24

5.2. Discussion and possible action to approve City of Fernley support to Lyon County in case of emergency

Mayor Edgington explained he reach out to Lyon County and volunteered our equipment and manpower for an emergency if there is not a significant impact on the day-to-day operations of the City. He stated that the County asked in the event there is flooding if a building inspector can inspect damaged buildings. He stated the City would ask for reimbursement thru FEMA.

Councilwoman Whalen inquired if staff will be paid or if they will volunteer. City Manager Hooper clarified it would be a paid assignment potentially reimbursed thru FEMA if accepted. She felt this should be a formal agreement instead of a letter.

Motion: MOVED TO DIRECT STAFF TO SEND RESOURCES INCLUDING MANPOWER AND EQUIPMENT WITH THE APPROVAL OF THE MAYOR, CITY MANAGER AND THE PUBLIC WORKS DIRECTOR IN A MUCH AS NEEDED IN THE NEAR TERM CONDITIONS EXTENDING THROUGH THE SPRING AND TO ALSO NEGOTIATE AN INTERLOCAL AGREEMENT OR A SIMILAR AGREEMENT TO FORMALIZE FOR A FUTURE SITUATION. **Moved by** Councilwoman Shari Whalen, **Seconded by** Councilwoman Sie Seidl

Councilwoman Seidl suggested if the City has equipment that is not used on a daily basis sending it to Yerington for staging so it is ready to go.

Councilwoman Whalen stated the City needs to send the message to the County that we are here for them. She also disclosed that she is married to the Public Works Director.

Deputy City Attorney Kolvet stated there are laws and provisions for cooperative agreements. He felt the best protection for the City was a Memorandum of Understanding.

Councilwoman Whalen clarified she was not in support of a letter because it formalizes a few things but not everything. She felt if the City is going to put something in writing it should be more comprehensive.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5). **Yes:** Councilman Dan McCassie, Councilman Stan Lau, Councilwoman Fran McKay, Councilwoman Sue Seidl. Councilwoman Shari Whalen. **Action:** Approve

6. ITEMS REQUESTED BY MAYOR OR CITY COUNCIL MEMBERS:

These items will be discussed by Mayor and City Council to possibly be placed on a future agenda.

6.1. Discussion and Possible Action to request a future agenda item to discuss changing the composition of the Fernley Convention and Tourism Board to include the Mayor.

Councilwoman Seidl withdrew this request.

6.2. Discussion and Possible Action to request a future agenda item to discuss the possibility of purchasing of the lot to the east of the Depot.

City Manager Hooper stated there would be an update on this at the next City Council meeting.

7. PUBLIC COMMENT

There was none.

8. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS.

There was none.

ADJOURNMENT.

There being no further business to come before it, the Fernley City Council Meeting adjourned at 8:29 pm.

Approved by the Fernley City Council on June 7, 2017 by a vote of:

AYES: 5 NAYS: 0 ABSTENTIONS: 0 ABSENT: 0



ATTEST: City Clerk Kim Swanson



Mayor Roy Edgington