

**Minutes of The  
Fernley City Council Meeting  
September 6, 2017**

Mayor Edgington called the meeting to order at 5:00 pm at Fernley City Hall, 595 Silver Lace Blvd, Fernley, NV.

**1. INTRODUCTORY ITEMS**

**1.1. Roll Call**

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

**1.2. Public Comment**

Fred Steinmann, Secretary for the Nevada Chapter of the American Planning Association announced Mayor Edgington was elected Official of the Year by the association. He invited everyone to the Awards Banquet on October 4, 2017.

Dana Uhlhorn, Fernley resident, spoke in favor of disbanding the Arts and Culture Task Force.

Councilwoman Whalen inquired if the Arts and Culture Task Force Agenda Item 6.3 could be heard first on the Agenda.

**1.3. Approval of the Agenda**

City Manager Hooper requested to remove Consent Agenda Items 2.6 & 2.7 from the Agenda.

## **2. CONSENT AGENDA:**

**2.1. (Possible Action) Approval Of Voucher Report**

**2.2. (Possible Action) Approval of 8/02/2017 Minutes**

**2.3. (Possible Action) Approval of Business Licenses**

**2.4. Possible Action To Approve The Payment Of \$108,064.70 To TCID For Administrative, District General, Operation and Maintenance Fees For City Owned Parcels and Surface Water Rights.**

**2.5. Possible Action to Approve the Will-Serve Request for Cottonwood Elementary for 0.30 ERC'S for Water and 1.09 ERC's for Sewer for Lyon County Parcel 021-171-15 located at 925 Farm District Road.**

**2.6. Possible action to authorize the execution of the Assignment and Assumption of Beneficial Interest in Water Rights from D&S Limited to Trident Plus, LLC in the amount of 4.28 acre feet.**

**2.7. Possible action to authorize the execution of the Assignment and Assumption of Beneficial Interest in Water Rights from Marc E. Simoncini and Julia R. Simoncini to Trident Plus, LLC in the amount of 12.29 acre feet.**

**2.8. Possible action to authorize the execution of a Stipulation and Order in United States District Court Case No. 3:73-CV-00035-LDG (an appeal by the Pyramid Lake Paiute Tribe of Nevada State Engineer Ruling 6327).**

**2.9. Possible action to authorize the Mayor to execute a Second Amendment to a 1994 Agreement between the Town of Fernley and Wade/Fernley, L.P. with respect to the provision of water service to certain property owned by Sonterra Development Company, LLC (the successor-in-interest to Wade/Fernley, L.P.).**

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

Councilwoman Whalen disclosed that she is married to Public Works Director Dave 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. **Action:** Approve.

**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 open positions in Public Works and Finance. She also reported Lyon County will be meeting for to develop their Strategic Plan. The first meeting will be on September 30<sup>th</sup>. Dr. Steinmann will be leading the meeting.

Public Works Director, Dave Whalen announced Barry Williams was selected as the new Deputy Public Works Director.

Rick Kabele, Building Official announced the welcoming of their new Permit Technician, Brandi Carpenter. He also reported the Building Department stats for the month of July.

Councilwoman Whalen reported all children are back in school. Silverland Middle School Honor Society and Project Lyons are inviting all students to come in and help make blankets for the victims of Hurricane Harvey. She also shared a video of a student from Silverland Middle School, and the CEO of Microsoft.

Councilman McCassie stated he received a phone call from a resident asking if staff could clean the bushes on Main Street, near the Dollar Store and the Post Office because of public safety.

Councilwoman Seidl congratulated Barry Williams on his new position.

Councilwoman McKay attended the Relay for Life meeting and reported the relay is scheduled for the second week in July 2018 and Hollywood will be the theme. She also reported the STEM committee will have a new scholarship that will be given to a high school senior.

Mayor Edgington asked the members of the City Council to volunteer to judge at the STEM festival next year. He also reported that he and City Manager Hooper met Senator Masto's aids. They spoke about issues with future infrastructure, buy American, Water Treatment Plant, water issues, and grants. Mayor Edgington stated it was a very good meeting.

Councilwoman Whalen thanked the Parks staff for their awesome work done at the batting cage at the In-Town Park.

Item 6.3 was addressed after reports.

## **4. PRESENTATIONS**

### **4.1. Discussion and Possible Action to accept the City of Fernley's Communications Plan for FY 2018 - 2020.**

Fred Steinmann, Assistant Research Professor with the University of Nevada Reno presented the Strategic Communications Plan for the City of Fernley (see attachment).

Mayor Edgington suggested holding a workshop to discuss the plan in parts.

**Motion:** MOVE TO ACCEPT THE CITY OF FERNLEY'S COMMUNICATION PLAN FOR FY 2018 – 2020 AND TO HAVE THE CITY MANAGER SET UP A MEETING WITH DR. STEINMANN AND INVITE STAFF, COUNCILWOMAN SEIDL WOULD LIKE TO ATTEND. **Moved by:** Councilwoman Sue Seidl, **Seconded by:** Councilwoman Shari 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. **Action:** Approve.

This future meeting will be open to the public.

### **4.2. Presentation and Discussion of the Water Resource Quarterly Report.**

GIS/Water Rights Manager Jennifer Derley presented the City Council with a brief update on the Water Resource Management activities for the 4<sup>th</sup> Quarter of FY2016/2017. Ms. Derley answered questions from the City Council.

**Break 7:01 – 7:13**

## **5. PUBLIC HEARINGS**

### **5.1. Second Reading, Adoption: Bill #259**

**Discussion and Possible Action to introduce Bill #259 an ordinance adopting and enacting a new code for the City of Fernley; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof; providing for the manner of amending such code; and providing when such code and this ordinance shall become effective.**

City Clerk Kim Swanson explained this was the second reading for Bill 259, and was available for questions.

Councilwoman Seidl suggested to add the sentence “in title to due process” in Section 4. City Attorney Jensen stated there is no need to add the language as it’s guaranteed through the Constitution.

Mayor Edgington called for public input: There was none.

**Motion:** MOVE TO ADOPT BILL #259 AN ORDINANCE ADOPTING AND INACTING A NEW CODE WITH THE CITY OF FERNLEY PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDING THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE **Moved by:** Councilwoman Sue Seidl, **Seconded by:** Councilwoman Fran McKay. **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. **Action:** Approve.

## **5.2. First Reading, Introduction: Bill #260**

**Discussion and Possible Action to introduce Bill #260 an ordinance amending Fernley Municipal Code Title 10 Business License Regulations, by adding Chapter 5 Licensing of Marijuana Establishments and to allow medical marijuana dispensaries to sell or dispense marijuana and marijuana-infused products at retail; license marijuana cultivation and production facilities to cultivate and produce marijuana and marijuana-infused products; license independent testing laboratories to test marijuana and marijuana-infused products; license distributors to transport marijuana and marijuana-infused products.**

City Clerk Swanson introduced Bill #260 which will create business license regulations for the licensing of medical and recreational marijuana establishments.

Councilwoman Seidl asked for clarification on if the City is regulated by Nevada Revised Statue on how much fees we are able to charge. Nick Vanderpool, Capital Partners stated the City has the authority to set the fees.

Mayor Edgington called for public input:

Ed Gilroy, Fernley resident, stated he would like the Council to look at the criteria that Council would set in place to approve or deny an application. Nick Vanderpool, Capital

Partners, stated the language passed by the legislature is for individuals who apply for a license.

**Motion:** MOVE TO INTRODUCE BILL #260 AN ORDINANCE AMENDING FERNLEY MUNICIPAL CODE TITLE 10 BUSINESS LICENSE REGULATIONS, BY ADDING CHAPTER 5 LICENSING OF MARIJUANA ESTABLISHMENTS AND TO ALLOW MEDICAL MARIJUANA DISPENSARIES TO SELL OR DISPENSE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AT RETAIL; LICENSE MARIJUANA CULTIVATION AND PRODUCTION FACILITIES TO CULTIVATE AND PRODUCE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; LICENSE INDEPENDENT TESTING LABORATORIES TO TEST MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; LICENSE DISTRIBUTORS TO TRANSPORT MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; AND ADD SECTION 10.05.23. **Moved by** Councilman Stan Lau.

City Manager Hooper asked City Council to add a section at the end of Section 10.05.22. Ms. Hooper read the language she would like to add to the section creating section 10.05.23.

### **5.3. First Reading, Introduction: Bill #261**

**Discussion and Possible Action to introduce Bill #261, as an ordinance amending Title 32, Chapter 49 of the Fernley Municipal Code to permit medical marijuana establishments; to allow medical marijuana dispensaries to sell or dispense marijuana and marijuana-infused products at retail; to allow medical marijuana cultivation and production facilities to cultivate and produce marijuana and marijuana-infused products; to allow independent testing laboratories to test marijuana and marijuana-infused products; and other matters properly related thereto.**

Planning Director Thompson presented the zoning regulations for marijuana establishments. The City of Fernley is proposing allowing only one establishment within the City limits, and only allowing the one establishment to include recreational marijuana within the City upon proper State approval and City licensing. The most important regulation related to a medical marijuana establishment is the location criteria for a dispensary. Mr. Thompson stated the City had discussions with Lyon County Sheriff's

office and determined the best location for a dispensary would be in an area that is well traveled, highly visible, and secure. The property would have to be Master Plan Commercial, and a zoning classification of C2 General Commercial Property. Planning Director Thompson stated the property would need direct access to Hwy 95A, or Hwy 50A. He also shared other regulation requirements near or around schools, and other public safety plans. Mr. Thompson explained the additional requirements per the request of the Sheriff's office regarding video monitoring. Planning Director Thompson explained the zoning for marijuana cultivating, and testing laboratories will be M1, Industrial District. He also explained the different standards for a permitted location.

**Motion:** MOVE TO APPROVE THAT THE APPLICANT MUST PROVIDE A WRITTEN PUBLIC SAFETY PLAN; AND SUBJECT TO CITY, POLICE CHIEF, AND THE FIRE DEPARTMENT APPROVAL, **Moved by:** Councilwoman Sue Seidl, **Seconded by:** Councilwoman McKay, (**summary:** Yes = 3, No= 2). **Yes:** Councilman Dan McCassie, Councilwoman Fran McKay, Councilwoman Sue Seidl, **No:** Councilwoman Whalen, Councilman Lau. **Action:** Approve

Councilwoman Whalen stated she did not have a problem with the Police Chief, and Fire Departments input. She would rather have their input and not their approval. Councilwoman Seidl felt if the Sheriff's office and Fire Department would be dealing with the consequences of the Safety Plan then they should approve the Safety Plan. Councilwoman Whalen asked what guiding document would be used to approve a safety plan.

Mayor Edgington opened Public Input:

Dave Zimmerman, Fernley resident, he felt we should have the input of the Sheriff, and the Fire Department. He was also concerned about the separation of the growing of marijuana and the dispensary sites. Mr. Zimmerman asked if there is a reason for the two to be at separate locations. Planning Director Thompson explained it was due to state regulations.

**Motion:** MOVE TO INTRODUCE BILL #261 AN ORDINANCE AMENDING TITLE 10, CHAPTER 3 OF THE FERNLEY MUNICIPAL CODE TO PERMIT MEDICAL

MARIJUANA ESTABLISHMENTS; TO ALLOW MEDICAL MARIJUANA DISPENSARIES TO SELL OR DISPENSE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AT RETAIL; TO ALLOW MEDICAL MARIJUANA CULTIVATION AND PRODUCTION FACILITIES TO CULTIVATE AND PRODUCE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; TO ALLOW INDEPENDENT TESTING LABORATORIES TO TEST MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; AND OTHER MATTERS PROPERTLY RELATED THERETO. **Moved by:** Councilman Stan Lau.

#### **5.4. First Reading, Introduction: Bill #262**

**Discussion and Possible Action to introduce Bill #262 as an ordinance authorizing the City of Fernley to enter into a Development Agreement (DA 2017-001) with D. L. G. Associates, LLC, to extend the period of time for Phase II Final Map approval of the Golf Club at Fernley (TSM 05-05), located at 4000 farm district road (APN's: 020-581-03, 020-581-04, and 020-581-05).**

Planning Director Thompson presented the development agreement with D.L.G. Associates, LLC. He explained in 2005 the initial subdivision map was approved. In 2007 an extension of time was granted, and a final map for the Golf Club at Fernley Phase I subdivision was recorded in May of 2008. Planning Director Thompson stated this is the forth Development Agreement. He stated there is pending litigation surrounding water for this particular subdivision which is the reason for the extensions. He also stated this agreement will allow the owner additional 4-year extension to file the next final map. Mr. Thompson recommended approval of the extension for the remaining undeveloped parcels.

Councilwoman Whalen asked if the plan was always to take out the Driving Range and put homes on the parcels. Chris Baker, Manhard Consulting, on behalf of D.L.G. Associates stated the original Tentative Map for the 92 lots included developing the Driving Range as it was originally approved in 2005. Councilwoman Whalen stated she is disappointed that we will have a Golf Course without a Driving Range.

**Motion:** MOVE TO INTRODUCE BILL #262 AS AN ORDINANCE AUTHORIZING THE CITY OF FERNLEY TO ENTER INTO A DEVELOPMENT AGREEMENT (DA 2017-001) WITH D.L.G. ASSOCIATES, LLC, AS PRESENTED AND SET THE SECOND READING

AND PUBLIC HEARING FOR THE REGULARLY SCHEDULED CITY COUNCIL MEETING ON SEPTEMBER 20, 2017. **Moved by:** Councilman Lau.

## **6. STAFF REPORTS**

### **6.1. Discussion and possible action to create a Capital Improvement Committee and to appoint two (2) members from the City Council to serve on the committee.**

City Manager Hooper explained that she has had a lot of discussions regarding Capital Improvements and forming a committee. She stated through the budget process she developed a Capital Improvement Plan. The plan is tied to funding and projections for a (5) five-year period. Ms. Hooper explained the committee would consist of appointing (2) two City Council members, City Manager's office, City Engineer, Public Works Director, and the Finance Department. The committee will work together to establish what the process will be and review the plan.

Councilwoman Seidl stated she was not in favor of the committee. She stated this would take away from the budget process. Councilwoman Seidl stated the process is currently working and we should keep it the way it is. City Manager Hooper stated Councilwoman Whalen introduced the idea and it was approved by the Council. She also stated her intent is not to take away from the budget process or to take it externally. Ms. Hooper stated her vision is to take an opportunity for further discussion, understanding why decisions are made, and what the long-term ramifications would be.

**Motion:** MOVE TO CONTINUE THE MEETING WITH AGENDA ITEM 7.1 TO BE HEARD WITH ITEM 6.2, **Moved by:** Councilwoman Shari Whalen, **Seconded by:** Councilman Dan McCassie. **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. **Action:** Approve

Councilwoman Shari Whalen stated she originally met with our City Treasurer about getting the group together to discuss Capital projects. She felt City Council would have a better understanding what they need to do to support staff, and staff would understand what City Councils concerns and needs are. Councilwoman Seidl felt it is the best interest

that we leave it up to the people in charge of the projects. She stated Council pushed hard for Cedar Street and spent a lot of money for a pavement improvement plan and voted as a Council to say this is the criteria we want to focus on.

Mayor Edgington felt it was important to understand the projects. He stated as elected officials they need to answer the questions of the public.

Councilwoman Whalen asked to put it on record that Cedar Street is not part of her ward. She felt the residents who live there are generally underserved and they deserve to have an advocate.

Councilman Stan Lau liked the idea. He volunteered to be on the committee, and felt he has experience as an inspector, and a material tester.

**Motion:** MOVE TO APPROVE AND CREATE A CAPITAL IMPROVEMENT COMMITTEE AND APPOINT COUNCILWOMAN WHALEN AND COUNCILMAN LAU TO SERVE ON THE COMMITTEE. **Action:** Approve, **Moved by:** Councilwoman Shari Whalen, **Seconded by:** Councilman Stan Lau. **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.

## **6.2. Discussion and possible action to implement a Code Enforcement Task Force and appoint two (2) council members to the Task Force.**

**This item was heard after item 7.1.**

Building Official Kabele stating he is presenting the Code Enforcement Task Force along with implementing guidelines for the Clean Desert Initiative committee with the opportunity to appoint (2) two Council members to the task force, which includes City staff, and members of the community. He explained this committee will select and participate in developing language for the Municipal Code for enforcement activities dealing with blight, and the clean desert initiative. Mr. Kabele felt the City is in need of it.

Councilman McCassie and Councilwoman Seidl volunteered to serve on the task force. Councilwoman Whalen was concerned because of the scope of the task force was very narrow. She felt the task force would only be working on the language for the Municipal

Code, and she has a problem with that. City Manager Hooper pointed out on the staff report that the intent is not just to work on the language but to look at prioritizing, and how to move forward with the budget priorities.

Mayor Edgington wanted to see all stakeholders involved to participate on the committee. He asked the Building Official to include the number of Code Enforcement violations received, acted on, and pending on his monthly report.

Councilman Dan McCassie disclosed he is a member of the Fire Board.

**MOTION:** MOVE TO IMPLEMENT A CODE ENFORCEMENT TASK FORCE AND APPOINT COUNCILMAN MCCASSIE AND COUNCILWOMAN SEIDL TO SERVE ON THE TASK FORCE AND ALSO INCLUDE THE CLEAN DESERT INITIATIVE, **Action:** Approve, **Moved by:** Councilman Stan Lau, **Seconded by:** Councilwoman Shari 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.

### **6.3. Discussion and Possible Action to provide direction for the City Manager's Office Arts and Culture Task Force, including a possible recommendation to continue or to disband.**

Assistant to the City Manager Colleen Unterbrink stated that during a recent Arts and Culture Task Force meeting a suggestion was made to disband the group. Ms. Unterbrink relayed if the group was on their own it would have greater ability, independence, and authority to operate, plan and coordinate events.

Councilwoman Whalen stated she did not see the reason for the task force to disband.

Dana Uhlhorn, Fernley resident, stated a separate task force could present the items to the City.

City Manager Hooper explained the next steps were and the regulatory issues as a government.

Councilwoman Seidl was in favor of disbanding the task force adding she was opposed to forming the group in the beginning as the City does not support every organization.

Councilwoman Whalen expressed concern with disbanding an organization that the City Council just put together.

Mayor Edgington shared in Reno and Washoe County there is art alongside the highway. There is none of this in Fernley and it is a part of our culture. He stated the committee was established in hopes to get the artists showcased. Mayor Edgington encourage the City Council to continue with the task force.

Councilwoman McKay with the Mayor that the City has space to display more art throughout Fernley.

Dana Uhlhorn wanted to clarify that he is not wanting to disband the task force. He explained the committee has great ideas but it is difficult to move forward with the government process. Mr. Uhlhorn explained the task force would present their ideas and move forward with ease once it's been agreed on by the City and the committee. Mr. Uhlhorn stated the committee should be an outside group who would not have issues with open meeting laws.

**Motion:** MOVE TO RECOMMEND THAT THE CITY ARTS AND CULTURE TASK FORCE CONTINUE TO OPERATE OUT OF THE CITY MANAGERS OFFICE, **Moved by** Councilwoman Shari Whalen, **Seconded by** Councilman Dan McCassie.

Councilwoman Whalen encouraged concerned citizens to organize and collaborate. She stated the City is here to support you.

**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. **Action:** Approve.

## **7. ITEMS REQUESTED BY MAYOR OR CITY COUNCIL MEMBERS:**

**7.1. Discussion and Possible Action requesting a future agenda item regarding a clean desert initiative including, but not limited to; penalties for dumping, provisions for target shooting, signage and enforcement. (Councilwoman Whalen's request)**

**This item was heard after 6.1**

Councilwoman Whalen stated she researched how other cities are handling this. She stated the Code Enforcement Task Force could address this and reach out to other agencies for guidance.

Councilwoman Whalen stated she would pull this item if staff felt it could be handled under the action items on the Code Enforcement Committee.

**8. PUBLIC COMMENT**

There was none.

**9. ADDRESS REQUEST(S) FOR FUTURE AGENDA ITEMS.**

Councilman Dan McCassie requested future agenda items for updating Title One specifically section 1.05.05 of the Fernley Municipal Code and an item to change the policy to allow City staff to pick up debris and trash on streets throughout the City.

**ADJOURNMENT**

There being no further business to come before it, the Fernley City Council Meeting adjourned at 9:30 pm.

Approved by the Fernley City Council on October 18, 2017 by a vote of:

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSTENTIONS: \_\_\_\_\_ ABSENT: \_\_\_\_\_

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**Mayor Roy Edgington**

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**ATTEST: City Clerk Kim Swanson**