

REGULAR CITY COUNCIL MEETING MINUTES
3:00 P.M. Monday, August 24, 2009
City Council Chambers, Legislative Building, 745 Fourth Street, Sparks, Nevada

1. *Call to Order (Time: 3:01:19 p.m.)

The regular meeting of the Sparks City Council was called to order by Mayor Geno Martini at 3:00 p.m.

2. *Roll Call (Time: 3:01:25 p.m.)

Mayor Geno Martini, City Clerk Linda Patterson, Council Members Julia Ratti, Ron Smith, Mike Carrigan, Ron Schmitt, City Manager Shaun Carey, Acting City Attorney Sherle Eiting, PRESENT. Council Member Phillip Salerno, City Attorney Chet Adams, ABSENT.

Invocation Speaker: (Time: 3:01:56 p.m.)

The invocation was given by Pastor Brad Dyrness from the Sparks Church of the Nazarene.

Pledge of Allegiance (Time: 3:03:34 p.m.)

The Pledge of Allegiance was led by Council Member Julia Ratti.

***Comments from the Public** (Time: 3:04:11 p.m.)

None.

Approval of the Agenda (Time: 3:04:20 p.m.)

Consideration of taking items out of sequence, deleting items and adding items which require action upon a finding that an emergency exists.

Mayor Martini announced that item 6.5 would be pulled from the agenda because the presenter of this item, Community Relations Manager Adam Mayberry, was absent due to illness.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to approve the agenda as amended. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

3. Recommendation to Approve Minutes of: (Time: 3:04:54 p.m.)

3.1 None.

4. Announcements, Presentations, Recognition Items and Items of Special Interest:

(Time: 3:04:56 p.m.)

None.

5. Consent Items: (Time: 3:05:01 p.m.)

A request was made to pull item 5.6 for discussion and separate vote.

A motion was made by Council Member Smith, seconded by Council Member Carrigan, to approve Consent Items 5.1 through 5.5 and 5.7. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

5.1 Report of Claims and Bills approved for payment and appropriation transfers for the period July 23, 2009, through August 5, 2009

An agenda item from Finance Director Tom Minton recommending approval of the Report of Claims and Bills as outlined.

5.2 Consideration and possible approval of an application for a Gaming license for Nevada Restaurant Services, Inc., dbat Big Kmart #4151, located at 2125 Oddie Boulevard, Sparks, NV, Submitted by Ms. Carmalen Gillilan

An agenda item from Police Chief Steve Asher recommending the City Council approve an application for a Gaming License for Big Kmart #4151. Ms. Gillilan is the compliance officer for Nevada Restaurant Services. The license will provide a \$1,800.00 annual fee for 15 multi-denominational upright slot machines and is contingent upon inspections and approvals from various agencies as stated in the staff report.

5.3 Consideration and possible approval of the destruction/disposal of original building plans and associated documents that have been microfilmed (Community Development Department)

An agenda item from Community Development Director Neil Krutz recommending the Council approve the destruction of documents that have been microfilmed as outlined in the staff report.

5.4 Consideration and possible approval of Change Order No. 1 for the 2009 Curb, Gutter, and Sidewalk Program, Bid No. 08/09-033, PWP No. WA-2009-266, CIP No. 9092, to MKD Construction Inc., in the amount of \$52,928

An agenda item from Transportation Manager Jon Ericson recommending the Council approve a change order for additional quantities of curb, gutter, sidewalks, driveways, and ADA ramps to include the south side of York Way between London Circle and Rock Boulevard prior to reconstruction of the roadway scheduled for this fall. The original bid was for work on the north side of York Way; however, the reconstruction of York Way has been moved up and there are sufficient funds available to repair the south side, prior to roadway reconstruction.

5.5 Consideration and possible approval of the bid for “TMWRF Effluent Pump Station Modifications and Upgrades Project—Phase 2”, Bid No. 09/10-006, PWP No. WA-2009-349, to RDC, Inc., in the amount of \$175,700

An agenda item from Civil Engineer Janelle Thomas recommending the Council award a bid for effluent pump modifications to RDC, Inc. This project will consist of the demolition and salvage of portions of the effluent pump station components; roof hatch modifications; installation of butterfly valves; manifold modifications; and electrical modifications in order to reduce the hydraulic surge during normal pump operations and prevent further damage to the pumps. Funds were budgeted and are available for this contract.

5.6 Consideration and possible approval of additional funds to Stantec Consulting Inc., to provide Tax Increment Financing Area Engineer’s Report for the proposed Copper Canyon Development (Time: 3:05:40 p.m.)

An agenda item from Community Development Director Neil Krutz recommending the Council approve the expenditure of additional funds to Stantec Consulting for completion of an Engineer’s Report in support of a Tax Increment Financing Study. Stantec has requested

additional funds in the amount of \$24,500 to complete the report and the developer is providing the funding.

Council Member Carrigan asked if it would more appropriate to approve this item after item 6.2, a resolution approving this tax increment study. Community Development Director Neil Krutz noted that item 6.2 was a resolution to direct the City's Engineer to move forward with studies. The additional funding for those studies is under this item, 5.6. Mr. Carrigan suggested that this item be approved after item 6.2.

(Time: 3:24:20 p.m.)

A motion was made by Council Member Carrigan, seconded by Council Member Smith, to approve additional funds to Stantec Consulting Inc., to provide Tax Increment Financing Area Engineer's Report for the proposed Copper Canyon Development. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

5.7 Consideration and possible approval to add six (6) Police Officer positions to the Personnel Complement for which grant monies were awarded by the COPS Office Funding in the American Recovery and Reinvestment Act of 2009

An agenda item from Senior Human Resources Analyst Jenny Lewis recommending the Council grant approval to add six police officer positions to the personnel compliment. The Police Department has received approval for funding of six additional police officers as part of the ARRA of 2009 via the COPS Hiring Recovery Program (CHRP).

6. General Business:

6.1 Consideration and possible approval of Resolution No. 3160; authorizing the transfer of the City of Sparks' 2009 State Volume Bond Cap Share of \$4,574,101 to the Nevada Department of Business and Industry for the purpose of providing primary mortgage financing to First Time Homebuyers at Marina Villas Condominiums at Sparks Marina (Time: 3:06:47 p.m.)

Housing Specialist George Graham explained that transferring the City's State Volume Bond Cap will allow the Nevada Department of Business and Industry (NDBI) to provide First Time Home Buyer mortgage financing for qualified home buyers for the Marina Villas Condominiums at Sparks Marina Village. He noted that Mr. David Dahl requested that Sparks' portion of the bond cap allocation be applied toward his project and NDBI is willing to comply with this request.

Council Member Smith commented that by designating the first time home buyer bond cap for this project we are simply preventing the State from using it wherever they want to. He asked if it doesn't get used at the Marina, can it be moved to another project. Mr. Graham noted we have three years to expend the bond cap and there is no risk to designating the funding to Mr. Dahl's project.

Council Member Schmitt asked if we would still have the ability to re-designate the funding to Nevada Rural Housing for another client if Mr. Dahl's project does not go through. Mr. Graham

explained that if Mr. Dahl's project does not go forward, we have three years before we have to designate the funding for another project.

Council Member Schmitt made a motion that included the transfer of the bond cap allocation to the Nevada Department of Business and Industry and/or the Nevada Rural Housing Authority (NRHA). City Planner Armando Ornelas noted that this "and/or" contingency was not included in the resolution. He said that in order to make a clean transfer of the bond cap, the resolution needed to be approved as written and if, in the event it becomes apparent that the Marina Project is not going to move forward, then staff would come back to the Council and ask for an alternative direction for the bond cap allocation, such as the NRHA.

Mr. Schmitt indicated he had a problem with wording and the way the funds were being allocated. Mr. Ornelas said that it was his understanding that NRHA did not have a specific project at this time. Mr. Schmitt stated that when he spoke to them, they indicated they did have a specific project. Mr. Graham said he understood that NRHA had a mortgage certificate program, which was different from their programs for the past two years. Mr. Ornelas stated the alternative would be to split the bond cap allocation. Mayor Martini said he would prefer that all of the allocation be used in Sparks.

Council Member Ratti pointed out that if Mr. Dahl's project did not use all of the allocation, then it would revert back to the Nevada Housing Division. Mr. Graham noted that in the past two years we have split the cap between the Nevada Housing Division and Nevada Rural Housing Authority (50/50) and we have used all of our allocation on the first time home buyer program.

Council Member Schmitt asked who owns the Marina Village project. Mr. David Dahl stated he was the manager of Marina Village, LLC and Villas at Sparks Marina, LLC and Villas at Sparks Marina, LLC owns the properties. Mr. Dahl clarified that he owns Villas at Sparks Marina and that it is not owned by the banks.

A motion was made by Council Member Ratti, seconded by Council Member Carrigan, to adopt Resolution No. 3160; to transfer of the City's 2009 State Volume Bond Cap allocation to the Nevada Department of Business and Industry for the purpose of providing primary mortgage financing to First Time Homebuyers at Marina Villas Project (325-375 Harbour Cove Drive, Sparks, NV 89434) at Marina Village. Council Members Ratti, Smith, Carrigan, YES. Council Member Schmitt, NAY. Council Member Salerno, ABSENT. Motion carried.

6.2 Consideration and possible approval of Resolution No. 3161; directing the City engineer to prepare preliminary plans, cost estimates, and related items to finance the costs of an undertaking for a possible tax increment area formed pursuant to Nevada Revised Statutes (NRS) Chapter 278C (Time: 3:20:49 p.m.)

Director of Community Development Neil Krutz noted that this resolution would direct the City Engineer (in this case a consultant, Stantec) to take a look at the possibility of establishing a tax increment area as part of the Copper Canyon Project—specifically the business park. This goes back to Council direction several years ago to look for possible economic development tools to help grow business park types of land use in Sparks. In the Copper Canyon handbook there is over 100 acres of business park land use. Staff has begun work with the owner's representatives

to see if there is interest on both sides. This resolution will provide a higher level of engineering analysis and cost estimates so that we can bring those reports back to the Council for the second step in establishing a tax increment area. This would be a go forward or not go forward type decision from the Council, based on the results of the study.

Council Member Carrigan asked where the money [for the study] is coming from. Mr. Krutz replied that the land owner is paying for the study via a \$75,000 deposit to the city for these studies. Mr. Carrigan asked if this was the same way we did the Kiley Ranch Tax Increment Area. Mr. Krutz confirmed that yes, this was the same process.

A motion was made by Council Member Smith, seconded by Council Member Carrigan, to adopt Resolution No. 3161; directing the City Engineer to prepare preliminary plans, cost estimates, and related items to finance the costs of an undertaking for a possible tax increment area within the Copper Canyon Planned Development pursuant to Nevada Revised Statutes (NRS) Chapter 278C. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

6.3 Consideration and possible direction to initiate a code amendment to allow Adult Day Care as a permitted use in appropriate zoning districts in the City of Sparks (Time: 3:24:52 p.m.)

Senior Planner Jim Rundle stated that at the TOD (Transit Oriented Development) meeting, Council Member Ratti asked staff to consider adding adult daycare as a permitted use in other zoning districts within the City of Sparks. Staff is now asking Council if they want to proceed with this change.

A motion was made by Council Member Ratti, seconded by Council Member Smith, to direct staff to initiate a code amendment to Title 20 (zoning code) of the Sparks Municipal Code to allow for Adult Day Care in appropriate zoning districts and providing other matters properly relating thereto. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

6.4 Consideration and possible acceptance of a donation from the State of Nevada, Office of Traffic Safety Joining Forces Grant in the amount of \$122,640.00 (Time: 3:26:23 p.m.)

Police Chief Steve Asher noted that this grant provides funds to cover overtime costs for officers to conduct traffic enforcement activities in directed focus areas. Chief Asher stated that Sparks has participated in this grant program for the past five years.

A motion was made by Council Member Schmitt, seconded by Council Member Smith, to accept grant funding from the State of Nevada, Department of Public Safety, Office of Traffic Safety. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

6.5 Consideration and possible adoption of Resolution No. 3162 to recognize the Sparks Citizen Advisory Committee (SCAC) and begin to appoint SCAC Members (Time: 3:28:15 p.m.)

This item was removed from the agenda.

6.6 Consideration and possible approval of the Operation and Maintenance Agreement for the Truckee River Irrigation Diversion at the Pioneer Dam with the City of Reno (Time: 3:28:16 p.m.)

Flood Control Manager Shaun Gooch stated this agreement is for operation and maintenance of the dam as it is to be relocated and reconstructed. Pioneer Dam is directly upstream of the Greg Street Bridge, between the TMWA Glendale Treatment Plant and the Grand Sierra Resort. He noted the next item is the award of a contract for the relocation work, but the agreement needs to be approved before the bid award. The agreement lays out the responsibilities of the two cities on operating and maintaining this irrigation/diversion structure. The first three years of operation will be at the expense of the City of Sparks through our public works department and maintenance services group. After three years, an evaluation of the expenses and costs of operation will be made and it is then anticipated that the City of Reno will take over maintenance and operation of the structure.

Council Member Carrigan asked if this diversion dam diverts the water to the Pioneer Ditch and noted that the City of Sparks is moving the ditch as part of the flood control program. Mr. Gooch replied that there is some relocation of the alignment of the ditch along Mill Street east to the North Edison area, but the actual diversion dam area is not in the flood project.

Council Member Carrigan expressed concern that with only four users of the ditch, the diversion dam might not be necessary. Mr. Gooch said it would be difficult to get the property owners to give up their rights to the ditch.

A motion was made by Council Member Smith, seconded by Council Member Carrigan, to approve the Operation and Maintenance Agreement for the Truckee River Irrigation Diversion at the Pioneer Dam with the City of Reno, as outlined by staff. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

6.7 Consideration and possible award of the Pioneer Dam Reconstruction Project Bid No. 09/10-007, PWP No. WA-2009-352, to Peavine Construction, Inc., in the amount of \$970,855 (Time: 3:33:40 p.m.)

A motion was made by Council Member Smith, seconded by Council Member Carrigan, to award the Pioneer Dam Reconstruction Project to Peavine Construction, Inc., in the amount of \$970,855. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

(Time: 3:34:22 p.m.)

Mayor Martini asked Boy Scouts in the audience to introduce themselves.

7. Public Hearings and Action Items Unrelated to Planning and Zoning:

7.1 Second reading, public hearing and possible approval of Bill No. 2609, an ordinance amending the Sparks Municipal Code relating to the sales of alcoholic beverages; eliminating the requirement that an individual have actual knowledge that a person is under the age of 21 years to violate a criminal code section prohibiting the sale or furnishing of alcoholic beverages to a person under the age of 21 years; effectively imposing strict criminal

liability upon an individual who sells or furnishes alcoholic beverages to persons under the age of 21 years without first demanding and being shown a facially-valid form of identification; providing a defense if shown a facially-valid, but false, form of identification; and providing other matters properly related thereto (Time: 3:35:45 p.m.)

Senior Assistant City Attorney Tom Riley stated noted that this is the ordinance that was amended at the last meeting (August 10th). It removes the word “knowingly” from the existing ordinance (referring to sales of alcohol to minors) and puts in an exception for those clerks who actually check and ID and the ID is apparently valid. He said the new ordinance is in line with what the retailers wanted to see and it should assist with prosecution of those who violate the ordinance.

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding this proposed ordinance. There being no comment, the public hearing was closed.

A motion was made by Council Member Smith, seconded by Council Member Carrigan, to approve Bill No. 2609 (Ordinance No. 2429). Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

8. Planning and Zoning Public Hearings and Action Items:

8.1 Public Hearing, second reading, discussion and possible action on PCN09018, Bill No. 2610, an ordinance for a voluntary annexation request, in accordance with the City of Sparks 7-year Annexation Program, by Tahoe Reno Commercial Center, LLC, for a parcel 30.23 acres in size, generally located west of the USA Parkway Interchange, east of the Patrick Interchange, shares the southern property line with the right-of-way of Interstate 80’s west bound lanes and is approximately 10.5 miles east of the intersection of Vista Boulevard and Interstate 80 within the City of Sparks’ Sphere of Influence. Upon annexation, the zoning would convert from a Washoe County designation of Industrial to a City of Sparks zoning designation of I (Industrial) (Time: 3:39:24 p.m.)

Senior Planner Jim Rundle and Community Development Director Neil Krutz noted that this annexation request for 38 acres located in the East Truckee River Canyon. Mr. Rundle noted that staff recommended denial of this annexation request to the Planning Commission and the Planning Commission is forwarding a recommendation of denial to the City Council. Mr. Rundle stated staff is recommending denial because an area plan has not been completed for the site, or for the East Truckee River Canyon area. Therefore a facilities and services plan has not been approved or considered.

Mr. Rundle stated annexation of this site could provide challenges for public safety provision, as well as provision of infrastructure as we are unaware, at this time, as to what demands there would be for these services in the East Truckee River Canyon. He said an approved facilities plan and an area plan would allow staff to recommend approval of this annexation because we would know what services would need to be provided and we would have a plan for providing them at the time of annexation. Mr. Rundle stated staff wanted to encourage the property owners in the East Truckee River Canyon to work together to develop a facilities and area plan so that the City can move forward with consideration and development in the East Truckee River

Canyon area. Approval of this annexation request at this time could erode our stance that we need to work together to get that area plan completed before we annex land. He reminded the Council that we did annex three parcels (one site) in that Canyon, prior to the legislative session ending, so we obviously have an anchor in the area for a discontinuous annexation.

Council Member Smith commented that this site is almost four miles past the previously annexed 300 acres and he would like to see all the property owners in the area get together and annex everything at one time; he did not want to annex just 30 acres here and there and create islands of annexed property in the County.

Council Member Carrigan asked if the Planning Commission just approved a solar farm located in the Canyon. Mr. Rundle responded that it was located just northwest of the parcel we are discussion today. He referred to a letter in the staff report from the Washoe County Community Development Department which states that this parcel is part of a 2,623 acre proposed master plan and asked why there was a request to annex just this portion of the project. Mr. Rundle emphasized this was a voluntary annexation request from Tahoe Reno Commercial Center for just the 30 acres because this is the portion of the master plan that they control. Mr. Rundle also noted that this property is not in the City's annexation program and pointed out that all the "blue" portions of the map (included in the staff report) were parcels for which the property owners could request a discontinuous annexation, if they met all the required findings. This parcel is a "blue" area, but staff does not believe it meets all the required findings that are required for a discontinuous annexation.

Council Member Carrigan noted that the applicant was not present to answer questions regarding this request and he did not understand why it was important to the applicant to have this parcel annexed at this time, instead of waiting. Mr. Krutz stated the applicant was made aware of the date and time of the public hearing and he did not know why they applicant or a representative was not present at this meeting. Mr. Rundle stated that if the City were to annex this parcel, then the applicant could request a contiguous annexation for the rest of the parcels in the project.

Council Member Schmitt said it was his understanding that the request for annexation of the 30 acres has been in process for quite some time and that the reason for the request was so that they could get financing for the solar generation project—to show the bank that the City is interested in annexation in this area. Mr. Schmitt commented that the Sparks Planning Commission approved the solar generation facility as being in our Sphere of Influence and the County provides services for the facility. However, there are no tax revenues to the City from this project and there is no incentive for the owners to come back and annex the 2,600 acres into the City at some point in the future. Mr. Rundle said this may be true; however, if we were to update our annexation program in seven years, we could include that parcel in our annexation program. Mr. Krutz stated that where it [annexation] makes sense from a developer's side is if the parcel is part of a larger concept or plan that might take them into land that we might be consideration for annexation into the City. Mr. Schmitt maintained that once the solar project is approved, there is no economic benefit to a developer to annex into the City. The purpose of annexation is to get a higher/better land use designation for property than the County would allow.

Regular City Council Meeting Minutes for August 24, 2009

Mr. Schmitt commented that he felt this annexation was politically and financially motivated because the major property owners in this area can't agree on the area plan. He said we should have the same reasons for approving this annexation as we had for the previous annexation—because we need to get something happening in this area.

Council Member Ratti said the bottom line is: we can't make the findings; the applicant is not present to explain why we should consider a different approach to his request; we don't know what the fiscal impact could be; and it is a discontinuous annexation located for miles past a previously approved discontinuous annexation. She then made a motion to deny the annexation request associated with PCN09018 approving approximately 30 acres into the city of Sparks, based on findings A1 through A3 and the facts supporting these findings as set forth in the staff report. The motion was seconded by Council Member Smith.

Council Member Carrigan asked if the Council would be approving the Special Use Permit for the solar farm. Mr. Rundle responded that no, Special Use Permits are not usually approved by the Council, but the Council could request to review any permit application that it wished. Mr. Carrigan said he agreed that once the solar farm is approved, there is no motivation for the developer to annex. Mr. Rundle explained that the City has exercised our extra-territorial jurisdiction to ensure that this project is built to City of Sparks' standards and we can amend our 7-year annexation program to include this parcel.

Mr. Schmitt emphasized his concern that once the solar farm is approved, there is no financial incentive for the developer to annex the property into the City because it will cost them more in taxes. Mr. Krutz noted that the solar field did not include the entire 2,600 acres that is adjacent to this parcel, so there is additional land that is part of the same holdings that does not have a use assigned. Mayor Martini said the incentive to annex later is that if they have acres not being used by the solar farm, if they want a different land use designation, they have to annex into the City, because you can't subdivide property that is in the sphere of influence. Mr. Rundle stated that the City can also add parcels into our annexation program to do forced annexations. Mayor Martini noted that annexing this parcel might provide incentive for all the property owners to get together and cooperate on a plan.

Council Member Ratti asked if there way anything that would preclude the developer from coming forward with another annexation request in the future, if the Council chose to deny this request. It was noted that other than the cost, there was nothing that would prevent the applicant from doing so.

Council Member Schmitt suggested postponing the decision on this annexation until we could talk with the applicant to determine why he is not present. Council Member Smith said he would like to hear from the applicant.

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding this proposed ordinance. There being no comment, the public hearing was closed.

Council Member Carrigan stated he also wanted to hear from the applicant because he was hearing rumors regarding foreclosures on the land and bank deals and/or something about if this annexation does not go forward, the whole solar farm financing goes away.

Regular City Council Meeting Minutes for August 24, 2009

Council Member Ratti said that a postponement of this item would not change anything because if we can't make the findings, we can't make the findings, regardless of whether or not there is a foreclosure. There is a process in place for approving annexations and we should follow that process. That being said, if the rest of the Council wanted to postpone this item, then she would withdraw her motion.

A motion was made by Council Member Schmitt, seconded by Council Member Smith, to continue the second reading and public hearing on Bill No. 2610, PCN09018, to the meeting scheduled for September 14, 2009. Council Members Ratti, Smith, Carrigan, Schmitt, YES. Council Member Salerno, ABSENT. Motion carried.

9. Comments:

9.1 *From the Council and City Manager (Time: 4:09:19 p.m.)

Councilman Ron Smith commended the late Dennis Thurman for his work on the Sparks Advisory Committee for the Disabled, stating he will be missed.

10. Adjournment (Time: 4:10:23 p.m.)

There being no further business, the meeting was adjourned at 4:10 p.m.

Mayor

City Clerk

>>>