

**MINUTES
CITY OF FALLON
55 West Williams Avenue
Fallon, Nevada
October 6, 2009**

The Honorable City Council met in a regularly scheduled Council meeting on the above date in the Council Chambers, 55 West Williams Avenue, Fallon, Nevada.

Present:

Mayor Ken Tedford, Jr.
City Councilman, Robert Erickson
City Councilwoman, Rachel Dahl
City Councilman, James D. Richardson
City Engineer, James Souba
Chief of Police, Kevin Gehman
City Clerk, Gary Cordes
Assistant City Attorney, Leonard E. Mackedon

The meeting was called to order by Mayor Tedford at 7:00 p.m. He then requested everyone rise to pledge allegiance to the flag.

Mayor Tedford inquired if the agenda had been posted in compliance with NRS requirements.

City Clerk Cordes advised that the agenda was posted in compliance with NRS 241.

Approval of Council meeting minutes for September 1, 2009 and September 15, 2009

Mayor Tedford inquired if there were any additions or corrections to the Council meeting minutes for September 1, 2009 and September 15, 2009.

No additions or corrections were noted.

Councilman Erickson motioned to approve the Council meeting minutes for September 1, 2009 and September 15, 2009 as submitted, seconded by Councilman Richardson and approved with a 3-0 vote by the Council.

Approval of Warrants

- A) Accounts Payable
- B) Payroll
- C) Customer Deposit

Mayor Tedford inquired if there were any comments regarding the accounts payable, payroll and customer deposit warrants.

No comments were noted.

Councilwoman Dahl motioned to approve the accounts payable, payroll and customer deposit warrants; seconded by Councilman Erickson and approved with a 3-0 vote by the Council.

Public Comments

Mayor Tedford inquired if there were any public comments. He noted that comments are to be general in nature, not relative to any agenda items. No action may be taken on a matter raised under this item until the matter has been specifically included on an agenda as an item upon which action will be taken.

No public comments were noted.

Consideration of a request by Todd Moretto for an on-premises/unrestricted liquor license for BC's Bar to be located at 1975 South Taylor Street

City Clerk Cordes explained that Mr. Moretto has requested an on-premises/unrestricted liquor license for BC's Bar to be located at 1975 South Taylor Street. All liquor is to be consumed on-premises. The City Engineer will require a building permit for the remodel and the Fire Marshal will require an inspection before occupancy. This property is properly zoned for a bar. City Clerk Cordes recommended approval.

Chief Gehman advised that the background check consisted of previous business dealings and personal references and all was found to be satisfactory. He recommended approval.

Mayor Tedford inquired if the Council had any comments or questions.

No comments were noted at this time.

Mayor Tedford inquired if there were any public comments or questions.

Mrs. Maggie Spain of 1800 South Maine Street requested that the driveway access onto South Maine Street be blocked to prevent traffic issues such as noise and speeding; as it would be disruptive to her family.

Mayor Tedford was not sure that the Council could limit the use of a property when issuing a license.

Assistant City Attorney Mackedon stated that limiting the owner of a property to one exit in order to obtain a liquor license is an exaction and would not be advised without further discussion. He was unaware of any license issued that restricted the use of a property's outside access.

Mrs. Spain noted that their egress abuts her property and she was concerned because drivers coming off of Wildes Road already speed through the area.

Mayor Tedford explained that they likely cannot deny a property owner a street cut that they already have.

Mr. Doyle Spain of 1800 South Maine Street asked if South Maine Street was in the City or the County.

Mayor Tedford stated that some portions are within City limits and some are not; 1975 South Taylor Street is in the City and 1800 South Maine Street is not in the City.

Mrs. Jamie Cooley of 101 Wood Drive stated that she lives directly across from the intended bar and she was concerned with traffic coming out onto South Maine Street late at night.

Mrs. Cathy Cooley of 1400 South Maine Street was also concerned with increased traffic and safety. She would prefer that patrons enter and exit onto South Taylor Street.

Mayor Tedford was unsure that the Council could deny access.

City Engineer Souba advised that would be considered a taking of the access as a property right.

Assistant City Attorney Mackedon concurred.

Mayor Tedford added that sometimes the Nevada Department of Transportation can be difficult; they may direct that the entrance be on one side of the property and the exit be on the other side.

Assistant City Attorney Mackedon explained that an exaction is similar to a taking. A taking occurs when a municipal government comes in and physically occupies property to the detriment of the landowner. In such an event, the government must have a public reason in mind and pay for the property taken. It is difficult to recommend that the City impose such a restriction to deny access in exchange for the granting of a liquor license. Current Fallon Municipal Code does not require a licensee to change access. If the applicant meets the criteria it is hard to deny the applicant a license.

Mrs. Cathy Cooley asked if the Council could put a restriction on the current occupant and then lift the restriction with the next tenant. There are four residents on South Maine Street that are impacted and none on South Taylor Street.

Mayor Tedford stated that he would like to see if there is a way to accommodate all parties. Mayor Tedford, City Engineer Souba and Chief Gehman will assess the site tomorrow.

Councilman Erickson complimented Mayor Tedford on his suggestion for a site visit; including the Chief of Police to review the traffic situation. Regarding a liquor license request, the Council can only consider the applicant's character and suitability. In that regard, he was pleased to make a motion to grant an on-premises/unrestricted liquor license to Todd Moretto for BC's Bar to be located at 1975 South Taylor Street; seconded by Councilwoman Dahl and approved with a 3-0 vote by the Council.

Mayor Tedford directed City Engineer Souba to revisit the City's request to have South Taylor Street changed to 25 MPH at the 'Y' and also install 25 MPH signs on South Maine Street all the way to the corner at Wildes Road.

Consideration of a request by Todd Moretto for a cabaret license for BC's Bar to be located at 1975 South Taylor Street

City Clerk Cordes explained that Mr. Moretto has requested a cabaret license for BC's Bar to be located at 1975 South Taylor Street. A floor plan has been submitted for review.

Mayor Tedford offered Mr. Moretto the opportunity to further explain his request.

Mr. Moretto referred to the submitted floor plan and explained that the number of tables would actually be less than what is listed. The speakers will face east and the DJ will be positioned in the building in a corner farthest from Maine Street. Smoking will only be allowed outside.

Mayor Tedford inquired if the Council had any comments or questions.

Councilman Erickson verified that no speakers would be placed outside.

Mr. Moretto confirmed that no speakers would be located outside.

Mayor Tedford inquired if the building had two levels.

Mr. Moretto replied affirmatively and advised that the second level would only be used for storage.

Councilman Erickson inquired as to the capacity allowed by the Fire Marshal.

Mr. Moretto replied approximately 200 people.

Councilman Erickson inquired as to the total square footage of the building.

Mr. Moretto replied 5,200 square feet.

Councilman Erickson inquired as to how much of that square footage was in the public area.

Mr. Moretto was unsure as they are still remodeling. The Fire Marshal will determine the exact capacity when the remodeling is complete.

Mayor Tedford inquired as to the parking lot capacity.

Mr. Moretto explained that Scott Tate, owner of the property, will allow him to use the dirt lot that extends all the way to Motel 6.

Councilwoman Dahl asked if the dirt lot was accessed from both Taylor and Maine Streets.

Mr. Moretto replied affirmatively.

Mayor Tedford inquired as to the required ratio for parking.

City Engineer Souba replied that one parking space is required for every 250 feet of building space.

Mayor Tedford inquired if it is required to be graveled.

City Engineer Souba stated that paved is preferred; gravel would be an acceptable minimum.

Mayor Tedford noted that driving cars on a dirt lot blows dirt and he was concerned for nearby residents. Parking is also a fire issue.

Councilwoman Dahl inquired as to the number of cars that would fit on the dirt lot.

Mayor Tedford noted that the lot is huge and would easily fit a few hundred cars.

Mr. Moretto concurred; many more than would fit in the building. He added that he already discussed graveling the lot with the owner.

Councilwoman Dahl noted that the floor plan is okay; the issue is parking, noise and the impact to the neighborhood.

Mayor Tedford added that it is hard to get new curb cuts on South Taylor Street from the Nevada Department of Transportation.

Mayor Tedford inquired if there were any public comments or questions.

Mrs. Cooley inquired about the noise.

Mayor Tedford reminded that a cabaret license is a privilege license; Mr. Moretto does not get to open the doors and play for the neighborhood. If approved, the Police Department would review the rules with him.

Mr. Spain noted that patrons will spin out and throw gravel through the parking lot.

Mayor Tedford noted that goes back to zoning and the property is zoned C-2.

Mrs. Spain added that the property is in front of their property.

Mayor Tedford reminded that the area in the City is zoned C-2. If it is zoned properly it is hard to deny a request. Anytime C-2 zoning is next to residential there is a problem.

Mr. Dave Ash of 340 South Ada Street requested the definition of a cabaret.

Assistant City Attorney Mackedon replied that a cabaret is a live venue with dancing and entertainment.

Mr. Ash verified that it would not be a strip club.

Mr. Moretto confirmed that it would not be a strip club.

Councilman Erickson explained that both liquor and cabaret licenses are privilege licenses that can be granted and revoked. It is always hard when commercial abuts residential. This property also borders a State Highway and a former State Highway. We try and work through these things by being good neighbors and through good management practices. Noise can be mitigated. The Police Department can always be called. The neighbors have wished Mr. Moretto well in his operation and they deserve to be respected.

Councilman Erickson motioned to approve the request by Todd Moretto for a cabaret license for BC's Bar to be located at 1975 South Taylor Street based on the tentative floor plan and approval of said floor plan by the City Engineer, Chief of Police and Fire Marshal; seconded by Councilwoman Dahl and approved with a 3-0 vote by the Council.

Award Project 09-13: Salvaging Metals at the Landfill

City Engineer Souba explained that the City has accumulated a large amount of iron and steel at the landfill and it is time to offer the metals for sale to the highest bidder who will salvage and recycle the steel. We have an estimated 1,000 cubic yards of metal. Only one bid was received: Sims Metal Management, \$60.58 per ton. We have bid these materials several times in the past and the results were as follows: \$12.00 per ton in 2001, \$65.00 per ton in 2006 and \$156.00 per ton in 2008. City Engineer Souba recommended awarding the bid to Sims Metal Management in the amount of \$60.58 per ton.

Mayor Tedford agreed that it is a good bid.

Mayor Tedford inquired if the Council had any comments or questions.

No comments were noted.

Mayor Tedford inquired if there were any public comments or questions.

No comments were noted.

Councilman Richardson motioned to award Project 09-13: Salvaging Metals at the Landfill to Sims Metal Management in the amount of \$60.58 per ton; seconded by Councilwoman Dahl and approved with a 3-0 vote by the Council.

Public Comments

Mayor Tedford inquired if there were any public comments.

No public comments were noted.

Council and Staff Reports

City Engineer Souba: Advised that the chip sealing of various streets has been completed and slurry sealing will begin tomorrow.

Chief Gehman: Recently began a computer information sharing program with the Churchill County Sheriff's Office and will work on it over the next several weeks.

City Clerk Cordes: Advised that City interns have been assigned to various departments.

Assistant City Attorney Mackedon: No comments.

Councilman Erickson: No comments.

Councilman Richardson: No comments.

Councilwoman Dahl: No comments.

Mayor Tedford: Mayor Tedford noted that Chief Gehman participated in the Cowboy Fast Draw last week.

Last Wednesday, the City's sewer vacuum truck was working in the alley behind Mark Avenue and it had fallen into a sinkhole in that alley. City crews were there and A&K Earth Movers had to be called to pull the truck out safely. A huge cavern of disintegrated sewer line was discovered; it was unable to be repaired and required emergency replacement. Mayor Tedford is authorized per Nevada Revised Statute 332.112 to use A&K Earth Movers, who were already on scene, to perform the emergency work required. Affected residents were offered local hotel rooms. Initial estimates were \$50,000.00 to \$75,000.00 but the soil is poor in that area and it may be higher as increased excavation is required. He added that it is amazing how crews can come together like that; he was proud of the City crews and A&K Earth Movers.

City Engineer Souba added that they had initially anticipated 2-4 days for this project but the soil conditions are making it difficult and it will take longer than projected. This sewer line carries the most volume and is very deep since it is so close to the Tolas lift station. Currently, the project is more than halfway complete. Many other utilities, much of it electric, had to be negotiated around during excavation, slowing down progress.

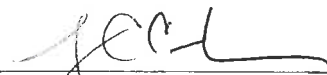
Mayor Tedford reminded that the 8th Annual Mayor's Youth Fund Golf Tournament will take place this Saturday at the Fallon Golf Course.

Executive Session


Mayor Tedford tabled the executive session, as it was not needed at this time.

Adjournment

There being no further business to come before the Council, Mayor Tedford adjourned the meeting at 8:20 p.m.

Attest: 

Gary C. Cordes
City Clerk/Treasurer



Mayor Ken Tedford, Jr.