



MAYOR  
Geno Martini

CITY COUNCIL  
Julia Ratti, Ward I  
Ed Lawson, Ward II  
Ron Smith, Ward III  
Mike Carrigan, Ward IV  
Ron Schmitt, Ward V

CITY ATTORNEY  
Chet Adams

## REGULAR CITY COUNCIL MEETING MINUTES

2:00 P.M., Monday, April 8, 2013

City Council Chambers, Legislative Building, 745 Fourth Street, Sparks, Nevada

### 1. Call to Order

The regular meeting of the Sparks City Council was called to order by Mayor Geno Martini at 2:00 p.m.

### 2. Roll Call (Time: 2:00 p.m.)

Mayor Geno Martini, Council Members Julia Ratti, Ed Lawson, Ron Smith, Mike Carrigan, Ron Schmitt, City Manager Shaun Carey, City Attorney Chet Adams and City Clerk Teresa Gardner, PRESENT.

ABSENT: None

Staff Present: Neil Krutz, John Martini, Steve Keefer, Andy Flock, Adam Mayberry, Chris Cobb, Dan Marran, Dan Hamlin, Doug Thornley, Chris Syverson, Rich Brown, Donna DiCarlo, Lisa Rose-Brown, Teresa Wiley, Tim Thompson, Andre Stigall, Jennifer Olsen

### Invocation Speaker (Time: 2:00 p.m.)

The invocation was provided by Pastor Kyle Bateson, Living Stones Church.

### Pledge of Allegiance (Time: 2:01 p.m.)

The Pledge of Allegiance was led by Council Member Lawson.

### Comments from the Public (Time: 2:01 p.m.)

Gene Gardilla commented on gun violence.

### Approval of the Agenda (Time: 2:05 p.m.)

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

Council Member Lawson requested item 8.2 be continued to April 22, 2013. The public hearing scheduled for item 8.2 would be heard today after the consent items and the item will be added to the April 22, 2013 agenda.

Mayor Martini asked City Attorney Chet Adams if it would be necessary to conduct the public hearing that was agendaized. Mr. Adams said that has been the Council's tradition, although a legal precedence may not exist.

Council Member Ron Smith suggested holding the public hearing because it appeared a lot of people were present for the hearing.

A motion was made by Council Member Schmitt, seconded by Council Member Lawson, to continue item 8.2 to April 22, 2013 and conduct the public hearing after the consent items. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**3. Recommendation to Approve Minutes of March 25, 2013** (Time: 2:07 p.m.)

**3.1 Consideration and possible approval of the minutes of the regular Sparks City Council Meeting for March 25, 2013**

A motion was made by Council Member Lawson, seconded by Council Member Smith, to approve the minutes of the Regular Meeting of March 25, 2013 as outlined by staff. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**4. Announcements, Presentations, Recognition Items and Items of Special Interest** (Time: 2:08 p.m.)

**4.1 Proclamation: "National Service Recognition Day"** (Time: 2:08 p.m.)

Mayor Martini proclaimed April 9, 2013 as "National Service Recognition Day", encouraged residents to recognize the positive impact of national service in our city, and thanked those who serve and to find ways to give back to their communities. The Proclamation was presented to Craig Werner, State Director for the Corporation for National and Community Service. The following volunteers were introduced: Rosalinda Guererra, ESL in Home Program; Gabriella Torres, Sparks High School, working with At-Risk Freshman; Joanna Ramos, AmeriCorps State Volunteer at Children's Cabinet; Mary McGalliard, Rita Cannon School volunteer and Foster Grandparents volunteer; Mary Miller, Coordinator for Sparks Senior Program; and Mary Brock, Executive Director of Northern Nevada Foster Grandparents and Senior Companion Programs. Mayor Martini thanked the group again for their service. Council Member Julia Ratti commented on the impact all the volunteer programs make on the community.

**4.2 Proclamation "Sexual Awareness Month" & "Denim Day in Nevada"** (Time: 1:18 p.m.)

Mayor Martini proclaimed April as "Sexual Assault Awareness Month" and April 24, 2013 as "Denim Day in Nevada". The Proclamation was presented by Council Member Julia Ratti to Kari Ramos, Crisis Call Center's Sexual Assault Support Services Nevada Coalition Against Sexual Violence and Scrap Domestic Violence and City of Sparks Victim Advocate Jennifer Olsen. The recipients thanked Sparks Leadership of their support against these crimes.

**4.3 Proclamation "Pathways to Aviation Day"** (Time: 1:21 p.m.)

Mayor Martini proclaimed April 17, 2013 as "Pathways to Aviation Day". The Proclamation was presented to the Reno Air Racing Foundation and accepted by Greg Stanley, Corporate Director of Engineering for Sierra Nevada Corporation (SNC) and Member of the Board of Trustees of the Reno Air Race Foundation. Mr. Stanley commented on the Challenger Learning Center of Northern Nevada which is based at Sparks High School, headed by Paul McFarlane.

**4.4 Proclamation "Public Safety Telecommunications Week"** (Time: 1:25 p.m.)

Mayor Martini proclaimed April 14 -20, 2013 as "Public Safety Telecommunications Week" and joined with the City Council in acknowledging and thanking our Public Safety Dispatchers, Joanna Bellamy, David Brown, Lisa Buckles, Shelley Burkhart, Mary Crandall, Maureen Dyette,

Mary Hail, Lori Howard, Lydia McCoy, Melissa Nabong, Nancy Owens, Lisa Rose-Brown, Cheryl Sluis-Moreno, Cherie Terry and Denise Wagner. The Proclamation was presented by Council Member Ed Lawson to Sparks Police Department Administration Division Manager Teresa Wiley and Dispatcher Lisa Rose-Brown.

**5. Consent Items** (Time: 2:28 p.m.)

Council Member Carrigan requested consent items 5.3 5.4 and 5.5 be pulled for discussion. A motion was made by Council Member Schmitt, seconded by Council Member Smith, to approve consent items 5.1, 5.2, 5.6, 5.7 and 5.8 as submitted. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**5.1 Report of Claims and Bills approved for payment and appropriation transfers for the period March 7, 2013 through March 20, 2013 (FOR POSSIBLE ACTION)**

An agenda item from Finance Manager Jeff Cronk recommending the City Council approve the report of claims and bills as presented in the staff report.

**5.2 Consideration and possible approval of the purchase of Crafcro Poly Flex II in the amount of \$41,400 during FY 12/13. (FOR POSSIBLE ACTION)**

An agenda item from Maintenance & Operations Manager Dan Hamlin recommending Council approve the purchase in support of the 2012/2013 corrective maintenance crack sealing process. Funds are budgeted in the FY13 CIP. There is no impact to the general fund.

**5.3 Consideration and possible award of a professional services contract to Manhard Consulting, LTD for assistance with the City of Spark's entrance into the National Flood Insurance Program Community Rating System (CRS), in an amount not to exceed \$375,000. (FOR POSSIBLE ACTION)**

An agenda item from Assistant Community Services Director John Martini recommending Council approve the contract. The City of Sparks desires to enter into the National Flood Insurance Program Community Rating System (CRS) and be recognized as a classified CRS Community. Staff is confident that upon being accepted into the CRS program, the City of Sparks would be recognized as a Class 8 Community which would provide a 10% reduction in NFIP insurance premiums to NFIP policy holders within the City of Sparks. Funds are budgeted in the FY13 CIP. There is no impact to the general fund.

A motion was made by Council Member Carrigan, seconded by Council Member Schmitt, to approve the professional services contract to Manhard Consulting, LTD for assistance with the City of Spark's entrance into the National Flood Insurance Program Community Rating System (CRS), in an amount not to exceed \$375,000. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**5.4 Consideration and possible award of the 2013 Street Rehabilitation – Unit 2, Bid No. 12/13-015, PWP-WA-2013-099 to Sierra Nevada Construction, in the amount of \$557,007. (FOR POSSIBLE ACTION)**

An agenda item from Transportation Manager Jon Ericson recommending Council award the bid to Sierra Nevada Construction. This project will remove and replace rundown curb and gutter, sidewalk, and reconstruct the roadway with new asphalt on E. Gault Way from Probasco Way to York Way, La Grange Court and Sheffield Court. Funds are budgeted in the FY13 CIP. There is

no impact to the general fund. Capital Projects Manager Chris Cobb said this item, along with item 5.5, is part of the very successful street rehabilitation program, using two different contractors and employing many local workers.

Council Member Mike Carrigan commented that the City of Sparks is spending about \$1.2 million in road rehabilitation, spread out to two different companies, putting people to work for a good program.

Capital Projects Manager Chris Cobb said both projects are part of the street improvement program and are fully funded by gas tax dollars or franchise fees and are part of this year's CIP. It's been a very successful program. Dollars were leveraged further this year and a lot of people were put to work.

A motion was made by Council Member Carrigan, seconded by Council Member Schmitt, to approve consent items 5.4 and 5.5. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**5.5 Consideration and possible award of the 2013 Street Rehabilitation – Unit 3, Bid No. 12/13-016, PWP-WA-2013-112 to A&K Earthmovers, in the amount of \$698,690.22. (FOR POSSIBLE ACTION)**

An agenda item from Transportation Manager Jon Ericson recommending Council award the bid to A&K Earthmovers. This project will remove and replace rundown curb and gutter, sidewalk, and reconstruct the roadway with new asphalt on Pullman Drive from E. Prater Way to Robbie Way and Union Street from Pullman Drive to Union Court. Funds are budgeted in the FY13 CIP. There is no impact to the general fund.

**5.6 Consideration and possible award of the purchase of a Play Equipment for Willow Creek Park, to Big T Recreation, in the amount of \$39,849.84. (FOR POSSIBLE ACTION)**

An agenda item from Capital Projects Manager Chris Cobb recommending Council approve the purchase of this play equipment which will replace the existing deteriorated structure at Willow Creek Park. Funds are budgeted in the FY13 CIP. There is no impact to the general fund.

**5.7 Consideration and possible approval of a contract with Reno Tahoe Construction for on-call fire hydrant system repair through June 30, 2014. (FOR POSSIBLE ACTION)**

An agenda item from Capital Projects Manager Chris Cobb recommending Council approve the contract with Reno Tahoe Construction. Fund impact will be variable based upon each incident. For repairs not covered by Risk, the Fire Department has \$21,000 budgeted in the general fund.

**5.8 Consideration, discussion and possible ratification of Change Order #1 from RFI Communications for security upgrades to City Hall, valued at \$1,456.00. (FOR POSSIBLE ACTION)**

An agenda item from Contracts and Risk Manager Dan Marran recommending Council approve the change order of \$1,456 which takes the total expenditure on the project to \$25,287.00, requiring City Council approval. Over the course of the past 12 months, the city has managed a project to upgrade safety features within City Hall. The original project fell below the City Council approval requirements. Changes late in the project took the total spend over the current

Council approval requirement (\$25,000), requiring City Council approval of the final change amount.

**6. General Business**

**6.1 Consideration and possible approval of appointment to the Regional Planning Commission. (FOR POSSIBLE ACTION) (Time: 2:42 p.m.)**

An agenda item from City Manager Shaun Carey recommending Council confirm the Mayor's recommendation to appoint Art Sperber to the Truckee Meadows Regional Planning Commission to a term which expires June 30, 2014.

A motion was made by Council Member Ratti, seconded by Council Member Schmitt, to confirm the Mayor's recommendation to appoint Art Sperber to the Truckee Meadows Regional Planning Commission to a term which expires June 30, 2014. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**6.2 Consideration and approval of memberships and contributions for FY 14 that serve general City purposes. (FOR POSSIBLE ACTION) (Time: 2:43 p.m.)**

An agenda item from City Manager Shaun Carey recommending Council review and provide direction on memberships and contributions for Fiscal Year (FY) 14 which provide support or operate functions on behalf of the city for the general benefit of the City of Sparks. The City Manager is requesting no new memberships and is looking for the City Council to provide direction to the City Manager for inclusion in the City Budget. There has been a request from City Council Member Lawson to increase the city funding Level for EDawn. More city funding will provide additional resources for the EDawn mission at this critical time in our economic recovery.

Council Member Ron Smith posed a question about the Reno Sparks Chamber and last year's contribution from the Tourism and Marketing Committee. Mr. Carey confirmed last year's membership was downsized to a standard and did not cover the general membership. If funded, this year's contribution would come from the general fund, not the Tourism and Marketing Committee.

Council Member Mike Carrigan said that although he doesn't dispute Council Member Lawson's request to put more money into EDawn, he does have a problem with funding the Nevada League of Cities at \$20,000 and questioned what the League does for the City of Sparks.

Mr. Lawson said visitations have grown from about three a month to 14 a month since Mike Kazmierski took over at EDawn and he believes they will make their 2,000 jobs goal this year, and with visitations going up, so do expenses.

Council Member Julia Ratti said she sees value in the League of Cities and doesn't think the city has given the League enough of a shot. Sparks has just gotten back with the League of Cities and the time involved hasn't given them an opportunity to perform yet. Ms. Ratti recommended not pulling next year's membership in the middle of the legislative session, have Mayor Martini remain on the board, allow them to complete this legislative session, see the results and then decide if results warrant remaining in the League of Cities.

Mayor Martini said he agreed with Ms. Ratti, and said there has been no issues we needed to push. He feels Sparks, as the 5th largest city in Nevada, needs to remain at the table with the Nevada League of Cities. Wes Henderson, the new Executive Director deserves a chance to come forward and do some good.

Mr. Carrigan asked where the League of Cities stood on ward-only voting. Community Relations Manager Adam Mayberry responded that although the League of Cities was in the room observing, they did not testify in support or opposition to ward-only voting. Mr. Mayberry said the League of Cities will get behind or oppose those issues that will impact cities collectively across the state, and that particular issue wouldn't fit that model. Mr. Carrigan said he did not see the League's worth.

Council Member Ron Smith suggested the League of Cities membership issue should be broken out and voted separately.

A motion was made by Council Member Smith, seconded by Council Member Ratti, to approve the funding of the City Memberships and Contributions for next fiscal year's budget for those presented other than the Nevada League of Cities. Council Members Ratti, Lawson, Smith, Carrigan, YES. Council Member Schmitt, NO. Motion carried 4-1.

A motion was made by Council Member Ratti to approve the funding of the City Memberships and Contributions for next fiscal year's budget for the Nevada League of Cities. The motion died due to lack of a second.

Council Member Ratti requested clarification regarding the current membership period for the Nevada League of Cities. City Manager Shaun Carey confirmed the current membership is from July 1, 2012 to June 30, 2013 and the city will receive a new bill in early August.

Mayor Martini resigned his position on the Board of the League of Cities and requested an item be placed on the April 22, 2013 agenda to appoint someone to fill the vacant position.

Council Member Lawson asked City Manager Carey to confirm that the approval of memberships is advisory to management and could be brought back at another budget meeting prior to the end of the year. He said he agreed with Mr. Carrigan that he'd like to see something from them and the last time he saw anyone from the League of Cities was when they came for money last year.

Council Member Schmitt said he disagreed with making a 250% increase in EDAWN and a 100% drop in political development because the two go hand in hand. He requested the issue come back to the table to see if Council wants to continue to support political issues in this city.

Mr. Lawson said he was not opposed to funding the League of Cities; he just wants a reason why. City Manager Shawn Carey said he can ask staff to try to bring Mr. Henderson to the Council to discuss the role of the League.

Mr. Carrigan said in defense of his position, EDAWN has done what they're supposed to do and the Nevada League of Cities is asking for an increase in dues. He doesn't understand the

reasoning. Council Member Ron Smith said the \$20,000 membership fee was discounted last year so Sparks would come back to the League.

Ms. Ratti said she was concerned about the timing and the comparison between EDAWN and the League of Cities is unfair because they're both different models. She said she is not in favor of asking Mr. Henderson to leave his work right now, in the current legislative session, to come and defend the League. She wants to see the item remain in the budget. When the current legislative session is over, she suggested he be asked to come and answer questions. Then, if the Council was not satisfied with legislative results or his answers, it can pull its membership at that time.

Council Member Ron Schmitt said if EDAWN had come to the Council last year with this type of request there would have been no vote of confidence for a new director with no track record. The new director has had almost a year and a half to prove himself. It's the exact opposite with the Nevada League of Cities, who has been given a little over three months and threatening to now cut them loose is inconsistent.

A motion was made by Council Member Ratti, seconded by Council Member Carrigan, to approve the funding of the City Memberships and Contributions for next fiscal year's budget for membership in the League of Cities. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**6.3 Consideration and approval of Annual Contributions to Other Governments that serve general City purposes. (FOR POSSIBLE ACTION) (Time: 3:04 p.m.)**

An agenda item from City Manager Shaun Carey recommending Council review and provide direction on Annual Contributions to Other Governments for Fiscal Year (FY) 14. The City Manager provided an annual updated city funding list to be included in the City Budget that is paid to other Governments in support of City and Regional Services. Many of these are covered by Interlocal Agreements. The City Manager would like to increase budget awareness and transparency into General Government expenditures for the City Council.

A motion was made by Council Member Ratti, seconded by Council Member Carrigan, to approve the funding of the Contributions to Other Governments in next Fiscal Year's Budget. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**6.4 Discussion and possible action on a City Council position to Senate Bill 457, which provides for all candidates for Council Member in Sparks to be elected in a general election by only the registered voters for the ward that a candidate seeks to represent. (FOR POSSIBLE ACTION) (Time: 3:07 p.m.)**

An agenda item from Community Relations Manager Adam Mayberry recommending Council provide discussion and direction on SB 457. Specifically for Sparks, the bill would amend the City Charter to provide that all candidates for Council Member must be elected in a general election by only the registered voters for the ward that a candidate seeks to represent. The adopted City of Sparks legislative platform does not address elections. The Legislative Committee felt it was appropriate to allow the entire Council to discuss and determine a position going forward.

Community Relations Manager Adam Mayberry signed in to the legislative session as opposed, allowing the city to discuss and change their position on the issue. Council Member Mike Carrigan asked if the bill passed out of committee. Mr. Mayberry said it is before a work session; the city will have a chance to testify when the bill gets to the Assembly.

Council Member Ron Schmitt asked Mr. Mayberry if the bill is supported by the larger cities in Nevada. Mr. Mayberry said Reno testified in opposition, as did City of Henderson and Carson City. Mayor Martini said the City of Reno has already voted 76% not to change to ward-only voting.

Mr. Schmitt said the city should involve the League of Cities to take a position on this issue when it gets to the Assembly. He is concerned the bill has a life of its own and may pass the Senate just to have a bill pass.

Council Member Ron Smith asked how the bill will work, if passed. Mr. Mayberry replied his understanding was the fundamental change is that the general election would be by ward only. Instead of all residents voting for a Council Member in the general election, regardless of the ward they live in, residents would now be limited to voting for the Council Member representing their ward.

Mr. Smith asked if there are two candidates running in ward 3 and one gets 50% of the votes and the other gets 30% of the votes, would that still constitute a run-off? City Attorney Chet Adams said Sparks' charter says the top two from the primary will go to the general. Under Mr. Smith's scenario, if four people run and one gets 51% the next runner up would be part of the general election.

Council Member Carrigan said the two highest voted in the primary will go to the general election in that ward and that if only two people run, there will be no primary; they will both go to the general.

Council Member Carrigan said the bill passed in the last legislative session and was vetoed only because of the Reno-at-Large seat. Mr. Carrigan asked Council Member Ratti and Mayor Martini if they have enough leeway from the Council because the City of Sparks didn't testify on the bill. Council Member Ratti responded that their guiding document on the legislative team has always been the platform and since ward voting is not in the platform, they did not testify and returned to Council for feedback.

Council Member Ratti said she continues to support ward-only voting as the most appropriate way to elect individual City Council Members.

A motion was made by Council Member Smith, seconded by Council Member Lawson, to oppose SB 457. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Council Member Ratti, NO. Motion carried 4-1.

**6.5 First Reading and possible discussion of CA-5-12 Bill No. 2656 an ordinance by the City of Sparks amending Title 20 of the Sparks Municipal Code to permit more than five residents receiving adult care in a residential district when permitted**



by building and fire codes and other matters properly related thereto. (Time: 3:23 p.m.)

City Clerk Teresa Gardner read Bill No. 2656 by title; the 2<sup>nd</sup> reading was scheduled for the April 22, 2013 Council meeting.

#### 7. Public Hearing and Action Items Unrelated to Planning and Zoning – None

#### 8. Planning and Zoning Public Hearings and Action Items

- 8.1 **PCN12010, Public Hearing, Consideration and possible action on a Master Plan Amendment and Tentative Approval of an amendment to a planned development handbook (Wingfield Springs) on a site approximately 1,645 acres in size within the NUD (Wingfield Springs Planned Development) zoning district generally located north of the Miramonte Planned Development, east of the Pioneer Meadows Planned Development, and west of the Foothills at Wingfield Springs Planned Development, Sparks, NV. A. A Master Plan Amendment request to change the land use designation on 3.7 acres from Open Space (OS) to 4 du/ac and change the land use on approximately 8 acres from 4 du/ac to Open Space (village 27), and change the land use designation on 10.9 acres from Open Space (OS) to 4 du/ac (village 28). B. A request for Tentative Approval of an amendment to the Wingfield Springs Planned Development Handbook to include the addition of several new villages; changes to the land use map and table; and changes to the setbacks within the Builder Lot and Patio Home designations. (FOR POSSIBLE ACTION)** (Time: 3:25 p.m.)

An agenda item from Senior Planner Tim Thompson and Red Hawk Land Company along with the Sparks Planning Commission, recommending Council certify the Master Plan Amendments, Resolutions No. 3236 and 3237. Staff recommended denial of the request for Tentative Approval of amendments to the Wingfield Springs Planned Development Handbook associated with PCN12010, based on the inability to make Findings PD13, PD15, PD17, and PD21. There is no impact to the general fund.

Mr. Thompson said Staff no longer believes they can support the handbook amendments and asked for the PD Findings document to be entered into the minutes:

**PD13     *The plan does provide for public services. If the plan provides for public services, then these provisions are not adequate.***

The public services identified in the planned development handbook are adequate to serve to project. No changes to the public facilities have been proposed. The existing infrastructure includes adequate capacity for the total number of residential units & commercial development included in the City's Master Plan document. However, the developer is in default of a residential construction tax credit agreement which requires the submittal, approval, and construction of parks based on the number of building permits issued. Given the number of permits issued, the developer has not met their obligation to construct park facilities as required by the RCT agreements, which are the mechanism to implement the park facilities plan for the Wingfield Springs Planned Development.

**PD15     *The plan does provide for the furtherance of access to light, air, recreation and visual enjoyment.***

The proposed changes do not impair the furtherance of access to light or air. The proposed modifications may have a potential impact to the visual enjoyment of adjacent properties and **access to recreation (emphasis added)**. By not meeting the obligations set forth in the RCT Credit Agreement, the developers are depriving residents of adequate access to recreational facilities.

**PD17     *To the extent the plan proposed development over a number of years, the terms and conditions intended to protect the interests of the public, residents and owners of the planned development in the integrity of the plan are sufficient.***

The planned development was intended to be completed over a number of years. The provisions set forth in the planned development handbook would adequately protect the interests of the public, nearby residents, and owners of the development. However, the developer is in default of a residential construction tax credit agreement which requires the submittal, approval, and construction of parks based on the number of building permits issued. Given the number of issued permits, the developer has not met their obligation to construct adequate park facilities. Staff is of the opinion that this compromises the integrity of the plan. Therefore, to approve further entitlements would not protect the interests of the public.

**PD21     *Modification of Wingfield Springs Planned Development furthers the interest for the City and the residents and preserves the integrity of the plan.***

The uses proposed are not deviating from uses already included within the Wingfield Springs Planned Development Handbook. However, the developer is in default of a residential construction tax credit agreement which requires the submittal, approval, and construction of parks based on the number of building permits issued. Given the number of issued permits, the developer has not met their obligation to construct adequate park facilities. Staff is of the opinion that this compromises the integrity of the plan. Therefore, to approve further entitlements would not protect the interests of the City and its residents.

Council Member Ron Smith asked how many units are built out. Answer is slightly more than 2,000 and Red Hawk wants to add 75 units. Red Hawk claims they don't need to build another park until they get 2,200 units.

In conclusion, Senior Planner Tim Thompson said staff believes they can still make the findings relative to the Master Plan amendments and they recommend certification of those master plan amendments. Staff recommended denying the handbook amendments based on PD Findings 13, 15, 17 and 21, as listed in the staff report.

Senior City Attorney Doug Thornley provided a primer on residential construction tax and how it applied to Red Hawk. Mr. Thornley concluded that Red Hawk Land Company has claimed nearly \$1.2 million in tax credit and created a situation where the city cannot remedy the wrong.

Staff cannot make all the findings now because Red Hawk has not lived up to their end of the bargain.

Ms. Jackie Seeno, representing Red Hawk Land Development did not agree Red Hawk is in default of the parks agreement. Further, Ms. Seeno said Red Hawk fully intends to build Silverton Park according to the terms of the agreement, but not until certain thresholds are reached.

Council Member Mike Carrigan asked what Red Hawk's feeling is about Pelican Park. Ms. Seeno said they were not involved when Pelican Park was built and she now understands Pelican Park was not built to compliance. Ms. Seeno stated that Pelican Park is one of their required three parks, even though the city had to take it over and complete it.

Council Member Ron Schmitt asked Neil Krutz how the books can be put back in balance. Mr. Krutz said Red Hawk would need to deliver on the agreement they made with the city to build the three parks.

Ms. Seeno explained that park agreement number one is a cash reimbursement agreement. Park agreement number two is a tax credit agreement. She said everyone agrees two parks have been built. The city has been taking care of those parks since 2004.

Council Member Ron Schmitt asked Ms. Seeno who paid for and built the third park. She answered that Red Hawk Land Development did pay for and build Pelican Park and she cannot say why that is in dispute with staff.

Mr. Thornley said after Pelican Park was retrieved from the courthouse steps at a tax sale, the city spent \$130,000 out of park district three and another \$70,000 from the general fund. Those funds normally would have been cleared through the credit program. Red Hawk would have to prove they spent the money on the park in order to retain the credit, or they would have to pay it back.

Neil Krutz said the agreement does require they provide a full and complete and defensible accounting of how those dollars were spent in order for the developer to ultimately enjoy use of those credits, or they are required to reimburse the city. He said this represents an irreparable breach and not something the city can resolve as simply as pay us back the \$200,000 and we'll call it good. Mr. Krutz said in his opinion it would be a mistake to take that approach.

Council Member Ron Schmitt said in the spirit of getting this resolved he is not so hung up on providing receipts; he'd rather see the issue worked out.

Neil Krutz said the developer was granted a certain level of entitlements by the city which included two residential construction tax agreements. From the perspective of the staff, the developer has not complied with the credit agreement and now that developer is in front of the city asking for additional entitlements. Mr. Krutz said he believes they should not be granted until the city is square on the residential construction tax agreements. Council Member Schmitt said he agreed the city should not bring this entitlement forward until the books are balanced in some form or another.

Ms. Seeno said Red Hawk Land Development does not agree they are in default and the amendments before Council are being recommended for denial based on what staff calls new information. Ms. Seeno said they were not involved in Pelican Park when it was developed and the issues brought before Council today are issues eight years in the making. She said they deny they are in default of the second parks agreement and they fully intend to comply with the terms of the second park agreement and to build Silverton Shores Park. Ms. Seeno said she is committed to working with staff and the City of Sparks.

Council Member Schmitt asked Ms. Seeno if she is committed to solve the big disconnect in the amount of money credited and the amount of money spent. Ms. Seeno answered that Red Hawk does not agree they are in default, so they have a fundamental difference.

The Public Hearing was opened. No comments were received. The Hearing was closed.

A motion was made by Council Member Carrigan, seconded by Council Member Ratti, to table item 8.1 to and direct staff and the applicant to work out a solution. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

**8.2 Consideration and possible action regarding the Planning Commission's action to approve PCN12022, a Special Use Permit request to allow for a 201 room resort hotel/casino on a site approximately 12.6 acres in size in the NUD (New Urban District – The Legends at Sparks Marina Planned Development) zoning district generally located at 100 Legends Bay Drive, Sparks, NV. (FOR POSSIBLE ACTION) (Time: 2:33 p.m.)**

An agenda item from Senior Planner Tim Thompson based on a request from Council Member Lawson recommending Council review the Planning Commission's action on March 7, 2013 that approved a Special Use Permit request from Olympia Gaming to allow for a 201 room resort hotel/casino on a site approximately 12.6 acres in size in the NUD (New Urban District – The Legends Planned Development) zoning district generally located at 100 Legends Bay Drive, Sparks, NV.

Mayor Martini invited the applicant to make comments prior to the Public Hearing.

Olympia Gaming representative Mike Railey from Rubicon Design Group said the applicant agrees with the continuance to April 22 and is available to answer any questions.

City Clerk Teresa Gardner read the letter from the Nevada Resort Association (NRA) into the record, per Mayor Martini's request, wherein the NRA requested Council to allow more time for consideration of the Special Use Permit for the resort hotel project to be located at The Legends at Sparks Marina Planned Development.

The item will be continued to the April 22, 2013 Council meeting.

A Public Hearing was opened. Mr. Steve Polikalas, representing Peppermill Resorts, John Ascuaga's Nugget and Atlantis and Monarch Gaming said he appreciated the continuance to give others the opportunity to understand what is being proposed. The Public Hearing was closed.

Council Member Ron Schmitt said his concern was that the project could not be denied because in his opinion the project is outside the NRA. He does not believe it is an issue the Council has jurisdiction over and believes the NRA should make their appeal to the Gaming Control Board and not to the City Council.

Council Member Ed Lawson said his request for continuance was based upon his need to complete his homework and check the facts he was given.

Council Member Mike Carrigan went on record as supporting the continuation to April 22 as a courtesy to Council Member Lawson and not an indicator of his approval or disapproval of the project. Council Member Ron Smith said he doesn't favor continuing the item and thought the vote should be called this date, but also voted for continuance based upon the recommendation by Council Member Lawson.

Council Member Schmitt asked if Council Member Lawson had his questions answered, would the Council need to return to the item, or could Mr. Lawson withdraw his appeal and this item would be finished.

City Attorney Chet Adams confirmed Mr. Lawson would be free to withdraw his request for the City Council hear the item.

Mayor Geno Martini said the continuance didn't mean the appeal would be denied. There may be reasons to decline the project, but he didn't see any particular problems.

A motion was made by Council Member Lawson, seconded by Council Member Schmitt, to continue item 8.2 to the April 22, 2013 Council meeting or until Council Member Lawson withdraws the appeal. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

## **9. Closed Door Sessions**

### **9.1 Possible motion to conduct labor relations proceeding. (Closed per NRS 288.220) (FOR POSSIBLE ACTION) (Time 4:24 p.m.)**

An agenda item from Assistant City Manager Steve Driscoll recommending Council adjourn to a closed door labor session per NRS 288.220 at the conclusion of the Council meeting.

A motion was made by Council Member Ratti, seconded by Council Member Lawson, to adjourn to a closed door labor session per NRS 288.220 at the conclusion of the Council meeting. Council Members Ratti, Lawson, Smith, Carrigan, Schmitt, YES. Passed unanimously.

## **10. Comments (Time: 4:24 p.m.)**

### **10.1 Comments from City Council and City Manager - None**

### **10.2 Comments from the Public - None**

## **11. Adjournment**

Council was adjourned at 4:24 p.m.