

CARLIN CITY COUNCIL
CITY OF CARLIN, STATE OF NEVADA
REGULAR MEETING
CARLIN CITY HALL
101 SOUTH EIGHTH STREET
CARLIN, NEVADA
June 12, 2013, 7:00 p.m.

Call to Order and Roll Call:

Mayor Cliff Eklund called the meeting of the City Council to order at 7:03 p.m.

Council Members Present: Mayor Cliff Eklund
Vice Mayor Donnetta Skinner
Councilperson Steve Feasel
Councilperson Bob DeMars
Councilperson Jay Duke

Absent:

1. Administrative Staff: City Manager Glenn Trust, City Clerk LaDawn Lawson, Chief of Police William Bauer
2. Present: Rick Andersen, Lloyd Meyers, Robert Jensen, Roger Anderson, Robert Howard, Leslie Ludwig, Ellen Meshefski

Pledge of Allegiance

- I. Review discussion and possible approval of a Special Events Liquor License for Robert L. Jensen, dba American Legion Post 32, and all related matters. (Possible Action Item)**
1. Mayor Cliff Eklund stated this is done every year.
 2. Robert L. Jensen, American Legion, explained this is the main fundraiser for the year.
 3. **Councilperson Steve Feasel moved for approval of a Special Events Liquor License for Robert L. Jensen, dba American Legion Post 32, and all related matters. Vice Mayor Donnetta Skinner seconded the motion. The motion carried.**

- II. Discussion and possible approval of a Special Events Liquor License for Ellen Meshefski, representing the Carlin Parks and Recreation Committee, and all related matters. (Possible Action Item)**
1. **Councilperson Bob DeMars moved for approval of a Special Events Liquor License for Ellen Meshefski, representing the Carlin Parks and Recreation Committee, and all related matters. Councilperson Jay Duke seconded the motion. The motion carried.**

- III. Discussion and possible approval of a boundary line adjustment for DFA, LLC adjusting the boundary of Assessor Parcel 002-210-038 to allow DFA, LLC to sell land to Thomas Petroleum, and all related matters. (Possible Action Item)**
1. Robert Howard explained the request is to adjust the boundary line so that Thomas Petroleum will have five (5) additional acres than they currently have. He stated the money is in escrow and assuming the Council approves this and they can get the plat map signed, it will be done.
 2. Mayor Cliff Eklund inquired about the five acres location.
 3. Robert Howard noted it on the map. He stated the five (5) acres would be taken from Parcel 1 to Parcel 12. He stated it goes up the right-of-way.
 4. Mayor Cliff Eklund inquired what the intention is with the property.
 5. Robert Howard stated when they first purchased the 27 acres from the City by BFA, it was requested by the City Council that BFA make available to Thomas Petroleum additional lands or they would have had to go back in and have the Council approve more parcels, etc. He stated his client made a memo to that effect and the council then made the land sale. He

stated the dirt work has been done and Thomas Petroleum has offered to buy five (5) acres. He stated he does not know what the business plan is.

6. Wren Doxey Representative for Thomas Petroleum stated they would like to extend the service station and propane gas services.
7. Robert Howard stated all of the requirements have been done, all the utilities, all right-of-ways.
8. **Councilperson Jay Duke moved for approval of a boundary line adjustment for DFA, LLC adjusting the boundary of Assessor Parcel 002-210-038 to allow DFA, LLC to sell land to Thomas Petroleum, and all related matters. Councilperson Bob DeMars seconded. The motion carried unanimously.**

IV. Discussion and possible renewal of a parcel map for DFA, LLC creating four parcels from Assessor Parcel 002-210-038 for the purpose of building a shop and equipment lot on one of the created parcels and for development of the remaining separate parcels, and all related matters. (Possible Action Item)

1. **Councilperson Steve Feasel moved for approval of a renewal of a parcel map for DFA, LLC creating four parcels from Assessor Parcel 002-210-038 for the purpose of building a shop and equipment lot on one of the created parcels and for development of the remaining separate parcels, and all related matters. Vice Mayor Donnetta Skinner seconded the motion. The motion carried.**

V. Review, discussion and possible approval of a request from Alex and Marion Hose/TICO Construction for an extension to the contract to purchase land from the City of Carlin and for development of the land they previously purchased, and a determination by the City Council as to whether the performance guarantee funds in the amount of \$430,500.00 held in the City Attorney's trust account shall be forfeit in part, or in their entirety, to the City of Carlin, and all related matters. (Possible Action Item)

1. Mayor Cliff Eklund stated the City entered into a contract with Alex and Marion Hose that was to close the end of November. He stated it closed December 12, 2012 and at that time the City was to close on all of the property north and they requested to the property so they could close on the commercial site and that would allow them to start construction in February 2013 due to financial restraints. He stated that has not happened and they were to make the final payment of \$600,000 on May 1, 2013, this is tied to a cash bond and this is a default. He stated Mr. and Mrs. Hose are present and have requested an extension of one (1) year and change in the development agreement.
2. Marion Hose, TICO Construction, stated they inherited the purchase.
3. Mayor Cliff Eklund stated then they made the agreement last fall, there was an individual that was not supposed to be involved with this and the City found out that "he is Vice President of your company".
4. Marion Hose stated, "Tom Ortiz" and noted that he is not involved with this property. She stated they started from "scratch and worked to assemble a great crew of consultants. She noted the property does not have all the parcels involved and noted which parcels they have. She stated they negotiated with the City a contract in December 2012 and a couple of the dates in the purchase contract had already passed at the time of escrow close. She noted that they have heard that the City is not happy about the delays, but explained that everything they have done to date has been done with cash from their construction company. She stated they now have the final land use plan and they can now move forward revisiting some of the users for the site, do water and sewer calculations. She stated her proposal is to take the \$430,000 improvement bond posted and apply it to the purchase price at this point.
5. Mayor Cliff Eklund stated the City is more than a little disappointed and in reading over their proposed agreement, he does not agree. He stated they had invited Dave Stanton from the City Attorney's office.

6. Dave Stanton, explained he is also the Elko City Attorney and works on a number of developments, but the proposed development agreement he sees has some familiar language, he does not know its origin, but he has seen it before. He stated there are some problems with the fundamental change from the prior arrangement. He stated he would not recommend entering into a new agreement, but would recommend to the Council that the performance guarantee not be applied to the purchase price, as it is not agendaed. He stated the Council needs to decide what they want to do before proceeding. He stated he would not recommend entering into a new development agreement and a valuable discussion would be to decide whether they use extensions of time with some significant benchmarks. He explained this would be productive.
7. Mayor Cliff Eklund stated he agreed, stating "I do not believe it is appropriate for us to use a bond that was set up for performance as a payment on the loan. I do believe they are in default and the fact that payment was not made when there is a contractual agreement with them. He stated everyone knew that May 1, 2013, was the default date".
8. Marion Hose stated that they have been working in good faith to develop the project. She stated this is their hope of "convincing the Council of tonight". She noted they have done a phenomenal amount of work, assembled a crew and they had started from "scratch".
9. Mayor Cliff Eklund stated there was a part in the old development agreement that states there was supposed to be a written monthly report made to the City.
10. Mrs. Hose stated this had not been done, but they had been in constant contact with the City.
11. Vice Mayor Donnetta Skinner stated when they first came to the City, discussion was held on the dates and they were assured it would be done. She noted, "I think we should have bagged this a long time ago, I think we should have shut it down a long time ago and all of your people promised that this project was going to go. I think we got the same treatment this time that we have over the last 8 years. I, for one, am sick of it. I think we have lost a great deal of money waiting for you and the things that you promised to do and you didn't even notify us of having trouble or that things were going to be delayed. There was no word; none of the Council knew anything about it. As far as I am concerned, I think you went back on your word and it proves that we are going to have the same problem that we did last time".
12. Mrs. Hose stated their "greatest sin was not having enough people to devote to the task. As far as current involvement, my husband and I were substituted as the purchaser of the land". She noted she first heard of the project in November 2012 and they have done a "tremendous amount of work since the 12/2012 closing date. She stated they have not been sitting idle. She stated she has heard comments that this is something that Carlin really needs. She stated they did not inherit any plans from the past, but have been touch with Mr. Trust and Mr. Ballew. We have started from scratch when we decided to purchase the whole site.
13. Vice Mayor Donnetta Skinner expressed her disappointment over the problems with development. She requested that Mrs. Hose tell the City what they really want them to do.
14. Marion Hose stated they would like more time and thought there was an assumption of continuity over the past 10 years. She stated this is incorrect, that they started from scratch.
15. Mayor Cliff Eklund stated there are too many issues and noted the City is not going to be responsible for anything on SR766 and it was never part of the agreement. He stated their part was to help obtain the grants that NDOT had promised and administer the fund. He stated there is a limit on what the grant would cover.
16. Councilperson Jay Duke stated he has seen a lot of work, but agrees with the City Attorney that they should not enter into a new development agreement.
17. Marion Hose stated they thought they had to start again with a new development agreement.
18. Councilperson Jay Duke stated he agreed that they should have put a stop to the closing when it became clear there were problems. He stated the City really wants the development and he wonders if they have not lost credibility in this effort. He inquired, "Did you really have intentions of meeting the previous deadline, when did you see you weren't going to meet them and why didn't you come forward".

19. Alex Hose reported that as they tried to raise money, investors want a development agreement that encompasses this project, as we did not have that before. He explained the new traffic study, need to raise money, still working on the project and submitting drawings to NDOT. He stated without a development agreement, without NDOT, and without letters of intent from the different major people on the front, people weren't going to put money in and they were still trying to raise money.
20. Marion Hose stated she thought it was about 2 months ago.
21. Alex Hose stated they have to amend the other development agreement so it works for everyone. He noted he went to inspect the infrastructure and because they are proposing a massive project and if they do not master plan the whole project to make sure there is enough water and sewer.
22. Councilperson Jay Duke confirmed that the time frame and noted the credibility of issue and the question is trust, inquiring what can be said that will help mend this issue.
23. Marion Hose stated they have a great team and they have been working hard and she feels good about having that talent gathered. She stated they made an error in not reporting to the City earlier and should have observed that etiquette.
24. Alex Hose stated the portion they would start with has a lot of apartments, and single-family residences. He noted they were working with the entrance road and getting the utilities and they have been working on the master plan for a couple of months. He stated they have worked with Wells Rural Electric, Frontier and Southwest Gas and the master plans for each part has to be right.
25. Councilperson Steve Feasel stated in the Executive Summary, he finds portions that state, *except as provided for in this agreement, the owner shall have the vested right to develop the property at such a rate and at such a time that the owner deems appropriate.* He stated this says that they will do things as you get to it.
26. Marion Hose stated they had an attorney help them write it and we fully expected a give and take and this should be discussed so it is something we are both happy with.
27. Councilperson Steve Feasel stated it "turned him off because he is not ready to allow this to take place at your leisure, so to speak".
28. Marion Hose stated that is not their plan at all.
29. Councilperson Steve Feasel stated they should stick to what they have already signed and agreed to.
30. Alex Hose reported he went to NDOT a few months ago with Tom Ballew and they handed a letter that the gas tax did not give them additional money to do the bonding. He stated he has helped us and our goal is to try to do all of the work, but I need to get them to agree to something.
31. Mayor Cliff Eklund stated the City would not be responsible for any of the NDOT stuff.
32. Councilperson Bob DeMars stated he was sitting in the audience when they came in December, and they have defaulted twice so far. He noted he wondered why if they are saying it is a huge project and they are having trouble coming up with the funds, they would want to change the development contract rather than try to get something done. He stated he knows they are looking for investors and he is concerned. He stated the "iron in Carlin is hot right now" and we need this property to develop. He noted they have trailers up there, and signage up there, and does not know if other developers have looked at it. He questioned whether the City had missed out and he believes that is what happened. He stated completion is now 2015 – two years from now.
33. Marion Hose explained, "We are not part of the past".
34. Councilperson Bob DeMars stated they should have come to the Council a lot earlier than now.
35. Marion Hose stated the people they have now have had to pull back and regroup a little bit now. She explained this project has required that they approach different sources than they originally thought and "now I think we have that part under control and we are working

- toward closure on that. We thought we were ready to go as we had put the deposit, purchased some equipment". She stated this is the first time they have done a mixed-use development to this scale and it is taking us more time than we thought.
36. Councilperson Bob DeMars stated it sounds like they bit off more than they could chew.
 37. Marion Hose stated these people they have now are experienced. She stated other developers in Reno have lost everything, but their company has persevered and have excellent reputations. She stated they do not give up.
 38. Councilperson Bob DeMars stated this is the second time default and the City is getting tired of it.
 39. Vice Mayor Donnetta Skinner inquired about their plan, and what they want the Council to do.
 40. Marion Hose stated they are set to do grading as soon as they close this round of industrial financing and as soon as they have more clarity. She stated they were expecting to have feedback by now. She stated the Knowles piece is essentially a donut hole in the middle of the property and they are trying to get that resolved, as well as the PUD for connection fees.
 41. Tom Ballew reported they have been in contact with him a number of occasions over the past few months. He stated they are working on the project.
 42. City Manager Glenn Trust inquired about finishing the dirt work after they finish this round of fundraising. He explained that the City Attorney, Bob Goicoechea, has sent Mr. Knowles' attorney the city's proposed agreement and the yare waiting for them to respond before we bring it to the Council for approval. He noted that would resolve the five (5) acres. He inquired when they would close this phase of investor financing – in a year, month?
 43. Marion Hose stated she thought a month.
 44. City Manager Glenn Trust inquired if they would be doing dirt work.
 45. Marion Hose stated they could start, but would not want to have to stop due to the cost.
 46. Councilperson Jay Duke inquired when they would expect industrial financing to close.
 47. City Manager Glenn Trust stated he could back Mr. Stratton to stay with the current agreement, which the Council is happy with and if there are issues that need to be addressed during the process of development, that would be fine.
 48. Marion Hose inquired what the term of the agreement was as they thought it had run out.
 49. City Manager Glenn Trust stated the term of the initial benchmarks included the \$480,000, closing, purchase contract, which included development of the project. He stated several of the benchmarks have expired and that is why the Council has the option to do whatever they want with the project. He agrees with the concept of keeping the current agreement in place, but would be very willing to go back to the City Attorney and negotiate some additional bench marks and time lines to extend if that is what the Council wishes. He stated they made it very clear that there would be no expense on the City's part for developing the infrastructure needed; that was made clear up front. He stated they were assured that would not be an ongoing issue, but you were brought in toward the end and things got rushed. He noted they were skeptical when it was said the travel center would be finished in a month. He stated he is fine with any Council decision, but out of every developer we have dealt with, we have one (1) developer who has put over \$700,000 of his own money and put that at risk. He stated he does not think the intent is to squander that money. He explained he thinks the purchase contract/development agreement they have is fine and they could re-negotiate the time lines
 50. Alex Hose stated everyone should be working together and we should get a plan we could agree on as it took him a lot of time to sort this out. He stated he would be here at any time.
 51. Mayor Cliff Eklund stated he would be comfortable with the agreement they had and adjusting the timeline. He stated there is a price to pay for default and if they change the dates and there is no penalty for default, they should have some kind of price to pay. He stated they could take \$25,000 - \$50,000 of the \$400,000 as it is already in default.

52. Councilperson Jay Duke stated he is saying if there is not a penalty in place, it is about the message and the impact of that message – we want the development. He stated they want to state we are serious about this.
53. Vice Mayor Donnetta Skinner inquired how much more time did they want.
54. Fred Montes de Oca talked about the past.
55. Alex Hose stated part of the development agreement is critical because there are unknowns. He stated in discussion with City Manager Glenn Trust and Mayor Cliff Eklund they have discussed having a plan. He stated he is not making promises, because everyone has made promises before.
56. Robert Howard, local construction manager in the area, stated he does not know the developers and does not have a horse in this race, but two things – communication has been lacking and expectations. He stated if it sounded too good to the Council, it probably was. He stated working with NDOT and the utilities takes longer than just a few months. He stated if he was working on this project or consulting that 2015 would be aggressive because by the time you work with NDOT, but the time you get your last land development done, if you get all the surveying done, it stretches it out too far. “I honestly think that 2015 is an aggressive date for completion on a project this size and just as an example it was going to be \$½ - \$¾ million for southwest Gas and 9 months on their part to complete it”.
57. Mayor Cliff Eklund stated he appreciates his comment, but the City has not seen “zero”. He noted, “It would be easier for the Council to make some concessions if they had seen anything done”.
58. Ron Howard stated that goes back to communication.
59. Dave Stratton stated he discussed this with Bob Goicoechea and it did seem to them that with the good understanding they had of this that the main issue is getting investors circled around. He stated he has a sense of why some of the land was written the way it was. He stated it does represent a substantial change from the City’s expectations. He noted the timing is really the issue here and he thinks it would be productive for the developers to sit down with staff and “get into the weeds a little bit on what some of these issues are”. He stated he thinks there are specific things going on in the background, some of which may be helped by the City, things that the City needs a little bit better understanding and maybe start establishing some bench marks that the City can use to track the project. He explained this would be a good result from the City Attorney’s would be direction for you to go back and discuss the extension of time with staff and the benchmarks with staff and then come back to the Council with proposed dates on all of those things.
60. Councilperson Steve Feasel stated he would like to take Mr. Stratton’s advice.
61. **Councilperson Jay Duke moved for approval to have Alex and Marion Hose/TICO Construction meet with the City Manager and City Attorneys to establish new benchmarks and timelines and possible extensions for the continued construction and development and bring those matters back to the Council. I also move that due to the Buyers’ defaults, as of May 1, 2013 second purchase closing, the amount of \$50,000 be forfeited from the escrow funds and be transferred to the City of Carlin, and all related matters. Councilperson Steve Feasel seconded the motion. The motion carried unanimously.**

VI. Review, discussion and possible approval of a bid award for the purchase of a Bulk Water Distribution Station as approved in the City’s Budget for Fiscal Year 2012-2013, and all related matters. (Possible Action Item)

1. City Manager Glenn Trust stated this is a budgeted item with the bulk water transfer station equipment will be installed by the City workers and it was put out to bid. He noted the City Engineer handled the specifications.
2. City Engineer put the bid out and received one (1) bid, but he wants a clarification on how the money was separated. He stated he received an email and the reason he wanted that was bec

ause the job is actually two (2) tasks. He stated he felt they needed the price set for each of the tasks.

3. **Councilperson Bob DeMars moved for approval of a bid award for the purchase of a Bulk Water Distribution Station as approved in the City's Budget for Fiscal Year 2012-2013 from Flowpoint Environmental Systems, Inc. of Colorado (Grant Dixon) at a total bid price of \$36,629.89 for the install and purchase price, and all related matters. Vice Mayor Donnetta Skinner seconded the motion. The motion carried.**

VII. Review, discussion and possible approval of a proposed augmentation to the City of Carlin's budgeted appropriations for Fiscal Year 2012-2013, and authorization to publicly advertise the augmentation for presentation at the next City Council Meeting for possible approval, and all related matters. (Possible Action Item)

1. City Manager Glenn Trust stated he has put together the augmentations prior to advertising and presenting resolutions at the next meeting. He stated other than the General Fund; the other funds are not going to be changed. He stated the Opening Balance has increased \$763,057. City Manager Glenn Trust stated there is \$539,519 surplus in revenue currently in the General Fund and \$280,366 in the Utility Fund. He stated the Opening Fund Balances would therefore also be greater than budgeted. He stated after the first of the year, he would bring back other proposals. He also reported on the individual expense line items and those augmentation figures, which were also given to the Council in hard copy.
2. Councilperson Jay Duke noted the trend of over-budgeting and agrees that is a good administrative practice.
3. City Manager Glenn Trust noted that the legal fees would be expanded to \$35,000 due to the development problems. He stated the fuel fees would be increased to \$45,000 and Building Maintenance would be increased to \$42,000. He stated Capital Projects would have a transfer of \$360,000. He stated the Opening Fund Balance would actually be \$300,000 greater than the actual Opening Fund Balance this year. He inquired if there were any concerns from the Council members.
4. **Councilperson Bob DeMars moved for approval of a proposed augmentation to the City of Carlin's budgeted appropriations for Fiscal Year 2012-2013, and authorization to publicly advertise the augmentation for presentation at the next City Council Meeting for possible approval, and all related matters. Vice Mayor Donnetta Skinner seconded the motion. The motion carried.**

VIII. Review, discussion and possible approval of minutes of the Regular Meetings of the Carlin City Council on April 10, 2013, April 24, 2013, and May 8, 2013, and all related matters. (Possible Action Item)

1. **Vice Mayor Donnetta Skinner moved for approval of minutes of the Regular Meetings of the Carlin City Council on April 10, 2013, April 24, 2013, and May 8, 2013, and all related matters. Councilperson Jay Duke seconded the motion. The motion carried.**

IX. Review Discussion and possible approval of payments for the periods 05/23/2013 to 06/12/2013, and all related matters. (Possible Action Item)

1. **Vice Mayor Donnetta Skinner moved for approval of payments for the periods 05/23/2013 to 06/12/2013, and all related matters. Councilperson Bob DeMars seconded the motion. The motion carried.**

X. City Council Members' Reports. City Council Members report on issues, concerns and events regarding Public Safety, Public Works, Planning Commission, Parks & Recreation, Senior Center, Cemetery and other matters of interest (Non-Action Item)

1. Chief Bill Bauer reported he hired one new officer, Keegan Batys, and made an offer to Taylor Martin. He discussed Post field training starting in July and the officers will be gone til sometime in November. He stated he would bring the new officers next meeting.
2. Councilperson Jay Duke stated, "There are local businesses that the City does not purchase from and in the budgets, we allow the departments to use outside businesses. He stated he is not in the business of micromanaging any department, but I will give advice to the process. We should first use local talent on any events that we can and if we do not, we should make sure the local talent knows why we have not used them. I think that is a fair and respectful process".
3. Councilperson Steve Feasel reported he attended the Planning Commission meeting and they are having a difficult time getting members to attend. He stated they have three members and two (2) people were via telephone in order to have a quorum. He stated the Commission needs some help getting new members.
4. Mayor Cliff Eklund stated every board has the same problem and explained that they do use and support local businesses and named several of them. He stated when it gets to the big jobs over \$25,000, it ends up being a bid process, which are usually out of town.
5. Councilperson Jay Duke stated it is more that they should have a reason why they are not used.
6. Vice Mayor Donnetta Skinner stated there are things they cannot use from Carlin from the community for different reasons. She noted they try to use the local people before they use those from outside. She reported there was a great display on Memorial Day and good comments on the cemetery. She stated the ice cream truck is going through Carlin and is the best thing for a long time.
7. City Clerk LaDawn Lawson stated she needs to talk to them for a business license and Vice Mayor Donnetta Skinner stated she would find out.
8. Councilperson Bob DeMars stated he thinks there are concerns about this business as it is an unfamiliar business to the children of the City. He stated local law enforcement making sure they pull off the road and only served off one side and the kids were not coming around to the driver's side. He stated it would be good to have the police department involved.
9. Vice Mayor Donnetta Skinner stated this is a great thing for the City. She stated it is good to bring people together and is a plus for Carlin. She stated the parade is coming up and asked the members to encourage businesses or anyone they know to enter. She stated they should contact Ellen Meshefski to sign up. She noted she talked about the grass at the library to City Manager Glenn Trust, as it needs to be put around the library.
10. City Manager Glenn Trust stated he did talk to Public Works Director Carlos Esparza and there is going to be a rock garden and the mower will not fit back in that area, so grass is a problem.
11. Councilperson Bob DeMars reported the water station to be put up by the water tanks and only 25% is billed out. He stated it is going to be a timed automated fill station (metered).

City Clerk's Report. (Non – Action Item)

1. There was no report.

City Manager's Report (Non-Action Item)

1. There was no report.

XIII. Comments by the General Public: Pursuant to NRS 241.020(2C) this time is devoted to comments by the general public and discussion to those comments. No action may be taken upon a matter raised under this item until the matter has been included on a successive agenda and identified as an action item. (Non-Action Item)

1. Ellen Meshefski reported the lady with the Ice Cream Truck is Talia Babcock. She explained she is going off the road and is doing a great job. She stated the library put in a sprinkler

system, they were asked not to put grass on the side due to the lawnmower issues. She stated they decided to put in a flower, shrub setting. She noted Jon Gift talked to Public Works Director Carlos Esparza last week about a stream and they are waiting for donation of a liner. She noted Jon Gift talked to Ron Johnson about a gazebo in between the clinic and library.

XIV. Adjournment. (Action Item)

Councilperson Bob DeMars moved for adjournment with Councilperson Jay Duke seconding the motion. The motion carried. The meeting was adjourned at 9:45 p.m.

APPROVED:

MAYOR CLIFF EKLUND

ATTEST:

CITY CLERK LADAWN LAWSON