

City Administrator/Clerk Terry explained the meeting protocol for participating in the City Council meetings virtually (online) using the Zoom virtual meeting application.

1) CALL TO ORDER

The meeting was called to order by Mayor Julius at 6:01 p.m.

Members Present: Mayor Julius, Councilmembers Schuenke, Berg, Timmerman and Novak

Members Absent: None

Also Present: City Administrator/Clerk Terry, Police Chief Juell, Senior Planner Christianson, Attorney Koch, Deputy Clerk Jirak, City Engineer Revering, Patrick Fischer, Jodi Lucast, Janelle Kuznia, Tia Smith, Brian Smith, Allan Kanitz, Gina Styles, Phil Wilson, Carrie Jennings, Larry Schofield, Jonathan & Jami Carlson, Robert & Tricia Everson, Veda Kanitz, Lorraine Roving, Mark Engel, Jodi Muelken, Brett Johnson, Jarrod Wagner, Sarah Stowell and Beth Eilers

2) PLEDGE OF ALLEGIANCE

Mayor Julius led the Council and audience in the Pledge of Allegiance.

3) ADOPT/APPROVE AGENDA

City Administrator/Clerk Terry advised the Council of a revised agenda. Terry stated Consent Agenda item 6d. Police Department Administrative Staff Restructuring and item 6e. Authorize the Hire of a Maintenance Worker I have been added to the agenda.

MOTION by Councilmember Schuenke, second by Councilmember Timmerman to approve the agenda as amended.

APIF, MOTION CARRIED

4) PRESENTATION, PROCLAMATIONS AND ACKNOWLEDGEMENTS (PP&A)

Accept Donation – Elko New Market Fire Relief Association

Jodi Muelken, President of the Elko New Market Fire Relief, presented a donation for \$80,000 to the City of Elko New Market.

5) PUBLIC COMMENT

Carrie Jennings, 8919 280th St W, Eureka Township, Professional Geologist, introduced herself and gave a brief background on the history of groundwater studied in this area. Jennings presented on The Unique Glacial Setting and Potential Groundwater Vulnerabilities of the Elko New Market Area.

Jonathan Carlson, 26126 Pillsbury Ave, approached the podium and asked Council to readdress a super heavy user industrial water rate for customers like Niagara. Carlson mentioned three key points found in the guidance in the State Statutes for setting and collecting fees for utilities.

Mayor Julius stated that that Council will most likely be looking at the applications and subsidies for Niagara at the next City Council Meeting and therefore Public Comment regarding Niagara will not be open for discussion at that meeting.

Jodi Lucast, 26501 Xerxes Trail, approached the podium and commented, in her opinion, on the hypothetical loss to the community if Niagara is allowed.

Janelle Kuznia, 26775 Grand Avenue, Elko New Market, approached the podium and mentioned the following:

- Suggested a Public Forum take place for discussion on the past questions addressed before City Council Members vote at the City Council Meeting on March 23, 2023.
- Asked Council to wait on voting on these issues until the Water Appropriation Permit from the DNR has come in.
- Advised Council of a change.org petition and encouraged Council to look at it and the comments.
- Thanked Staff for the I35 presentation and asked to have that presentation made available to the public.
- Stated New Market Township Board has not been invited to Elko New Market City Council Meetings.

Mayor Julius asked Staff if the Comprehensive Plan and the AUAR were provided to the New Market Township Board.

Senior Planner Christianson stated that the Comprehensive Plan is provided to the New Market Township Board, however, individual development plans are not. Christianson explained that a New Market Township Board member does sit as a liaison to the Planning Commission.

Mayor Julius expressed his frustration in the breakdown in communication with the New Market Township Board.

Susan McPhee, New Market Township, approached the podium and addressed the following:

- Commented it is hard to believe discussions have continued despite the large display of opposition regarding this project.
- Stated multiple people were advised that if residents did not live within the City, they had no voice and superior attitude is disturbing.
- Mentioned an article from August 2017 article “A Decade After Merger” looks to forge “unified identity” within Elko New Market and wanting to annex more land from New Market Township to keep pace with population growth.
- Stated Dakota Electric wants to build a substation in New Market Township property, however, would benefit the City and Niagara.
- Mentioned a truck stop to be built along the westside of I35.
- Asked Staff to reach out to Lakeville PD and question the activity at the truck stop at I35 and Highway 70.
- Commented that residents of New Market Township would like to maintain their own land and lifestyle to include peace and quiet as well as lower crime.

Larry Schofield, 11550 Deuce Road, commented on the following:

- Stated there has been no response from the City Council, Ryan Companies or Niagara on any of these proposals to protect residents from the lights and noise.
- Commented on the original plans for the development have changed as Ryan Companies had storm ponds and nice-looking greenery buffers.

Senior Planner Christianson stated that an updated light study and a sound study were currently being reviewed. Staff will have memos on these studies at the next City Council Meeting.

Gina Styles, 2040 Hickory Ridge Dr, commented on the following:

- Commented that industrial growth, in her opinion, has been planned for quite a while.
- Mentioned the Open House for comment on the AUAR was back in February 2020 which, in her opinion, did not give enough time for comment.
- Advised the City Council that they do have power to stop this, or at least try to.
- Styles asked what the Council is voting on.
- Council may not be able to say no to Niagara however Council can make it less attractive.
- Stated Niagara is expected to make billions of dollars next year and does not need City subsidies.
- Asked where to forward comments/statistics before Council votes on Niagara and how an email could be part of the Public Record.

Senior Planner Christianson answered Styles question regarding what City Council will be voting on for Niagara.

City Administrator/Clerk Terry stated that if anyone would like to send information to the Council prior to the future meeting, email the Council or the general info email and it will be forwarded to Council. Emails for Public Comment would need to be received by Wednesday, March 15 to be included in the packet.

Ali Klement, 26511 Xerxes Trail, Elko, commented on the following:

- Commented on minutes from previous meetings.
- Stated residents' questions were not answered at the Public Hearings and asked when these four pages of questions will be answered.
- Asked if Staff contacted other cities that Niagara moved into.
- Noted the town of Concrete, Washington had to adjust their 2022 budget because of a decrease in revenue from water sales to Niagara Bottling.
- Asked if Staff had contacted Pleasant Prairie, Wisconsin regarding police reports of over 150 truck traffic complaints from Niagara for the past three to five years.
- Stated a Public Forum is needed with further discussion with residents.

City Administrator/Clerk Terry confirmed that Staff did contact cities where Niagara had recently moved into and found no issues from a city's viewpoint. Terry discussed the one

lawsuit Staff found on Niagara regarding a water source and the city actually lost in that lawsuit.

Mayor Julius explained that Council would not be going through each question under Public Comment at this time. Julius continued that Staff has worked tirelessly providing answers to questions brought forward.

Veda Kanitz, 9830 247th Street E, Lakeville, approached the podium with the following:

- Mentioned concerns about water quality, wants to protect the river and her own well.
- Appreciated that the City hired LRE to do a study to take a look at the geology.
- Pleaded with Council to not move forward on anything until you know what is going on with the groundwater and whether it is going to affect our surface water wells and surface water rivers.
- Mentioned sustainability and cited MN Statute 103G.261 regarding domestic water supply having first priority for use over industrial and commercial use.
- Mentioned a lawsuit from Los Lunas, New Mexico and Niagara and the city won.
- Stated Niagara is not a small family owned company.
- Asked for a Public Forum for further discussions with new information provided.
- Asked to not vote until a multi-aquifer test is complete.
- Mentioned a bill in the MN Legislature to ban plastic water sales in MN.

Mayor Julius thanked Ms. Kanitz for her preparation and passion she brings to the Council Meetings on this topic.

Beth Eilers, 10185 250th Street, Eureka Township, mentioned the following:

- Mentioned the math does not add up and Citizens will bear the financial burden all the while these citizens have said no to this project.
- Commented on a Study done on Kare 11, Water Wars in which geologists are predicting by 2040 all of us in MN are going to be in trouble with water.
- Mentioned concerns for private well owners.
- Asked Council to vote no to Niagara by removing their subsidies and denying their applications.

Jonathan Carlson, again approached the podium and stated the City would be the biggest benefactor in the Dakota Electric substation. Carlson continued he would like this substation placed on City property within the industrial park.

Mayor Julius closed Public Comment and thanked everyone in the audience for caring enough about the city and community to come to these meetings.

6) **CONSENT AGENDA**

MOTION by Councilmember Berg, second by Councilmember Schuenke to approve the amended Consent Agenda.

- a. Approve Minutes of the February 23, 2023 City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds

- c. Adopt Resolution 23-14 Accepting 2022 Cash Donation for Elko New Market Fire Relief Association
- d. Police Department Administrative Staff Restructuring
- e. Authorize the Hire of a Maintenance Worker I

APIF, MOTION CARRIED

7) PUBLIC HEARINGS

None.

8) GENERAL BUSINESS

Reconsider of Ordinance No. 265 Amending Title 11 of the City of Elko New Market City Code Concerning Revisions to the Zoning Ordinance

City Administrator/Clerk Terry advised the Council that passing this Ordinance does require a majority (at least three votes affirming) and that did not happen at the February 23, 2023 Meeting. Therefore, it has been brought back for Council to reconsider.

Councilmember Berg stated that in his opinion he believes this Ordinance does not solve any problems and adds more burden and barriers for more diverse housing which creates more PUD's to work around. After Council discussion, Council agreed to move forward with adopting Ordinance No. 265 amending title 11 of the City of Elko New Market City Code concerning revisions to the Zoning Ordinance.

MOTION by Councilmember Schuenke, second by Councilmember Novak to adopt Ordinance No. 265 Amending Title 11 of the City of Elko New Market City Code Concerning Revisions to the Zoning Ordinance.

AYES: Mayor Julius, Councilmembers Schuenke and Novak

NAYES: Councilmembers Berg and Timmerman

MOTION CARRIED

Licensing for the Sale of Cannabinoid Products

City Administrator/Clerk Terry noted that Licensing for the Sale of Cannabinoid Products has been discussed at multiple City Council Meetings. As directed by the Council, the Ordinance was developed to be similar to liquor licensing. Staff is seeking direction for the license fees from Council on the sale of Cannabinoid Products.

Councilmember Schuenke indicated that he had changed his opinion on this subject and is looking for legislation to clean up the cannabinoid products bill. He suggested that the City not take any action on this matter.

Attorney Koch provided the pros and cons of passing this ordinance and the uncertainty surrounding cannabinoid products in the legislature.

Councilmember Schuenke questioned a scenario of an edible cannabinoid shop setting up business in Elko New Market without this licensing in effect. Attorney Koch explained the difference on “grandfathering” as it relates to zoning versus licensing.

MOTION by Councilmember Timmerman, no second.

- Adopt Ordinance No. 269 Creating City of Elko New Market City Code Title 4 Chapter 12 Concerning Licensing for the Sale of Cannabinoid Products.
- Adopt Ordinance No. 270 Summary of Ordinance No. 269

MOTION FAILED FOR LACK OF A SECOND

MOTION by Mayor Julius, second by Councilmember Schuenke to:

- Table indefinitely Ordinance No. 269 Creating City of Elko New Market City Code Title 4 Chapter 12 Concerning Licensing for the Sale of Cannabinoid Products.
- Table indefinitely Ordinance No. 270 Summary of Ordinance No. 269

AYES: Mayor Julius and Councilmembers Schuenke, Berg and Novak

NAYES: Councilmember Timmerman

MOTION CARRIED

9) PUBLIC HEARINGS

None.

10) REPORTS

a) Administration

None.

b) Public Works

February 2023 Monthly Report included in the packet.

c) Police Department

February 2023 Monthly Report included in the packet.

Police Chief Juell updated Council on staffing of officers.

d) Engineering

No report.

Community Development

Draft Planning Commission Minutes of February 28, 2022 included in the packet.

Extension of Lease – 641 Main Street

City Administrator/Clerk Terry provided a brief background on the purchase and lease agreement for 641 Main Street. Terry continued that although the residents are no longer living at this property, personal effects are still being kept there and the residents would like more time to be able to remove them. After Council discussion, Council indicated willingness to extend the lease with no additional cost. Staff will bring a revised lease agreement to a future City Council Meeting.

- e) Parks Department
February 2023 Monthly Report included in the packet.
City Administrator/Clerk Terry updated Council on the last Parks Commission Meeting.

Mayor Julius asked if there was any update on the Woodcrest Park refurbishment. City Administrator/Clerk Terry stated that Staff will be working on refurbishment of the Woodcrest Park and building the park at Boulder Heights this year.

- f) Community & Civic Events Committee (CCEC)
Draft February 28, 2023 Community & Civic Event Committee Minutes included in the packet.
Councilmember Novak updated Council that the Egg Hunt will be April 1, 2023 at Eagle View Elementary School. Novak stated that the resolution establishing the CCEC is being reviewed as it is outdated and formal for what the committee is actually providing. Suggestions and edits will be brought back for consideration at a future City Council Meeting.

- g) Other Committee and Board Reports

- i) Scott County Association for Leadership and Efficiency (SCALE)

No report.

1. Executive Committee

No report.

2. Service Delivery Committee

City Administrator/Clerk Terry updated Council about the upcoming Regional Training Facility Board Meeting regarding the long term vision for the facility and the possible changes in services the facility provides for the City of Elko New Market.

- ii) I35 Solutions Alliance

Councilmember Schuenke updated Council on the Elko New Market presentation to the I35 Alliance Committee regarding I35/County Road 2 Interchange that was presented earlier in the day.

Councilmember Novak asked if it was unusual that MNDOT was not represented at the meeting. Councilmember Schuenke confirmed MNDOT and Metro Transit are usually in attendance.

Mayor Julius asked Staff if the presentation could be made available to the public. Christianson stated that she is waiting for the final presentation and confirmed that it could be placed on the City's Website.

City Administrator/Clerk questioned whether this presentation should be presented to Council and the Planning Commission. Council members affirmed.

11) DISCUSSION BY COUNCIL

Mayor Julius advised the Council that he would like to host a Public Forum with residents and address whatever questions or concerns they have regarding the proposed Niagara project. Councilmembers and Staff continued discussions and provided feedback to what this meeting should and should not include. After discussion with Council and Staff, it was determined this meeting will take place at City Hall Chambers for two hours before the March 23, 2023 City Council Meeting.

12) ADJOURNMENT

MOTION by Councilmember Schuenke, second by Councilmember Timmerman to adjourn the meeting at 7:34 p.m.

APIF, MOTION CARRIED.

Respectfully submitted by

Lynda Jirak, Deputy Clerk