

**MINUTES
CITY OF FALLON
55 West Williams Ave
Fallon, Nevada
August 15, 2023**

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

Present:

Mayor Tedford
Councilwoman Kelly Frost
Councilwoman Karla Kent
Chief of Staff Bob Erickson
Deputy City Clerk Michael O'Neill
Public Works Director Brian Byrd
Deputy Public Works Ryan Swirczek
Deputy Public Works Adrian Noriega
Deputy Clerk Elsie Lee
Chief Ron Wenger
Captain John Riley
Captain Daniel Babiarz
Engineer Derek Zimney
Director of Tourism Jane Moon

The meeting was called to order by Mayor Tedford at 9:00 a.m.

Mayor Tedford led the Pledge of Allegiance.

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

Deputy City Clerk Elsie Lee advised that the agenda was posted in compliance with the NRS requirements.

Mayor Tedford stated that Councilman Harmon is absent for this meeting.

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 comments were noted.

Consideration and possible approval of Council Meeting Minutes for March 21, 2023, July 5, 2023, July 18, 2023, July 28, 2023, and August 1, 2023.

Councilwoman Frost motioned to approve the Council Meeting Minutes for March 21, 2023, July 5, 2023, July 18, 2023, July 28, 2023, and August 1, 2023, with no corrections or additions; seconded by Councilwoman Kent and approved with a 2-0 vote by the Council.

Approval of Warrants

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

Councilwoman Kent motioned to approve the accounts payable, payroll and customer deposit warrants; seconded by Councilwoman Frost and approved with a 2-0 vote by the Council.

Consideration of application by Tia Chandler for an on-premises drinking establishment liquor license for The Tippy Tumbleweed, a mobile bar and beverage service, based at 335 Court Street.

Deputy City Clerk Elsie Lee stated that Tia Chandler, owner of The Tippy Tumbleweed, a mobile bar and beverage service, has made an application for an on-premises drinking establishment liquor license for The Tippy Tumbleweed based at 335 Court Street, for special events and private parties. A drinking establishment liquor license is a privileged license that allows the licensee to sell alcoholic beverages from a fixed and definite place of business for consumption upon the premises only. Because the applicant is seeking an on-premises liquor license for the purposes of special events or private parties, staff recommends a conditional on premises drinking establishment liquor license that allows the applicant to sell liquor at special events and private parties only. The application has been reviewed by Deputy City Attorney Trent deBraga, City Engineer Derek Zimney, Chief Ron Wenger, and Deputy City Clerk Elsie Lee and has been recommended for approval, with conditions.

Mayor Tedford asked Tia Chandler to approach the podium.

Tia Chandler introduced herself. My address is 335 Court Street, Fallon.

Mayor Tedford inquired if there were any questions from the Council (no comments noted at this time). I guess I will start it off. 335 Court Street is in an R-1 zone, and businesses are prohibited in an R-1 neighborhood. The only way that I see that the Council can approve this is with conditions. I am not sure what conditions the Council will make but there is going to have to be something. The Mayor and Council are to protect the neighborhoods as much as we can. Sometimes we do a better job at that than other times. Maybe you can tell us how you plan to operate this business out of 335 Court Street.

Tia Chandler stated that currently the trailer is parked at her residence due to renovations. Once I get up and running, I plan to store it at Just-in-Time, on the Reno Highway, at his business. I will be able to access it when I have events planned or scheduled. So, if I am not allowed to store it at my house, it can definitely be stored out there. I have just been working on it at my house.

Mayor Tedford inquired on the current location of the trailer.

Tia Chandler stated that the trailer is located at 335 Court Street.

Mayor Tedford inquired where the trailer is located on the property.

Tia Chandler stated the trailer is in her backyard.

Mayor Tedford confirmed with Ms. Chandler that where he has seen it is where Ms. Chandler has been working on the trailer.

Tia Chandler confirmed Mayor Tedford's statement.

Mayor inquired on where the trailer will be stocked.

Tia Chandler stated that the trailer would be stocked in a van. I have a little van that I plan on putting all my alcohol, utensils, and everything. That will be like my storage for when I go to an event.

Mayor Tedford inquired if she would be filling the van with items out of her house. Your deliveries will come to your house?

Tia Chandler stated that she plans on getting a distributor for her supplies.

Mayor Tedford inquired if the distributor would be delivering the items to her house.

Tia Chandler stated that they would be delivered to her house.

Mayor Tedford inquired if the items would be delivered to the house and later transported in the van to Justin's place on the Reno Highway. So, at your house that is probably where you will do your bookkeeping, pay your bills, and those sorts of things?

Tia Chandler stated that was correct.

Mayor Tedford stated that he thinks the Council may require that the operations done in your house would be bookkeeping, replenishing your van or your inventory, and be transporting that to your trailer at Justin's on the Reno Highway. They would probably approve this on the condition that you supply a letter from Justin, that it is okay with him, and that is what will happen. Generally, we like that letter ahead of time, but I think that they would approve it conditionally on approving that letter from Justin. Just thinking out loud here. Council how does that sound to you.

Councilwoman Frost inquired if Ms. Chandler has talked to her neighbors about her plans.

Tia Chandler stated that she has spoken with her neighbors, and they are excited for her.

Councilwoman Kent inquired if the mobile van was ready, at this time. You haven't had any parties or events, yet? Do you have a timeframe of when that will be ready?

Tia Chandler stated that it should be ready in under a month. I just have to do some painting and sealing. Under a month I would like to be up and going.

Councilwoman Kent wanted confirmation on the conditional motion. Are we saying that it will be okay to receive vendor shipments to her residential address?

Mayor Tedford confirmed. I don't think that differs from anyone receiving any packages to their home. I think the big thing is where the trailer is going to be located. If it is at Justin's, I think that is fine. Are there any public comments?

No further comments were noted.

Councilwoman Frost motioned to approve the application and to issue the condition of the on-premises liquor license for the purposes of special events or private parties only to Tia Chandler for The Topsy Tumbleweed, a mobile bar and beverage service, based at 335 Court Street, with the understanding that the trailer will be stored at Just-in-Time Heating and Air and the City will receive a letter to that effect. Only bookkeeping services and deliveries will be conducted at 335 Court Street; seconded by Councilwoman Kent and approved with a 2-0 vote by the Council.

Consideration of application by Rick McCusker for a cabaret license for the Elks Lodge, to be located at 93 W Center Street, Fallon, Nevada.

Deputy City Clerk Elsie Lee stated that Rick McCusker, bar manager of the Fallon Elks

Lodge has made an application for a cabaret licensee for the Elks Lodge, to be located at 93 W Center Street, Fallon, Nevada. A cabaret license is a privileged license that allows the licensee to provide live entertainment or dancing at the establishment. The application has been reviewed by Deputy City Attorney Trent deBraga, City Engineer Derek Zimney, Chief Ron Wenger, and Deputy City Clerk Michael O'Neill and has been recommended for approval, with conditions.

Rick McCusker addressed the Council. My address is 2487 Harvey Drive, Fallon.

Mayor Tedford stated that there is an addendum to approve the license with conditions. On the license itself, on the form it says, "Description of Live Entertainment". i.e., karaoke and live band, and all you put was space rentals for activities. So, you submitted an addendum, which we appreciate. This form listed birthday parties, wedding receptions, anniversary parties, worship services, dinners, class reunions, memorial services, holiday parties, square dancing, military appreciation functions, meetings of various groups, appreciation dinners, live events, and soup kitchen (Tuesdays every week). We will submit that form for the record. The one thing that stood out, I think, to the Council, was the live events. These are the events that we need itemized. That is what is on the form, in the Clerk's office, it states, the description of live events. Those are the things that the Clerk's office needs, is a list of what those live events will be, for the Council to approve them.

Rick McCusker stated that there has been some confusion. The confusion is, the event that is going to be held on the 2nd, the promoter is advertising that we are hosting the event. The promoter is hosting the event, all that we are doing is renting out the space.

Mayor Tedford stated that in order to have it at your place, you need the Cabaret License, not the promoter. The place where it is being held, does. You have to submit a map, which the first map we received was just of your building. I have been to your building hundreds of times, and I am sure that the Council has, and we know the building. The addendum showed us, for the first event, the wrestling activity, showed us where the wrestling activity is, which makes that fine because that is what we need the map for. Every event, we need to see where it is being held.

Rick McCusker stated that everything on the list is held in the activity room.

Mayor Tedford stated that he is supportive of the group and not trying to be critical. When you have live music, we are supposed to have a map of where the music will be in the building, and that map is held in the Engineer's office.

Rick McCusker stated that the City Engineer came over and inspected and made notations on the map.

Mayor Tedford stated that he will back up. You are always supposed to have a Cabaret License, that is just a thing that all of us overlooked. So, we have one map for the wrestling activity, period.

Rick McCusker stated that there was a notation on the drawing provided to Derek. When we do, for instance, the Class of 63' is holding their reunion, this Friday. At the event, they may bring in a band that usually performs in the back corner of the activity room. That is where we've always put them.

Mayor Tedford clarified that he was speaking of the corner where the other bands have been. Yeah, okay, I got that. So, you have an activity, well the promoter does and is coming on Saturday, September 2nd, we would need to know where that is too. All of this leads up to, is when you are going to have an activity, the City will have to approve that activity. The request for Council action and the form you fill out for the Cabaret License Application says, list all the live entertainment. Not just a blanket, one time. Every time you have a band, you don't have to come here because you have shown us where the bands are going to be, but when your activity changes then you are going to have to tell us what the change is.

Rick McCusker inquired if there is a change, will he need to make another application.

Mayor Tedford stated that he will have to come to the Clerk's office and tell them what the live event is. I think their recommendation is going to be approved by the City of Fallon 30 days before the event. This is what I am getting from that committee. There is a committee that is made up of the Deputy City Attorney, City Engineer, Chief of Police, and the Deputy City Clerk, or in their absence, the City Clerk. They are going to have to approve every event that is not already noted. Not the band because it is listed, and not the wrestling event because it is listed. Now, they may make the choice to approve or deny the application but that needs to be brought before the Council, I don't know. They may just approve of it. Now, the Council may have different thoughts than I do, but those are my thoughts according to the way Cabaret Licenses are. Usually Rick, they come, for example Stockmen's, they have a Cabaret License for music in a certain area, and that is all that they do. The Council decided that they can have a band or music in this certain area between this place and this place, and that is all that they can do. They can't go outside of that area, and they had a map that showed us where they wanted to do it, and it was quite a discussion and took us a long time, in here, to figure out where they were having music. That is, it, that is the space they do cabaret, and it is just music. So, if they delineate from that designated spot, they are going to have to come back to have it approved by the Council. You seem to have a lot of different types of activities, and I think that we are trying to keep it in that committee, unless that committee thinks that it needs to rise to the Council's level. That is up to the Council to decide, not me, because you can see today that I don't vote, I just try to give guidance. So, this is up to the Council to have a discussion and ask you questions.

Councilwoman Frost stated that the Elks Lodge does a wonderful job for the community, and we thank you for your service. I do have concerns with the list just stating live events, that is very broad. I am okay with wrestling events; I am fine with that. I believe you have another event on September 2nd, that is a little concerning to me. I believe this event might open a can of worms for our community. We need to take into consideration the health, safety, and welfare in our community regarding events that are held, and people that are allowed to operate and do business in our community. I am in favor of the committee looking at each event that you have if you provide that information in writing 30 days in advance. I agree with the Mayor, if the committee feels uncertain about something and feels that it should be brought to the Council, then it should be.

Councilwoman Kent concurred with Councilwoman Frost.

Mayor Tedford stated that if the Council concurs, he believes the cabaret license could be approved with conditions. It is okay to do these certain events but when you start changing the live events, that committee will look at those 30 days ahead of time and if they have a problem with them, they will push them to the Council. If they don't see any issues, they can just approve them. The rest of these things listed on your supplement to the request, for your cabaret license, they are all fine. The only thing that is in question is these live events. You have to understand that in a normal cabaret license, those are all listed because they have an idea what they are going to do. You don't have as clear of an idea for what you will be doing in the future, so those events that aren't listed have to be brought to that committee, or you can't have that event.

Rick McCusker apologized for the confusion.

Mayor Tedford stated that he gets it and understands he is new at this. I understand the funding and why you are doing this, and we have no problem with you trying to get these outside funds to support your philanthropic activities throughout the community. You are awesome at that, and I support that completely. I believe that is where we are at. I will tell you that this

September 2nd event does give us some heartburn, and have turned down events similar to this event, in the past, at some local bars. You have to know that this is one that we are not much in favor of.

Rick McCusker stated that they haven't signed the contract for the event yet.

Mayor Tedford informed him that he might not want to sign the contract. That one gives us some heartburn for our community. Other people standing at that podium received a no on events similar to this one. In fact, I believe the Chief made a visit to a place and told them it wasn't going to happen. I think that is what we will do, approve it with those conditions. I think that you start with the same process. You go in and see Elsie, she gets the committee together and they look at those events 30 days ahead of time. I think they are going to be frequently changing for you all, and if this is okay with the Council.

Councilwoman Frost stated that she believes there can be an exception for the wrestling event taking place August 26th. I know that you are in a time crunch with that event, and I believe we can make an exception to allow that event without it being submitted in writing.

Rick McCusker stated that they were unaware they needed a cabaret license for the wrestling event.

Mayor Tedford stated that he was aware. That is why I wanted this on the agenda today, or you wouldn't have been able to have that event. Are there any public comments?

No further comments were noted.

Mayor Tedford stated that hopefully the 30-day notice won't stall future events. That gives us time to review and if they need to get it to a Council meeting, we will get it on the agenda, and if we have to have a special meeting for you, we can do that too. We will try to help you.

Rick McCusker stated that the Council is welcome to have a meeting at the Elks Lodge.

Mayor Tedford stated that we have to meet at City Hall and thanked him for the offer. Good luck with your endeavors.

Councilwoman Frost motioned to approve the application by Rick McCusker for a cabaret license for the Elks Lodge, to be located at 93 W Center Street, Fallon, Nevada with the condition for live events to be approved by the City of Fallon with a written request submitted, in writing, at least 30-days in advance to the live event taking place, allowing for the exception of the August 26th wrestling event; seconded by Councilwoman Kent and approved with a 2-0 vote by the Council.

Consideration of application by Blaine Florez dba: Wild West Burgers for a mobile food vendor license.

Deputy City Clerk Elsie Lee stated that Blaine Florez, owner of Wild West Burgers, has made an application for a mobile food vendor license for Blaine Florez dba: Wild West Burgers. A mobile food vendor license is a privileged license that allows the licensee to sell food from a motor vehicle, or other type of food service conveyance, for human consumption and which is used to sell and dispense food or beverages to customers. The application has been reviewed by Deputy City Attorney Trent deBraga, City Engineer Derek Zimney, Chief Ron Wenger, and Deputy City Clerk Elsie Lee and has not been recommended for approval.

Mayor Tedford inquired if the Council had questions for the application committee.

No comments were noted.

Mayor Tedford asked Blaine Florez to approach the podium.

Blaine Florez at 161 Pelican Way, Fernley addressed the Council.

Mayor Tedford inquired if Mr. Florez understood that a mobile food vendor license is a

privileged license which can be granted or denied based upon suitability of the applicant. Your application, on page 2, states that you were arrested and charged with “Trafficking”, in 2015 and for that disposition you put down a felony. Did that arrest and charge lead to a conviction?

Mr. Florez stated that it had led to a conviction.

Mayor Tedford inquired if that conviction involved trafficking of a controlled substance.

Mr. Florez stated that it did.

Mayor Tedford stated that the City’s mobile food vendor ordinance states that the City Council may find a person unqualified to hold and operate a mobile food vendor license. As part of the city Council’s consideration, the City Council may take into consideration a person who has been convicted of a crime involving a controlled substance. The expressed statement of purpose and intent of the ordinance is to give the City Council the right to regulate and control mobile food vendors who travel around the City for the protection of the public health, safety, morals, good order, and general welfare of the inhabitants of the City and to safeguard the public. Now, to me trafficking is a serious crime, especially of a controlled substance. It is a serious violation and a real concern for me. So, you may expect some questions from the Council geared toward that suitability. This charge is different than a possession charge, trafficking is difficult. I will be honest with you, we had trafficking happen out of a mobile truck before we had this licensing procedure and that is why this ordinance is so strict. Let’s see what the Council’s questions might be and you will be allowed time to speak too. Council, do you have any questions?

Councilwoman Kent inquired if there have been any other incidents with the law since 2016.

Mr. Florez stated that there have been no other incidents since 2016.

Councilwoman Kent inquired if Mr. Florez had mobile food vendor licenses in other counties and which, if so.

Mr. Florez stated that he does. I have one in Lyon County.

Councilwoman Frost inquired what the outcome was of the felony conviction. Where were you given probation, or did you serve prison time?

Mr. Florez stated that this was his first and only drug offense. I got probation with 15 to life, suspended. So, this was a big wake up for me. It’s just not my life anymore and it isn’t something that I do. I feel like I owe it to the public to give back. So, that is what I try to do, I run this business and I try to give as much back as I can. It is just not what I do.

Councilwoman Frost inquired if the probation has been completed, and if so in good standing.

Mr. Florez stated that it has been completed in good standing.

Mayor Tedford inquired if he has ever been denied a mobile food vendor license.

Mr. Florez stated that he had never been denied.

Councilwoman Kent stated that this is a hard one because trafficking is so hard to control, and we really want to protect our community. So, we apologize for all these questions.

Mr. Florez stated that he understands.

Mayor Tedford inquired if the felony had been reduced.

Mr. Florez stated that it wasn’t reduced.

Mayor Tedford inquired if it had been reduced to attempted trafficking.

Mr. Florez stated that he didn’t believe so. It was 8 years ago.

Mayor Tedford stated that it was a Category B Felony, and because you cooperated, they reduced it to attempted trafficking. You don’t recall that?

Mr. Florez stated that he didn’t recall.

Chief Wenger stated that he has the Judgement of Conviction. It was a Category B

Felony. You indicated that you received 15 to life suspended. You received 24 months to 72 months, not 15 to life and you were convicted of Attempted Trafficking of a Controlled Substance. So, a Category B Felony, but your sentence was a lot less than what you are telling us. I do have a discharge of his probation. It is dated 8/17/2018 in good standing.

City Attorney Mike Mackedon stated that Mr. Florez's conviction was for "Attempted Trafficking", not "Trafficking", despite of what you say in your application. Trafficking itself would be more serious than attempted trafficking. When you were granted a license in Lyon County, did you have to appear before the City Council or the County Commission and answer questions like you are here?

Mr. Florez stated that he did not.

City Attorney Mike Mackedon inquired if he submitted the same information to the City Council or the County Commission, or to whomever was to consider the license that was provided today.

Mr. Florez stated that he had.

City Attorney Mike Mackedon inquired if this was a different situation for him than with Lyon County.

Mr. Florez agreed with City Attorney Mike Mackedon.

Councilwoman Kent inquired if the County requires mobile food vendor licenses.

Mayor Tedford stated the County does not. Councilwoman Kent is right, by NRS I have a standard for public safety, health, and welfare. By this ordinance, it reinforces that. The first two sentences speak about public health, safety, morals, and values, good order, and general welfare. It goes on to talk about it again, in the second sentence. That is why it is almost repetitive regarding safeguarding the public. I guess it is pretty personal to you, but it isn't meant that way and it doesn't speak to how we are trying really hard to support our local businesses. It is just that trafficking touches a bone, where possession wouldn't because it is more personal to you because trafficking affects others, and I think that is why we are having this discussion today and why we sent the letter to you, telling you that this would be a difficult discussion and some things would be exposed today that wouldn't normally be exposed when you were granted your business license in other places. The Mayor and Council take this very seriously because of one or two occurrences of trafficking out of mobile vehicles. A fixed operation is less difficult for the police to track than someone who is mobile, at least in my opinion. I will be honest with you, Mr. Florez, that is why we are having this discussion, and why these privileged licenses are treated this way. Any other questions from the Council or public questions?

No further comments were noted.

Councilwoman Kent stated that due to the difficulty of controlling trafficking from a mobile food vendor I would make the motion to deny the application by Blaine Florez dba: Wild West Burgers for a mobile food vendor license; seconded by Councilwoman Frost and commented that this is a very difficult situation, but we ultimately have to always protect the health, safety, and welfare of our community. A trafficking charge and a mobile food vendor license don't go hand-in-hand, and we just need to protect our community; and denied with a 2-0 vote by the Council.

Public Comments

Mayor Tedford inquired if there were any public comments.

No comments were noted.

Council and Staff Reports

Mayor Tedford inquired if there were any Council or staff reports.
No reports were noted.

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 9:39 a.m.

Mayor Tedford

Attest: _____
Sean C. Richardson, City Clerk-Treasurer