



CITY OF ELY

501 Mill Street Ely, Nevada 89301
City Hall (775) 289-2430 - Fax (775) 289-1463

MEETINGS OF THE:

- ELY CITY COUNCIL
- NEVADA NORTHERN RAILWAY BOARD OF TRUSTEES
- ELY REDEVELOPMENT AGENCY
- ELY LIQUOR LICENSING BOARD

PLEASE NOTE: THE COUNCIL/BOARD MEMBERS MAY ADDRESS AGENDA ITEMS OUT OF SEQUENCE, COMBINE TWO OR MORE AGENDA ITEMS FOR CONSIDERATION, REMOVE AN ITEM OR DELAY DISCUSSION AT ANY TIME TO ACCOMMODATE PERSONS APPEARING BEFORE THE COUNCIL/BOARD OR TO AID IN THE EFFICIENCY AND EFFECTIVENESS OF THE MEETINGS.

February 28, 2013 4:00 p.m. – Ely Volunteer Fire Hall - 499 Mill Street - Ely, Nevada.

Mayor Hickman called the Regular Meeting of the Ely City Council to order at 4:00:02 PM , Rom DiCianno led in the Pledge of Allegiance, Bob Winder offered the Invocation and Mayor Hickman asked for Roll Call.

Members present:

Mayor Jon Hickman
Councilman Robert Sedlacek
Councilman Dale Derbidge
Councilman Rom DiCianno
Councilman Marty Westland
Councilman Shane Bybee

City Staff present:

City Clerk James Alworth
City Attorney Kevin Briggs
City Treasurer Janette Trask
City Fire Chief Ross Rivera
City Engineer B.J. Almberg
City Building Inspector Brad Christiansen
City Landfill/Street Supervisor Rick Stork
City Parks/Animal Control Supervisor Mike Cracraft
Minutes Clerk Jennifer Lee

City Staff absent:

City Water/Sewer Supervisor Ron Jenkins

Also in attendance: Members of the public were asked to sign in and the sign-in sheet appears below.

Ely City Council
PLEASE PRINT YOUR NAME
 Please print your FIRST & LAST name clearly for the attendance list.
 2-28-13

<u>O'Brien</u>	<u>Lutz</u>
<u>Pastor Bob Winder</u>	
<u>Mike Lemich</u>	
<u>MAURISEN OZELBERGER</u>	
<u>Jim Garza</u>	
<u>BRUCE SEATERS</u>	
<u>STE PAVLAKIS</u>	
<u>John Cobb</u>	
<u>Dale Watterson</u>	
<u>Wyatt Col</u>	
<u>Robert J Van Cuy</u>	
<u>Mike Coster</u>	
<u>Melody Van Camp</u>	

2. PUBLIC COMMENT: Comments not exceeding three (3) minutes in length will be accepted from the general public in attendance. If any are made, there may be discussion upon those comments. No vote, decision, or action may be taken upon matters raised under this item until it is formally placed on the agenda. **Comments during Discussion Items will not be accepted from the General public.** "Section 8.04, of the Nevada Open Meeting Law Manual indicates that the Public Body may prohibit comment if the content of the comments is a topic that is not relevant to or within the authority of the Public Body or if the content of the comments is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers".

White Pine County Commissioner Mike Lemich stated on agenda item No. 6, we've had some criticism and discussion regarding the Landfill collection fees. I'm pleased with the City Landfill administration. I think Ordinance 648 is in conflict with our County ordinance. The County ordinance issues the Utility Board the authority to issue a variance if somebody pays a Landfill fee out of the County in another area; it doesn't give the City any authority to deviate in price or charge a differential.

Jim Northness stated the Ely City Council meeting on the 14th of February has given Ely prospective businesses and residents another reason to leave and not want to live here. Mr. Alworth claims to be a victim. Councilman Westland, if I was called in front of the Ethics Commission by the City Clerk, I would subpoena all the supervisors, the City Attorney, Mayor, City Officials, employees past and present and get a deposition from each one of them. A person under oath is more likely to tell the truth. Everyone of them has either been a target or has witnessed Mr Alworth's anger and intimidation. If you would like a list, I'll give them to you. I've recently been made aware he hasn't apologized to a Volunteer Fireman for one of his tirades brought on by a misspelled word. Mr. Mayor, I've discussed his anger management with you and you have assured me it was a thing of the past. I see that didn't happen. If you want to do the City's business, you and the Council must get this under control. The City Attorney, Mayor and the Council also should be cognizant that not all of the 'fire stirring' is caused by City Hall. It is time that you all grow up and do what you were elected and hired to do. If anyone of authority tries to guideline who the City does business with, then this person is overstepping this authority. Isn't there a reason for rules and regulations on companies bidding for government contracts? If the dollar amount for what you need done is less than required for a bid, be fair to all these local businesses; one is as important to you as

the other. Or does favoritism exist in the City? Are all conflicts of interest disclosed to the public? Are either City employees or City elected officials guilty of this? I am confident I could point out a few instances that should be investigated.

George Chachas stated ongoing concerns regarding Winter Road's width; *Mt. Wheeler's* lack of a fence next to the five foot crevice they dug for the substation; whether the City Golf Course well was put on County property; and the State's building on Avenue C not complying with City Code. There was nothing in the packet in regards to how the application for Will Serve for the *Reck Bros.* was rectified; how is it they were allowed to operate without sewer and water for years? You're treating other people differently, me in particular; you shut me off and moved me out of my home. I'm again asking who took out the excavation permit and who approved it. Mr. Mayor, you need to hold public meetings on dates that do not conflict with meetings held by other governing entities; for years there was no conflict yet under your term of office, it appears to be encouraged so that media, let alone the public, cannot attend stacked meetings. Last week or so, you had a meeting at eight, another at nine, another at ten and a fourth at one. Is *Mt. Wheeler* paying the City for using its lot next to the new substation for a storage and assembly site? Has Mr. Bybee turned in his resignation from the County Equalization Board? He took on an obligation and failed to perform. At the Planning Commission meeting held today the Commission approved a Home Occupation without the applicant being present and having paid the proper fees in advance. Another applicant did not have a letter of authorization to allow some other designated person to speak on their behalf; the City would not allow me to speak on my brother's behalf without a letter authorizing it.

3. CITY DEPARTMENT REPORTS

- FIRE CHIEF

Fire Chief Rivera stated sorry I'm late with my report; I'll catch up next time. March 26th and 27th I'll be attending a Hazard Mitigation Method Analysis workshop for floods, fires and other issues.

- POLICE CHIEF

Police Chief Watt's Blotter is on file at City Hall.

- CITY CLERK

City Clerk Alworth stated George Taylor from the Attorney General's office reported to me that my personnel session was held in accordance to NRS. Prior to, they were probably held incorrectly; they should have been open.

- CITY ATTORNEY

City Attorney Briggs stated I was contacted yesterday by another person with regards to the Landfill collections. This person had not been receiving bills because the billing had been coming back to the City; when that happens, Robin has been doing a good job finding a correct address to send these to. The bill is around \$200.00. She paid for February and in advance for March; the penalties were \$36.00. I told her the only authority given to me by the City Council was if she wanted to pay it in full, I could take one third of the penalties off; she requested that we have her on the next agenda. This last Friday I attended a litigation strategy workshop put on by POOL PACT and with regards to the outstanding Landfill accounts public information, 18 USC (a) Section 27-21 was brought up which makes it illegal for the Department of Motor Vehicles to share a person's personal information; we're still awaiting the opinion from the Attorney General's office. We also talked about Nevada Commission on Ethics v. Carrigan, which dealt with a city councilman in Sparks, Nevada who had a volunteer campaign manager hired by *Lazy 8 Casino*, which was a contentious development; when this issue came up for a vote, this councilman did not recuse himself. The city attorney had advised him that he needed to disclose and then vote; it came down that disclosure was not sufficient in that case. The Ethics Commission specifically said relying on city attorney advice does not protect you from a violation. It is also inappropriate to come to me on an individual

basis for legal advice because I represent the City Council as a whole. Like we talked about at the meeting before the last one, if there is an issue on the agenda that you think may be a conflict, contact the Ethics Commission; they will advise you. In Nevada there are provisions that do not allow you to use your position to influence others, so because you are a City Councilman – even if you step away from the table and speak as a citizen – you may have an issue there.

- CITY ENGINEER

City Engineer Almborg stated we're working on the paving portion of the Center Street project; Rick and I will present that to you next Council meeting. *Mt. Wheeler Power* has some poles currently in our roadway; within the new layout we have the ability to get every one of the poles outside of our roadway, except for one. *Beehive* approached me to see if it was a possibility to work with the Center Street project to get their fiber optic in underground.

Councilman Derbidge asked when you talked to *Mt. Wheeler Power*, did you talk to them about moving guidewire on Avenue A that sits out in the road?

City Engineer Almborg stated no. Center Street water/sewer is all done; early next week, depending on the weather, we'll walk the site with the contractor to do a final punch list.

City Attorney Briggs asked have you heard from Safe Drinking Water on our Cross Connection plan?

City Engineer Almborg stated yes. At the next meeting you can advise us of your comments, incorporate their comments and try to finalize it.

4. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE ELY CITY COUNCIL AS RECOMMENDED BY THE CITY PLANNING COMMISSION.

1. Commission Members – *Basin Engineering* – Discussion/For Possible Action – Approval of Boundary Line Adjustment for property located at 1676 Aultman Street. The property is owned by Janet L. Pescio, James Orlin and Barbara Ann Biggs.

City Attorney Briggs stated it was approved by the Planning Commission.

Councilman DiCianno moved to approve the Boundary Line Adjustment for property located at 1676 Aultman Street owned by Janet L. Pescio, James Orlin and Barbara Ann Biggs. Councilman Derbidge seconded the motion. The motion carried unanimously.

2. Commission Members – *Basin Engineering* – Discussion/For Possible Action – Approval of Parcel Map for property located in Section 22, Township 16 N., Range 63 E, Assessor's Parcel Number 001-491-48, which adjoins the *Greater Nevada Credit Union* building on the north side of *U.S. Highway 6*. The property is owned by Mike and Dolores Lemich.

City Attorney Briggs stated the City Planning Commission approved this.

Councilman Derbidge moved to approve the Parcel Map for Assessor's Parcel Number 001-491-48 owned by Mike and Dolores Lemich. Councilman Sedlacek seconded the motion. The motion carried unanimously.

3. Chairman Flangas - Discussion/For Possible Action - Approval of a Home Occupation Permit to Melanie Peterson to conduct a sewing and embroidery business, d.b.a. *There's A Stitch for That* located at 777 Avenue K, Ely, Nevada.

City Attorney Briggs stated the Planning Commission did provisionally approve this upon payment of the fees that are associated with that. This is different than a variance where there are advertising and certified mail expenses; I think once they're approved they collect those fees.

Councilman Bybee moved to approve a Home Occupation permit to Melanie Peterson to conduct a sewing and embroidery business at 777 Avenue K, Ely on the same basis as the Planning Commission. Councilman Westland seconded the motion. The motion carried unanimously.

4. Chairman Flangas – Discussion/For Possible Action – Formulation of an annual Clean-Up Campaign plan where one street per week would be cleaned from May to December.

City Attorney Briggs stated they changed this; they're talking May to September. They're going to work up a specific plan to present to you.

Councilman Derbidge moved to table this item until further details are made available to the Council. Councilman Westland seconded the motion. The motion carried unanimously.

5. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE ELY CITY COUNCIL.

A. CONSENT AGENDA (These items may be approved in one motion by the Council as its first action of business under For Discussion/Possible Action items.) Approval of the Consent Agenda approves each of these items. Council Members may remove any item from the Consent Agenda by notifying the Mayor or Mayor pro tem.

MOTION: Move to approve the Consent Agenda items 5A-1 Minutes; 5A-2 Payment of Bills.

Moved by: _____ Second by: _____ Vote: _____

1. Discussion/For Possible Action –Minutes.
2. Discussion/For Possible Action - Payment of Bills.

There were no Minutes.

Councilman Bybee moved to pay the bills. Councilman Westland seconded the motion. The motion carried unanimously.

Councilman Derbidge stated there is a bill here for a company that I'm partners with one of the owners in another company.

B. NEW BUSINESS

1. Mayor Hickman – Discussion/For Possible Action – Consideration of applicants to fill Member Conger's seat on the City Planning Commission.

City Attorney Briggs asked did we have any applications?

City Clerk Alworth stated not that I'm aware of.

2. Councilman Sedlacek – Jim Garza, Director White Pine County Community and Economic Development – Discussion/For Possible Action – Consideration to send a letter to Nevada Senator Pete Goicoechea expressing the City of Ely's opposition to AB61, which makes various changes relating to economic development.

Jim Garza stated two years ago AB449 created a Governor-appointed Cabinet office to collaborate with the different economic development authorities in Nevada. White Pine County has drafted an inter-local agreement to be finalized with Eureka and Lander County to create the Great Basin Regional Development Authority. With AB61 the Governor's Office of Economic Development wants to take the terminology of local governments out of the definition of regional development boards; it opens the door for

the Governor's Office to appoint a private company to do economic development in our back yard. Local governments need to stay in control because community assets are affected as jobs grow in their market. Another issue we have is AB61 would allow the Governor's Office to approve abatements of \$250,000.00 or less; right now the law requires that the county has got to support that application for abatement before it can be considered.

Mayor Hickman asked give an example of where local government wouldn't have control if someone starts a business?

Jim Garza stated the Base Commander of Nellis Air Force Base contacted us regarding aerospace technology manufacturers locating at the County's two thousand acres at Cherry Creek; when the Governor's Office of Economic Development heard about it, they put an end to it because they didn't think that our site qualified.

Mayor Hickman stated in other words, we don't want the Governor's office making the decision whether a business can come in here or not.

Jim Garza stated or whether they're going to use those federal and State dollars to bring that business in when you should be getting that share.

Mayor Hickman asked if the bill was passed, what's to stop Carson City from saying 'just don't find them anything.'

Jim Garza stated if the bill passes, then Great Basin Regional Development Authority might not be accepted by the Governor's Office of Economic Development as a legitimate marketing authority; that means White Pine County wouldn't get the \$55,000.00 a year it gets now, which offsets our budget twenty-five percent.

Mayor Hickman stated since you've been in the office down there, how many things have been brought in?

Jim Garza stated we've got a lot of major projects that we're working on.

Councilman DiCianno asked who proposed this AB61?

Jim Garza stated the Governor's Office of Economic Development.

Councilman Westland stated so the plan now would be to see what you can negotiate and the letter would be next resort.

Jim Garza stated yes.

Councilman Westland asked this process is moving fast enough that you feel you need to have that letter in your 'hip pocket'?

Jim Garza stated it would be helpful.

Councilman Derbidge moved to approve drafting a letter to Nevada Senator Pete Goicoechea expressing the City of Ely's opposition to AB61. Councilman Westland seconded the motion. The motion carried unanimously.

3. Council Members – City Attorney Briggs – Discussion/For Possible Action – Consideration of the possibility of removing late fees and penalties regarding Netzahvalcoytl Avila's outstanding Landfill account due to the bills being sent to the prior owner.

City Attorney Briggs stated this gentleman purchased this property from his parents years ago, but the address to send bills was in Kingman, Arizona and the bills were not coming back until a month or so ago. Then we learned there was a different owner of the property and sent the bill to him; he contacted me saying he had no idea it was here and would have paid it. The penalties are nearly \$400.00. I told him I only have authority from the

City Council to knock off a third of the penalties if he paid it in full. He said he is prepared to pay the amount in full if the City Council will remove those late fees and penalties.

Councilman Westland asked what is the principal now?

City Attorney Briggs stated approximately \$1,100.00.

Councilman Westland moved to waive the penalty since he is willing to pay the principal.

Councilman Bybee seconded the motion. The motion carried unanimously.

4. Council Members – City Attorney Briggs – Discussion/For Possible Action – Consideration of prohibiting U turns on 10th Street East and 11th Street East near David E. Norman Elementary.

Councilman Bybee stated I live on 11th Street directly across from David E. Norman, so I will abstain from all discussion or action on this item.

City Attorney Briggs stated Deputy Dale Watterson brought this to my attention.

Deputy Dale Watterson of the White Pine County Sheriff's Office stated we received a request from a parent to step up patrols by David E. Norman. I was primarily at 11th East by the old Catholic school. It is a speed regulated zone, not a properly posted school zone; the reason is you have to have two alternating amber lights. I observed on Avenue K there is a crosswalk, but no crosswalks crossing 10th East or 11th East to go to David E. Norman. I observed plenty of students darting out across the street while vehicles are making U turns in front of the school and traffic is still flowing; it is a very dangerous area. It was my suggestion to put in 'No U Turns' to keep the traffic flowing the way it's meant to; I would say the same thing on 10th East. We need to get in some cross walks that are visible.

Councilman Bybee stated we did have crosswalks on 11th Street until the slurry was put down last fall.

City Street Supervisor Stork stated the School District told me they were going to paint those back in, but we have been doing it every spring.

Councilman Sedlacek asked have you brought this before Sheriff Watts?

Deputy Dale Watterson stated I spoke with Captain Henriod and he requested I bring it up with the City Attorney. Sheriff Watts was not available for me to discuss it with him. I advised Captain Henriod I would be addressing the City Council meeting.

City Attorney Brigg stated it would require that we go forward with an ordinance to establish a zone with no U turns.

Councilman Derbidge asked what's the difference between that and putting a speed limit sign up?

City Attorney Briggs stated when we created loading zones near the pizza place and the *Hotel Nevada* we did that by ordinance.

Councilman Derbidge stated let's put the signs up and if it's wrong after you find out, then we'll bring it back on the next meeting. I move to put "No U-Turn" signs up on 10th Street East and 11th Street East. Councilman Sedlacek seconded the motion. The motion carried unanimously, with Councilman Bybee abstaining.

5. Councilman Westland – Discussion/For Possible Action – Review and possible amendment of the policies pertaining to assessment and collection of penalties attached to Water, Sewer and Landfill charges levied by the City of Ely.

Councilman Westland stated I am still waiting for a summary of the total past due accounts. I think with the actions we've been taking in the last few months, we're developing a pattern and I would like to get it formalized. If somebody's willing to pay their principal, that we forgive the penalties.

City Attorney Briggs stated then we take away any incentive to pay on time.

Councilman Westland stated I agree there needs to be some kind of incentive; people need to pay on time and be treated equally. Somehow we have gotten to a point where there is a tremendous amount being carried on the books. I think we need to review this whole process of how we're billing, going about collecting these monies and not letting us get years and years behind, reaching situations where we've got penalties exceeding the principal. Start with anything older than a year; put it out there to the public if you're willing to pay the principal, the penalties will be forgiven. The last number I heard we're \$174,000.00 Accounts Receivable for County residents - I still don't know what it is for the City - some that are a decade old. To me that only seems fair when we've let something go on this long.

Mayor Hickman asked how does it work now?

City Attorney Briggs stated one and a half percent of the outstanding balance per month, so it ends up being an eighteen percent penalty per year.

Councilman Bybee stated that's pretty standard.

Councilman Sedlacek asked wouldn't that encourage people to wait a year?

Councilman Westland stated no; that's not what I'm suggesting. We've gotten into a situation where there are a large number of accounts very far in arrears. We need to start a policy that will not let this happen and do something to forgive the debts that we have.

Councilman Bybee stated I don't know any kind of an entity running an AR ledger that isn't going to have a certain percentage of non-collectible accounts, especially a government entity that allows everyone thirty days credit.

City Attorney Briggs stated the problem is with the County residents that have Landfill, you don't have anything that you can shut off.

Councilman Derbidge asked in our agreement with the County, doesn't it say that if their bill is over \$250.00, that the County will collect the money for us?

City Attorney Briggs stated it says that they will assist. We've had a difficult time getting much help from the County; the District Attorney's office filed three lawsuits total in the last eleven years.

Councilman Westland stated we have been routinely, in recent history, making agreements with individuals that have approached us, whereby we agree that if they pay the principal we will forgive the penalty.

City Attorney Briggs stated but you're taking it on a case by case basis. There are certain instances where I think that's totally justified, but for somebody that's getting the bill every month and ignoring it?

Councilman Bybee stated yes. To drop these penalties as the rule is begging people to say 'Hey! It's free money'!

Councilman Westland stated I'm not saying to do that going forward. I'm saying to do that for the past.

Councilman Sedlacek asked wouldn't that be expected again? That would be setting a precedent there. What would you change in the policy to make them pay it?

Regular Meeting of the Ely City Council February 28, 2013

Councilman Bybee stated let them go away without the penalties and ten years you'll be sitting there with a whole new list of penalties that mean nothing because they're waiting for you to wipe it clean again.

City Attorney Briggs stated the law has changed recently, which does allow us to lien property for failing to pay these Landfill fees and we have started that process; that's why you're seeing so many of these coming to you because we're seeing some success with our collection efforts.

Councilman Westland I still think we have not investigated the possibility of approaching the County and putting it on the tax bill; I brought that up with the Utility Board and we have the regulation that allows us to do that.

City Attorney Briggs stated that would make my life way easier!

Councilman Derbidge stated we're doing the County a favor; we're supplying the Landfill for the whole County. The County at least should collect the funds from the County residents and pay the City.

City Attorney Briggs stated the agreement currently is that the County pays us for billing the County residents.

Councilman Westland stated \$1.50 per customer. We could direct Kevin to offer someone willing to pay their principal, at least for accounts of the past, the same deal that we have been making for the last few months: we will forgive the penalty.

Mayor Hickman asked is that fair to the other people that pay?

Councilman Westland stated we have set the precedent of extending this to people as they have approached us.

City Attorney Briggs stated you'll have another one on your next meeting.

Mayor Hickman stated there are special circumstances, but you've got people who think they don't have to pay.

Councilman Derbidge stated that's why I think we should have the County collect the money and pay us.

City Attorney Briggs stated I spoke to a County official today about that and he recommended that I turn over the delinquent accounts to the District Attorney's office for collections.

Councilman Westland asked Kevin, would your life be easier if you did have the authority to offer this?

City Attorney Briggs stated it doesn't make any difference; I would prefer you guys keep that authority.

Councilman Bybee asked when does our Landfill agreement with the County come up for renewal? We could renegotiate that.

City Attorney Briggs stated any time you want to renegotiate I think you just provide notice.

Mayor Hickman stated I would like to see something like that.

Councilman Bybee stated where the County wants us to handle going after these accounts, there has to be some restitution to us to offset our costs or they can pay us for these and they go after them.

Councilman Westland stated we have set the precedent of telling someone if you pay your principal, the penalty will be forgiven.

Mayor Hickman stated we worked out a payment program for the one in McGill.

City Attorney Briggs we put a lot of people on payment programs as part of our collection efforts here.

Councilman Westland asked those are paying off the penalty and the principal?

City Attorney Briggs stated correct.

Councilman Westland stated it's only right if a bill gets to be a certain age and we have not been able to collect it, that if the resident is willing to pay that principal . . . We still need to get a system in place so this doesn't happen again.

Councilman Bybee stated until recently we didn't have the 'teeth' as far as putting on the liens. As far as dropping it now to reward a deadbeat that won't pay his bills, I don't get that.

Councilman Sedlacek stated it would make more sense to forgive some of the smaller, newer – like the last six months – than it would someone who refuses to pay.

Councilman Westland stated we need to investigate what the law is; the way I read it, this can be put on the County tax bill.

City Attorney Briggs stated that's something we can investigate. Before we ever did that, I would like to get the opinion of the Attorney General's office.

City Clerk Alworth stated I've got the NRS here: 444.520; I don't see it in there either.

Councilman Westland stated Kevin, I would direct you to NRS 268.043: Collection on Tax Roll for Delinquent Charges for Sewerage."

City Attorney Briggs stated sewer and water have different rules; we've always been able to lien those properties because those are deemed to benefit the property specifically and an amount owed on a sewer/water bill goes with the property when the property is sold.

City Engineer Almberg stated one way of potentially implementing Marty's idea is what if you gave them a two-month window. That way you gave them an incentive: 'If you come in shortly, we'll relieve your thing and if you don't pay by such and such a day, your penalty is back on.'

Councilman Westland stated in our handling of this, we have been establishing a policy. Do we want to do this a thousand times?

Councilman Derbidge asked how many accounts do we have in the County that are overdue?

City Clerk Alworth stated probably five hundred seventy; that includes water/sewer too.

Councilman Derbidge asked how many are over a year old?

City Clerk Alworth stated I'd have to get a report.

City Treasurer Trask stated Robin's doing the utility billing now, so we could look at that after she updates.

Councilman Derbidge stated I like B.J.'s idea; send a letter to people with delinquent accounts over a year old and say they have three months to pay it. Obviously what we're doing isn't working if we have that much money uncollectible to us.

City Clerk Alworth asked how did the hospital do when they put that letter out if you paid something on your bill, they'd give fifty percent off?

Councilman Derbidge stated phenomenal! We collected a lot of money. We thought it would just be a few accounts, but it was way over thirty percent. It worked so well the hospital changed some of their other billing things to get people to pay.

Councilman Sedlacek asked if we do this ninety day thing, "paid in full" means paid in full and they can't sit on payments during that time.

Councilman Derbidge stated no; paid in full.

City Clerk Alworth stated it costs eight cents for a stuffer for the billing company. We'd have to do it 'carte blanche'; we couldn't select which . . . That might be way quicker than writing an individual letter.

Councilman Westland stated it would give everybody the same opportunity.

Mayor Hickman stated it should go out in every bill for three months.

Councilman Westland stated I agree with that; that gives us some time to think about how we're going to address the remainder and go forward.

Councilman Derbidge moved to send a letter out to everybody stating if you're delinquent on your Landfill fees, if you pay within the next ninety days the penalty will be waived.

City Treasurer Trask asked does this mean, that if we do this, that we're not going to do any turnoffs or is this strictly Landfill?

Councilmen Derbidge stated just for Landfill.

City Clerk Alworth stated it's got to be paid in full, right?

Councilman Derbidge stated full: paid in ninety days and this ends on such and such a date.

Councilman Westland seconded the motion. The motion passed unanimously.

6. Councilman Westland – Discussion/For Possible Action – Repeal of Bill No. 2011-03 Ordinance No. 648 that requires property land owners in White Pine County taking their trash to neighboring counties who pay less to another landfill to pay the difference to the City versus what the City bills for Landfill fees.

Councilman Westland stated this is one of the first things I voted on and was not aware of the agreement that the City had with the County. A small number of people are affected by this. I have a copy of the Policy Statement approved by the Utility Board October 20, 1998 (appears below) that sums it up well:

Approved by Utility
Board Oct 20, 1998

POLICY STATEMENT

It is the policy of the Ely Municipal Utilities Board, through an agreement with White Pine County, to accept in lieu of payment, receipts or bills marked paid from another licensed landfill if the following are met:

1. The receipt or bill must indicate payment at another licensed landfill.
2. Each month the mention receipt can be used as payment for each monthly bill. The receipt or bill must be marked paid and a copy must be supplied to verify usage of a licensed landfill if Ely Regional Landfill was not used. If the receipt or bill is not supplied each month in lieu of payment, payment will be required.

It is the responsibility of the person or party seeking, the receipt or bill used in lieu of payment, to keep City Hall information updated. The City will not send notices or call to remind persons or parties their information is not current.

Councilman Westland stated this came up before the County. A few people near Eureka are affected. I know it's the desire of the County to cooperate well with Eureka County. We need to repeal this bill to comply with the agreement we have with the County because that agreement (White Pine County Ordinance No. 328, excerpt appearing below) does give the Utility Board the authority to give consideration to these people who are taking their garbage to another landfill:

Special consideration for
exemption will be considered by the Ely Water, Sewer & Landfill
Board for those residents and businesses who can demonstrate that
legal disposal refuse other than through the Ely Regional Landfill.
Application for exemption from landfill fees shall be made in
writing to the Ely Water, Sewer & Landfill Board.

Councilman Westland stated this agreement that we have with the County, initiated in 1997, leaves it to the Utility Board to decide which customers can be exempted. I think that our ordinance saying we'll charge the difference flies in the face of that agreement.

White Pine County Commissioner Mike Lemich stated the discussion you just had on collections and bills strengthens this agreement. If we comply with that agreement, it will solve some of your problems. In our agreement the Utility Board is the board that can allow the exemption; obviously, the Council is the oversight of the Utility Board. There's nowhere in our agreement that says there's a differential. The City ordinance that he's quoted is in conflict with the ordinance. The whole issue is to get people to use the Landfill. I'd like to know what portion of that \$170,000.00 are Landfill fees.

City Attorney Briggs stated that's all Landfill.

White Pine County Commissioner Mike Lemich asked that's County Landfill?

City Attorney Briggs stated I think that's all County.

White Pine County Commissioner Mike Lemich stated in our complaints and discussions relating to this differential payment, one of the issues was that the City has no jurisdiction collecting those bills in the County. In the agreement it says that the District Attorney or

the County will assist you in collecting every delinquent Landfill fee in excess of \$250.00. I think it is our obligation by that agreement to do these collections.

City Attorney Briggs stated this was a policy recommended by the Utility Board and passed by the City Council, so it may be best to get the input of the Utility Board.

Councilman Derbidge stated but the part to charge a differential was changed on the City side without the County side knowing, which is probably incorrect.

City Attorney Briggs stated it's been a policy with this differential since I've been here.

City Clerk Alworth stated since that policy of '98. It seems to work well.

Mayor Hickman stated Marty you're saying to repeal the law, so if you live on the outskirts of the County and pay a different landfill . . . Is that what you're saying?

Councilman Westland stated yes. It's very clear.

Councilman Bybee stated their paid receipt at the other landfill would give them a 'paid in full' receipt from Ely.

Mayor Hickman stated regardless if it's \$10.00, \$20.00 or whatever.

Councilman Bybee stated we're creating some static with Eureka County. White Pine County and Eureka have a very good working relationship. We want to have a very good working relationship with White Pine County and Eureka County.

Councilman Westland moved to abolish Ordinance 648 that requires property land owners in White Pine County taking their trash to neighboring counties who pay less to another landfill to pay the difference to the City versus what the City bills for Landfill fees.

City Attorney Briggs asked is that the only thing that ordinance does?

City Clerk Alworth stated that's exactly what it does.

Councilman Derbidge seconded the motion. The motion carried unanimously.

7. Council Members – City Clerk Alworth – Discussion/For Possible Action – Approval of the dates of August 10, 2013 thru August 21, 2013 for the University of Nevada Las Vegas Football Team to conduct their Pre-Season Training Camp at Broadbent Park.

Councilman DiCianno moved to approve the dates of August 10, 2013 thru August 21, 2013 for the University of Nevada Las Vegas Football Team to conduct their Pre-Season Training Camp at Broadbent Park.

Councilman Derbidge asked how much do we get from them?

City Clerk Alworth stated around \$3,200.00.

Councilman Sedlacek seconded Councilman DiCianno's motion. The motion carried unanimously.

8. Council Members – City Treasurer Trask – Discussion/For Possible Action – Approval of amounts allocated for Police, Animal Control and Fire to be designated in the upcoming Inter-Local Agreement: \$545,939.00 paid by the City of Ely to White Pine County for Police; \$22,817.00 paid by White Pine County to the City of Ely for Animal Control; and \$143,122.00 paid by White Pine County to the City of Ely for Fire Services, with a Net Payable to White Pine County of \$380,000.00 or other amounts as determined by the Council.

City Treasurer Trask stated I was contacted by Elizabeth Frances, the Financial Director of the County. They're fine with the \$380,000.00 net amount, budgeting again what we've paid the last fiscal year and this fiscal year, but for her accounting purposes she wants to be able to assign dollar amounts to the Animal Control and Fire Service as revenue to us/expenses to them; she came up with this based off of the percentages from the last agreement where we had a separation of charges for each service.

Councilman Bybee stated we negotiated it this way for years with these three amounts and the last negotiation that I was involved in we decided it was easier for us to pay for Police protection and supply the County with Fire Protection and Animal Control gratis over and above that.

Councilman Westland stated this is simply a request by the County and these are their numbers.

City Treasurer Trask stated yes. I agreed to them.

Councilman Bybee moved to approve amounts allocated for Police, Animal Control and Fire to be designated in the upcoming Inter-Local Agreement: \$545,939.00 paid by the City of Ely to White Pine County for Police; \$22,817.00 paid by White Pine County to the City of Ely for Animal Control; and \$143,122.00 paid by White Pine County to the City of Ely for Fire Services, with a Net Payable to White Pine County of \$380,000.00. Councilman Westland seconded the motion. The motion carried unanimously.

9. Council Members – City Treasurer Trask – Discussion/For Possible Action – Approval pursuant to NRS 354.598005(5) to transfer Budget Appropriations between functions within the General Fund in the amount of \$51,250.00.

City Treasurer Trask asked do you have any questions on this?

Councilman Derbidge stated a couple of meetings ago we were talking about salaries and it was told that these salary increases were in the Budget, but now it looks like for the City Attorney and Animal Control, we're having to supplement it.

City Treasurer Trask stated Jennifer is now putting more of her time towards helping the Attorney; that wasn't in the Budget at the time. I'm not sure why Animal Control was under, but part of that is he just got a 2.5% increase because he passed training. In the Fire Department, we had to move the EMS stipends from an expense; we have to pay them out of wages now.

Councilman Derbidge moved to approve transferring Budget Appropriations between functions within the General Fund in the Amount of \$51,250.00. Councilman Westland seconded the motion. The motion carried unanimously.

6. REPORTS

CITY COUNCIL

Councilman Sedlacek gave some of his Report time to City Clerk Alworth.

City Clerk Alworth asked on this ordinance we just repealed, the people who were allowed a credit are no longer allowed a credit?

Councilman Derbidge stated no, the differential.

City Clerk Alworth stated for example we pay \$13.00 a month. If you're in Eureka, you show your bill and get a \$3.00 credit and only have to pay \$10.00.

Councilman Derbidge stated now they're not going to have to pay the \$10.00.

Councilman Bybee stated his receipt in Eureka cancels his bill here.

Mayor Hickman stated whatever it is.

Councilman Bybee stated he has to have the approval of the Utility Board. He has to supply you with a copy of the Eureka bill, but that settles his account and he has no bill at Ely as long as he pays Eureka.

MAYOR

Mayor Hickman stated Mr. Chachas, in the future we're going to move a couple of chairs out of your way so you'll have plenty of room to place your camera. Also, I want to remind the City Councilmen that they have the privilege of putting whatever Mr. Chachas wants on the agenda.

City Attorney Briggs stated there are some restrictions to that. If it's an item that's already been addressed on an agenda, then you have to have a person who voted in the majority for it to be reconsidered.

Mayor Hickman stated they do not need my permission.

7. AGENDA ITEMS FOR THE NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING.

Councilman Westland stated based on our discussions about the U turns on 10th and 11th near the school, we should place it on the agenda for discussion/possible action to get the crosswalks and the proper lighting for a restricted speed zone in that area.

Mayor Hickman stated I'm not sure we need an agenda item on that, do we Rick?

City Street Supervisor Stork stated no. The cross walks are there to go across 11th Street in three different places, but when we did a box seal on it last year, it took them out. At the time we were real busy with some other projects; Paul Johnson said he would get his maintenance department to paint the crosswalks back in, but they didn't get to it. Then the weather turned too cold for us to paint them.

Mayor Hickman stated if we just have Rick report back to us . . .

City Attorney Briggs stated with regards to the lighting, the School District takes care of all that.

Councilman Derbidge asked so we need to request the School District to put lights in there?

City Attorney Briggs stated right now it's just a Restricted Speed Zone, but we've always left that up to them.

Councilman Derbidge stated I would think that we wouldn't have to ask the School District if we deem that's proper.

City Attorney Briggs stated except we don't pay the electricity for those lights; they control when they go on and off.

Councilman Bybee stated they own the standards.

Councilman Derbidge stated let's put it on the agenda that we send a letter to the School Board and ask them to put lights up there.

Councilman Westland stated I'd leave that item on the agenda in a discussion/for possible action; then we can see what's been done and see what we need to do to be proactive about getting something out. The Deputy gave a very compelling argument.

Councilman Sedlacek stated in the future, I don't think we need to be so busy that we can't put those in; what could be more important than crosswalks?

8. PUBLIC COMMENT: Comments not exceeding three (3) minutes in length will be accepted from the general public in attendance. If any are made, there may be discussion upon those comments. No vote, decision, or action may be taken upon matters raised under this item until it is formally placed on the agenda. "Section 8.04, of the Nevada Open Meeting Law Manual indicates that the Public Body may prohibit comment if the content of the comments is a topic that is not relevant to or within the authority of the Public Body or if the content of the comments is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers".

George Chachas stated we were talking about individuals paying the proper fees. Today you approved an Abandonment for a property owner.

City Attorney Briggs stated it wasn't an Abandonment; the Abandonment portion of that was done months ago.

George Chachas stated you approved a map; part of that was City property.

City Attorney Briggs stated no; it wasn't.

Councilman Bybee stated it was a borderline adjustment between two pieces of private property.

City Building Inspector Christiansen stated you're looking at an overlay on another map.

George Chachas stated whatever was done, there was a fee paid, it came before the public – meaning the Planning Commission and you folks - you approved it and that hasn't been done on Campton Street. It appears that a public official is using his position for benefit. Earlier this week there was a news report by George Knapp of *KLAS* Channel 8 in Las Vegas in regards to monies spent by Southern Nevada Water on their projects, some of which are in White Pine County. The name of a former DA came up and the story was not complimentary. Public servants that waiver from the public path and seek personal gain need to be investigated. White Pine County has spent thousands of dollars fighting the 'Water Grab'; a good portion of that is the residents/taxpayers of the City of Ely. I suggest that you tune into this station at five; there's going to be additional stories and if there's more people implicated, they need to be held accountable. To date you have not addressed why you're charging the White River Museum residential rates and charging me commercial rates for my home when I'm not in business; I believe there's intentional discrimination by you people and the City. I pay every month. I'm again requesting your response in writing or the basis for your refusal. Federal law clearly states the City must not discriminate in any federally funded or assisted public utility. You talk about not putting out names and yet my name or my family's names comes up. Again I'm requesting a complete copy of the Impact Study the City did prior to raising utility fees; the only information I have been given to date is a fee comparison sheet with other cities and that doesn't address what the law requires. You need to hire a person with a bachelor's degree in accounting as required by your City ordinance, 1-6B-C.

9. ADJOURNMENT: THE MEETING MAY BE ADJOURNED BY APPROPRIATE MOTION OF THE CITY COUNCIL.

Councilman Bybee moved to adjourn the Regular Meeting of the Ely City Council at 6:03:19 PM. Councilman Derbidge seconded the motion. The motion carried unanimously.


MAYOR


ATTEST