



# CITY OF ELY

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

### MEETINGS OF THE:

- ELY CITY COUNCIL
- W. P. HIST. RAILROAD FOUND. BOARD OF TRUSTEES

May 8, 2014 4:00 p.m. – National Guard Armory – 125 Mill Street – Ely, Nevada.

Mayor VanCamp called the Regular Meeting of the Ely City Council to order at 4:00:26 PM, led in the Pledge of Allegiance, Sam Hanson offered the Invocation and Mayor VanCamp asked for Roll Call.

Members present:

- Mayor Melody VanCamp
- Councilman Bruce Setterstrom
- Councilman Dale Derbidge
- Councilman Randy Lee
- Councilman Marty Westland
- Councilman Sam Hanson

City Staff present:

- City Clerk/Treasurer Jennifer Rogan
- Public Works Director Ron Jenkins
- City Attorney Richard Sears
- City Engineer B.J. Almberg
- City Fire Chief Ross Rivera
- Minutes Clerk Jennifer Lee

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.

*5-8-14*

*Dr. Setterstrom*

*Jack VanCamp*

*Jonathan Dickson*

MAUREEN OTZELBERGER

*Kenna VanCamp*

*Jeff VanCamp*

*D. Brubaker*

*Marianne*

*Casey*

*Peter*

*Keri Pintar*

*Scott*

*Brad Lester*

*Shirley Davis*

*Sam Davis*

*Garrett Estrada*

Don PYRANTON

*George Chachas*

*Patricia*

*Laura Cole*

*CARY JUNE*

*Jack VanCamp*

*Edora Johnson*

*Steve Maxwell*

*Jeff Haggie*

*Tammy Carlsson*

*Lee Burleigh*

*Penny Alwood*

*Janet Bachmann*

Regular Meeting of the Ely City Council May 8, 2014

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 8.05, 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".

Kerri Pintar stated I missed your last City Council meeting, but understand you received correspondence from Heather Pilkinton regarding the ongoing situation that's been created by you not granting our request to abandon a portion of the 1400 block of Canon and Mill Streets. I initiated contact with the Sheriff's Office on May 1<sup>st</sup> to ask that everyone, including myself, on the 1300, 1400 and 1500 blocks of Canon Street with abandoned or unlicensed property be issued a ticket, so we can start to clean up these three very important roads. The Sheriff's Office is scratching their heads because this road does not exist on their Ely City emergency map. After five and a half hours behind our house, meeting with the Building Inspector, County Assessor, Public Works Director and the City Engineer, the deputy trying to issue tickets was attempting to measure the road and could not come up with fifty feet anywhere. In conjunction with the City Engineer's suggestion, the Sheriff's Office is drafting a letter to the City requesting those roads be surveyed; once accomplished, the Deputies can begin writing legally binding tickets for what is in the City roadway, as well as on the private property encroachment concerns of Heather Pilkinton. The estimates for Mill Street and Canon are in; I would ask you to review those before submitting your final 2014-2015 budgets to the State. Estimates to put Canon Street in with no utilities range from \$331,000 to \$373,000; I can't imagine what it will cost to include utilities and yet, the Council thinks those lots on Canon Street are developable property. To bring the 1300/1400 block of Mill Street to code is only \$326,000. The \$79,500 tentative budget figure for all of the Ely City roads won't be sufficient when you're tasked with fixing these important roads behind and in front of my house. When we stopped at the title company to prepare to close, there was interest from a Council member to purchase that property in the event we did not. We can't afford to lose the parking behind our house because we don't have sufficient parking in front of it and we believe this Council is not going to correct those problems. However, we are hoping for the best. Minutes Clerk Lee read the letter appearing below.



May 8, 2014

To the Ely City Council:

Heading south on Wednesday, April 30, 2014 at 3:05 p.m., I stopped the school bus I was driving at the *Club 50* tracks. The tractor/trailer behind me – there was a mine concentrate truck behind that – could not stop, overshot the stop and proceeded into the northbound lane! Had any oncoming vehicles been in the northbound lane, it could have been a tragedy.

Gary Tull  
W.P. School District Bus Driver

Terrilyn Diamond, station manager of *KVNV*, stated our parent company *PMCMLLC* has moved our license to New Jersey and are in Ely under an STA, which allows us to temporarily operate until construction is complete. When *PMCM* leaves Ely, there will be an available spot for someone to apply for a license to run a TV station here. Currently, the FCC has a freeze on licenses until they repack the frequency spectrum. *PMCMLLC* has offered to petition the FCC to allow an organization in our community to operate under an STA until the freeze is lifted, so the station can keep operating. Once the freeze is lifted, you would need to file to have it reallocated. The cost of a new license would be based on the population, which in Ely's case would be the bottom level. Once the license is purchased, it's good for eight years. Someone had suggested I approach the City to ask if you guys wanted to take this on. If the Council agrees to allow someone to operate under an STA, *PMCMLLC* would be willing to donate most of the equipment; the best way for this to be done would be by a 501c organization, so that a grant could be acquired to fund the running of the station. The transmitter we would be leaving behind cost \$40,000; added to the rough estimates of the other equipment, the total equipment

donation would be about \$93,500. The satellite dish on City property is currently pointed at the FAS2 satellite with which we were receiving programming from the *Family Channel*; our affiliate agreement with them ran out and they would not renew with us because we are moving. *PMCM* would be willing to assist the City in acquiring a new agreement with the *Family Channel* network. In order to keep the station on the air, *PMCM LLC* needs a letter of resolution from the City of Ely; if the FCC knows someone wants to keep a station in Ely, they would most likely approve that venture.

George Chachas stated ongoing concerns regarding whether Commissioner Lampros received a variance; whether Campton Street was narrowed; fence heights in the City of Ely; the Winter Road encroachment; and the loan documents that verify Mark Bassett borrowed the money he donated to the Railroad Museum.

### 3. CITY DEPARTMENT REPORTS

- FIRE CHIEF

Fire Chief Rivera's blotters are on file

- POLICE CHIEF

Police Chief Watt's blotters are on file at City Hall.

- CITY CLERK/TREASURER

City Clerk/Treasurer Rogan stated I attended the Utility Board work session on the Landfill and they liked Pershing County's approach where they billed per year and multiplied the commercial areas by different multipliers. Kevin Robison put in his resignation from the Utility Board. A customer who moved to Las Vegas sold their property and the City never collected the fee; Rich advised we would have to sue them, so it would be in our best interest to write off the \$300 bill.

- CITY ATTORNEY

City Attorney Sears stated I have been working with Mr. Copenhaver's office and Mr. Robison to see how we can force the changeover from the old poles to the new poles. The other question is do we want to wind up owning them and take them down ourselves.

- PUBLIC WORKS DIRECTOR

Public Works Director Jenkins stated the Street Department is working on patching/sweeping and repairing STOP sign vandalism. For the Landfill, the culvert on Lackawanna was plugged up and the County helped us clean that out. Everybody knows about the main break we had last weekend; everything is back to normal there, including putting out "Boil Water" rescind notices. Everybody got a copy of the email about the 'cookie' at the swimming pool.

City Attorney Sears stated B.J. sent me an email the company is willing to sign an affidavit that it was the cookie they lost. If you took a careful look at the 'cookie', it was clearly worn down.

Public Works Director Jenkins stated the Animal Control Officer is working with the Mayor on the new vehicle from Henderson.

City Attorney Sears stated we sent them a one-page letter this afternoon because the head of their Vehicle Maintenance section wanted to auction if off tomorrow; they're auctioning every 3-6 months, so a relationship there may be productive.

- CITY ENGINEER

City Engineer AlMBERG stated hopefully you got the email I sent you this afternoon of the map we worked out with the County of where we stop our road maintenance and where they start. We've color coded the six community water zones, showing the tanks/wells/booster pumps, onto a map. I am in support of changing the requirements for Utility Board seats to include our service area because there's people in Mineral Heights - where they pay a surcharge - who might want to sit on that board.

Councilman Derbidge stated they've started on the park across from the Railroad Depot and we never settled what we're going to do with Avenue A.

City Engineer Almberg stated the Council did vote for the final alignment of Avenue A and I provided that information to those engineers.

## **6. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE ELY CITY COUNCIL.**

### **C. NEW BUSINESS**

1. Mayor Van Camp/Councilman Hanson — Discussion/For possible Action including, but not limited to reprimand, demotion, promotion, endorsement, engagement, retention, or "no action"— Consideration of the character, allegations of misconduct, professional competence or physical and mental health of City Clerk/Treasurer Jennifer Rogan.

Councilman Setterstrom moved to place Jennifer Rogan on non-disciplinary administrative leave with pay until further investigation is done. Councilman Westland seconded the motion.

Councilman Derbidge stated I have a problem with both agenda items 12 and 13. As a Council, we replaced the last two people and have never given any delineation of duties, but now you say they should be placed on leave because they didn't do things right? According to what standards? We have three people on this Board who have belonged to unions; when those people have something done, they're told what they're doing wrong, given help on how to do it, reviewed again and given more help.

Councilman Hanson stated that is one of the issues Randy is addressing to institute performance appraisals. I have written a number of these types of documents and we went to great lengths to identify there are certain standards. However in this instance, each of these issues come out of the Policy and Personnel manual of the City, so they should be things known particularly to those City employees with supervisory responsibility.

Councilman Derbidge stated how can the Council make a decision on anything when you don't have information in front of you?

Councilman Hanson stated the information put in those letters was precluded from being disseminated to other members of the Council on the advice of the Attorney.

City Attorney Sears stated when you do 13 and 12, you are no longer acting like rule makers; you're acting like judges and the rules are different from the one task to the other task. You will be tasked with accepting evidence, reviewing the evidence, discussing the evidence and making a decision on whether something is good evidence or not. The rules from the Administrative Procedure Act control these kinds of things because you're talking about affecting somebody's rights. People have an opportunity for notice – which we gave and to respond to the charges, but as judges you don't get to see this stuff until the last minute because we don't want you prejudging the issue. You're supposed to be making your decision on the evidence you see today, not based on hearsay. I'm neutral in this; I'm just advising you why I think a particular protocol should be followed.

Councilman Hanson stated the whole issue becomes moot because they serve at the pleasure of the Council.

Councilman Derbidge stated when Mr. Alworth was done, we listed nothing.

Councilman Hanson stated correct.

Councilman Derbidge stated that's not what happened here.

Councilman Hanson stated since we haven't established a formal mechanism to review the highest executives, this is what we're left with.

Scott Husbands of *Gianoli Husbands, PLLC* stated I've been asked to appear on behalf of Jennifer and Ron, as their Counsel at this open Personnel Session. I think what you're doing is problematic from the perspectives of the Open Meeting Law, the Constitution . . .

Councilman Setterstrom stated I've got responses to allegations; I don't know what the allegations are.

Scott Husbands stated what's happening here today is the investigation: Notice was provided; my clients are here and have submitted their written responses; and I understand there may be documents the City is going to put forward. In the agenda item there is no mention of placement on leave or anything like that.

Councilman Setterstrom stated since my name is in these responses, I would like to consult my own attorney.

Scott Husbands stated your motion is disciplinary because it's going to go into her personnel file. Jennifer received notice and needs to have an opportunity to be heard; you're dispensing with that by making a motion to put her on leave.

Councilman Setterstrom stated I had no idea I was going to be used as a witness.

City Attorney Sears stated it may be appropriate to continue these two items so everybody can take a look at the evidence, but there needs to be some rules: You have to swear not discuss any of the evidence with anybody else! You have to consider it on your own and you'll be put under oath that that's what you're going to do. You won't read about it in the newspaper. You can seek legal counsel. This would be the procedure we would normally follow with a jury, which is sort of what you are; you're judge and jury.

Councilman Westland stated I did not come here to be a judge. I just saw these written responses to allegations, that I've never seen. This is not appropriate.

Scott Husbands stated the best thing to do is follow the counsel of your lawyer and continue it until everybody has had a chance to put those things in. There seems to be an issue of getting things before the Council on a timely basis; I put those responses in today and wasn't told they needed to be in until Tuesday.

Councilman Westland stated by themselves they're nothing.

Councilman Setterstrom's motion failed 3 to 2, with Councilmen Derbidge, Lee and Hanson voting Nay.

12. Mayor Van Camp/Councilman Hanson — Discussion/For possible Action including, but not limited to reprimand, demotion, promotion, endorsement, engagement, retention, or "no action"— Consideration of the character, allegations of misconduct, professional competence or physical and mental health of City Public Works Director Ron Jenkins.

Councilman Westland asked who has the letters?

Councilman Hanson stated I do; I'm the one who wrote them.

Scott Husbands stated I have them; they were delivered to my clients.

City Attorney Sears stated the clients have them.

Councilman Derbidge stated we could continue it until the next meeting.

Mayor VanCamp recessed the meeting at 4:51:24 PM in order for Scott Husbands to confer with his clients regarding the continuance timeframe.

Mayor VanCamp called the meeting back to order at 4:55:40 PM.

Scott Husbands stated my clients are fine with setting the continuance out a week or two to give the Council a chance to look at the documents Mr. Hanson prepared and the written responses.

Councilman Derbidge moved to continue 6C-12 and 6C-13 to the next regular City Council meeting. Councilman Lee seconded the motion. The motion carried 4 to 1, with Councilman Setterstrom voting No.

Scott Husbands stated I would remind the Council of Mr. Sears' admonishment in the meantime that nobody talk about this. You're welcome to talk to my clients about things that aren't related to this, consistent with their job duties, but if you're going to talk about Mr. Hanson's charges and their written responses, Mr. Sears and I would need to be involved.

#### 4. A MEETING OF THE WHITE PINE HISTORICAL RAILROAD FOUNDATION (WPHRF) BOARD OF TRUSTEES.

##### A. EXECUTIVE REPORT

### NEVADA NORTHERN RAILWAY

A NATIONAL HISTORIC LANDMARK



1100 Avenue A • PO Box 150040 • Ely, Nevada 89315  
Toll Free: (866) 407-8328 • Voice: (775) 289-2885 • Fax: (775) 289-6284  
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#### Executive Director's Report – May 1, 2014

1. Locomotive Status – Updated
  - a. Locomotives in service: #40, #93, #204, #310, Wrecking Crane A & Rotary B.
  - b. Locomotive #105 is currently out of service, we are working to put it in service.
  - c. Locomotives out of service needing moderate repairs: #109, #45
  - d. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Milling #3, #81 and Rotary Snowplow B (for boiler overhaul.)
  - e. Locomotives out of service needing heavy repairs #801, #802, #81, #80 and the military locomotives
2. Rolling Stock Status – No change
  - a. Passenger equipment in service: #07, #08, #09, Flatcar #23, Coach #5, Baggage Car/RPO #20, Outfit Car #06.
  - b. Passenger equipment out of service: #10, #2 and #05 needing heavy repairs.
  - c. Cabooses in service: #3, #6 and #22 are operational.
  - d. Cabooses out service: #5
3. Track Status – No change
  - a. Keystone Branch is open
  - b. The mainline to MP 132 is open.
  - c. Adverse Branch is open.
4. Building Status – Updated
  - a. East Ely Yard: We received a \$100,000 CCA Grant. This money will be invested in the Enginehouse and the Transportation Building.
  - b. McGill Depot: We received a \$50,000 CCA Grant. This money will be used to open the McGill Depot to the public on a limited schedule.
5. Ridership and Ticket Sales – Updated

In April we carried 946 passengers, an increase of 39% over the previous year. Year to date we have carried 1,392 passengers, an increase of 18%. Since 1987, we have carried 218,163 passengers.

#### Award Winning Destination

Nevada State Treasure – 2012 & 2013  
Best Event in Rural Nevada – The Polar Express - 2013  
Best Preservation Effort in the West • Attraction of the Year - 2012  
Best Place to Take the Kids in Rural Nevada – 2013, 2012, 2011, 2010, 2009, 2008 & 2007  
Best Museum in Rural Nevada – 2013, 2010, 2009, 2008  
Best Museum - Special Recognition - 2010  
Favorite Nevada Attraction – 2008

Our on line sales are now tied into our point of sale system. By doing this we have eliminated the old online ticketing system. All of our programs are now offered online including Be the Engineer, Ride with the Engineer, all train tickets, Spending the Night in the Caboose and Spending the Night in the Bunkhouse.

6. Membership – Updated

Membership program/level	Fee	Members
NNRy Membership-Active	\$30	1,465
NNRy Membership-Contributory	\$50	691
NNRy Membership-Centennial	\$100	592
NNRy Membership-Sustaining	\$250	118
NNRy Membership-Patron	\$500	56
NNRy Membership-Friend	\$1,000	17
NNRy Membership-Lifetime	\$1,000	164
NNRy Membership-Supporter	\$2,500	0
NNRy Membership-Benefactor	\$5,000	0
NNRy Membership-Leader	\$10,000	1
NNRy Membership-Donor	Misc	6
NNRy Membership	Total	3,110

7. Grants – Updated

- a. Grants Written - \$47,597
  - i. Web Marketing, Fulfillment and Database Grant - \$9,000
  - ii. Optimize Website for Dual-Usage - Mobile, Tablet and Desktop Devices - \$13,000
  - iii. Billboard Campaign - \$10,597
  - iv. Media Relations & Social Outreach – \$15,000
- b. Grants Awarded - \$0
- c. Grants Pending - \$0
- d. Grants Under Administration - \$648,621
  - i. CCA Dangerous Utility Mitigation & Building Stabilization - \$100,000
  - ii. CCA McGill Depot Interior Renovation - \$50,000
  - iii. White Pine Tourism and Recreation - \$25,000
  - iv. Nevada Commission on Tourism - \$20,000
  - v. Nevada Northern Railway Special Event and Services Marketing - \$10,000
  - vi. Social Media Project - \$7,149
  - vii. Guns For Hire Marketing - \$3,500
  - viii. White Pine County Tourism and Recreation, Air Pump \$5,500
  - ix. White Pine County Tourism and Receptions, American Restoration \$6,500
  - x. White Pine Tourism and Recreation Board - \$12,000
  - xi. Web Marketing, Fulfillment and Database Grant - \$7,500
  - xii. Expanded Loneliest Road Billboard Campaign – \$25,000
  - xiii. Nevada Northern Railway Billboard Campaign - \$10,597
  - xiv. White Pine Tourism and Recreation – \$4,500
  - xv. White Pine Tourism and Recreation Painting Coaches - \$16,000
  - xvi. White Pine Tourism and Recreation Reupholster Coach Seats – \$5,500

Regular Meeting of the Ely City Council May 8, 2014

- xvii. Great Basin Heritage Partnership - \$10,400
- xviii. GBHP Plaza Improvements - \$70,000
- xix. GBHP American Restoration Grant - \$10,000
- xx. Smart Phone App for Nevada Northern Railway - \$8,645
- xxi. AT & T Mobile Phone App - \$6,000
- xxii. Great Basin Heritage Area - \$25,000
- xxiii. NDOT McGill Track Restoration - \$497,076
- xxiv. NCOT PRT 12-21 Ely Community Tourist Radio - \$16,000

9. Funding Raising Program – Our next on line auction is in July.

10. Earmark Funds - \$1,710,945 – Updated

HDR Engineering is beginning their field work on the design phase of the project in April.

11. Promotion and Marketing – Updated

- a. The Spring Issue of Ghost Tracks is in production.
- c. The 2014 Brochure is in distribution.
- d. The 2014 calendar has been printed and is in distribution.

12. Upcoming Events – Updated

- a. Members Weekend May 23-26

13. Long Term Liabilities – Updated

Long Term Liabilities	2014	2013	Difference	%
266 - Promissory Note 20816	95,000.00	95,000.00	0.00	0.0%
267 - Promissory Note 20815	15,442.37	28,452.25	-13,009.88	-45.7
255 - N/P Mark & Joan Bassett	71,016.22	72,389.22	-1,383.00	-1.9
260 - N/P FNB - 20457	102,075.65	130,948.10	-28,872.45	-22.1
<b>Total Long Term Liabilities</b>	<b>283,534.24</b>	<b>326,796.57</b>	<b>-43,265.33</b>	<b>-16.4</b>

14. TIGER Grant

NDOT submitted the TIGER Grant on April 25, 2014. The application can be viewed at [www.nnrty.com/tiger](http://www.nnrty.com/tiger). Letters of support are still coming in and are being added to the website.

## B. NEW BUSINESS

1. Trustee Westland – Discussion/For Possible Action – Review and implementation of procedure to place the *Club 50* Railroad Crossing into “Exempt” status, pursuant to NRS 484B.560.

Trustee Setterstrom stated I thought we directed Mark Bassett to do that.

Trustee Westland stated we did.

Trustee Hanson stated Mark came back with this report (appears below); he brings up some valid points.



# NEVADA NORTHERN RAILWAY

A NATIONAL HISTORIC LANDMARK



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May 5, 2014

Melody VanCamp  
Mayor  
City of Ely  
501 Mill Street  
Ely, Nevada 89301

Dear Mayor VanCamp,

In regards to the Nevada Northern Railway crossing at Club 50, I have been in communication with Vic Crumley, Supervisor, Rail Safety of the Nevada Public Utilities Commission (PUC).

Mr. Crumley has identified several concerns with making the Club 50 railroad crossing an Exempt Crossing from a safety perspective. They are:

- 1) Currently the railroad is making track improvements that should have the track open to rail traffic at the Club 50 crossing by this fall.
- 2) The railroad has applied for a TIGER Grant to open the railroad to commercial railroad traffic. This traffic would include tank cars of fuel and loads of hazardous materials.
- 3) Because the tracks cross the highway at such sharp angle, northbound drivers have a difficult time in viewing the tracks and being able to see if there are any northbound trains.
- 4) Additionally, northbound trains are coming downgrade as they approach the Club 50 crossing. Because of their immense weight, trains need lots of distance to stop. A freight train coming downhill at Club 50 will need approximately between  $\frac{3}{4}$  to a  $\frac{1}{2}$  mile to stop.

In light of these circumstances, Mr. Crumley stated he cannot support making the crossing Exempt. Based on Mr. Crumley's position, there are things the community can do to minimize the existing hazard of school buses needing to stop at the Club 50 crossing.

First and foremost is to apply bright, attention getting, reflective decals on the back of the school buses indicating that they stop at Railroad Crossings.



Currently, our school buses have a simple statement in black lettering that is hard to read and does not stand out.

The community can start a public service campaign reminding drivers that school buses and fuel trucks need to stop at railroad crossings.

At the crossing, NDOT can insure that the required striping and warnings are in good repair. Additionally perhaps NDOT could install yellow warning signs on approaches to the crossing warning drivers that school buses and fuel trucks stop at railroad crossings.

Finally, the community can work with NDOT to make a permanent solution to the problem which is to install pull off lines at the railroad crossing for school buses and fuel trucks.

Sincerely,

Mark S. Bassett  
Executive Director

Scott Husbands, White Pine Historical Railroad Foundation Attorney, stated I talked with Mark about this. Vic Crumley is in charge of rail safety for the PUC, so he would be the one to say if it's not the PUC's opinion that they should exempt that crossing.

Trustee Westland stated we've heard this for years. I know Vic personally. I understand the PUC. I understand the DOT. I understand the reason for exemptions. The reason to exempt a crossing is because it is safer to allow the traffic to continue through the crossing than to make them stop. We have visible evidence, numerous examples, of near misses at that crossing. Go out and take a picture of the skid marks; that's because something stopped and a number of vehicles behind them couldn't stop. What we asked for was to have Mr. Bassett apply to the PUC, who has the authority to grant an exemption. We have a report from the Nevada Department of Transportation that

suggests that this is what be done; they have offered their assistance to facilitate the public hearing that would make this crossing exempt. We will get that track open someday, but economics will dictate probably no more than one train a week will use it. This is a dead end railroad; it's not a transcontinental mainline and it has crossing gates. The crossing gates need to be kept operational; that's what prevents someone from running out onto the track when a train is coming. When you have a crossing out in the middle of nowhere, then it makes sense to have the bus stop, but when you have the crossing gate/flashing lights/ arms that come down, you stop for that; the rest of the time you exempt the crossing and allow the school bus to pass through, so that he's not in danger of being rear ended by the semi driver that's asleep behind him. I've seen it myself. We had a very serious accident that killed a number of people in Montana because of just such a situation. We have evidence on the road, the testimony of truck drivers and the testimony of school bus drivers: This is a crossing that should be exempted. This should be put before the PUC and let them decide whether it should be exempted or not. We own the Railroad and would be named in a suit. Scott Husbands stated to put this letter in context, the Mayor had asked Mark to follow up with Vic or the PUC. Is that right?

Mayor VanCamp stated yes.

Scott Husbands stated Mark, by any means, isn't trying to say we're not doing this. This letter was prepared related to a request made by the Mayor. I didn't talk to Vic.

Trustee Derbidge stated this is safety to the buses. We don't know if the track improvements or the TIGER Grant are going to come to fruition. We would be remiss if we don't move to make that crossing safer now. If something changes in the future, it's within our right to change our minds and do something different.

Trustee Hanson moved to have Jennifer Lee request, on the City Council's behalf, that the PUC make the *Club 50* railroad crossing exempt. Trustee Lee seconded the motion. The motion carried unanimously.

**The Chairman adjourned the meeting of the White Pine Historical Railroad Foundation Board of Trustees and turned the gavel back to the Mayor to reconvene the Regular City Council Meeting.**

#### **5. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE ELY CITY COUNCIL AS RECOMMENDED BY THE WHITE PINE HISTORICAL RAILROAD FOUNDATION BOARD OF TRUSTEES.**

1. Trustee Westland – Discussion/For Possible Action – Review and implementation of procedure to place the *Club 50* Railroad Crossing into “Exempt” status, pursuant to NRS 484B.560.

Councilman Hanson moved to direct Jennifer Lee to request, on the City Council's behalf, that the PUC make the *Club 50* railroad crossing exempt. Councilman Lee seconded the motion. The motion carried unanimously.

#### **6. 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 8A-1 Minutes; 8A-2 Payment of Bills.

Moved by: Councilman Westland Second by: Councilman Lee Vote: Unanimous

1. Discussion/For Possible Action –Minutes.
  - April 10, 2014
2. Discussion/For Possible Action - Payment of Bills.
  - April 23, 2014

The bills are on file at City Hall.

Councilman Setterstrom asked to *Linnell Electric* for \$240.00?

Public Works Director Jenkins stated it's for work at the Waste Water Plant to repair a breaker box.

Councilman Setterstrom stated I looked at the bill and it was for street lights. At the last Council meeting, you had one for \$1,227.25 and I asked you if that was for street lights and your answer was no.

Clerk/Treasurer Winkle stated my answer was I'd have to look at the bill first.

Councilman Setterstrom stated both of those \$240.00 bills were one day apart; why are they on separate bills? The dates on the invoices were April 3<sup>rd</sup> and April 4<sup>th</sup> for \$240.00.

Clerk/Treasurer Rogan stated probably because as the invoices come in, we enter them in the system. They do not post on the ledger until the checks are cut. When we receive it is the question. In our *Caselle* system we have to put an invoice date on there.

Councilman Setterstrom stated I wanted to make sure the rest of the Council knew both of those bills were for changing light bulbs.

## **B. OLD BUSINESS**

1. Mayor VanCamp – Discussion/For Possible Action - Approval of Mayor VanCamp's Reappointment of Lyle Norcross to the Municipal Utility Board. Mr. Norcross' term expired July 1, 2013; therefore his new term would end July 1, 2017.

Councilman Lee moved to reappoint Lyle Norcross to the Municipal Utility Board. Councilman Hanson seconded the motion. The motion carried 4 to 0, with Councilman Derbidge abstaining.

## **C. NEW BUSINESS**

1. Councilman Setterstrom – Discussion/For Possible Action – Consideration of incentive programs to bring new businesses into Ely, including charges for business licenses, landfill, water, sewer and Home Occupation permits. Discussion should also include charges to Out-of-County businesses which do business in Ely for a few jobs and then go back to their own county.

Councilman Setterstrom stated our own contractors that live in town pay a landfill fee. When someone out of the County gets a business license, they should also be charged a landfill fee.

Councilman Derbidge stated it's the homeowner or the business that pays the landfill fees when they take things to the dump. Say a contractor takes junk from my house to the landfill, is it charged to me or to the contractor?

Public Works Director Jenkins stated I believe it's charged to the contractor. Linda, can you answer that?

Linda Bachmeier stated yes, I can. It is charged to the contractor and then backcharged to the customer.

Councilman Setterstrom stated how about the contractor that doesn't have a name on his truck?

Linda Bachmeier stated I inquire. I don't know about the rest of the guys; I can only speak for myself.

Councilman Setterstrom stated *Hunt Electric* pays \$48.99 a month for landfill; then he also pays \$7.95 a ton when he comes to the landfill, correct?

Linda Bachmeier stated yes. If they don't have the City license, they get charged the higher rate.

Councilman Derbidge stated send it back to the Utility Board to incorporate when we redo the rates.

Councilman Setterstrom moved that we add a landfill fee of \$48.99 per month for out of county business licenses and that they be informed when they're done working in Ely, they can have the landfill fee dropped by notifying us. Councilman Hanson seconded the motion. The motion carried unanimously.

2. Councilman Setterstrom – Discussion/For Possible Action – Consideration to address the issue of license fees for Home Sales of *Scentsy*, *Melaleuca*, *Avon*, *Watkins*, any other type of home-based marketing and/or internet sales from home.

Councilman Setterstrom stated someone called City Hall last week asking what they needed to do for a business license to sell *Scentsy*? The people who work for these companies don't make much money, so I thought we could come up with a fee for these types of salespeople.

Councilman Westland stated I would ask we place the next item in the discussion because it's the same thing.

3. Councilman Westland – Discussion/For Possible Action – Creation of a City of Ely business license category for “Company Representative”.

Councilman Westland stated we could incorporate those types of businesses identified in Item 2 under a title. These company representatives sell products out of a warehouse somewhere else; the company is paying the sales tax and shipping the product. I recommend an annual flat fee that doesn't require a Home Occupation permit.

Councilman Hanson moved to direct City Clerk/Treasurer Rogan to research creating a license fee for this type of enterprise. Councilman Setterstrom seconded the motion. The motion carried unanimously.

4. Councilman Setterstrom – Discussion/For Possible Action – Consideration to prorate City Corral lease fees for new owners when a Corral is purchased.

Councilman Derbidge moved to prorate City Corral lease fees for new owners when a corral is purchased. Councilman Lee seconded the motion. The motion carried unanimously.

5. City Attorney Sears – Discussion/For Possible Action – Approval for Extension of Georgetown Ranch Lease between *Heggie and Gale Ranching* and the City of Ely.

Councilman Hanson recused himself from this item due to close friendship with both parties involved.

City Attorney Sears stated this is an automatic renewal according to the original terms of the lease. The only way that agreement terminates is if somebody doesn't pay the bills and at the end of five years it will come up again.

Councilman Derbidge stated I think it's a terrible lease for the City. We're leasing all that property for \$335.00 a month. The lease starts the 1<sup>st</sup> of May; to get other people to bid on this, you need it to sunset December. There's no provision for them to run the water through the City property, which leads to the golf course. The water goes through the golf course, but there is no provision for the Golf Course to get the water and they turn it off; that makes our facility ugly. We should break the lease.

City Attorney Sears stated what you ought to do is direct legal counsel to talk to these guys and see if they're willing to change the terms. Don't break it! I don't want to get sued over breach of a lease.

Councilman Derbidge stated I move to direct City Attorney Sears to renegotiate the lease terms based on what I previously stated. Councilman Lee seconded the motion. The motion passed 4 to 0, with Councilman Hanson abstaining.

6. Council Members – City Clerk/Treasurer Rogan – Discussion/For Possible Action - Approval of First Reading of Ordinance 667, Bill No. 2014-03: An Ordinance Amending City Code 3-2-9-4 To Increase the Limit on the Investigative Fee For Bartender Cards to One Hundred Twenty Dollars (\$120.00).

Clerk/Treasurer Rogan stated Nevada Public Safety has upped our fee to \$40.00 a fingerprint.

Councilman Derbidge moved to approve the First Reading of Ordinance 667. Councilman Setterstrom seconded the motion. The motion carried unanimously.

7. Councilman Westland – City Attorney Sears – Discussion/For Possible Action – Approval of First Reading of Ordinance 668, Bill No. 2014-04: An Ordinance Amending Ely City Code 12-4C-1 to Provide for a Limitation of the Building Lot Size Restrictions for Certain City Lots.

Councilman Westland stated this allows lots created prior to the 5,000 sq. ft. minimum requirement (1986) to be utilized, still subject to the setback and zoning requirements. I move to approve the First Reading of Ordinance 668. Councilman Lee seconded the motion. The motion carried unanimously.

8. Councilman Hanson – Discussion/For Possible Action – Consideration to order a complete review of security at the City of Ely's Water Facilities.

Councilman Hanson stated in light of situations that have taken place, a review is in order; our Sheriff's Department might be capable of doing that.

Councilman Derbidge stated you have to set parameters on what kind of security we want before you have somebody review what we have.

Public Works Director Jenkins stated motion sensor alarms are on the ladders and tank hatch alarms are already in place. There are locks on the hatches and on the gates. Two of the tanks have locks on the ladders.

Councilman Westland stated at the Court House tanks I was able to slide under the gate, climbed up on a big pile of rocks, climbed up the ladder and walked around on top of the tank. At the very least, we should make sure somebody can't slide under a locked gate and that there isn't a pile of rocks under the ladder. There should be a checklist. If that security system goes down or is giving too many false alarms, that should immediately result in notice to this Council.

Public Works Director Jenkins stated I'm going to stop discussing any of this.

Councilman Derbidge moved to have City Clerk/Treasurer Rogan contact the Sheriff's Department to see if they will conduct a security check and bring us back the results. Councilman Lee seconded the motion. The motion carried unanimously.

9. Councilman Derbidge – Discussion/For Possible Action – Consideration on how to proceed with the fuel tanks found behind City Hall.

Councilman Setterstrom stated Ron dug down the sides of the tanks all the way to the bottom, tested and could not see any signs of leakage. Ron has two options from the EPA. One is to rip open the tanks and fill them with sand. The other option is to take them out and remove any contaminated soil. I move the City removes the tanks and fills it in.

Councilman Hanson asked how much is it going to cost to excavate them?

Councilman Setterstrom stated they would have to rip it open/fill the tanks completely anyway, so it's not going to cost much more except having to haul them to the dump.

Councilman Derbidge asked we could do that 'in house'?

Public Works Director Jenkins stated yes.

Councilman Westland seconded Councilman Setterstrom's motion. The motion carried unanimously.

10. Mayor VanCamp – Discussion/For Possible Action – Consideration to purchase a new computer to be used as the main computer for the City of Ely Fire Department.

Councilman Setterstrom moved to purchase a new computer to be used as the main computer for the City of Ely Fire Department. Councilman Hanson seconded the motion.

Councilman Derbidge asked why do we have three computers at the Fire Hall when we only have one person there twenty-three percent of the time?

Fire Chief Rivera stated I have my own computer, the administration computer. I have one that's for EMS which runs EMS reports and billing. The other computer was mainly used for all the reports: fire reports – which are duplicated because even if we do an EMS, we do a fire report; NIFRs reporting; hydrant testing logs; and inspections. Each one of the paid staff uses that computer for their email accessibility.

Councilman Hanson stated my understanding is that the computers that were suggested to be used in the interim do not run on a platform which is compatible with the programming you need to use to support your operation.

Fire Chief Rivera stated no. It's *Windows XP*.

Councilman Derbidge stated you don't need three computers for two people.

Councilman Setterstrom stated do you keep personal information on the other firefighters on your computer?

Fire Chief Rivera stated yes.

Councilman Setterstrom stated the other reason I made the motion was because of this note: "Due to our main computer crashing, I will not be able to provide the firehouse reports with the calls. My apologies." We usually get a ten-page report and now, no pages.

Fire Chief Rivera stated when we do an EMS report, the EMT does the EMT report and the firefighter does the fire reporting on that same incident, so you do have people working simultaneously. Since 2004 the City of Ely has only bought one computer; I've gotten all the other computers through grants. It's proven to be a good backup because I would have had nothing if it would have crashed.

Councilman Derbidge asked did you look into the State purchasing?

Clerk/Treasurer Rogan stated I can get 1 *Dell* for about \$1,100.00. I was also researching for my budget and I can get eight (8) computers at \$760.00 a piece; they're *acer* computers with the new *Windows 7* installed.

Councilman Hanson asked how soon would we be able to get him a new computer? The need is urgent.

Clerk/Treasurer Rogan stated *Dell* is a month out. We can get *acers* right away.

Mayor VanCamp stated Ross looked into the different computers.

Fire Chief Rivera stated I looked into *HP* through *CDW* and we get a discount through *Office Depot*.

Councilman Setterstrom asked what was the price of the computer you need?

Fire Chief Rivera stated the first quote I have was \$1,300.00 and \$160.00 of that was configuration. The second quote I got was \$980.50.

Councilman Setterstrom moved to direct Clerk/Treasurer Rogan to give Fire Chief Rivera a purchase order number for a new computer up to the amount of \$1,350.00. Councilman Hanson seconded the motion.

Councilman Derbidge stated purchasing should come through the central office not individual departments.

Councilman Hanson stated normally I would agree, but the need is sufficient to warrant an exception to that.

Fire Chief Rivera stated I didn't think this would be a big issue because in the past if I had my budget and needed something as important as this, it was handled. There was no communication; I did not know the City was going to purchase computers. I did ask Amy at the office.

Councilman Derbidge stated I disagree with you because I was in the meeting with you seven weeks ago when we told you that the City was cutting back on purchasing things.

Fire Chief Rivera stated there is a franchise fee for Fire Department equipment and I did have it in Capital Outlay for this year; that one percent (1%) is supposed to be directed to the Fire Department as per the ordinance.

Councilman Westland stated Ross has done his homework; the prices seem reasonable to me. I second Councilman Setterstrom's amended motion.

The motion was approved 4 to 1, with Councilman Derbidge voting voting No.

11. Councilman Derbidge – Discussion/For Possible Action – Consideration to create a Job Description for the City of Ely Fire Chief.

Councilman Derbidge stated we don't currently have a job description at all for the Fire Chief. If we don't have a job description we can't do a performance evaluation. Second, in the Union negotiations we changed things we want put in the contract and we need those put in the job description.

Councilman Hanson asked who's going to write it?

Fire Chief Rivera stated I have examples here.

Councilman Derbidge stated our job description should be what we expect the Fire Chief to do.

City Attorney Sears stated direct the City Attorney to do that.

Councilman Derbidge moved to have City Attorney write a Job Description for the City of Ely Fire Chief. Councilman Hanson seconded the motion. The motion carried unanimously.

## 7. REPORTS

### CITY COUNCIL

Councilman Westland stated I attended the Debt Management meeting where we approved the School District soliciting bonds, which approved by the voters in 2010.

**MAYOR**

Mayor VanCamp did not have a report.

**8. AGENDA ITEMS FOR THE NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING.**

Councilman Hanson stated I need an agenda item to review the emergency notification procedures, which I'm in the process of drafting.

Councilman Setterstrom stated I've got an agenda item to change Canon Street to an alley and have it graded all the way through.

**9. 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 8.05, 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".

Jim Northness stated if the City Attorney can't represent the City Council on a personnel session, then you guys better get a hold of POOL PACT and get an attorney that can represent you; our attorney said that he was neutral. The Mayor is the administrator of the City and we have some people sitting at this table that are trying to usurp her authority; she has the right to run the City under what the NRS allows.

George Chachas stated I'm glad you guys are talking about business licenses because I've been talking for forty years and we're still reinventing the wheel. Last month a man by the name of Christiansen got a Home Occupation; you charged him \$900.00. Now you're worried about Avon calling? Within the last few weeks there was a gentleman named Cody Togerson bringing in bread from the outside: Home Occupation, \$216.44. Look at your ordinance. When somebody buys a business license, they need to pay the same fees as any business person in this community. I'm getting overtaxed on a home that I can't live in because when you guys shut me off, ninety days I'm delinquent and have to move out. On the building permits, you get a total and don't know who paid for what; are we giving others a break? On the County agenda they're looking for an increase in the franchise tax of 1%; if they're that hard up, give them the \$270,000 that they gave you guys. Former Clerk Alworth said: 'We're in fine shape and don't need the money; it was a gift'. Gift it back because I don't want my electric bill going up. You folks need to show up and show your concern; if they can't live within their means, then they need to go. They started off with a 4 million dollar pool, which is now over 7 million and didn't pay the hook up/connection fees.

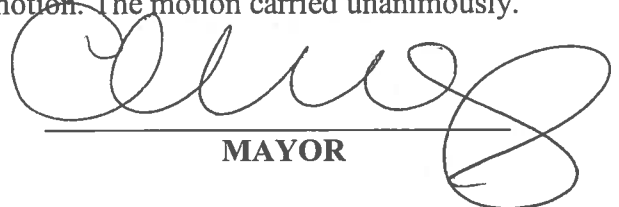
**10. THE MAYOR WILL RECESS THE REGULAR CITY COUNCIL MEETING FOR A CLOSED SESSION.**

1. Councilman Derbidge – Discussion Only – Consideration of Union Contract Negotiations.

A closed session was not held.

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

Councilman Derbidge moved to adjourn the Regular Meeting of the Ely City Council at 6:06:34 PM. Councilman Hanson seconded the motion. The motion carried unanimously.

  
MAYOR

  
ATTEST