



# 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

**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.**

**June 26, 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 4:03:16 PM, led in the Pledge of Allegiance, Pastor Bob Winder offered the Invocation and Mayor Van Camp asked for Roll Call.

### Members:

Mayor Melody Van Camp  
Councilman Bruce Setterstrom  
Councilman Dale Derbidge  
Councilman Randy Lee  
Councilman Marty Westland  
Councilman Sam Hanson

### City Staff present:

City Clerk/Treasurer Jennifer Winkle  
City Attorney Richard Sears  
City Engineer B.J. Almberg  
City Fire Chief Ross Rivera  
City Building Official Brad Christiansen  
Minutes Clerk Jennifer Lee

### City Staff absent:

Public Works Director 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.  
 6-26-14

<u>Pastor Bob Winder</u>	<u>Kerri Pinter</u>
<u>Carl Marsh</u>	<u>Jillie Mathews</u>
<u>MAUREEN OTZELBERGER</u>	<u>John Gramma</u>
<u>GARY TULL</u>	<u>Jim Northness</u>
<u>Wayne Carlson</u>	<u>Nathan Robertson</u>
<u>Pat Senterstrom</u>	<u>David Williams</u>
<u>Robert Walker</u>	<u>Jim Beaman</u>
<u>Dina Perchetti</u>	<u>Tammy Carlgren</u>
<u>Peter [unclear]</u>	<u>Terrilyn Diamond</u>
<u>Suzie Bowers</u>	_____
<u>Roger Bowers</u>	_____
<u>Scott Hussain</u>	_____
<u>Garrett Estrada</u>	_____
<u>Mark Bassett</u>	_____
<u>MIKE WILLIAMS</u>	_____
<u>George Cheek</u>	_____
<u>Judy O'Brien</u>	_____
<u>Walt J. Van [unclear]</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 8.05, 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 Pinter stated Item 6 on your agenda today is not relevant because apparently we haven't done enough for the dog and pony show for everyone to see what it takes to get a street abandoned and to have it fail. Nevada Revised Statute 278.480 dictates the protocol that needs to be followed; if that's not what's going to be done and you're going to establish another procedure, I hope you'll include the law that governs it because that hasn't applied to us yet. We're not in favor of establishing a protocol because it won't be followed.

Roger Bowers stated my name is Roger Bowers and I'm on the Railroad Management Board and Ad Hoc Committee. There was the Ad Hoc Committee meeting this morning at eight o'clock; the entire three members from the Railroad, Mr. Sears, Mr. Miller and Ms. Patras were there, but the three Council members representing the City were not. We are extremely disappointed that they apparently had no interest in representing their constituents on this Ad Hoc Committee. I would hope that it was not a concerted effort because I could take it as a clear sign that they have no interest in cooperating. Apparently, they never gave notice to anybody that they would not be there.

Tammy Carlgren stated good job everybody on the Beautification project; downtown is a big improvement. You were looking for suggestions for more improvements. The northwest corner of the park across from the Middle School is a big dirt area which could be made into an area with fountains for kids to play in. Another suggestion might be a brick patio where people/companies buy bricks to put their names or memorials.

George Chachas stated ongoing concerns regarding an updated Home Occupation/Special Use permit list; whether Campton Street was narrowed; and whether County Commissioner Lampros received a variance. The Planning Commission packet for today's meeting was not available until June 25, 2014 after 4:00 p.m. I told Mr. Flangas he was in violation of the Nevada Open Meeting Law and he should cancel the meeting, but he didn't do that. I didn't receive your meeting packet until Tuesday. I've not received anything in writing from Lyle Norcross or John O'Flaherty regarding concerns of me serving on the Utility Board.

Rick Stork stated I looked at the 3<sup>rd</sup> quarter Revenue and Expenditure report; it shows the General Fund being \$291,082.05 in the hole and the Street Department being \$145,015.80 in the hole. Your budget showed that you were in the black on everything when you had your budget hearing, so why the discrepancy? Again, I'd like to bring up the property at 550 13<sup>th</sup> Street East; the sign on the building shows "*Battleborn Restoration 24 Hour Towing*" and this is in a C-2 district. C-2: Wrecking yards are not permitted. We looked at this a year and a half ago and something needs to be done. I'll leave the pictures I took and a copy of your ordinance here (Received by Minutes Clerk Lee). It's an eyesore to the public coming into town, seeing that on the main street.

### 3. CITY DEPARTMENT REPORTS

- FIRE CHIEF

Fire Chief Rivera's blotters are on file at City Hall.

- POLICE CHIEF

Sheriff Watts' blotters are on file at City Hall.

- CITY CLERK/TREASURER

Clerk/Treasurer Winkle stated this morning, I did attend the Ad Hoc meeting.

- CITY ATTORNEY

City Attorney Sears stated I gave a report at the Ad Hoc meeting this morning on my view of the contrasts and comparisons between the Articles of Incorporation that have been proposed by the Management Board and the current structure as set forth in the Articles of Incorporation. I did not review the By-Laws because the By-Laws are changeable depending on the structure adopted. I have prepared a written report, along with a chart, that I will provide to you. I have been working with representatives of *AT & T* and *Mt. Wheeler Power* to develop an ordinance acceptable to all that would limit the number of power poles that can be erected within the City right-of-way.

- PUBLIC WORKS DIRECTOR

Public Works Director Jenkins was attending a workshop on behalf of the City.

- CITY ENGINEER

City Engineer AlMBERG stated Rich and I went to a Tribal Council meeting for our Winter Road encroachment and they were receptive. The Tribal Council was going to talk to the lessees/owners of the lots encroached upon and requested that we come back with legal exhibits of each separate lot. The Tribal Council brought up an old issue that they have never been able to obtain their cemetery, by the little league ball field, from White Pine County and asked for the City's assistance. The White Pine County Public Works Director and I looked at slurry for city roads in decent shape and the drainage issue at Bell Avenue. I sent some of our staff to CDBG training; it is required for the City to be eligible for CDBG funding.

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

1. Chairman Flangas - Discussion/For Possible Action - Approval of a Home Occupation Permit to Johnathan Bailey to conduct an Ice Cream Truck business d.b.a. *Bailey's Ice Cream* located at 623 Murry Street, Ely, Nevada.

Councilman Lee moved to approve a Home Occupation permit for *Bailey's Ice Cream*. Councilman Westland seconded the motion. The motion carried unanimously.

2. Chairman Flangas - Discussion/For Possible Action - Approval of a Home Occupation Permit to Rachel Paddock to conduct a Lawn Care/Yard Maintenance business d.b.a. *Walker Professional Services* located at 255 12<sup>th</sup> Street East, Ely, Nevada.

Councilman Setterstrom moved to approve a Home Occupation permit to Rachel Paddock to conduct a Lawn Care/Yard Maintenance business. Councilman Derbidge 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: Councilman Derbidge Second by: Councilman Setterstrom Vote: Unanimous

1. Discussion/For Possible Action –Minutes.
  - May 22 , 2014
2. Discussion/For Possible Action - Payment of Bills.
  - June 17, 2014

**B. NEW BUSINESS**

1. Council Members – City Clerk/Treasurer Winkle – Nevada Public Agency Insurance Pool Representative - Discussion/For Possible Action – Acceptance of Renewal Proposal from Nevada Public Agency Insurance Pool (POOL) and approval for payment from Fiscal Year 2014-2015 funds.

Wayne Carlson of the Nevada Public Agency Insurance Pool stated we're launching two new E-learning courses – which can be assigned and tracked: Ethics and the Open Meeting Law. There was a change in the 2013 Legislature requiring all elected officials to have ethics training when they get into office and new hires within thirty days.

Tina Perchetti of *LP Insurance Services* stated the cost has decreased for the year.

Councilman Derbidge moved to accept the Renewal Proposal from Nevada Public Agency Insurance Pool and approval for payment from Fiscal Year 2014-2015 funds. Councilman Setterstrom seconded the motion. The motion carried unanimously.

2. Councilman Hanson – Discussion/For Possible Action – Replacement of the STOP signs which are missing from the intersection of Avenue H and 14<sup>th</sup> Street.

Councilman Westland moved to replace the STOP signs which are missing from the intersection of Avenue H and 14<sup>th</sup> Street. Councilman Setterstrom seconded the motion. The motion carried unanimously.

3. Councilman Setterstrom – Discussion/For Possible Action – Direction to City Attorney Sears that he address *Great Dane Amusements*’ failure to obtain a City of Ely business license, as per City Clerk/Treasurer Winkle’s written requests.

Councilman Setterstrom moved to table this item until further information is received. Councilman Lee seconded the motion. The motion carried unanimously.

4. Council Members – City Clerk/Treasurer Winkle – Approval to Appropriate \$67,800.00 within the General Fund of the FY 2013-2014 Budget to be applied for unbudgeted expenses.

City Clerk/Treasurer Winkle reviewed the proposed \$67,800.00 General Fund Appropriation breakdown appearing below.

F/Y 2013-2014 Budget Appropriation #1 GENERAL FUND

<u>Reduce Department</u>	<u>\$ Amount</u>	<u>Increase Department</u>	<u>\$ Amount</u>
<b>Executive Offices</b>		<b>Finance</b>	
10-41-200 Employee Benefits	2,000	10-45-300 Supplies	500
10-41-330 Training & Travel	500		
		<b>Municipal Court</b>	
<b>City Attorney</b>		10-42-300 Service and Supplies	1,000
10-46-110 Salaries and Wages	13,500	10-42-310 Services	50,000
10-46-200 Employee Benefits	6,500	10-42-355 Public Defender	8,000
10-46-320 Training and Travel	1,000	10-42-410 Utilities	100
10-46-340 License/Fees/Dues	600		
		<b>Fire Department</b>	
<b>Fire Department</b>		10-55-410 Utilities	2,000
10-55-200 Employee Benefits	3,000		
10-35-335 Insurance Expense	1,000	<b>City Attorney</b>	
		10-46-300 Service and Supplies	500
<b>Finance</b>			
10-45-310 Services	1,000	<b>Animal Control</b>	
		10-62-310 Services	1,100
<b>Animal Control</b>		10-62-330 Training and Travel	1,100
10-62-200 Employee Benefits	6,000	10-55-410 Utilities	250
10-62-110 Salaries and Wages	3,000		
		<b>Cemetery</b>	
<b>Parks</b>		10-63-310 Services	250
10-64-110 Salaries and Wages	2,500	10-63-450 Maintenance and Repairs	500
10-64-200 Employee Benefits	2,000		
		<b>Parks</b>	
<b>Public Works</b>		10-64-450 Maintenance and Repairs	2,500
10-60-300 Engineer Services	5,000		
10-60-420 Street Light Expense	3,000		
<b>Clerk &amp; Administration</b>			
10-44-200 Employee Benefits	4,000		
10-44-335 Insurance Expense	1,000		
<b>Municipal Court</b>			
10-42-30 Evidentiary Fee	2,050		
<b>Building Department</b>			
10-61-310 Services	1,750		
10-61-330 Training and Travel	400		
<b>Cemetery</b>			
10-63-300 Service and Supplies	1,000		
10-63-200 Employee Benefits	7,000		
<b>TOTAL GENERAL FUND</b>	<u>67,800</u>	<b>TOTAL GENERAL FUND</b>	<u>67,800</u>

Councilman Derbidge moved to appropriate \$67,800.00 within the General Fund of the FY 2013-2014 Budget to be applied for unbudgeted expenses. Councilman Lee seconded the motion. The motion carried unanimously.

5. Council Members – City Clerk/Treasurer Winkle – Approval to Appropriate \$38,810.14 within the Landfill Fund of the FY 2013-2014 Budget to be applied for Landfill Closure Costs and Landfill Fund Depreciation.

City Clerk/Treasurer Winkle reviewed the proposed \$36,173.00 Landfill Fund Appropriation appearing below.

**F/Y 2013-2014 Budget Appropriation #1 Landfill Fund**

<u>Reduce Budget Line Item</u>	<u>\$ Amount</u>	<u>Increase Budget Line Item</u>	<u>\$ Amount</u>
54-70-300 Services & Supplies	5,076	54-70-790 Depreciation	31,097
54-70-310 Services	11,097	54-70-800 Landfill Closure	5,076
54-70-510 Engineering-Capital Project	20,000		
<b>TOTAL GENERAL FUND</b>	<u><u>36,173</u></u>	<b>TOTAL GENERAL FUND</b>	<u><u>36,173</u></u>

Councilman Westland moved to appropriate \$36,173.00 within the Landfill Fund of the FY 2013-2014 Budget to be applied for Landfill Closure Costs and Landfill Fund Depreciation. Councilman Lee seconded the motion. The motion carried unanimously.

6. Councilman Westland – Discussion/For Possible Action – Consideration to establish a protocol to follow prior to abandonment of City property.

Councilman Westland reviewed his Abandonment Criteria draft appearing below and moved to table this item. Councilman Lee seconded the motion. The motion carried unanimously.

DRAFT

**CITY OF ELY STREET & ALLEY ABANDONMENT CRITERIA CHECKLIST :**

Following is a list of factors to be considered before any portion of a designated City street or alleyway (roadway) is fully abandoned. "Fully" abandoned means that the roadway is severed and no passage can occur. "Partially" abandoned means the roadway is reduced in width but is still effective as a roadway or utility corridor.

- 1) Is the roadway currently used as access to any private or public property?
- 2) Is it presently used as a route for any utility?
- 3) Is it wide enough to be practically used as either a utility or roadway corridor?
- 4) Will the proposed abandonment isolate any property from public access?
- 5) Will the proposed abandonment diminish in any way the access of safety or utility services to any property?
- 6) Does the roadway proposed for abandonment have future potential as either a utility or roadway corridor?
- 7) Does the roadway proposed for abandonment have potential as a walking trail, linear park, buffer zone, or any other public service?

If the answer to any of these questions is "yes" then the roadway should not be abandoned. A City roadway may only be abandoned with the approval of the City Fire Chief, Engineer, Planning Commission, Council and Mayor.

7. Councilman Setterstrom – Discussion/For Possible Action – Consideration to place the Mayor in charge of the Administration Budget.

Councilman Setterstrom stated I want the mayor to be able to spend emergency funds. I don't want the clerk/treasurer to be able to say 'no, we don't have the money'.

City Attorney Sears stated if the mayor decides it's an important matter in order to exercise control over the City's affairs, the mayor gets to spend uncommitted money in the Administration funds.

Councilman Derbidge stated the mayor already has the authority.

Councilman Setterstrom moved to quash this item. Councilman Lee seconded the motion. The motion carried unanimously.

**6. THE CITY COUNCIL WILL RECESS THE REGULAR CITY COUNCIL MEETING FOR A PUBLIC HEARING AT 5:00 P.M. ON THE FOLLOWING TOPICS.**

1. Chairman Flangas – Public Hearing – Discussion Only – Consideration of a proposed Application for Variance related to minimum setbacks at the side of the property. The property is located at 1090 Park Avenue, Ely. The Applicant is David J. Williams.

Jim Williams stated I'm here to request a variance for a tool shed on my yard. There's been a shed in this location for thirty-five years; it was quite an eyesore and becoming dangerous, so I tore it down. I was not even aware that I needed to do anything but build a new shed and was then informed, that wasn't allowed.

City Attorney Sears noted the letter from Mr. Williams' neighbor appearing below.

May 12, 2014

City of Ely

501 Mill Street

Ely, Nevada 89301

Re: 1090 Park Avenue

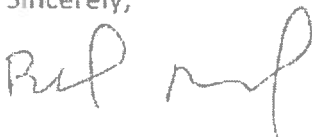
To whom it may concern:

I am the owner of 1070 Park Avenue, Ely, Nevada. My house is located directly west of 1090 Park Avenue, the property owned by David Williams.

I believe his request for a variance should be granted as the location of the shed is not injurious to the neighborhood or my property in any way.

The shed that Mr. Williams has built is a much needed improvement over the old one.

Sincerely,



Bradley W. Michel

5-14-14 R.M.

**7. DISCUSSION/POSSIBLE ACTION ITEM PERTAINING TO THE PUBLIC HEARING.**

1. Chairman Flangas – Discussion/For Possible Action – Consideration of a proposed Application for Variance related to minimum setbacks at the side of the property. The property is located at 1090 Park Avenue, Ely. The Applicant is David J. Williams.

Councilman Setterstrom moved to approve the David J. Williams' application for variance at 1090 Park Avenue related to minimum setbacks. Councilman Derbidge seconded the motion. The motion carried unanimously.

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

**B. NEW BUSINESS**

8. Councilman Hanson – Discussion/For Possible Action – Consideration to hire a non-contractual City Engineer.

Councilman Hanson stated some community members have expressed concern at the amount of money we're spending on engineering.

City Engineer Almberg stated I haven't had a single Council member say they thought we were doing a subpar job. I am your liability insurance. If I was to make any error out there, I am liable for that error; based on that, it isn't in my best interests to cut my hours back and give you a subpar product because it costs you and me money. You have a contract with *HDR* for your Railroad which is far in excess of anything you have paid me. We've saved the City money this last year. At the end of the Center Street project, that contractor got paid \$30,000.00 less than what he bid: that was because we knew exactly what he'd put in the ground. That RTC project was \$590,000.00; of that \$590,000.00, only \$45,000.00 was the responsibility of the City; I may have been tagged with some of that because that contractor chose to fund the project and we were provided one invoice at the end of the project. I billed on a regular basis.

Councilman Setterstrom stated maybe there's some RTC reimbursements that haven't been applied for.

Councilman Westland stated on the Center Street project, engineering was \$36,100.00; did the City get reimbursed for that?

Clerk/Treasurer Winkle stated no. We paid B.J. twenty something thousand of it and *Recks Bros.* twenty something thousand of it. The RTC covered the rest of the funds.

Councilman Derbidge stated if B.J. wasn't doing a City capital improvement project, we would still be paying another engineer to administer that project. Can't we put his monthly contracted fee in one line item and then any other fees paid to *Basin Engineering* on a different line item?

Clerk/Treasurer Winkle stated we can.

Councilman Setterstrom moved to quash this item. Councilman Derbidge seconded the motion. The motion carried unanimously.



9. Councilman Hanson – Discussion/For Possible Action – Consideration to amend the City of Ely Organizational Chart to place the City Building Official under the administration of the City Council, until the City of Ely has a non-contractual City Engineer, to come into compliance with Ely City Code 9-1-1.

Councilman Hanson stated now that we've established we don't want an 'in house' engineer, we need to figure out who Brad can report to because he's in limbo according to our Code 9-1-1.

Councilman Derbidge moved to quash this item. Councilman Lee seconded the motion.

Councilman Westland stated I would ask the Mayor to ask the Building Official to give a report because the problems he has today will determine how we structure this organizational chart.

Councilman Derbidge's motion to quash failed 3-2, with Councilmen Setterstrom, Westland and Hanson voting No.

Councilman Setterstrom moved to put the City Building Official under the City Council instead of the Public Works Director. Councilman Hanson seconded the motion.

City Building Official Christiansen stated since Chris Flannery is no longer with County, we've got *Midway Gold* and two engineering firms sending all their materials to me, as well as the permitting, which goes further than the interlocal agreement we have with the County. I'm advising the County what to do, but I can't issue the permit.

Councilman Setterstrom's motion passed unanimously.

10. Councilman Setterstrom – Discussion/For Possible Action – Consideration to revise Employee Human Resource grievance Procedures.

Councilman Setterstrom moved that for disciplinary actions, review of personnel and employee grievances, the Councilman who is the liaison for that department will act in conjunction with Councilman Hanson, the liaison for the Administrative Department. Councilman Lee seconded the motion.

Councilman Derbidge stated you should amend it to where if it's the Administrative department, Sam should pick another Councilman.

Councilman Setterstrom amended his motion accordingly. Councilman Lee seconded the amended motion. The motion carried unanimously.

11. Councilman Derbidge – Discussion/For Possible Action – Consideration of Mayor VanCamp and the Ely City Council's expectations of the City Clerk/Treasurer.

Councilman Derbidge moved to table this item. Councilman Lee seconded the motion. The motion carried unanimously.

12. Councilman Westland – Discussion/For Possible Action – Consideration to direct the City Clerk/Treasurer to appoint a Deputy City Clerk.

Councilman Westland moved to direct City Clerk/Treasurer Winkle to appoint a Deputy City Clerk. Councilman Lee seconded the motion.

Councilman Setterstrom stated Jennifer Winkle appointed Jennifer Lee today as the Deputy Clerk.

13. Council Members – City Clerk/Treasurer Winkle – Discussion/For Possible Action – Approval of meeting August 7, 2014 due to the UNLV Football Team’s Armory Use August 10, 2014 through August 24, 2014; November 13, 2014 due to Thanksgiving and December 11, 2014 due to Christmas. Ely City Council Meeting Dates for the remainder of the year to be published in *The Ely Times* July 4, 2014.

Councilman Derbidge moved that the City Council meet August 7, 2014, November 13, 2014 and December 11, 2014. Councilman Lee seconded the motion. The motion carried unanimously.

**The Mayor adjourned the meeting of the Ely City Council and turned the gavel over to the White Pine Historical Railroad Foundation (WPHRF) Board of Trustees Chairman to convene the WPHRF Board of Trustees.**

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

### **A. OLD BUSINESS**

1. Trustee Westland – Discussion/For Possible Action – Consideration of Terms in the Lease Agreement/Joint Development Agreement (otherwise known as the car storage agreement) between the City of Ely, the White Pine Historical Railroad Foundation and *S & S Shortline Leasing, LLC*.

Mike Williams of *S & S Shortline* stated the biggest railroad company I have is called *Railroad Materials Salvaging*. We have a construction company that builds track called *Power Railroad Contracting*. We also have a company where we repair cars. We also own, operate and manage ten shortlines nationwide, including this one for Steve Flanders who owns *S & S Shortline*.

Trustee Westland stated the *S & S* car storage agreement is not an operating agreement.

Mike Williams stated to do that car storage agreement, he had to go to the Surface Transportation Board to be the operator of the railroad.

Trustee Westland stated as I understand it, this track rehab bill is in the neighborhood of \$750,000.00.

Mike Williams stated no. I would say it’s in between \$420,000.00 to 470,000.00. You guys sent out Request for Proposals and he spent his own money with the hopes to create business; that’s the way he’s going to get his money back.

City Attorney Sears stated I represented Mike before he was the manager with Flanders. I didn’t do any work on *S & S Shortline*. The board is looking for a commitment from you, as the manager and Steve that you would not scrap the track to recover your funds.

Mike Williams stated you have our commitment that we will never scrap the track.

Trustee Westland stated this car storage agreement is a bad deal for the city; it’s ambiguous. We’re at a point where we need to find out exactly what we owe for work that’s been done and work up an agreement with an operator.

Mike Williams asked Mark, did not the City tell Steve Flanders to go to the Surface Transportation Board and get the authority to do what Councilman Westland is saying?

Mark Bassett stated when the City of Ely and the Foundation signed the agreement with *S & S* to do car storage, they in effect told *S & S* to go to the Surface Transportation Board; once he went to the Surface Transportation Board, he received a Notice of Exemption. A Notice of Exemption automatically creates him as a railroad. As a railroad, he has certain obligations; if a customer came to him and asked him to ship freight, Steve has to say yes because that is required by his Notice of Exemption.

Mike Williams asked why do you want to replace . . . I've got thirty-four years experience and railroad after railroad that I've taken from nothing to moving thousands of cars. Why would you want to think about removing Steve Flanders and his team and replacing them with somebody else? Didn't you publish something for the Nevada Northern Railroad to haul nuclear waste? So, is there a conflict of interest between what you're wanting and what the City's wanting?

Trustee Westland stated the Nevada Northern Railway name has not been registered by the Foundation or by the City; it was registered by me at a time when the City was considering putting out an RFP for an operator in 2009. When that didn't happen, when it was put out as an RFP for car storage, I'm done. Myself, my investors are not interested in a car storage agreement.

Mike Williams asked are you interested in operating a railroad now?

Trustee Westland stated not now, no. The *S & S* agreement has not resulted in any income to the City and in fact, we have a liability now. The historical part of the railroad has a considerable amount of debt also that the City will be responsible in any instance that they default. There is no contract with the Mine, who'd be the major user. I don't have an objection to you being the operator; as a City, I think we may have to advertise.

Mike Williams stated I disagree with that part of it. I think we all have a common goal to see this railroad making profits (See Mr. Williams' handout appearing below, which he reviewed with the Council). I suggest Mr. Flanders, myself, City Council Members and Mark's group sit down and clean up this agreement.

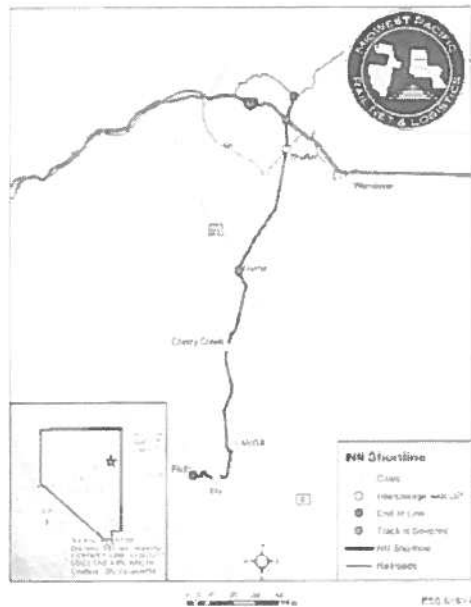
## Organizational Changes Inside MPR&L

### What have we done in the last 60 days?

- Developed Internal Sales/Marketing Team
- Brought Onboard 2 Consulting Firms  
Specializing in New Business Development
- Created a New Image for MPR&L
- Created a New Map for Nevada Northern  
Marketing Collateral
- Created a Web Site for MPR&L  
(currently in beta testing)

### Current Opportunities?

- Multiple Sidings for Rail Car Storage
- Transload Facility in Shafter, NV



MPR&L

## Noble Energy's Next U.S. Growth

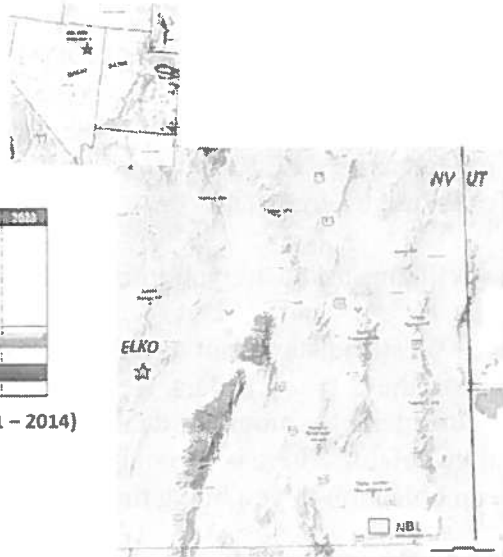
### Noble Energy's Next U.S. Growth Option

- 350,000 Net Acres Located in N.E. Nevada
- 190 Million to > 1 Billion Barrels
- Depth Range 6,000 ft. – 12,000 ft.



\$130 Million Exploration Investment Over Four Years (2011 – 2014)  
Initial Production in 2014

- Potential Production up to 50,000 Bbl/d by 2020



MPR&L

## Transload Strategy for Shafter, NV

### Facility Handling Abilities

- Inbound
  - Drilling Pipe
  - Frac Sand
  - Clays
  - Equipment
  - Industrial Chemicals
- Outbound
  - Crude Oil



MPR&L

Trustee Westland stated we're not allowed to pay you out of the TIGER grant money.

Mike Williams stated no; I'm not asking the City for anything for *S & S* right now. I also suggest that at least once every quarter that there's a meeting with myself, Steve or John Garner to discuss where we are at.

Trustee Westland stated when's the last time we got a quarterly financial report? When you talk with Steve Flanders, will you work up exactly what the City of Ely owes him?

Mike Williams stated yes. I'll get you that within the next ten days.

Mark Bassett stated this should go to the Railroad Enterprise Fund, which has two City representatives, two Management Board representatives and the County Economic Development Officer; they should work *with S & S* through the issues that need to be addressed and then present a new agreement to the City Council and Management Board.

Trustee Westland stated I would normally agree with that, but I think we've got some real conflicts of interest. The conflict I'm talking about is that the *Great Basin & Northern Railroad* has operating authority from the STB, but does not have trackage rights because we can't find the agreement. I move to table this item. Councilman Lee seconded the motion. The motion carried unanimously.

**B. NEW BUSINESS**

1. Trustee Hanson – Discussion/For Possible Action – Consideration to authorize a Forensic Audit of the White Pine Historical Railroad Foundation.

Trustee Hanson stated we need more than just the audit report we got. I move to commission a forensic audit of the White Pine Historical Railroad Foundation of up to \$10,000.00 and appoint Trustee Westland and myself to identify those specific areas where we have the most concern. Councilman Lee seconded the motion. The motion carried unanimously.

Chairman Derbidge 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.

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

**A. OLD BUSINESS**

1. Trustee Westland – Discussion/For Possible Action – Consideration of Terms in the Lease Agreement/Joint Development Agreement (otherwise known as the car storage agreement) between the City of Ely, the White Pine Historical Railroad Foundation and *S & S Shortline Leasing, LLC*.

Councilman Westland moved to table this item. Councilman Setterstrom seconded the motion. The motion carried unanimously.

**B. NEW BUSINESS**

1. Trustee Hanson – Discussion/For Possible Action – Consideration to authorize a Forensic Audit of the White Pine Historical Railroad Foundation.

Councilman Hanson moved to commission a forensic audit of the White Pine Historical Railroad Foundation of up to \$10,000.00 and appoint Trustee Westland and himself to identify those specific areas of most concern. Councilman Westland seconded the motion. The motion carried unanimously.

**10. REPORTS**

**CITY COUNCIL**

Councilman Hanson stated I attended the Water Board meeting held last week.

Councilman Westland stated I want to apologize to Roger Bowers and the rest of the Ad Hoc Committee. I had a business meeting this morning. I did not expect the two other Councilmen not to be able to make it there also.

Councilman Lee did not have a report.

Councilman Derbidge stated I forgot about the meeting this morning, so it was not by choice that I missed it.

Councilman Setterstrom stated I went to the Water Treatment Plant and I would urge each Councilman to go there and ask questions. I discovered in 2006 they added eight more aerators, so it's operating better than it was designed; there's no reason to do anything to the treatment plant. The water standpipe project was over \$100,000.00. Last year we sold \$888.00 worth of water and \$3,000.00 in rental of that equipment, so we need to come up with a different plan on that standpipe. At the Landfill there's a twelve inch line that goes up to the Treatment Plant and you can put a standpipe off of that with a backflow preventer.

**MAYOR**

I approved Special Event Licenses for:

- Elva Vergara on June 6<sup>th</sup> for First Friday
- Mary Coppock on June 21<sup>st</sup> for Mickey's Journey Fundraiser
- Ely Lions Club Relay on July 12<sup>th</sup> Relay for Life Breakfast

A Special Event/24-Hour Liquor License for:

- WP Athletic Boosters on July 3<sup>rd</sup> for BBQ/Dance

AND 24-Hour Liquor Licenses for:

- *Racks Bar & Grill* on June 14<sup>th</sup> for the NRA Banquet
- CACH on June 19<sup>th</sup> for a Ely Renaissance Village fundraiser

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

There were no agenda items presented.

**12. 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 there's so many items tabled here, I was starting to look for pilgrims and native Americans. I don't want to start a fight with Mr. Williams or *S & S Shortline*, but there's things you've got to check out; no matter what he says, the City was never made aware of the fact that if he became a rail car storage implant railroad, he automatically became the railroad operator. If Jim Alworth didn't sign or attest that contract with *S & S Shortline*, NRS says it's null and void. Is the Enterprise Fund only an advisory board to the City Council?

City Attorney Sears stated the Enterprise Fund is exactly like the Utility Board.

Jim Northness stated it was not ever intended to be the operator or the manager of the north railroad. Why wasn't the contract for *S & S Shortline* ever brought in front of the Enterprise Fund?

Rick Stork stated on your bills tonight, there was one for *Jim Wilkin Trucking*; it was like \$50,000.00.

Councilman Westland stated \$4,350.00.

Rick Stork stated I misread it then. Clear back to when Paul Birch was the building inspector, he worked under the engineer and Dean Day was a contract engineer until 2008. I don't see why your building inspector couldn't work under your contract engineer; he's your engineer for the City and those two need to work together on a lot of projects. On your bills, under the "Description", put what the bill is for to be transparent to the public.

George Chachas stated ongoing concerns regarding what Mark Bassett borrowed at 0% interest; Mark Bassett and his wife's salary; the Railroad's monthly cash flows; the White River Museum's rates; Senator Gochoechea's landfill bill; whether Mr. Bath paid connection fees; and whether Mr. Christiansen paid extension fees. I went to the Railroad Ad Hoc meeting this morning and was not given a copy of the answers that Mr. Gianoli gave at the last meeting in response to Councilman Westland's improvement list and that of Committee Member Gladine Patras; that should have been in the packet. The public has been left in the dark as to what the Railroad Management Board intends to do. Your *S & S* agreement said that every three months, you'd receive paperwork; I don't recall ever seeing it when I was mayor or in my packets. Also in that agreement, if those documents not presented, there's a time period in which everything becomes null and void.

**13. 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.

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

Councilman Setterstrom moved to adjourn the Regular Meeting of the Ely City Council at 6:39:40 PM. Councilman Derbidge seconded the motion. The motion carried unanimously.



**MAYOR**



**ATTEST**  
Deputy City Clerk

