



CITY OF ELY

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

ELY CITY COUNCIL REGULAR MEETING

February 13, 2020 5:00 p.m. – Ely Volunteer Fire Hall – 499 Mill Street-Ely, Nevada.

1. Mayor Robertson called the regular meeting of the Ely City Council to order at **5:03 P.M.** and led in the Pledge of Allegiance. Pastor Bob Winder offered invocation. Mayor Robertson asked for Roll Call.

Members present:

- Mayor Nathan Robertson
- Councilman Ernie Flangas
- Councilman Kurt Carson
- Councilman Jim Alworth
- Councilwoman Michelle Beecher

City Officials and Staff present:

- City Clerk Jennifer Lee
- City Attorney Caroline Townsend
- Public Works Supervisor Mike Cracraft
- Municipal Court Judge Mike Coster
- City Engineer B.J. Almberg
- Police Chief Scott Henriod
- City Building Official Brad Christiansen
- City Fire Chief Ross Rivera
- Administrative Assistant Carlyanne Palczewski

Also in attendance: Members of the Public signed in (appears below).

Ely City Council ATTENDANCE LIST

DATE: 2-13-2020

<u>Print name below</u>	<u>Print name below</u>
Pastor Bob Winder	Frederick Parley
Geri Wapochak	
Mark Bissett	
Chris Stunko	
George Chachas	
Scott Simon	
Chris Bownick	
Jennifer Hollingsworth	
Ray Sawyer	
TERRY McINTOSH	
Chapman Gibson	
Richard Howe	
SHADRACH MARTENS	
Judith Jaramila	
Jan Bissett	
Kay McMurray	
Bill Hunt	
Teri Bryhoff	

2. PUBLIC COMMENT:

Jen Hollingsworth stated I am here to express my objection to the proposed EMS billing rate increase that is on your agenda. I have looked at surrounding County's rates; when I asked why they would increase, they responded it was because they provided different, increased services to public. I think you should look into what is prompting this increase. Our community that we serve is largely geriatric patients with little income; a \$300 bill could be devastating to them. As an EMS provider throughout the County, I believe that our citizens are number one priority.

City Administrative Assistant Palczewski read the following letter into the record:

February 13, 2020
Dale Derbidge, Ely resident

I would like to comment on White Pine County's request to have water and sewer hookup fees waived for the property on 17th Street, adjacent to the Mountain View subdivision. The city of Ely needs the revenue from sewer and water hookups to maintain the infrastructure. I own several building lots and when I do build houses for resale, will I get my fees waived as well? It seems to me the City must be fair in this matter. I would suggest denying the County's request.
Thank you.

City Administrative Assistant Palczewski read the following letter into the record:

Jerilyn J. Clayton and Robert D. Clayton, Sr. are in total OPPOSITION to Agenda Item 9, Section 1. We are owners of 6 acres of land directly across the street (east) of the property in question. This action is unfair to us as property owners and to all of the property owners in the surrounding areas of Ely. It is unjust enrichment to the Developers.

Several years ago, we brought a developer in to build 20 houses on our 20 lots across the street. He asked for, not a waiver of fees, but just a reduction in fees...the answer was "no". This would have been 20, beautiful new homes in Ely, finished and occupied for several years now, which Ely desperately needed. Unless the City Council is prepared to waive all fees in the future on our 20 lots, and lots of other property owners in the area who seek to develop their land, it is imperative the Council vote **NO** on Item 9, Section 1.

I applaud the City Council for placing this item on the public agenda, advance notice, allowing public comments and discussion; unlike other entities in White Pine County.

VOTE NO !

Respectfully,
Jerilyn & Bob Clayton

Scott Simon stated I wanted to let you know that if you have questions on the lease agreement we will be here throughout.

Terry McIntosh stated I thought that you had stricken line six on ordinance 725. I would like to see it taken out. Thank you to the Council for all the work that has been done on this.

Chris Stanko stated I am one of the attorneys for the Northern Nevada Railway Foundation. I am here on behalf of the Foundation to respectfully ask you to vote with them, to not undergo this illegal settlement framework. We feel very strongly that the settlement structure from May 2019 is illegal. I'm from here and my whole family is from here; this is a big deal to me. What these men have had to do to keep the Railroad alive is extraordinary. I hope you stand with the people that are from White Pine County.

Rory Kay stated I am litigation counsel for S&S and I'll be happy to answer any questions that you have.

John Gionoli stated I am the Chairman of the Northern Nevada Railroad Foundation Board. I'm here to comment on New Business items 3, 4, and 5 on the agenda today. The citizens of this City have suffered through lengthy conflicts regarding various Railroad issues for years. I believe that during that period of time there has been a destructive cancer that has flourished within our ranks. My perception and hope is that we have gotten beyond those issues and excised those problems. Now, we as individuals that love Ely and are deeply affected by the above mentioned agenda items, have a serious decision to make. I strongly believe that together we can move forward and successfully resolve the issues that currently confront us. I want to thank each and every one of you for taking the time to serve; I wish you the strength and wisdom to make sound decisions. God bless.

George Chachas stated agenda item 9:1 needs to be denied. Any other property owners including myself are required to pay full price for any hookups. I have not been reimbursed for curing the sewer problem on 681 Parker Avenue. The City has yet to correct the billing at my home on 490 High Street. Does the City attorney have the opinion that the waiver is legal? I see in the report that you issued two new Home Occupation licenses. When did they come before the Planning Commission? When were they approved?

On agenda items 11:C:3, 4; if you discontinue the proposed settlement with S&S Shortline, which I would support, I would not enter into a new agreement until all the back fees are paid. The Railway Foundation needs to come back under the city.

Richard Howe stated I am the Chairman of the White Pine County Commission. The County is in the process of developing lots to fill housing needs. What we are doing is legal. The County is interested in advancing economic development. You can't find developers to come here. We are not building low income housing.

3. Mayor – Discussion/For Possible Action – Approval of Agenda, including removal of agenda items.

Councilwoman Beecher moved to approve the agenda as is. Councilman Alworth seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

• CITY CLERK

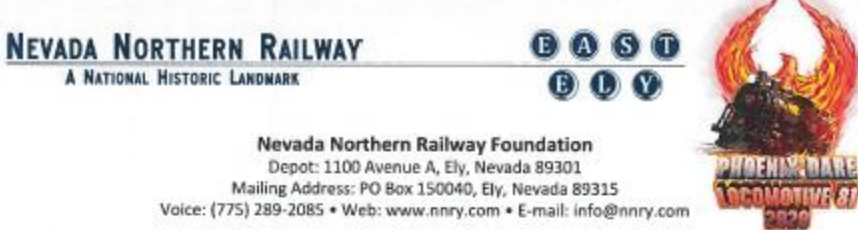
City Clerk Lee stated to address Mr. Chachas' questions; the RPC did hold a meeting in January and these home occupations were approved by that Board.

• CITY PUBLIC WORKS SUPERVISOR

Public Works Supervisor Cracraft stated on Animal control, we have removed all of the old kennels and are installing the new ones that we purchased last year. At the landfill, the new loader bucket has been installed and is working properly.

5. NNRV FOUNDATION REPORT

Mark Bassett reviewed his report:




NEVADA NORTHERN RAILWAY
A NATIONAL HISTORIC LANDMARK

NEVADA NORTHERN RAILWAY FOUNDATION
Depot: 1100 Avenue A, Ely, Nevada 89301
Mailing Address: PO Box 150040, Ely, Nevada 89315
Voice: (775) 289-2085 • Web: www.nnry.com • E-mail: info@nnry.com

**PHOENIX DARE
LOCOMOTIVE 81
2020**

Monthly Operations Report for January 2020

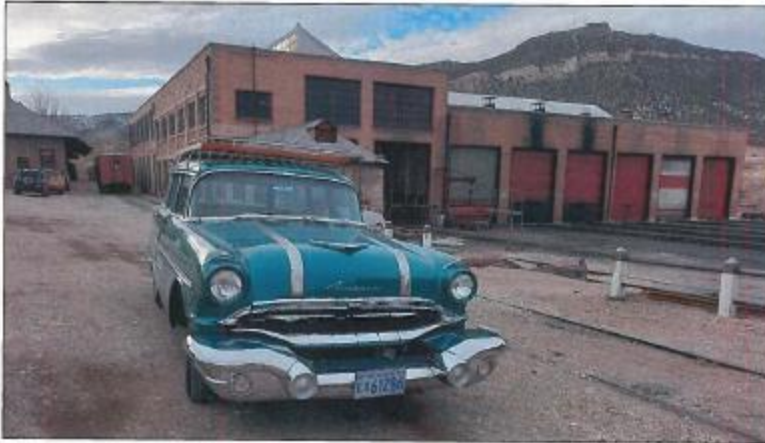
1. Locomotive Status – No change
 - a. Locomotives in service: #40, #93, #105, #109, #204, #310, Wrecking Crane A & Rotary B.
 - b. Locomotives out of service needing moderate repairs: #45
 - c. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Mining #309, Kennecott 801 and Rotary Snowplow B (for boiler overhaul.)
 - d. Locomotives out of service needing heavy repairs #802, #81, #80 and the military locomotives.
 - e. Work continues on Locomotive 81. She was moved into the Machine Shop on her new wheels and crown brasses with no problems.



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. Caboose in service: #3, #6 and #22 are operational.
 - d. Caboose out service: #5
3. Track Status – No change
 - a. Keystone Branch is open
 - b. Adverse Branch is open.
4. Ridership and Ticket Sales – Updated
 - a. In January we carried 206 passengers. This is essentially the same as last year.
 - b. Year to date our ridership is at 206 passengers.
 - c. Since operation began in 1987, we have carried 304,736 passengers.
5. Media Report Placements – Updated

Date	Headline	URL	Reach
26-Jan-2020	The City With the Shortest Name in Every State	https://www.klan.com/en-us/inside/02-pnc-keystone-the-city-with-the-shortest-name-every-state-0020/	3,670,759
17-Jan-2020	PL Casper Museum hosts Lunch and Learn with Railroads and The	https://hobbynews.com/news/062020/11-35-casper-museum-hosts-lunch-and-learn-with-railroads-and-the-west/	86,076
14-Jan-2020	Unused Vacation Days Could Boost Local Economies	https://www.klan.com/en-us/inside/01-14-2020/unused-vacation-days-could-boost-local-economies	212,553
02-Jan-2020	Nevada Approves \$300,000 in Rural Tourism Promotion Grants	https://www.klan.com/2020/01/02/nevada-approves-300000-in-rural-tourism-promotion-grants/	1,382

6. Nevada Northern Railway HY-RAIL #18 - Our 1956 Pontiac Station Wagon Nevada Northern Railway HY-RAIL #18 is done and home! It will be available for to operate and rides stating late May 2020.



7. Social Media: In January we passed 100,000 followers on Facebook. We have 97,807 people who like our page.

6. REPORTS MAYOR

7. THE MAYOR WILL RECESS THE REGULAR CITY COUNCIL MEETING FOR A PUBLIC HEARING AT 5:30 P.M. ON THE FOLLOWING TOPICS.

1. Public Hearing – Discussion Only – Approval of Certification of Roads for Fuel Tax within the City of Ely , Nevada, pursuant to NRS 365.550.

There was no public comment.

2. Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 729, Bill No. 2019-13. Ordinance 729 amends Title 1, Chapter 6 entitled CITY OFFICERS AND EMPLOYEES, codifying the City’s existing authority to appoint a Fire Chief and describing the Fire Chief’s duties, AND adding Chapter 6, entitled ELY CITY FIRE DEPARTMENT, to Title 7, codifying the existing Ely City Fire Department and its existing function and duties.

There was no public comment.

3. Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 730, Bill No. 2020-1. Ordinance 730 amends Chapter 5 of Title 1 of the City Code of the City of Ely requiring the City Council to create a code of conduct for its members to apply during city council meetings.

George Chachas stated the Council needs a code of conduct. I have been called names, removed from City Hall four times for just trying to pay my water bill, the Building Inspector said FU to me and there have been no consequences for these actions.

8. DISCUSSION/POSSIBLE ACTION ITEMS PERTAINING TO THE PUBLIC HEARING.

1. Public Hearing – Discussion/For Possible Action – Approval of Certification of Roads for Fuel Tax within the City of Ely , Nevada, pursuant to NRS 365.550.

Councilman Cason moved to approve of Certification of Roads for Fuel Tax within the City of Ely. Councilman Flangas seconded the motion. The motion carried unanimously.

Councilman Alworth asked is the road around Love’s included?

City Engineer AlMBERG stated yes, they are current.

2. Public Hearing – Discussion/For Possible Action – Approval of Second Reading of Ordinance 729, Bill No. 2019-13. Ordinance 729 amends Title 1, Chapter 6 entitled CITY OFFICERS AND EMPLOYEES, codifying the City’s existing authority to appoint a Fire Chief and describing the Fire Chief’s duties, AND adding Chapter 6, entitled ELY CITY FIRE DEPARTMENT, to Title 7, codifying the existing Ely City Fire Department and its existing function and duties.

Councilwoman Beecher moved to approve the Second Reading of Ordinance 729, Bill No. 2019-13. Councilman Alworth seconded the motion. The motion carried unanimously.

Councilman Alworth stated this means that the Fire Chief basically has new assignments. Things have changed and this is a lot of work for one man. Are you ready to take this on?

City Fire Chief Rivera stated I think there is a need for some changes, but with changes comes more cost. The training and some of the new procedures will add cost. You usually have a Fire Chief and a Deputy Fire chief. You guys might have to hire someone else to be able to get all this done. For example take inspections: me and Pat Stork are the only ones certified to do them; that takes away from the time that would be spent doing some of the other things that you added on here.

Mayor Robertson stated you have the experience and it will be a process, but I think if you plan ahead it will be easier.

3. Public Hearing – Discussion/For Possible Action – Approval of Second Reading of Ordinance 730, Bill No. 2020-1. Ordinance 730 amends Chapter 5 of Title 1 of the City Code of the City of Ely requiring the City Council to create a code of conduct for its members to apply during city council meetings.

Councilman Alworth moved to approve the Second Reading of Ordinance 730, Bill No. 2020-1 . Councilman Spear seconded the motion. The motion carried unanimously.

9. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE ELY CITY COUNCIL AS RECOMMENDED BY THE MUNICIPAL UTILITIES BOARD.

1. Board Members – Discussion/For Possible Action – Approval of White Pine County’s request to waive water and sewer hookup fees in the amount of \$45,500.00 for thirteen (13) Single Family homes on County Land located on 17th Street adjacent to the Mountain View subdivision.

Councilman Carson stated the Utility Board did have a lot of conversation on this. At the end of the discussion, they decided to table it and try to find a different avenue instead of writing it all off, maybe pay as you go.

Richard Howe stated for the past several years we have been facing a critical housing shortage. Economic development is at a standstill. We have sixty plus jobs at the prison that can’t be filled because we can’t house the people; there are twenty three full-time openings at the BLM and we have construction coming in town starting next month. This project that we are pursuing is a brand new project and brand new infrastructure. We had one bid and we accepted it so we can move forward. The developer is putting in roads, sewer, water, etc. We need housing and the new people moving in don’t want to live in ninety year old houses. These houses will be selling for between \$250,000 and \$275,000; this is not low income housing. The utility fees will go to the City when this land is developed. We are going to get these houses built. This is a plea to have the City join with us in this.

Councilman Alworth asked what did developer pay for the land?

Richard Howe stated they paid \$100, but we are going to get our money back through property taxes.

Councilman Flangas stated we do need new housing, but what is it going to cost to extend city sewer lines? The City of Ely at this time does not receive one cent of the property tax.

Councilman Carson stated I'm in favor of either tabling this or pay as you go.

Councilman Spear stated I'd be against this. What about all of the people that have paid in full?

Councilwoman Beecher stated I think that this has value.

City Clerk Lee stated we are federally funded through grant programs, which could be an issue.

Councilman Alworth moved to table this item. Councilman Carson seconded the motion. The motion to table carried unanimously.

2. Board Members – Discussion/For Possible Action – Approval of Elko Leasing Company's Will Serve Application for Sewer Services at 1863 North McGill Highway.

Councilman Carson stated the Utility Board recommended approval.

Councilwoman Beecher moved to approve of Elko Leasing Company's Will Serve Application for Sewer Services at 1863 North McGill Highway. Councilman Alworth seconded the motion. The motion carried unanimously.

3. Board Members – City Engineer Almberg – Discussion/For Possible Action – Acceptance of C.H. Spencer LLC proposal to replace the submersible motor and cable for the Terrace Well in the amount of \$36,148.00, pursuant to NRS 332.115; Robinson Nevada Mining Company to pay fifty percent (50%) of the total cost.

4. Board Members – City Engineer Almberg – Discussion/For Possible Action – Approval to hire Great Basin Irrigation to install a new Terrace Well pump for a total cost of up to \$10,400.00; Robinson Nevada Mining Company to pay fifty percent (50%) of the total cost.

Councilman Carson stated the Utility Board had a lot of talk about this also. There is some information that they didn't have this morning, Frederick had offered to gather that up. They tied on this and the motion didn't pass.

Frederick Partey stated the issue here was that there was no information on what happened as to why we are in the situation that we are in. We said that if it's a timing issue, we will pay half the cost and the City will pay half. But if they want the mine to pay, we should be able to explain to our bosses what happened and why we are spending this money. We don't have that information yet. So if we want to wait, we can do a root cause analysis.

City Engineer Almberg stated if 7p goes down in the summer, we will need this well.

Councilman Carson moved to table this item. Councilman Spear seconded the motion. The motion to table carried unanimously.

5. Councilman Carson – Discussion/For Possible Action – First Reading of Ordinance 731, Bill 2020-2, with approval to move to second reading. Ordinance 731 amends Chapter 2 of Title 4 of the City Code of the City of Ely providing residents who take their trash to an adjoining County's landfill and pay to that landfill may provide proof of that payment to the City Clerk in order to receive a credit for the period of time the resident pays to the adjoining County's landfill.

Councilwoman Beecher moved to approve the First Reading of Ordinance 731, Bill 2020-2, with approval to move to second reading. Councilman Spear seconded the motion. The motion carried unanimously.

6. Board Members – City Clerk Lee – Discussion/For Possible Action – Approval to remove the past due utility fee penalties in the amount of \$6,297.86 from 35 Keystone Street, Ruth Nevada at the request of the property owner, Jeremy Lilly.

Councilman Carson stated the Utility Board recommended approval.

Councilman Carson moved to approve removing the past due utility fee penalties in the amount of \$6,297.86 from 35 Keystone Street, Ruth Nevada at the request of the property owner, Jeremy Lilly. Councilman Alworth seconded the motion. The motion carried with Councilman Spear voting Nay.

10. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE ELY CITY COUNCIL AS RECOMMENDED BY THE ANIMAL CONTROL ADVISORY BOARD.

1. Chairwoman Roberts-McMurray – Discussion/For Possible Action – Approval for City Council to send a letter to White Pine County opposing proposed Ordinance 508, Bill No. 01.22.2020, an ordinance amending Chapter 8.04 of the White Pine County Code, repealing the existing regulation that a dog owner must license the animal.

Animal Control Advisory Board Chairwoman Roberts-McMurry stated the Animal Control Advisory Board voted unanimously on the draft letter.

Councilman Spear moved to approve for the City to send a letter opposing the proposed County Ordinance 508. Councilwoman Beecher seconded the motion. The motion carried unanimously.

2. Chairwoman Roberts-McMurray – Discussion/For Possible Action – Approval for City Council to direct City Attorney to draft revision to Title 5, Section 3B-18 Kennel Regulations to require that the Kennel or Breeder Business License No. be displayed in all advertising and purchase receipts.

Animal Control Advisory Board Chairwoman Roberts- McMurry stated we voted unanimously in favor of this. There is only one person in Ely that has a breeders license.

Councilman Alworth moved to direct the City Attorney to draft a revision to Title 5, Section 3B-18 Kennel Regulations to require that the Kennel or Breeder Business License No. be displayed in all advertising and purchase receipts. Councilwoman Beecher seconded the motion. The motion carried unanimously with Councilman Spear abstaining.

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

A. CONSENT AGENDA

MOTION: Move to approve the Consent Agenda item 11A-1 Minutes and 11A-2 Bills.

Moved by: Councilman Spear **Second by:** Councilman Carson **Vote:** Unanimous

1. Discussion/For Possible Action –Minutes.

- January 9, 2020

2. Discussion/For Possible Action –Bills.

- January 22, 2020
- January 30, 2020

Councilman Alworth stated we are getting fuel from the County and from R-Place. We would like to request a key to the County yard for the times that the yard is closed.

B. OLD BUSINESS

1. Council Members – Fire Chief Rivera – Discussion/For Possible Action – Approval of Resolution 2020-2, a Resolution to amend the Emergency Medical Service (EMS) Billing Rate Schedule.

Councilman Alworth stated this was brought before the Council probably a month ago. I think some rates are pretty high and wording changes are needed. One of my biggest concerns is you go on a lot of Medicaid calls and Medicaid is only going to pay a certain amount. Those people that are on Medicaid and Medicare can barely make it as is; then you're going to ding them with another thousand dollar bill to pay. Also I think that you should scratch the write-off for jail transports; they should have to pay for services. I do believe that we do need to pay for the expertise that these EMTs have; they go through a lot of training and they can provide a wide variety of services.

Councilwoman Beecher stated I agree that we need to pay for the EMTs expertise but some of these increases are 50% - 300%.

Fire Chief Rivera stated what looks like an increase is just because we lumped some of these services together. The benefit to doing this is it will increase the money that will be received from insurance because Medicaid will not pay for add-ons. The only time that the patient would receive the remainder of a bill is if the services were not urgent or not needed. We are not trying to play off from our community.

Councilman Carson moved to table this item. Councilwoman Beecher seconded the motion. The motion to table carried unanimously.

2. Council Members – Fire Chief Rivera – Discussion/For Possible Action – Approval of Resolution 2020-3, a Resolution to amend the Rescue/Extrication Billing Rate Schedule.

Fire Chief Rivera stated City and County residents are exempt from this. This is just to simplifying billing.

Councilman Carson moved to approve Resolution 2020-3, a Resolution to amend the Rescue/Extrication Billing Rate Schedule. Councilman Spear seconded the motion. The motion carried unanimously.

3. Mayor Robertson – Discussion/For Possible Action – Approval of the Second Reading of Ordinance 725, Bill No. 2019-11, An Ordinance amending Title 6, Chapter 12 section 2 entitled HIGHWAYS AND ROADS IN THE CITY OF ELY DESIGNATED FOR PURPOSES OF OHV TRAVEL, bringing the City Code into conformity with State law, clarifying certain sections of the City Code, requiring that OHVs that operate on City roads and highways have liability insurance; adding a severability clause; all other provisions not designated shall remain unchanged.

Councilwoman Beecher moved to approve the Second Reading of Ordinance 725, Bill No. 2019-11. Councilman Alworth seconded the motion.

Mayor Robertson stated we need to draw a line, I'm drawing it at ATVs and UTVs. ATVs after dark are not safe.

Councilman Spear stated I disagree. I would like a Roll Call vote on this.

Roll Call vote: Councilman Flangas Aye, Councilman Carson Aye, Councilman Spear Nay, Councilman Alworth Aye, Councilwoman Beecher Aye. Motion carried 4 to 1.

C. NEW BUSINESS

1. Mayor Robertson – Cheyenne Gibson, Nevada Census 2020 Regional Coordinator – Discussion Only – Presentation on the importance of the 2020 Census and associated grant opportunities.

Cheyenne Gibson stated I am the regional coordinator for the Nevada Census outreach team. My role as a Regional Coordinator is to assist the U.S Census Bureau by filling in the gaps through community outreach and educating on the importance of Census and making it accessible. The Census affects the economics, public health, education, housing, political representation and research. As an example, in FY2016, Nevada received over 6.2 billion dollars derived from fifty five different federal spending programs from the 2010 Census data. If you're not getting everyone counted, that figure could potentially lower, but it could also be potentially be higher is the count is correct. This is a great opportunity to put our community on the map; Nevada could get \$20,000 for every person counted in the 2020 Census. My goal is to provide accessibility and amplification. This year there will be three ways to fill out the Census. It can be done through the computer, so we really want to make sure that there are computer donation stations within the community. There is a cool opportunity for local institutions to do a 2020 partner grant that provides a \$2000 grant that would allow that institution to purchase a computer and keep it when the Census is over. You can help by becoming a census ambassador; you would do social media posts, maybe some flyers, things like that to get the word out about the Census. Let's get Nevada counted.

2. Mayor Robertson – Discussion/For Possible Action – Approval of terms to lease the former Armory building to the Nevada Department of Public Safety AND direction to City Clerk to authorize use of approved lease terms as a Letter of Intent to Nevada State Public Works Division.

City Clerk Lee stated we did receive billing from Mt. Wheeler and looked at the water meter. The average billing would be \$1,200.

Councilman Alworth stated I think that there is no better organization to occupy this building, but we need more transparency and we should have openly advertised the building.

City Clerk Lee stated Mike did show the building to four other people.

Councilman Carson stated I thought we were going to go out to competitive bid on things like this.

Scott Simon stated we have looked at other buildings in town and this one is our best option. We need a building before our current lease is up.

Councilwoman Beecher moved to approve terms to lease the former Armory building to the Nevada Department of Public Safety AND direction to City Clerk to authorize use of approved lease terms as a Letter of Intent to Nevada State Public Works Division, with the stipulation that we are able to revisit the utility fees at the end of year two. Councilman Spear seconded the motion. The motion carried with Councilman Flangas voting Nay.

3. Councilwoman Beecher – Discussion/For Possible Action – Discontinuance of May 23, 2019 proposed settlement framework for City of Ely, et al. vs. S&S Shortline Leasing LLC.

John Samberg, Esq., Representation for the City of Ely on the S&S lawsuit joined the meeting telephonically.

Mark Bassett stated over five years ago the City of Ely filed a lawsuit against S&S; the lawsuit was in the name of the City of Ely and also the White Pine Historical Foundation. At that time we (the Foundation) were not informed of lawsuit. The lawsuit is set to go to trial this October. The City and the Foundation came together in 2019 to resolve the lawsuit and entered into a joint prosecution agreement. We received an email from Mr. Sandberg terminating that joint prosecution agreement without any prior notice and the next day we received a copy of McDonald Carano's letter listing a possible settlement with the City of Ely. That particular letter was on the City Council agenda for May 23, 2019. The Foundation, John Gianoli and myself came before the City Council and adamantly opposed that agreement. At that time and at this time, we believe that agreement is illegal. Chris Stanko and his law firm have examined that agreement and the feeling is it is missing chapters of the NRS, and is not enforceable. If the City decides to go down that path, the only option that the Foundation has is to file a Writ of Mandamus. We don't want to but we will file for it. You don't have a settlement agreement; you have an agreement to agree. The Foundation is hoping the City will join in wrapping up the lawsuit for the betterment of the Foundation, the City, and the community.

Rory Kay stated I represent S&S and I would like to make a couple of points here tonight. This is a settlement between the City and S&S; the Foundation is not a party to it. The Foundation does not want to settle at this point and time but it's not as if S&S has not reached out to them. I do want to go back to how this settlement process went out though because I don't feel that Mr. Bassett's statement is entirely accurate. When this Council approved the terms of this settlement back in May, it did so by a three to one vote with the determination that it was a good faith settlement. We disagree on legality, but Judge Dobrescu is going to rule on that. I strongly question whether the Foundation will have the standing to file a Writ of Mandamus. Noting in this settlement agreement involves what the parties refer to as a historical line; it only involves the northern part of the line where S&S has contracted. We have been litigating this since July 2015. I recommend kicking this out four weeks and allow the parties to meet and judge Dobrescu to look over everything.

City Attorney Townsend stated I was not here during the making of the agreement. I feel like some fine tuning needs to be done. Even if we have a final draft, we still need to vote.

Chris Stanko stated I disagree with statements that Mr. Kay has made. This is not a binding settlement agreement; it is an agreement to agree. This is illegal framework and we will continue to march this case forward. The S&S lease is just for car storage but now the Council has been made to feel like we have to sell our entire asset. We fear that the historical line will be at great risk. Mark Bassett has put in twenty three million dollars into the railroad complex since he came on in 2002; no one is more gung ho about economic development. There is a provision in the framework that they (S&S) can rip out parts of the track and have three years to replace it; economic developers typically aren't ripping things out. We also do have standing to file a Writ of Mandamus to make people follow procedure and statutes.

John Samberg stated the legality will be ruled upon by the court. I think that we have to look back at the architect of the agreement, former City Attorney Chuck Odgers. I believe that he formed the basis of the agreement in a way that is legal; it was voted on in a manner that was legal. We believe that it is legal and would urge the City Council to stick with its earlier vote and proceed with the settlement with S&S.

Councilman Alworth moved to discontinue the May 23, 2019 proposed settlement framework for City of Ely, et al. vs. S&S Shortline Leasing LLC. Councilman Carson seconded the motion. The motion carried 3 to 1 with Councilman Flangas voting Nay.

4. Councilwoman Beecher – Discussion/For Possible Action – Termination of legal representation by the law firm of Wolf, Rifkin, Shapiro, Schulman, and Rabkin, LLP.

John Samberg stated we have provided excellent representation and great service. With the length of time that we have spent in the case, I would like to ask the council if it would be appropriate to have just one law firm considering the possibility of conflict of interest.

Councilman Spear asked what kind of conflict of interest are you referring to?

John Samberg stated let's say, for the sake of discussion, that there are disparate interests in terms of how to resolve pending lawsuits.

City Attorney Townsend stated if there are conflicts and we have these potential problems down the line, we will be reverted back to almost the beginning of the process with bringing in a new attorney and catching them up on a five year case.

Councilwoman Beecher stated with pooling, we can save on fees.

Councilman Alworth moved to terminate legal representation by the law firm of Wolf, Rifkin, Shapiro, Schulman, and Rabkin, LLP. Councilman Carson seconded the motion. The motion carried 4 to 1 with Councilman Flangas voting Nay.

John Samberg left the meeting telephonically.

5. Councilwoman Beecher – Discussion/For Possible Action – Direction to City Attorney to reach out to counsel for the Northern Nevada Railway Foundation regarding continuance of the Joint Prosecution Agreement and/or possible representation of the City of Ely in the lawsuit City of Ely, et al. vs. S&S Shortline Leasing LLC.

Councilman Alworth moved to direct the City Attorney to reach out to counsel for the Northern Nevada Railway Foundation regarding continuance of the Joint Prosecution Agreement and/or possible representation of the City of Ely in the lawsuit City of Ely, et al. vs. S&S Shortline Leasing LLC. Councilman Spear seconded the motion. The motion carried with Councilman Flangas voting Nay.

6. Council Members – City Engineer Alberg – Discussion/for Possible Action - Approval to assemble a committee to enter into discussions with White Pine County regarding sharing resources on a joint Geographic Information System (GIS) project/system. Planned implementation of shared services would be in the 2021 fiscal year commencing no sooner than July 1, 2020.

Mayor Robertson stated this GIS system is a tool that would allow us to make better use of our limited human resources.

City Engineer Alberg stated we have had some preliminary discussions with the County to see what our possibilities are. We just didn't want to go too far down that road before we knew if the City Council was on board with this.

Councilman Carson stated what does the county have?

City Engineer Alberg stated the County has the actual system, the servers, etc. and they are a lot further in the process so it would be beneficial to partner with them.

Councilman Carson moved to assemble a committee to enter into discussions with White Pine County regarding sharing resources on a joint Geographic Information System (GIS) project/system. Planned implementation of shared services would be in the 2021 fiscal year commencing no sooner than July 1, 2020. Councilwoman Beecher seconded the motion. The motion carried unanimously.

7. Councilman Alworth – Discussion/For Possible Action – Acceptance of Tri-County Weed Control’s (TCWC) proposal to the City of Ely for herbicide application within City limits during 2020; SNPLMA grant funds require a twenty percent (20%) match from the City of Ely in the amount of \$2,000.00.

Councilwoman Beecher moved to accept Tri-County Weed Control’s (TCWC) proposal to the City of Ely for herbicide application within City limits during 2020; SNPLMA grant funds require a twenty percent (20%) match from the City of Ely in the amount of \$2,000.00. Councilman Carson seconded the motion. The motion carried unanimously.

8. Council Members – Treasurer Trask – Discussion/For Possible Action – Approval of Keddington & Christensen, LLC Change Order in the amount of \$6,600.00 for additional work hours performed to complete the FY 2019 City of Ely Audit.

Councilman Alworth moved to approve Keddington & Christensen, LLC Change Order in the amount of \$6,600.00 for additional work hours performed to complete the FY 2019 City of Ely Audit. Councilwoman Beecher seconded the motion. The motion carried unanimously.

9. Council Members – Treasurer Trask – Discussion/For Possible Action – Designation of Keddington & Christensen, LLC to complete the City of Ely’s fiscal year 2020 Audit; pursuant to NRS 354.624, the City must notify the Nevada Department of Taxation of the designation by March 30th of this year.

Councilman Carson moved to designate Keddington & Christensen, LLC to complete the City of Ely’s fiscal year 2020 Audit. Councilman Flangas seconded the motion. The motion carried unanimously.

10. Councilman Flangas – Discussion/For Possible Action – First Reading of Ordinance 727, Bill 2020-3, with approval to move to the second reading. Ordinance 727 amends Chapter 5, Title 2 of the City Code of the City of Ely clarifying the Regional Planning Commission’s lack of authority to dispose of government property; defining “appropriate governing body”; specifying appeal procedure.

Councilman Spear moved to approve the First Reading of Ordinance 727, Bill 2020-3, with approval to move to the second reading. Councilman Carson seconded the motion. The motion carried unanimously.

11. Councilman Alworth – Discussion/For Possible Action – Direction to the City Attorney to draft an Ordinance amending the Ely City Code 1-6-1, adding Human Resources (HR) Director and City Treasurer/Human Resources (HR) Director as appointed officers of the City of Ely.

Councilman Carson moved to approve to direct the City Attorney to draft an Ordinance amending the Ely City Code 1-6-1, adding Human Resources (HR) Director and City Treasurer/Human Resources (HR) Director as appointed officers of the City of Ely. Councilwoman Beecher seconded the motion. The motion carried unanimously.

12. PUBLIC COMMENT:

George Chachas stated on item 11:C:8 you are to consider a Change Order in the amount of \$6,600.00, you need stop the bleeding of the City. In regard to the waiving of fees for the county, I am against it. I want to remind you that my family’s properties can’t be used even after the upgrades that we’ve done. It isn’t fair for other property owners if you waive those fees. The discrimination needs to stop and the rules need to be the same for everyone. I still have not received a copy of the time and date-stamped Georgetown lease bids.

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

Councilman Alworth moved to adjourn the Regular meeting of the Ely City council at **8:15 p.m.**
Councilwoman Beecher seconded the motion. The motion carried unanimously.

Mayor

Attest

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