



CITY OF ELY

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

ELY CITY COUNCIL REGULAR MEETING AGENDA

July 26, 2018 5:00 p.m. – Ely Volunteer Fire Hall - 499 Mill Street-Ely, Nevada.

1. Mayor Van Camp called the regular meeting of the Ely City Council to order at **5:00 p.m.**, led in the Pledge of Allegiance, Ian Bullis offered the Invocation and Mayor Van Camp asked for Roll Call.

Members present:

- Mayor Melody Van Camp
- Councilman Ernie Flangas
- Councilman Kurt Carson
- Councilman Tony DeFelice
- Councilwoman Jolene Gardner
- Councilman Sam Hanson

City Staff present:

- City Administrator Robert Switzer
- City Attorney Charles Odgers
- Fire Chief Ross Rivera
- City Police Chief Scott Henriod
- Deputy City Clerk Jennifer Lee

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

Ely City Council attendance list. 7-26-18

<u>MAUREEN OTZELBERGER</u>	<u>MICHELL BRITEN</u>
<u>Tracy Greenwell</u>	<u>Kay McMyrsky</u>
<u>Carol T. Sandford</u>	<u>Ally Doty</u>
<u>John Bullis</u>	<u>Trent Britten</u>
<u>Phary Franke</u>	<u>Kaci Doty</u>
<u>Jared Stanger</u>	
<u>DARRON WILSON</u>	
<u>Stacy Major</u>	
<u>Robert Van Camp</u>	
<u>Scott Henriod</u>	
<u>John Mueller</u>	
<u>George Chachas</u>	
<u>Shellie WATTS</u>	
<u>Tush Skilton</u>	
<u>Kevin Robinson</u>	
<u>Dave Brown</u>	
<u>Phillip Peckman</u>	
<u>Chris D'Arment</u>	
<u>ASHLEY CURBERA</u>	

2. PUBLIC COMMENT

Jake Gubler asked how do you get on the agenda?

City Administrator Switzer stated we're going to have it put on the agenda on the 9th of next month.

Jake Gubler stated if you're putting a speed trap, people slow down. I'm concerned about that intersection: People cut it and run it. You have Avenue D cut off right now. I think we can come up with an answer that day.

George Chachas stated ongoing concerns regarding whether *S & S Shortline* has a City business license; money missing from City Hall; nepotism at the Railroad; his October 2015 public information request; and signs on Avenue D. On item 9B-8, you're considering hiring an appraiser. I want to remind you before you spend any money, *S & S Shortline* has not produced financial reports to date; they've not paid the City for track rental. You and the Nevada Northern Railway have a fiduciary responsibility to ensure that all contracts are carried out and that rent is collected. The City is remiss in entertaining any offer from anyone who has failed to pay their track rental fee. At the June 25, 2018 meeting, the *S & S* representative implied that reports had been sent to the City regarding track rental; who received them? Why wasn't this reported earlier? How many cars, for how long, how much gross revenue and what was the City's share? Was any of that money stolen when we had that theft at the old City Hall? Your agenda item implies that the Nevada Northern Railway has a joint ownership, when the Nevada Northern Railroad didn't pay a dime for the purchase; it was all City and grant. When they spun off from being under the auspices of the City Council, they further distanced themselves; the only assets they share with the City is what you see in East Ely.

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

City Attorney Odgers stated I would request that we remove Item 9B-8 on Mr. Kimmel, based on the litigation session.

Councilman Hanson moved to accept the agenda, minus Item 9B-8. Councilman Carson seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

- POLICE CHIEF

City Police Chief Henriod reviewed his April-June 2018 statistical report appearing below.



Sheriff Scott Henriod
Captain Jaime Swetich

WHITE PINE COUNTY SHERIFF'S OFFICE

1785 Great Basin Blvd. Ely, NV 89301

Phone: (775) 289-8808

Fax: (775) 289-1468

STATISTICS FOR THE CITY OF ELY

APRIL 2018 THROUGH JUNE 2018

INCIDENTS: 1565

TRAFFIC STOPS: 660

CITATIONS: 149

FELONY ARRESTS: 12

MISDEMEANOR ARRESTS: 54

NEW BOOKINGS: 110

TOTAL DAYS SERVED IN JAIL: 587

- CITY ADMINISTRATOR

City Administrator Switzer reviewed the Nevada Department of Taxation's Fiscal Year 2019 Budget compliance letter appearing below and stated there were five schedules that needed to be corrected.



BRIAN SANDOVAL
Governor
JAMES DEVOLLD
Chair, Nevada Tax Commission
WILLIAM D. ANDERSON
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

Web Site: <http://tax.nv.gov>
1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

RENO OFFICE
4600 Klotzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

HENDERSON OFFICE
2560 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

July 19, 2018

Mr. Robert Switzer, City Administrator
City of Ely
480 Campton Street
Ely, NV 89301

Re: Final Budget – Fiscal Year 2019

Dear Mr. Switzer:

The Department of Taxation has examined your final budget in accordance with NRS 354.598. We find the revisions you have made to the budget to be in compliance with the law and appropriate regulations.

If you should have any questions, please do not hesitate to call me at (775) 684-2077. My e-mail address is kgransbery@tax.state.nv.us.

Sincerely,

A handwritten signature in black ink that reads "Keri Gransbery".

Keri Gransbery
Budget Analyst
Local Government Finance
Division of Local Government Services

cc: Mayor Melody Van Camp
501 Mill Street
Ely, NV 89301

City of Ely Council Members
501 Mill Street
Ely, NV 89301

5. REPORTS

CITY COUNCIL

Councilman Hanson stated I attended the County Water Advisory Board Meeting and Comins Lake is two feet lower than normal.

MAYOR

Mayor Van Camp stated I attended the Tour and Rec. Board meeting today because they have a new director, the new board and it's moving forward.

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

A. CONSENT AGENDA

MOTION: Move to approve the Consent Agenda items 9A-1 Minutes & 9A-2 Bills.

Moved by: Councilman Hanson Second by: Councilman Carson Vote: Unanimous

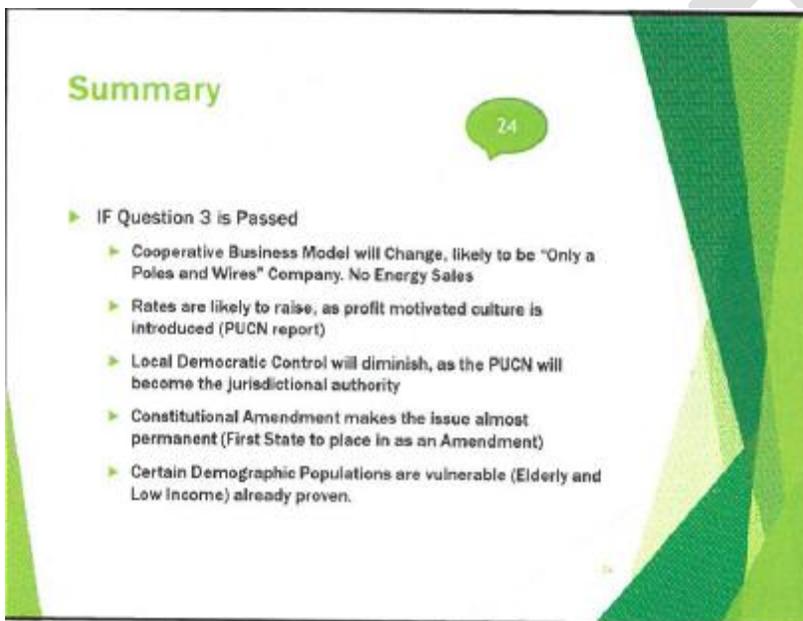
1. Discussion/For Possible Action –Minutes.
 - June 25, 2018
 - June 28, 2018
2. Discussion/For Possible Action –Bills.
 - July 20, 2018

Mayor Van Camp stated I received a payment for *Sew Krazy* for flag repair.

B. NEW BUSINESS

1. Councilman Carson – *Mt. Wheeler Power General Manager Kevin Robison* – Discussion /For Possible Action – Presentation on November 2018 ballot Question 3 and possible position adoption by Ely City Council on Question 3.

Mt. Wheeler General Manager Kevin Robison gave a presentation on Ballot Question 3; see summary appearing below.



Councilman Hanson moved to go on record with a resolution opposing Question 3. Councilman Carson seconded the motion. The motion carried unanimously.

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

1. Chairman Peeler – Public Hearing – Discussion Only – Consideration of an Application for a Variance. The applicants, Lloyd E. and Jean B. Phillips, wish to construct an exterior stairway and landing to the front of the house, as well as a new carport on the west side; the new construction would not meet the current set back requirements. The location is 1298 Ely Street, Ely, Nevada (APN 001-202-04).

There was no public comment.

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

1. Chairman Peeler – Discussion/For Possible Action – Consideration of an Application for a Variance. The applicants, Lloyd E. and Jean B. Phillips, wish to construct an exterior stairway and landing to the front of the house, as well as a new carport on the west side; the new construction would not meet the current set back requirements. The location is 1298 Ely Street, Ely, Nevada (APN 001-202-04).

City Attorney Odgers stated I recommend approval. There is no legal impediment.

Councilman Hanson moved to approve a variance to Lloyd and Jean Phillips for setback requirements at 1298 Ely Street in order to construct an exterior stairway and carport. Councilman Flangas seconded the motion. The motion carried unanimously.

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

1. Chairman Peeler – Discussion/For Possible Action – Approval of Home Occupation permit to Teri Doty to conduct a dog training business, d.b.a. *Adventure K9* located at 1280 Avenue L, Ely, Nevada.

City Attorney Odgers stated the Planning Commission recommended approval. Ms. Doty will be training off site and billing in her home.

Councilman Hanson moved to approve a Home Occupation permit to Teri Doty to conduct a dog training business d.b.a *Adventure K9* located at 1280 Avenue L. Councilman DeFelice seconded the motion. The motion carried unanimously.

Teri Doty stated if you need any help with aggressive animals at the Pound, I'll be more than happy to donate my time.

2. Councilman Flangas – Chairman Peeler – Discussion/For Possible Action – Recommendation to post 20 MPH speed limit sign in residential area of Campton Street, west of the White Pine County Court House, where 20 MPH zone is reinstated.

City Attorney Odgers stated the Planning Commission recommended approval to place a 20 MPH sign on the westbound side of Campton, on the west side of the Court House, and on the east bound side of Campton off Mill Street.

Councilman Hanson moved to post 20 MPH signs on the westbound side of Campton, on the west side of the Court House, and on the east bound side of Campton off Mill Street.

Councilman Flangas stated the speed limit in the City of Ely is 20 MPH, except where designated. I'll second the motion.

The motion carried unanimously.

3. Councilman Flangas – Chairman Peeler – Discussion/For Possible Action – Recommendation by City Planning Commission to actively recruit businesses for vacant buildings in the City of Ely.

City Attorney Odgers stated the Planning Commission recommended to the City Council that the City Council develop a plan to fill empty buildings on main street.

City Administrator Switzer stated it will be on their next agenda to discuss signs for businesses that are vacant.

Councilman Flangas stated I proposed to them to talk to people and find out what kind of businesses would be beneficial here. Our power costs and clean air are an incentive for businesses, so there is potential if we work on it.

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

B. NEW BUSINESS

2. Mayor Van Camp – Discussion/For Possible Action – Approval for Animal Control Advisory Board to meet the second Wednesday of every month at 5:30 p.m. in City Hall and direction to City Attorney to present the amendment of Ordinance 712, Section 2-4-9: MEETINGS to reflect the same; the Animal Control Advisory Board’s secretary would not incur overtime for taking minutes at these meetings.

City Attorney Odgers stated Madam Mayor, City Council, you appointed a board of five members. Jennifer has contacted me on several occasions with problems the board members have with meeting the 4th Thursday at 8:00 a.m. requirement in the ordinance; you can make the temporary change while we work through the process of modifying that.

Councilman Hanson moved to approve for the Animal Control Advisory Board to meet the second Wednesday of every month at 5:30 p.m. in City Hall and to direct the City Attorney to amend the ordinance.

City Attorney Odgers stated Jennifer will come in a couple hours later on the meeting day; that was Jennifer’s request to me.

Councilwoman Gardner seconded the motion. The motion carried unanimously.

3. Councilman Hanson – Discussion/For Possible Action – Consideration to override Mayor’s veto of the City Council’s July 12, 2018 action which directed City officials to negotiate with Ely Shoshone Tribal officials regarding terms for a marijuana dispensary compact between the two entities.

Councilman DeFelice stated my wife is supporting a group here. I’ll walk away and after this is done, I’ll come back.

Councilman DeFelice left the City Council table and the Volunteer Fire Hall.

City Attorney Odgers asked Mayor, do I have permission to breach our attorney client privilege?

Mayor Van Camp stated yes.

City Attorney Odgers stated on March 8, 2018, the City Council had an agenda item where John Mueller from *Acres Cannibus* requested that the City petition the State to re-open a period for individuals to apply for a medical marijuana license; by a vote of three to one, with Councilman Hanson voting Nay and Councilman Flangas not present because he was ill, the motion carried. The Council’s action resulted in a letter being sent to the State on March 8, 2018, to Mr. Pupo, who is the head of the Department of Taxation Marijuana, that requested the State open up another review period. By opening up that review period, we started a ball in motion. Once we started the ball in motion, on May 15, 2018 the State opened up that period for applicants. The application fee itself is \$50,000.00, plus attorneys and accountants, so some of these folks have spent up to \$100,000.00 applying for this medical marijuana license, of which only one of them is going to get it. On May 15, 2018 the State announced that from June 14-27 they would be accepting these applications. People started applying on June 14th. On June 7th, we were asked by *Live Free Wellness LLC* out of Las Vegas regarding their application, whether or not their location met the for zoning requirements and we sent the letter to Mr. Pupo, as required by law, indicating that their selected location met zoning and all the other requirements. On June 19th, we started receiving email messages from Trent Griffith, who is a member of the Tribe that has been active with the Tribe’s medical and recreational marijuana program; he requested Sam to sponsor an agenda item to have the issue of a compact come back before the City Council; this item’s come up before, the Council voted against it, but Sam wanted to give the Tribe one more shot. Unfortunately, the Mayor wasn’t here when Trent wanted it and I was out of the jurisdiction on July 12th; I was not present during that meeting and received a phone call from the mayor shortly afterwards. On June 27th, while the mayor was on vacation, I received a call from the *Diversified Modalities Working Limited* out of Las Vegas, who was another applicant for a medical marijuana certificate. Since the mayor was out, I got her permission, I contacted Mr. Hanson and Mr. Hanson signed the letter. So that’s three letters of support that we sent as a Council to the Department of Taxation for the issuance of a license to a third party.

Councilman Carson asked did we ship off the letter of support that the Council voted on?

City Attorney Odgers stated the letter of support was based on the location and the intended information we have to provide. You had five people who applied, twenty-two inquired. The meeting happened on July 12th and then the following Monday, the Mayor and I had a couple of conversations. The first one dealt with what had happened relative to the compact and whether or not she should veto. The discussion I had with the mayor dealt specifically with the expectations that we had put out there as a Council - that we were interested in having a third party apply for an application – and because we did that we had five applicants who paid their licensing fees to the State for the privilege to apply. They paid their attorneys. They did all that in reliance upon your March 8th decision to request a license be issued for the City. The Tribe does not have a State license. They are not going to get a State license. They did not apply during this period. They can on trust land, under their compact with the State, run a marijuana facility. What they're asking you to do is for those five businesses that made that application and spent all that money is to starve them out, which puts the City into a position of potential liability. So, I had her confirm with Jorge Pupo that the Tribe was not an applicant to identify whether or not the Tribe had ever applied and the indication was "No". So, the veto went out. So for the legal reasons I have explained to you, my recommendation is that you not override this veto.

Mayor Van Camp stated I'll open it up for public comment on this issue.

John Mueller stated the last time I was here, I was fortunate enough to be granted a business license after submitting a \$5,000.00 fee and it was part of the letter that went out that Chuck mentioned. I think the bigger question is setting a standard for any business coming here. This is one of those ways you fill those vacant businesses, opening yourself up to new commerce and opportunity. I'm in Amargosa Valley right now and we've got forty-five people that have moved into that town and you never know what kind of businesses that's going to lead to. I will correct: It is a \$5,000.00 fee, not a \$50,000.00 fee to submit to the State; the next phase would be the nasty one. Everyone else in this room has an attorney, a lobbyist and everybody else in between in this crazy business. Our application was five hundred pages. I think you will see more tourism. A monopoly is never a good thing for any town.

Trent Griffith stated it was before the date you opened the licensing that we had asked for a compact.

Cassandra Dittus stated as Trent said, we have been coming to you much longer than outlined in Mr. Odgers' statement here. The original compact that was issued, there were reasons why they thought it would not be appropriate to move forward with the compact at that time. Since that time, we have shown you by leading by example and the success of our program that the reasons for that veto were invalid. At this time, you're addressing based off of a misunderstanding. I would like to formally request that the veto be retracted versus going to a vote at this time. I think it's inappropriate to veto something twice. Think of what this means for you as a bridge with your community. The taxation money is being generated and the Tribe is willing to share that process with you. The fact that the Tribe was not in the discussion of this veto, a government to government negotiation process, is disappointing. We have come to you over and over again for a year and a half. We have negotiated on a cultivation facility. We have moved forward in good faith, supporting this community and knowing that a compact showed great benefit on multiple sides. Just the statement that Mr. Odgers misquoted that it's not a \$50,000.00 fee, that it was \$5,000.00. Did your initial request for applications guarantee that you would issue one? Is there something formally stated that you will be issuing a City license? I did request the email from the Department of Taxation to the Mayor be available at tonight's meeting. Is that available now?

City Attorney Odgers stated I have that at my office.

Cassandra Dittus stated this is a community business that employs native and non-native members. We started this process a year and a half ago and it seems to be negated that we've spent any money with you guys. Should this move forward as a vote, uphold the belief that these two communities can work together. The Tribe's program benefits kids in this community. The Las Vegas dispensaries have multiple dispensaries. We are continuing to work with you on a compact with our cultivation.

Dave Brown stated Dave Brown and I have Gus D'Arthenay with me with *Thrive Cannabis Market Place*. Also, we have the dispensary in the room. Together, we represent five dispensaries, two cultivation facilities and one production facility. We would have been in Ely a year and a half ago if we could have, however we had to follow State law and the State didn't open up until you requested them to. So, we appreciate you allowing us to apply here. We believe that competition would be healthy and benefit the City of Ely, your residents and customers in Ely. We appreciate the City Attorney's comments that we did spend about \$100,000.00 on the application, attorney, the lobbyist and the submission process. I'm sure it's the same with the other three applications, which you heard here from *Acres*. We want to bring a benefit to your community and not just take money out. In taxes our dispensaries contribute \$50,000.00 a month to the city of North Las Vegas, \$20,000.00 a month to Las Vegas; and \$360,000.00 a month to the State of Nevada. We have a big charity in our organization. In 2017 we gave over half a million dollars to charities in the City of Las Vegas: Nevada Childhood Cancer Chapter; Three Square; Casa de la Luz – they take inner city youth and foster/tutor them; Grow up in Chains Homeless Shelter and A Home for Spot. So, our heart is to give back to the community and I'm sure you'll see that with any applicant that comes to you. We came with a dispensary; they're a competitor and we're going after the same license, but we rode up here together. When you talk about those forty vacant buildings, we have branded buildings and this is what we'd like yours to look like in your community (on file at City Hall). The interior of these buildings look like *Apple* stores, a first class operation. Also, we have Ashley here with us to expand more on the community involvement.

Gus D'Arthenay stated the elevation you're looking at is the Joker's Wild building on 940 East Aultman; the estimation is around \$600,000.00 for the completion of the buildout and we intend to hire local for the contracting work.

Ashley Culberg stated my name is Ashley. I'm with *Thrive* as well. I want to touch on what Gus had previously said about hiring within the local community. We have a dispensary in Las Vegas and one in North Las Vegas; everyone that's been hired there is a hundred percent Nevadans. Our ownership is hundred percent Nevada based. Our owner is in the facilities almost every day of the week. We host monthly events at our dispensaries. We do a dog adoption every month and collect donations for their training. As David said, we've provided a significant amount of money to the Nevada Childhood Cancer Foundation. We've done toy drives. As far as being involved in the local community, we plan to be part of the Sagebrush Quilters Quilt Show, provide raffle tickets for the Snake Valley Festival and decorate a tree for the Festival of Trees.

Darren Wilson stated my name is Darren Wilson and I'm one of the owners of *Live Free Wellness and Dispensary Nevada*. We own three dispensaries: One in Reno, one in Las Vegas and one in Henderson. We have three grow facilities within the State. All marijuana businesses are controlled by the State of Nevada, for the most part. Nevada leads the industry nationally with the best regulations and safeguards in place for protecting the municipality and the consumer. *Live Free Wellness* has leased the building, with the option to purchase, located at 1458 Aultman; this building is the site of the previous thrift store. Here are the conceptual drawings and blueprints of that building; the finishes inside would be similar to what our friends talked about. We're looking to renovate that building at a cost of about \$450,000.00, should we prevail in the State licensing procedure. All applicants have to go through a very extensive purchase/lease or purchase a location to meet the State requirements, which they have done. Entering into a compact with the Tribe, you will not be aligned with a State of Nevada regulated industry and would possibly be putting your city in a precarious position.

Joe Dice stated I appreciate Mr. Odgers' testimony, but after they get their license, it will be another a hundred twenty. Ely's Compact, you guys would have been receiving taxes for the last six months. Mr. Flangas, you're anti-marijuana and this is what I've been warning you about. You've got a discreet store out in the County that doesn't have a billboard, we don't advertise. This guy said he's going to pay more to renovate that building than it would cost to build that little building. At the end of the day, all the tax money leaves town and instead of having one, you've got two and maybe three; I don't know if the Mayor tipped you in on that. This town has 4,200 people. Imagine three *McDonalds*. It doesn't work. Everyone of them got up here and said they're going to compete. Up come the billboards. Up come the advertisements and then become

pushers. The Tribe will lower their prices. When those prices go down, your tax revenue goes down. This guy just claimed on record that he spent \$100,000.00 in that seven- day window. Mr Mueller said a bunch of stuff up here; the Mayor had a meeting with him, with the Sheriff, and he said these same things and when he was questioned by Taxation, he said 'Oh, I retract'. In the NRS and in the NAC, making a false statement to the Marijuana Enforcement Division or a law enforcement officer is a Class 1 violation which can result in revocation of your license, the one you had. These guys are doing the same thing: 'We're going to spend \$450,000.00 on this \$80,000.00 building' and 'We're going to compete'. None of this is what the veto was about. The Mayor repeatedly said she had a misunderstanding, is why she vetoed because she thought the Tribe would close their store and come into town, where they needed a State license. The Tribe doesn't need a State license and they were never going to apply for one. This compact is for that store in the County and I take issue with the last guy saying that because it's a tribal store, we're all at risk. The Tribe's been operating their first marijuana business since 2015 and they're the first Native American Tribe to receive reciprocity by the State of Nevada for their medical marijuana cards. We're the only Native American Tribe in the United States of America that issues medical marijuana cards. The community has been going there since they first opened. Business has been skyrocketing. They just harvested their first crop, which the Mayor knows passed the stringent testing that qualifies it as high-grade medical marijuana. The Tribe is being successful and they're your peers. I'm your peer. I live here. I bought a house here. The Tribe just picked up their agenda request because this passed again. Mr. Odgers made another false statement that you were giving it a second chance because it failed the first time. No, it passed the first time and the Mayor vetoed it then too for a different reason. You guys have given the Tribe your letter of recommendation. You're saying you've given it to these other people. You've given it to the Tribe multiple times over the last year and a half. Can you imagine how that feels to leave here celebratory and then see that in the paper? It's mind boggling how many times this Council has supported its Ely Shoshone Tribe only to have the rug ripped out. This is the best deal. The Mayor originally asked this to be on the agenda, asked me to ask Sam to put it on the agenda, so I don't understand why we're here again. The Tribe's in the County and they've never put billboards up. It's a heavily medically focused store.

Trent Griffith stated thank you guys for the opportunity. I agree with my elders – they're no longer with me – and they always told me we need a seat at the table, so that's what I've fought for.

George Chachas stated I'm disappointed in you folks. You have locals that came before you quite awhile ago. We knew competition was going to come, but don't turn your back on your locals. One veto is bad enough. Two? On one hand you encourage business and on the other hand, you give them the stiff. You're not giving a level playing field to everybody. You had an offer from the locals that hasn't been matched. You people need the revenue. You don't need new buildings; you've got forty that are closed.

Bill Sanford stated if the Tribe doesn't have a license to sell in the City, does that mean the City can charge 6% on the drugs?

City Attorney Odgers stated medical sales are controlled by Nevada Revised Statutes. There's no negotiations on medical.

Bill Sanford stated on recreational?

City Attorney Odgers stated on recreational, the law says the maximum the City can receive is three percent (3%) of the gross sales, including the cost of the business license.

Bill Sanford asked is the Tribe already paying the three percent (3%)?

City Attorney Odgers stated no. There's no Taxation requirement because they're on trust land.

Bill Sanford stated if the Tribe gave you six percent (6%),

City Attorney Odgers stated we couldn't take six percent.

Bill Sanford stated if they gave you the 6% on the grow?

City Attorney Odgers stated because that's under the fifteen percent (15%) that the law allows.

Bill Sanford asked if they gave you that, what's the difference between these guys and those guys, if the Tribe gave you that three percent (3%)?

City Attorney Odgers stated there would be no difference except for the issue that we have, the March 8th letter from the City Council that went to the Department of Taxation that says: "The City of Ely is formally requesting the State of Nevada provide all required notification of an application window related to White Pine County, and specifically the City of Ely for issuance of a dispensary license."

Bill Sanford asked does the City collect that \$100,000.00 licensing?

City Attorney Odgers stated no. The folks that are here that applied for a State license, they've all gone to the State; the State will rate them. We don't choose who that is. The State will tell us who's going to get that license; they will have eighteen months from issuance of that license to open up that facility. Once one of these folks is up and running or the compact gets negotiated, the three percent (3%) is all the City will get.

Bill Sanford asked there is no reciprocity if they open up in eighteen months for the three percent (3%) that the Tribe could have generated for that year and a half?

City Attorney Odgers stated the law doesn't have any of that built in.

Bill Sanford asked how do you change that?

City Attorney Odgers stated the legislature.

Joe Dice stated Mr. Odgers, most city councils that I go to they ask their attorney legal questions; he's like the 6th vote here today and a lot of it's untrue. The excise tax, that fifteen percent? The City gets zero. The Tribe entered into a compact with you and they were going to give you five percent (5%), that no State facility could give you under a PILT payment. Under State law you've got to decide on everything and the State law doesn't allow this or that. The Tribe can enter into any compact they want with the City in a government to government relation and share whatever percentage of their tax and PILT payment they want to. So, I don't know why he's saying that you can collect some excise tax, that no other State facility can pay you, but you can't collect some sales tax; that's not true.

City Attorney Odgers stated in the Compact on the grow facility, we used fifteen percent (15%) as the maximum we could flag. We negotiated it with the County.

Joe Dice stated no State facility can pay you that.

City Attorney Odgers stated it will be a lot more.

Joe Dice stated no, they cannot pay you any excise tax; one hundred percent goes to the State of Nevada.

City Attorney Odgers stated if you're talking about excise tax that goes to the State, you're correct. What I'm talking about is that we can negotiate that number. The maximum we can go by would be the fifteen percent. We can put into place an ordinance that says 'In order for you to open up a facility, you have to . . .

Joe Dice stated a grow facility.

City Attorney Odgers stated a grow facility or . . . , but the medical marijuana facility is limited by law to three percent (3%).

Joe Dice stated so you guys are only doing medical.

City Attorney Odgers stated correct.

Joe Dice stated so you're not going to be selling recreational, so you're not going to get any of that money.

City Attorney Odgers stated not yet. The recreational won't open up until September according to Mr. Pupo.

Joe Dice stated under the Nevada Revised Statutes and Administrative Code, it says the county must ask for a license opening; there's no mechanism for a City unit.

City Attorney Odgers stated I disagree with you. If it were not available to us then the Department of Taxation would not have . . .

Joe Dice stated when you click on the Department of Taxation's website and look at the license submission for this, it says "License Submission for White Pine County".

City Attorney Odgers stated correct.

Joe Dice stated there's nothing referencing Ely there, so that's going to come up too. So, who knows how long it's going to be before you'll . . . I appreciate your input, but some of it's a lot of speculation, \$50,000.00, \$100,000.00. If a licensee is not awarded a license, the State must give the licensing fee back to them. Mr. Odgers, could you bring up the letter that Jorge Pupo wrote discussing this exact issue saying that any municipality maintains the unfettered right to call a moratorium at any time. Wendover just did it to their dispensary. Fallon just did it to their dispensary. Jorge Pupo wrote you a letter last week saying you have the right to do that at any time.

City Attorney Odgers stated Mr. Dice, I received no such letter, so I disagree with you and if Mr. Pupo sent that to me, I didn't get it and don't appreciate that representation.

Joe Dice stated I'm saying that to the Mayor.

City Attorney Odgers stated the City can, even after the license is issued, issue a moratorium; the City of Henderson did it and lifted it after eighteen months. It is a legal option that can be placed on an agenda.

4. Council Members – City Attorney Odgers – Discussion/For Possible Action – Approval of Abandonment Order granting a portion of Southern Avenue and Belfort Avenue to Andre H. Bouchard, pursuant to the City Council's January 25, 2018 action.

Councilman Hanson moved to approve the Abandonment Order granting a portion of Southern Avenue and Belfort Avenue to Andre H. Bouchard, pursuant to the City Council's January 25, 2018 action.

Councilman DeFelice took his seat at the City Council table at 6:48 p.m.

Councilman Flangas seconded Councilman Hanson's motion. The motion carried unanimously.

5. Council Members – City Administrator Switzer – City Fire Chief Rivera – Discussion/For Possible Action – Review of current City of Ely personnel policy and possible approval of policy allowing wage range penetration for new career hires based on experience and credentials, to be determined by the hiring authority.

City Fire Chief Rivera stated I have an applicant with twenty-one years experience and all the credentials my firefighters have right now. We've always had a six-month probationary period. You could put him at the third level under the top level for six months.

Councilman Flangas left the City Council meeting at 6:59 p.m.

Councilman Hanson moved to amend the current City of Ely Personnel Policy to allow wage penetration for new career hires, based on experience and credentials, to be determined by the hiring authority consisting of the City Administrator, the Department Head and the City Council liaison, and if it fits within the City's budget. Councilman Carson seconded the motion. The motion carried unanimously.

Councilman Hanson moved to allow City Fire Chief Rivera to make that job offer immediately, contingent on the budget. Councilman Carson seconded the motion. The motion carried unanimously.

6. Council Members – City Administrator Switzer – City Water/Sewer Leadman Siemer – Discussion/For Possible Action – Approval to expend \$200.00 from the Water Department fund for a De Minimis Discharge Permit filing fee for the Courthouse tank overflow.

Councilman Carson stated I'll probably abstain from this.

City Attorney Odgers stated the reason Mr. Carson is saying this is his father has made a complaint; we had the Nevada Division of Environmental Protection come out. This has nothing to do with your father, other than to say that we don't have the permit we were supposed to have, so we need to have this vote.

Councilman Carson stated okay.

City Attorney Odgers stated so, there's no conflict for you. This is in response to NDEP; they were out here in late June on an overflow issue with the tank, which the City Council was aware of. Our contract with *Robinson Mine* had them pumping at 3,500 GPM 24/7/365 and during the winter time it overflowed and went down Murry Creek. We didn't have a permit for that overflow going down Murry Creek. We've since re-negotiated with *Robinson Mine* to reduce that to 3,500 GPM on demand. So the overflow issue is taken care of, but in the event there is an issue with overflow, we can do that.

Councilman Hanson moved to approve expending \$200.00 from the Water Department Fund for a De Minimis Permit filing fee for the Courthouse tank overflow. Councilwoman Gardner seconded the motion. The motion carried unanimously.

7. Council Members – City Administrator Switzer – Discussion/For Possible Action — Approval of Payroll and Accounts Payable Services contract between the City of Ely and *Hinton Burdick, CPAs & Advisors* for a monthly fee of \$1,700.00.

Councilman Hanson moved to approve the Payroll and Accounts Payable Services contract between the City of Ely and *Hinton Burdick, CPAs & Advisors* for a monthly fee of \$1,700.00. Councilwoman Gardner seconded the motion. The motion carried 3 to 1, with Councilman DeFelice voting No.

9. Councilman Flangas – Discussion/For Possible Action – Approval to recruit for an Account/Utility Clerk position with an emphasis in accounts payable and payroll, including where to advertise the vacancy and whether the position should be full time.

Councilman Hanson moved to table this item. Councilman DeFelice seconded the motion. The motion carried unanimously.

10. PUBLIC COMMENT

George Chachas stated you folks need to hire an accountant and quit playing around. You've got financial issues that warrant a true professional. If you can't handle the job, walk away. Accounts payable clerk? Bring in an accountant. Call Taxation. Go to a university. Someone has graduated that has the skills. Sean Scott has yet to finish the repairs on my roof at 570 Aultman; he's working at a home in the 1,000 block of 15th Street East. I have yet to see anything on your agenda to address the two junk yards near where the new *Holiday Inn* is going to be built; the City needs to address those issues before that twelve million dollar facility opens up. I'm concerned about street vendors throwing up signs around the community.

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

Councilman Carson moved to adjourn the regular meeting of the Ely City Council at **7:21 p.m.** Councilwoman Gardner seconded the motion. The motion carried unanimously.

MAYOR

ATTEST