



CITY OF ELY

501 Mill Street Ely, Nevada 89301
City Hall (775) 289-2430
www.Cityofelynv.gov

ELY CITY COUNCIL REGULAR MEETING

February 25, 2021 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 5:01 P.M.; Ken Kliever offered the invocation. Mayor Robertson led in the Pledge of Allegiance and asked for Roll Call.

Members present:

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

City Officials and staff present in the building or via conference call:

- City Clerk Jennifer Lee
- City Treasurer Janette Trask
- City Attorney Shain Manuele (Zoom)
- City Administrative Assistant Patti Cobb
- City Engineer BJ Almberg
- City Fire Chief Pat Stork
- City Police Chief Scott Henriod
- Public Works Supervisor Mike Cracraft
- City Building Official Brad Christiansen (Zoom)

Also, in attendance: Members of the public in attendance at the Ely Volunteer Fire Hall signed in (appears below) and the following persons attended via video conference: Marietta Henry, Geri Wopschall, Mike Cripps, Jennifer Drew, Caroline McIntosh, and Linda Davies.

Ely City Council **ATTENDANCE LIST**

DATE: February 25, 2021

Print name below
Ken Kliever
Robert J. VanCary
James Judd
George Chachas
Lee Walker

Print name below

2. PUBLIC COMMENT

George Chachas stated his ongoing concerns regarding billing not being corrected to date for his property at 490 High Street; utility billing; and curb/gutter codes not being enforced. On Agenda Item 8B-1 considering Building Inspection Services by Brad Christiansen, you need to hire someone else. On Agenda Item 8B-2 Approval of employment contract between Lee Walker

and the City of Ely, and does Mr. Walker have a State or City Business License, a home occupation or commercial location? On item 8B-7 considering the possible approval of Maupin Cox & LeGoy conflict waiver regarding Maupin, Cox & LeGoy representation of Greenburg Traurig, LLP and others in litigation involving Holiday Express and Robert Van Camp in the 7th Judicial Court, why is the City involved in having to approve a waiver?

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

Councilwoman Beecher moved to approve the agenda as it reads. Councilman Flangas seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

➤ **City Fire Chief Stork**

City Fire Chief Stork reported Dusty Robertson was promoted to Firefighter/EMT as she has passed her Advanced EMT and already has her Fire Certification and is the first female firefighter in the history of the Ely Fire Department. We are going to accept applications for our open position until tomorrow at 5:00 P.M. and as of now there are three people to interview on March 10, 2021.

➤ **City Clerk Lee**

City Clerk Lee stated the CDBG application has been submitted and the presentation for that will be held on March 24, 2021 in the morning. White Pine County contacted me today and they are holding public scoping meetings on the SNPLMA grants that are already received and one of those grants is for Jack Caylor Park; the same information will be presented at the March 25, 2021 City Council Meeting.

➤ **City Engineer Almberg**

City Engineer Almberg stated Q & D is in town and they hope to fully engage in the highway project as of March 1, 2021. There was a meeting today with Q & D and NDOT to go over scheduling and coordination issues. This week I was able to get in touch with the SCADA and they have their off-peak hours software up and running. They went through a tutorial with me on how to set it up on our end and hopefully come March 1, 2021, we will be running in off peak hours. The Murry Street Project will be starting up on March 8, 2021. As City Clerk Lee stated, we will have a slide show presentation to prepare on the CDBG Grant.

City Police Chief Henriod asked if traffic would be restricted to one-way traffic on Great Basin Boulevard during the construction?

City Engineer Almberg stated the traffic flow is going to be changing quite regularly and I can get in contact with the contractor to keep the Sherriff's office, Fire Department, and other emergency services updated daily of those changes.

5. REPORTS

No reports from The City Council or Mayor.

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

A. CONSENT AGENDA

MOTION: Move to approve the Consent Agenda item 8A-1 Minutes and 8A-2 Bills.

Moved by: Councilwoman Beecher Second by: Councilman Alworth Vote: Unanimous

1. Discussion/For Possible Action –Minutes.

- January 28, 2021

2. Discussion/For Possible Action –Bills.

- February 8, 2021
- February 12, 2021

B. NEW BUSINESS

1. Mayor Robertson – Discussion/For Possible Action – Review of proposals received for Building Inspection Services with possible acceptance of one or more proposals; proposals under consideration are: Brad Christiansen.

Councilman Spear moved to accept the proposal for Building Inspection Services from Brad Christiansen. Councilman Alworth seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action – Approval of employment contract between Lee Walker, appointed City Building Official February 18, 2021, and the City of Ely.

Councilwoman Beecher stated her opposition is the employee paying up front for the licensing and would feel better about the City of Ely paying for them with a 5-year clause in the contract.

Mayor Robertson stated just as the hiring of the employee, the contract is the Councils' sole decision as well.

Councilman Alworth asked Councilwoman Beecher where is it that the candidate is going to pay for his testing?

Councilwoman Beecher stated the contract states the City of Ely pays for it up front but it is deducted monthly from the employee's paycheck. I would feel more comfortable with something that said the City of Ely pays for it with the understanding that the employee is signing a 5 year contract and if that contract is not fulfilled, then the employee is required to reimburse for the expense of the training. If we are requiring the licensing, then we need to pay for it.

Councilman Alworth responded if training gets to a point of \$4000.00 within the five years and if the employee leaves, his last check will not be enough to cover it, and at that point, how is the City of Ely protected?

Councilwoman Beecher stated how are you ever protected? The contract is what protects the City of Ely.

City Attorney Manuele stated being able to get a judgment is different from collecting on a judgement, which can be a heartache to collect on. It is up to the City Council on which avenue they would like to take on repayment of those classes.

Councilman Spear stated previous candidates for the Building Official Position had all the credentials and maintained them on their own dime; not being paid by City of Ely. I feel that we are doing a great service to Lee Walker by giving him an apprenticeship opportunity to become a Building Inspector and he will have to pay for his schooling. If Lee Walker stays employed with the City of Ely for the five years, he will be reimbursed for the classes and certifications. I feel it is a perfectly well written contract.

Councilwoman Beecher stated she did not see where it stated in the contract that the employee would be reimbursed at the end of five years.

City Attorney Manuele stated on page one paragraph two in the contract labeled "Position Title" that is all outlined in the underlined language, which is the intent of the Contract. However, it is not contemplated in the contract that after five years he will be paid back for the amount he has paid in, but that could be added if that is the Councils desire.

City Treasurer Trask stated she agreed with Councilman Spear in that we are giving Lee Walker an opportunity to become a Building Inspector. The previous Building Official

paid for all his certifications, but the City of Ely paid for the continuing education units as needed through his employment to maintain needed licensure and The City of Ely would do that for Lee Walker as well.

Councilwoman Beecher stated I also understand that those other candidates came with certificates, but we were going to be paying them considerably more.

City Treasurer Trask stated the pay scale is based on experience and those with certificates have more experience.

Councilman Alworth stated over a five-year period there will be a payroll deduction plan that has been worked out with the City HR Director and Lee Walker that is affordable. Every certificate Lee Walker receives there will be a 5% pay increase in wages. At the end of five years of employment, Lee Walker will be reimbursed for the amount paid in for certification. I don't think that is a big deal.

Councilman Spear moved to approve the employment contract between Lee Walker, appointed City Building Official, and the City of Ely as presented. Councilman Alworth seconded the motion. The motion carried unanimously.

Lee Walker stated he has read over the contract and is willing to accept and sign it as presented.

3. Councilman Alworth – Discussion/For Possible Action – Approval of monthly balance sheets for general fund, street fund and enterprise funds.

Councilman Alworth moved to approve the monthly balance sheets for general fund, street fund and enterprise funds. Councilwoman Beecher seconded the motion. The motion carried unanimously.

4. Council Members – City Treasurer/HR Director Trask – Discussion/For Possible Action – Approval to hire full-time or part-time Utility/Accounts Clerk to process Accounts Payable, Payroll and other assigned duties as needed.

City Treasurer/HR Director Trask stated we are getting to a point that we need at least a part-time person that could work into a full-time position. As the City Treasurer, it is not my position to do the accounts payable and the payroll; it's under the Utility/Accounts Clerk position. Taking on the HR Director position on top of the City Treasurer's position has been a bit much. I also think this person could be utilized to help with grant administrating to help take pressure off City Clerk Lee and myself. If a part-time position is approved, I would recommend that it be at least 20 hours a week to be PERS eligible and keep in mind it would have to be 30 hours a week to be eligible for health benefits.

Councilwoman Beecher asked is a full-time person preferred to best serve the office?

City Treasurer/HR Director Trask stated yes, as I will have to get them trained. I will be looking for someone that has experience in payroll as there is not time to train from the ground up. There will be costs besides wages and benefits, as a license for Caselle and a computer will have to be purchased.

Councilwoman Beecher stated this position can be budgeted in the next fiscal year, but do you feel comfortable with this year's budget to add this position?

City Treasurer/HR Director stated yes. I have looked at the budget and things are coming in better than what was budgeted. There are monies to augment as necessary in the general fund. It would be a four-way split between the general fund and enterprise funds for their wages, benefits, and any other incurred expense.

Mayor Robertson asked for doing just payroll, how many hours a week do you figure if that is all they are doing?

City Treasurer/HR Director stated she would not have someone just doing payroll as it is ran every two weeks. This person would also do accounts payable and that is generally ran at least three times a month. After this person was comfortable with payroll and accounts payable, I would like for some other projects such as research thrown in.

Mayor Robertson stated other assigned duties as needed encompasses this?

City Treasurer/HR Director stated that she would like for this person to be cross trained in answering phones, cash receipting and other duties associated with the other Utility/Accounts Clerk Positions to provide back up when needed.

Councilman Spear stated he had an issue with hiring another person as the rest of the departments in the City are running lean. Just recently we were the only entity in White Pine County to cut our staff's wages by 12.5% during the first phase of the COVID pandemic and feel it is in poor taste to hire more people at this time so it will be a no vote for me for sure.

Councilman Alworth stated I understand what Councilman Spear is saying however the information coming out of City Hall must be accurate and you have two key people, being the City Clerk and the City Treasurer/HR Director, that are extremely busy. The other day we had two people out and almost had to close City Hall as we had no back up. The two ladies still in the office are not trained for cash receipting but did receive it and locked it up. We need to cross train employees. We need the City Treasurer watching the finances as they are finally, after about six years, going in the right direction. The City Clerk is handling multiple tasks and able to hand some of those duties off to Administrative Assistant Patti Cobb. If we have someone out sick or on vacation it runs us shorthanded and we need to make sure we are covered.

City Clerk Lee stated for the record I have been doing Clerk duties most of the day, but after this meeting I will go home for dinner and then be back here to run reports to close out the Fire Extrication Tool CDBG Grant. I am doing this kind of work weekly.

Councilwoman Beecher stated that we should not be expecting these kinds of hours from any of our employees and expecting the office to run on fumes is unreasonable.

Mayor Robertson asked since the motion and second is for a full-time position, is it the understanding that since they will be full-time, they will be helping with some of the grant duties?

City Treasurer/HR Director stated yes. When I advertise the position, it will include other assigned duties and be made clear that will include grant administration.

Councilwoman Beecher moved for Treasurer/HR Director Trask to hire a full-time Utility/Accounts Clerk to process accounts payable, payroll and other assigned duties as needed. Councilman Alworth seconded the motion. The motion carried with 4to1 Councilman Spear voting Nay.

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

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

City Engineer AlMBERG stated we are required to do this certification annually to report to the State. What we are reporting to the State is 51.37 motor fuel tax center line miles and 35.61 of those miles are paved miles. The maps in the packets reflect this information and are the same reporting numbers as the previous year.

George Chachas stated when the certification was done, was the access off Great Basin and Campton taken into consideration regarding City standards not being met?

Mayor Robertson asked should Avenue D be labeled as gravel road down to Aultman? Is that a correction that needs to be made?

City Engineer AlMBERG stated the map is a pictorial presentation of the roads that have been upgraded however there have been improvements behind Wheeler Machinery and will make that adjustment to reflect accuracy before sending to the State.

2. Councilman Alworth - Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 738, Bill 2021-01, amending Chapter 1 of Title 4 of the City Code of the City of Ely replacing chapter 1 in its entirety regarding Public Nuisances.

George Chachas stated there is no need to modify the rules and regulations as the ordinances have been in place for years and the failure to act on them is on you guys. Mr. Chachas stated his ongoing concerns on ADA Access to local businesses, City Code violations, curb/gutter, RV permitting, roofing permits, and the water meter on the corner of Ogden and Ruby causing erosion problems.

3. Councilman Alworth - Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 739, Bill 2021-02, amending Chapter 2 of Title 4 entitled Public Health and Safety, Garbage and Refuse, Abatement of Unsafe Buildings, Filth, Rubbish of the City Code of the City of Ely specifically changing the timeframes outlined in Section 14.

George Chachas stated, “same comments.”

4. Councilman Alworth - Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 740, Bill 2021-03, amending Chapter 3 of Title 4 entitled Public Health and Safety, Weeds, Debris and Other Offensive Matter of the City Code of the City of Ely specifically changing the timeframes outlined in Section 3.

George Chachas reminded the City Council and Mayor of the public information request on whether former members of the Ely Planning Commission were complying and yet there are more regulations and ordinances. There is no need for any of these changes and those that are in office need to set an example.

Mayor Robertson asked that Mr. Chachas keep his comments related to the agenda item.

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

1. Council Members-City Engineer AlMBERG – Discussion/For Possible Action – Approval of Certification of Roads for Fuel Tax within the City of Ely, Nevada, pursuant to NRS 365.550.

City AlMBERG reported the correction is .11 miles that will be made prior to sending to the State. What the Council will be certifying to is 35.72 paved miles and 15.65 unpaved miles.

Councilman Carson moved to approve the Certification of Roads for Fuel Tax within the City of Ely, Nevada, pursuant to NRS365.550 with corrections. Councilwoman Beecher seconded the motion. The motion carried unanimously.

2. Councilman Alworth – Discussion/For Possible Action – Approval of Second Reading of Ordinance 738, Bill 2021-01, amending Chapter 1 of Title 4 of the City Code of the City of Ely replacing chapter 1 in its entirety regarding Public Nuisances.

Councilman Spear stated under Q-2 having no shattered windows, glass, hoods, fenders or truck should be “trunk”. Councilman Spear stated he would like a change consistently throughout to state the 5- or 10-day timeline starts after proof of receipt of notice and not mailing of notice to avoid a hardship for residents that may have delayed mail. This receipt of notice would apply to all forms of delivery whether it is by hand, U.S. Postal Service, Sheriff’s department or other service. Councilman Spear stated the other concern he has is all the junk cars in town, but what are we going to do with them? The ordinance stated that they must be towed off, but we cannot put them in the City Dump without having a proper title and we can’t put them down at the Sewage Treatment Plant.

Mayor Robertson stated it is his understanding that the junk cars would be kept by the towing company that we hired to get rid of them.

Councilman Spear stated he would like to see once a year having some way for people to get rid of these junk cars with having a car crusher come in or some other solution if we are going to enforce it.

Councilman Alworth had one spelling correction on page 4 in 4-1-7 in Section B it needs to be City Clerk instead of City Manager. Regarding Councilman Spear’s comments let’s see if we have a problem first as some of these junk cars are left from previous family and they are all over town. The problem is up to the landowner not up to the City and we now have descriptions by NRS that we can enforce.

Councilwoman Beecher agreed with Councilman Spears’ comments as well, and asked if there is a certified letter sent and they are never picked up or returned to us then what is our recourse?

Councilman Spear stated the Sheriff’s office will deliver the notice in that case.

Councilman Alworth moved to approve the second reading of Ordinance 738, Bill 2021-01 with corrections of timeline to proof of receipt. Councilman Carson seconded the motion. The motion carried unanimously.

3. Councilman Alworth – Discussion/For Possible Action – Approval of Second Reading of Ordinance 739, Bill 2021-02, amending Chapter 2 of Title 4 entitled Public Health and Safety, Garbage and Refuse, Abatement of Unsafe Buildings, Filth, Rubbish of the City Code of the City of Ely specifically changing the timeframes outlined in Section 14.

Councilman Spear stated he would like to see the same changes under 4-2-14 B to receipt of notice to start the 5- and 10-day timelines and consistently throughout the ordinance.

Councilman Spear moved to approve the second reading of Ordinance 739, Bill 2021-02 with corrections of timeline to proof of receipt. Councilman Alworth seconded the motion. The motion carried unanimously.

4. Councilman Alworth – Discussion/For Possible Action – Approval of Second Reading of Ordinance 740, Bill 2021-03, amending Chapter 3 of Title 4 entitled Public Health and Safety, Weeds, Debris and Other Offensive Matter of the City Code of the City of Ely specifically changing the timeframes outlined in Section 3.

Councilman Spear moved to approve Second Reading of Ordinance 740, Bill 2021-03. Councilman Alworth seconded the motion. The motion carried unanimously.

Councilman Alworth stated it is imperative to have the Public Notice to all property owners to remove any and all weeds, debris, or other offensive matter from the owner's property within thirty (30) calendar days referenced in 4-3-2 of the Ordinance published in the newspaper the first week of April.

City Clerk Lee stated this publication has been happening and will continue.

B. NEW BUSINESS

5. Council Members – City Clerk Lee – Discussion/For Possible Action – Direction to City Attorney to contact White Pine County District Attorney regarding a Cooperative Agreement for Election Services between White Pine County and the City of Ely for later consideration by the Ely City Council and White Pine County Commission.

Councilwoman Beecher disclosed I have a personal relationship in a private capacity with the White Pine County District Attorney, but I do not feel that relationship would exclude me from voting on this item.

Councilman Alworth moved to direct City Attorney Manuele to contact the White Pine County District Attorney regarding a Cooperative Agreement for Election Services between White Pine County and the City of Ely for later consideration by the Ely City Council and White Pine County Commission. Councilman Spear seconded the motion. The motion carried unanimously

6. Council Members – City Clerk Lee – Discussion/For Possible Action – Acceptance of WHYNT maintenance proposal for the City of Ely's website for \$119.00 per month.

Councilwoman Beecher moved to approve the WHYNT maintenance proposal for the City of Ely's website for \$119.00 per month. Councilman Alworth seconded the motion. The motion carried unanimously.

7. City Attorney Manuele - Discussion/For Possible Action – Approval of Maupin Cox & LeGoy conflict waiver regarding Maupin, Cox & LeGoy representation of (i) Greenburg Traurig, LLP; (ii) Jason K. Hicks, Esq.; and (iii) Christopher R. Miltenberger, Esq., in *Holiday Pine, LLC d/b/a Holiday Inn Express & Suites Ely, a limited liability company v. Robert Van Camp, et. al.*, pending in the Seventh Judicial District Court of the State of Nevada, Case No. CV-2012127.

City Attorney Manuele stated this waiver is being requested by Maupin Cox & LeGoy who currently represent us on the railroad litigation and because they currently represent us, they are seeking a waiver out of an abundance of caution. They were approached by these individuals in the Holiday Inn Express lawsuit, and since we are named in that as well, we are potentially co-defendants of the client that they would like to represent; I don't foresee any conflicts with that. This waiver does indicate that if there are real conflicts that exist, they will bring that to our attention, though we can discuss if a waiver of the real conflict will be appropriate. These are standard in accordance with the rules of ethics to ensure that a party that could have a potential conflict is aware that there could be that conflict. If we do not want to sign this, Maupin Cox & LeGoy may not be able to represent those individuals that hired them in this Holiday Inn lawsuit. If we do sign the waiver, we are indicating that we don't believe there is a conflict currently and they would approach us with any potential or realized conflicts in accordance with rule 1.7. I would advise that we can sign this waiver. They are two different legal actions. We are named in this Holiday Inn action, but we are represented not by Maupin Cox & Legoy but by Pool Pact Attorneys and they will represent us in defending this lawsuit and so other individuals that are co-defendants need representation.

Councilman Alworth moved to Approve Maupin Cox & LeGoy conflict waiver regarding Maupin, Cox & LeGoy representation of (i) Greenburg Traurig, LLP; (ii) Jason K. Hicks, Esq.; and (iii) Christopher R. Miltenberger, Esq., in *Holiday Pine, LLC d/b/a Holiday Inn*

Express & Suites Ely, a limited liability company v. Robert Van Camp, et. al., pending in the Seventh Judicial District Court of the State of Nevada, Case No. CV-2012127. Councilman Carson seconded the motion. The motion carried unanimously.

9. PUBLIC COMMENT

George Chachas stated his despondence of the passing of Ordinance 738 promoting more rules and regulations and referred to ongoing concerns of properties within the City of Ely where cleanup efforts have not been enforced. Mr. Chachas stated ongoing concerns with contacting Mt. Wheeler Power about power poles needing to be moved during the sewer and water line replacement on Murry street, as well as ADA access; his public information request for the City Personnel manual, the rumor of an embezzlement at the Railroad; the 111 million or more gallons of water that have been used by the Golf Course and if it has been paid for; billing for his property at 490 High Street; the 490' feet of steel pipe's whereabouts; and not being reimbursed for taking care of the sewer problem at 681 Parker.

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

Councilwoman Beecher moved to adjourn the Regular meeting of the Ely City Council at **6:01 p.m.** Councilman Spear seconded the motion. The motion carried unanimously.



MAYOR



ATTEST