



# CITY OF ELY

501 Mill Street Ely, Nevada 89301  
City Hall (775) 289-2430  
[Cityofelynv.gov](http://Cityofelynv.gov)

**JOINT SPECIAL MEETING  
ELY CITY COUNCIL  
NEVADA NORTHERN RAILWAY FOUNDATION, INC., BOARD OF DIRECTORS**

**March 4, 2022, 5:00 p.m. – Ely Volunteer Fire Hall – 499 Mill Street – Ely, Nevada**

1. Mayor Pro Tempore Williams-Harper called the joint special meeting of the Ely City Council and Nevada Northern Railway Foundation, Inc., Board of Directors to order at 5:00 P.M.; led in the Pledge of Allegiance; and asked for Roll Call.

City Council Members present:

Mayor Pro Tempore Jerri-Lynn Williams-Harper  
Councilman Ernie Flangas  
Councilman Kurt Carson  
Councilman Ed Spear  
Councilman Jim Alworth

City Officials absent:

Mayor Nathan Robertson

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

City Clerk Jennifer Lee  
City Attorney Leo Cahoon  
City Administrative Assistant Patti Cobb

Nevada Northern Railway Foundation, Inc., Board of Directors present:

Chairman John Gianoli  
Director Roger Bowers  
Director Caroline McIntosh (Zoom)  
Director Bruce Wycoff (Zoom)  
Director Carl Marsh (Zoom)  
Director Jim Alworth  
Director Jerri-Lynn Williams-Harper

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: Geri Wopschall, Mark Bassett, Jeff Moreno, Esq. Thompson Hine; Paul Anderson, Esq. Maupin, Cox, and LeGoy; Chris Stanko, Esq. Maupin, Cox, and LeGoy; Sue Mann, and Lisa Ellison.

## **ELY CITY COUNCIL ATTENDANCE LIST**

**DATE: March 4, 2022**

Print name below

George Chachas

Print name below

**2. PUBLIC COMMENT:**

George Chachas stated on your agenda item 3-1 you are to consider the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022. The Historical Railroad Foundation, or known as its other title Nevada Northern Railway Foundation, has failed miserably for a period of twenty-two to twenty-three years to properly operate and collect revenues from S & S Shortline Leasing. If they haven't collected or cannot show they have collected some revenue, that board should be fired or terminated in whatever terms applicable. The Railroad needs to come back under the Ely City Council. History clearly shows those that sit on that board are not competent and have cost the City over \$1 million or more in legal fees alone with nothing to show. The Agreement goes on to say that S & S should be entitled to retain storage revenue from the effective date of this agreement through July 31, 2022 with no compensation to the Nevada Northern Railway Foundation or the City. The Board fails to operate under the Nevada Open Meeting Law, they fail to provide public information, and to date no one has addressed the rumor of the tens of thousands of dollars that have been embezzled.

**3. ITEMS FOR DISCUSSION ONLY OF THE ELY CITY COUNCIL AND RAILWAY FOUNDATION BOARD.**

1. City Council and Nevada Northern Railway Foundation, Inc., Board of Directors Discussion Only. Discussion of the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and all exhibits thereto.

Chris Stanko, Esq. with the law firm of Maupin, Cox, and LeGoy stated I am counsel for the City of Ely and the Nevada Northern Railway Foundation. The Nevada Northern Railway Foundation has been determined by the Nevada Attorney General's Office not to be subject to the Nevada Open Meeting law for various reasons in a 2017 opinion. In no way agreeing to this meeting subject to the Open Meeting Law does it concede in any way that the Nevada Northern Railway Foundation, Inc. is subject to the Open Meeting Law. I just wanted to state that as a threshold matter. Maupin, Cox, and LeGoy are representing both clients and Jeff Moreno, Esq. with Thompson Hine in Washington D.C., is representing both clients with respective federal Railroad issues and have worked through this proposed settlement agreement with S & S and some of it's principals. When going through the agreement on high level business terms there have been multiple drafts that have gone forth between S & S, the Foundation, and the City. We think it is a fair and good agreement given where we are in the litigation. The big high-level idea of the agreement is the parties have a clean and lasting separation and split ways. We have minimal to no money changing hands. The City of Ely and the Foundation can go forth with respect to the Nevada Northern Railway with what is commonly referred to as the Northern Line and do with it what they decide and S & S can go and pursue its other endeavors, but those will not be on the Nevada Northern Railway. There is a little bit of a gap in terms of the off ramp for that all to take place. The main day is July 31, 2022 when S & S needs to be fully off of the rail line and until then, they have the right to be on the rail line, collect storage revenue, and work to get off of the rail line. Going through the agreement, the first two pages lay out some of the facts about the history of the line and the agreement between S & S, the Foundation, and the City. We get to some representations and warranties in section A, very standard legal representations, and warranties. Part B is where the meat of the agreement is so to speak and at a high-level, goes through what I just spoke about but in more detail. The Joint Development Agreement between the parties will be terminated in all respects as soon as the parties agree to execute this agreement, except for a few provisions which will remain in full force and effect until S & S is fully off the rail line by July 31, 2022. They have a right to keep the money they get between now and July 31, 2022. There is an obligation for them to keep S & S as the insured on the line and to add us as an additional insured. There is a little bit the Foundation and the City would have to pay to that respect, but it is capped at \$12,500.00 or \$6,250.00 each. There are some protections in terms of indemnification if there are any issues on the northern line between now and when S & S has to be completely off by July 31<sup>st</sup>. Part C is a federal railroad piece. The way we are going to effectuate the federal railroad piece, in terms of S & S no longer being on the line in respect to federal law under the Surface Transportation Board, will be through a filing that will be made

shown in Exhibit “A”; it is the STB Notice of Exemption, which has to be done by March 31, 2022 if the bodies decide to vote in favor of this agreement. Part D talks about a settlement agreement from 2020 and by executing this, that agreement and escrow would no longer be applicable in any way. Any checks that have been held in the interim since that time and in limbo as the litigation has occurred e have waited for that settlement that was pending for a long time will be destroyed. Part E relates to complex federal railroad law; the bottom line is the parties, if everything goes as planned, are going to completely separate ways no later than July 31, 2022. Part F is the dismissal of the current lawsuit which has gone on since June of 2015. The lawsuit would be dismissed within five days of executing this agreement. Part G relates to attorneys’ fees. Part H other than this agreement and a few things related to certain claims could arise if this agreement isn’t followed is that the parties are releasing their claims and going their separate ways, so we have a pretty robust release in part H. Part I is personal to Mr. Williams and his daughter Ms. Beggs in terms of having nothing further to do with the Nevada Northern Railway. Part J is a lot of legalese so to speak but is important in any contract and not unique to this business deal. Exhibit “A” is the form Notice of Exemption that would be filed at the Surface Transportation Board to effectuate this agreement. Exhibit “B” is the short dismissal with prejudice that would be filed by all the attorneys in order to dismiss the State lawsuit.

**Mayor Pro Tempore Williams-Harper and Railway Foundation Board Chairman Gianoli adjourned the joint meeting of the Ely City Council and Nevada Northern Railway Foundation, Inc., Board of Directors for a meeting of the Ely City Council.**

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

1. City Council – Discussion/For Possible Action. Approval of the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and all exhibits thereto.

Councilman Spear moved to approve the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and all exhibits thereto. Councilman Alworth seconded the motion. The motion carried unanimously.

2. City Council – Discussion/For Possible Action. Approval of and direction to Mayor Pro Tempore, Dr. Jerri-Lynn Williams-Harper, to execute, on behalf of the City of Ely, the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and any exhibits thereto, and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement.

Councilman Flangas moved to approve and direct Mayor Pro Tempore, Dr. Jerri-Lynn Williams-Harper, to execute, on behalf of the City of Ely, the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and any exhibits thereto, and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement. Councilman Alworth seconded the motion. The motion carried unanimously.

3. City Council – Discussion/For Possible Action. Approval of and direction to attorneys for the City of Ely at the law firms of Maupin, Cox & LeGoy and Thompson Hine to execute and/or file all necessary exhibits to the Settlement and Mutual Release of All Claims Agreement, dated

as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, in the Seventh Judicial District Court of the State of Nevada and the Surface Transportation Board and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement.

Councilman Alworth moved to approve and direct attorneys for the City of Ely at the law firms of Maupin, Cox & LeGoy and Thompson Hine to execute and/or file all necessary exhibits to the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, in the Seventh Judicial District Court of the State of Nevada and the Surface Transportation Board and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement. Councilman Carson seconded the motion. The motion carried unanimously.

**Mayor Pro Tempore Williams-Harper adjourned the meeting of the Ely City Council and turned the gavel back to the Chairman Gianoli of the Board of Nevada Northern Railway Foundation, Inc., for a meeting of the Nevada Northern Railway Foundation, Inc., Board of Directors.**

#### **5. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE BOARD OF DIRECTORS OF NEVADA NORTHERN RAILWAY FOUNDATION, INC.**

1. Nevada Northern Railway Foundation, Inc. – Discussion/For Possible Action. Approval of the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and all exhibits thereto.

Director Bowers moved to approve the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and all exhibits thereto. Director Wycoff seconded the motion. The motion carried unanimously.

2. Nevada Northern Railway Foundation, Inc. – Discussion/For Possible Action. Approval of and direction to Chairman of the Board, John Gianoli, to execute, on behalf of Nevada Northern Railway Foundation, Inc., the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and any exhibits thereto, and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement.

Director Wycoff moved to approve and direct Chairman of the Board, John Gianoli, to execute, on behalf of Nevada Northern Railway Foundation, Inc., the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, and any exhibits thereto, and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement. Director Marsh seconded the motion. The motion carried unanimously.

3. Nevada Northern Railway Foundation, Inc. – Discussion/For Possible Action. Approval of and direction to attorneys for Nevada Northern Railway Foundation, Inc., at the law firms of Maupin, Cox & LeGoy and Thompson Hine to execute and/or file all necessary exhibits to the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, in the Seventh Judicial District Court of the State of Nevada and the Surface Transportation Board and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement.

Director Bowers moved to approve and direct attorneys for Nevada Northern Railway Foundation, Inc., at the law firms of Maupin, Cox & LeGoy and Thompson Hine to execute and/or file all necessary exhibits to the Settlement and Mutual Release of All Claims Agreement, dated as of March 1, 2022, by and among Nevada Northern Railway Foundation, Inc., a Nevada nonprofit corporation, formerly known as White Pine Historical Railroad Foundation, Inc., a Nevada nonprofit corporation, the City of Ely, Nevada, a Nevada municipal corporation, and S & S Shortline Leasing, LLC, a Utah limited liability company, in the Seventh Judicial District Court of the State of Nevada and the Surface Transportation Board and to take all actions necessary or appropriate to consummate the closing of the transactions contemplated in that agreement. Director Wycoff seconded the motion. The motion carried unanimously.

**Chairman Gianoli of the Board of Nevada Northern Railway Foundation, Inc., turned the gavel back to the Mayor Pro Tempore Williams-Harper to reconvene the joint special meeting of the Ely City Council and Nevada Northern Railway Foundation, Inc., Board of Directors.**

**6. PUBLIC COMMENT:**

George Chachas stated ongoing concerns regarding the notice for abatement he received in May of 2021 and the alleged thirty attempts it took him to get a building permit to make it presentable; selective enforcement, City Code violations, and nuisances around town he states are not getting taken care of.

**7. ADJOURNMENT: THE JOINT SPECIAL MEETING MAY BE ADJOURNED BY APPROPRIATE MOTIONS OF THE ELY CITY COUNCIL AND NEVADA NORTHERN RAILWAY FOUNDATION, INC., BOARD OF DIRECTORS.**

Councilman Carson moved to adjourn the special joint meeting of the Ely City Council and the Nevada Northern Railway Foundation, Inc., Board of Directors at **5:34 p.m.** Councilman Flangas seconded the motion. The motion carried unanimously.

  
MAYOR PRO TEMPORE

  
ATTEST

