

# CITY OF ELY

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

## ELY CITY COUNCIL REGULAR MEETING

October 27, 2022, 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. David Costello offered 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 Jerri-Lynn Williams-Harper

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

- City Clerk Jennifer Lee
- City Treasurer/HR Director Janette Trask
- City Attorney Leo Cahoon
- City Engineer B.J. Almberg
- City Fire Chief Pat Stork
- City Municipal Judge Mike Coster
- City Administrative Assistant Patti Cobb

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, Marietta Henry, Donna Bath, Buzz Rosevear, Julie Giandi, Art Meecham, and Mr. Williams.

### ELY CITY COUNCIL ATTENDANCE LIST

DATE: October 27, 2022

Print name below

Samantha Elliott  
 Jant VanLang  
 Michael Conner  
 Kyle Horvath  
 Juliet Noyes  
 Lewis Trask  
 Karl [unclear]  
 Bill [unclear]  
 MARK BASSETT  
 SANDRICH ROBERTSON  
 Errol Packer  
 Bill Wilson  
 MIKE COSTER  
 Bill & Judy Wolf  
 John Miller  
 TOMMY KENNEDY  
 JESS TRASK

Print name below

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

Councilman Spear stated we had an email come in this afternoon stating the City will more than likely not have to come up with the twenty percent match for the \$2.7 million and my guess is the same for the \$3.3 million, so at this time I would like to have item four under New Business regarding the room tax increase removed, tabled, or quashed.

Councilman Spear moved to approve the agenda with the removal of item B-4. Councilman Alworth seconded the motion. The motion carried unanimously.

**2. PUBLIC COMMENT:**

President of the White Pine Corral Association Kent Lynskey stated I would like to say the Tourism and Recreation Board has made it possible for us to get a new arena, new arena lights, and a roping dummy to help train our people and our horses; without them we could not have made it as far as we have.

Bill Wilson stated for those of you following the seismic studies of the Pumped Storage Project we had another earthquake in Spring Valley. The USGS said it was a 2.9, 22 kilometers southeast of McGill along the Schell Creek Range fault, which is similar to the one near Steptoe Valley. It happened Saturday morning at 7:30 a.m.

Mitch McVicars representing the Bristlecone Bowmen stated I just want to say the Tourism and Recreation funds have really helped all of our facilities. They have really helped out our club and I just want to make sure everyone is aware of that.

Bill Wolf stated even though the agenda item has been quashed for this meeting I am opposed to what that item is on the agenda, and I am sure we will all be here next time it comes up.

Luis Tristan stated I oppose item four and it is sad that it even made it here. We are a small business here trying to survive and it seems like the City of Ely does not want to support us.

City Clerk Lee read the following comments into the record:

**Patti Cobb**

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**From:** Jennifer Lee  
**Sent:** Thursday, October 27, 2022 4:51 PM  
**To:** Patti Cobb  
**Subject:** Fwd: New business item #6

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sent from my iPhone

Begin forwarded message:

**From:** Wendy Cobb <wendithacobb@gmail.com>  
**Date:** October 27, 2022 at 4:36:31 PM PDT  
**To:** Jennifer Lee <CityClerk@cityofelynv.gov>  
**Subject:** New business item #6

Just wanted to let you know that i have been participating in the Tour and Rec. funding program for many years, for groups that would not be able to hold functions without the funding assistance. Changing the percentages from 2.5 up to 6%, could make it where there are no funds leftover for aid to organizations. This would negatively affect events held and tourism into this area  
Thanks for your consideration!  
Wendy Anderson Cobb

Sent from my iPhone

Ely City Council – Regular Meeting – October 27, 2022

To Ely City Council,

We at White Pine Productions would like to thank the White Pine Tour and Recreation for all the help and support they provide throughout the year.

We put on about 19 events a year and add more each year. We start the year with a roping school that has been put on for 20 years, next is a roping and barrel racing series that lasts all summer. The Motorcycle Rodeo has been a big success for the last two years. During the day, three roping's are put on to see who qualifies for the Lund Pioneer day's Rodeo each night. Ranch Rodeo is held during the White Pine County Fair, and we are able to run events in between the races.

All of the events that White Pine Productions with the partnership of the tour and recreation board put on bring quite a few people in from other counties and states. A lot of contestants and spectators stay at our motels and hotels. They eat out at our local fast food and sit down at restaurants. Most of our contestant's pull trailers hauling horses or motorcycles and fuel up in our community, which all brings in quite a lot of money and tax revenues to The city of Ely and White Pine County.

White Pine County Tour and Recreation Board have helped White Pine Productions bring more events, tourism to Ely and White Pine County through advertising, added money, and prizes provided through the grants they offer.

The support provided by the Tourism and Recreation Board is so valuable to all the community of Ely and White Pine County.

Sincerely,

White Pine Productions

**Jennifer Lee**

**From:** Nancy Herms <willi338@gmail.com>  
**Sent:** Thursday, October 27, 2022 1:23 PM  
**To:** Jennifer Lee  
**Subject:** Ely City Council Meeting, Oct. 27 - Public Comment

In response to Agenda Item B. New Business, #4:

My name is Nancy Herms and as the president of the Ely Outdoor Enthusiasts, a non-profit organization that has hosted fitness events for the community over the last 10 years, am against the City receiving a higher percentage of the transient lodging tax. We typically host 4 events annually: Bristlecone Birkebeiner Winterfest, Turkey Vulture Stretch 5K, Ward Mountain Trail Run, and Take it to the Lake Half Marathon and 10K, but also have hosted other fun events like Ely Neon Lights, Color Me Ely, and a Halloween 5K.

Being a non-profit organization we rely heavily on White Pine County Tourism Board's grants to help make our events a success. Each event may cost a few thousand dollars in permit fees, event insurance, vendors, awards, medals, event shirts and other swag. The grant money we receive allows us to provide quality events to the community while keeping participation costs lower than similar events in other cities, which in turn helps draw participants from areas outside of White Pine County. The Tourism Board's grant system has allowed us to purchase a start/finish blow-up arch, shade awning, a timing system, and laptop.

Our organization would be negatively affected if the White Pine County Tourism and Recreation Board is receiving a reduction in the room tax. Without the Tourism Board's assistance, we would need to increase registration fees which would in turn reduce the number of attendees, potentially to the point of having to cancel events. Please do not approve increasing the City's percentage of the transient lodging tax. Thank you.

**Jennifer Lee**

**From:** Melody Van Camp <sewkrazyely2@gmail.com>  
**Sent:** Thursday, October 27, 2022 11:45 AM  
**To:** Jennifer Lee  
**Subject:** Fwd: Opposition to Transit Tax Increase

Sent from my iPhone

Begin forwarded message:

**From:** Melody Mail <sewkrazyely2@gmail.com>  
**Date:** October 27, 2022 at 6:45:20 AM PDT  
**To:** jlee@elycity.com  
**Subject:** Opposition to Transit Tax Increase

Jennifer- Please read at the Council Meeting Mayor Robertson and Council- I am opposed to the proposed hike to the Transit Tax. When the Council first instituted the Transit Tax several years ago, it was to give the City, needed Money to secure funding for infrastructure maintenance and improvements, but it was not intended to rob, steel, gouge or break The Tour and Rec Board. Many Organizations livelihood depends on the the funding they receive from Tour and Rec and many Communities are still recovering from the Covid mess, including ours.

I remember several years ago when The City Council was considering a Transit Tax, Councilman Spear, who at the time was employed by the Convention Center, was adamantly against the proposed tax and it's affect it would have on his travel and perks. Why the sudden change of heart, Mr. Spear? You're willing to decimate Tour and Rec before leaving office and leave the new Council to cleaned up the mess and leave many Organizations scrambling to survive. I am all for improving our streets and infrastructure, but only in a healthy and timely manner. Thank you, Melody Van Camp, former Mayor and now a concerned citizen.

Administrative Assistant Cobb read the following comments into the record:

October 25, 2022

Honorable Mayor Nathan Robertson  
Ely City Council  
501 Mill Street  
Ely, NV 89301

Dear Honorable Mayor Robertson:

I am writing concerning the agenda item #4 to be presented by Councilman Ed Spear who is seeking approval to increase the percentage of Transient Lodging Tax collected by the City from 2.5% to 5% for the Capital Improvement Fund, effective January 1, 2023, with a subsequent increase of 1% for the General Fund, effective July 1, 2023.

I am saddened to see that Mr. Spear who is the former director of the Bristlecone Convention Center has forgotten that the funding he is seeking helps to promote tourism in White Pine County. The Tourism and Recreation Board grants the Museum in Ely which also includes the McGill Drug Store museum, \$22,000 a year to pay employees and be open 7 days a week. This agreement has been in place for approximately 9 years! The loss of any funding will cause the closure of the museums and will severely affect all of the entities that promote tourism within the City of Ely and White Pine County.

I ask that you and your council members consider the affects this will have on tourism in our county and vote NO on this agenda item.

Thank you.

Sincerely,

Sue Ann Manning

Frances Rivera  
3 Elysium Drive  
Ely, NV 89301

October 26, 2022

Mayor Robertson and Ely City Council,

My name is Frances Rivera. I am a lifelong resident of Ely and extremely proud to call Ely and White Pine County home. I became a board member of the White Pine Public Museum in early 2021 and have been very active in many aspects working towards upgrading, promoting and maintaining our museum. This letter is written as an individual board member and not as the official spokesperson of the White Pine Public Museum Board.

I was shocked to discover the dollar amount these percentages would bring to the city's coffers. Approximately \$450,000 cut from the current budget of the White Pine Tour and Recreation board. To the Tour and Recreation board this amount is significant as they offer grants, event support and promotions in many aspects of White Pine County's livelihood. Events in conjunction with but not limited to the train, the golf course our local fireworks shows, public art and historic preservation could be decimated by such a decrease in funding from the Tour and Recreation board.

I find it interesting that the effective date (if passed) would be January 1, 2023. January is not the beginning of a budget year; the city's budget for fiscal year 2022-23 is already in place. With that in mind, the budget for White Pine County Tour and Recreation has also been established for the remainder of the fiscal year.

As I stated, the approximate \$450,000 is significant in what is provided to our community by the Tour and Recreation board as they are the stewards of tourism in White Pine County. We certainly could not keep the doors open at the public museum and McGill Drug Store without the financial support of White Pine County Tourism and Recreation. I fail to see how this amount could sustain capital improvements for the City of Ely. It's a mere pittance each year when compared to the costs associated with road, sewer and infrastructure rehabilitation in the city.

If our county loses the vast resources and support from the Tour and Recreation board, wouldn't it stand to reason that there is potential for businesses in the hospitality industry of White Pine County to suffer as well?

We all live and work on thriving in White Pine County and are fortunate that so many people do care, volunteer and contribute. And that is what surprises me about Mr. Spear choosing to place this on the agenda. In my opinion, he of all people should know what is gained by throughout the community when tourism is strong and supported.

I implore you to vote NO on this agenda item. It will not be positive for Ely or for White Pine County.

Sincerely,



Frances Rivera



October 27, 2022

Ms. Jennifer Lee  
City Clerk  
City of Ely  
501 Mill Street  
Ely, NV 89301

Dear Ms. Lee:

**As Chairman of White Pine Horse Races, I'm writing to voice opposition to Item 4 under B New Business, which has been submitted by Councilman Ed Spear.**

**The Horse Races derives needed funding from Tour and Rec. so we may have this important yearly event in Ely. Participant and guest numbers combined range from 4,000 to 5,000. As a result of these numbers, the City of Ely received \$40,224.90 in Room Tax Revenue for the month of August, 2022.**

**Competition is keen and we have to be competitive and make it financially attractive for horseowners, trainers, and jockeys to come and participate in the races. With the price of gasoline and diesel, the decision to come to Ely is contingent on the value of our purses, and incentives we pay our participants, and in particular our jockeys.**

**The funding we receive is paramount to the success of White Pine Horse Races.**

**We, therefore, respectfully request a denial of this item for consideration.**

Sincerely,

Marietta Henry  
Chairman

Jennifer Lee

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**From:** Roy G. Horsley <royhorsley1942@gmail.com>  
**Sent:** Thursday, October 27, 2022 3:39 PM  
**To:** Jennifer Lee  
**Subject:** Agenda item# under new business regarding tonights meeting.

To Jennifer Lee:

My name is Roy Horsley, I am president of the Lund Rodeo Association, a non-profit organization. We are very much concerned too learn of Ed Spear recommending to raise the present 2.5%a to nearly 6%. Agenda item #4 or #8 in New Business. The LRA is very much against this action by the city.

The White Pine Tourism and Recreation Board has helped us so much in the past with our annual Pioneer Days Rodeo event. Many years we have applied for assistance with advertising, improvements on the arena, new sound system, and lights for the arena. All of these past projects have increased our attendance to our event and I'm sure helps the motels and eating establishments in Ely, as we get attendees and contestants from all over the county and out of state.

With raising to 6% I'm sure the needed projects throughout the county will suffer and the quality of the events and attendance will drop significantly and even some will have to be canceled. We hope you will please consider the impact this will have on rural areas especially. We support the White Pine Tourism and Rec. Board on holding on the the 2.5%.

Thank you, Respectivley,  
Roy G. Horsley

ps: I would be at the meeting to night and would speak on this in more detail but we have our annual election of Officers and Directors.

Liz Woolsey from Baker stated I am the Chair of the Baker Area Citizens Advisory Board and business owner of the Stargazer Inn and Bristlecone General Store. I have been involved with White Pine Tourism and Recreation Board since moving here in 2018. I am opposed to the increase to the Transient lodging Tax collected by the City from 2.5% to 5%.

White Pine County Tourism and Recreation Director Kyle Horvath stated I simply just want to say thank you Ed for pulling the item. I am glad to hear the grants the City is applying for still have the potential of going through. I am certainly looking forward to keeping our partnership together and working with you guys. I also want to thank everyone in the community for coming

out tonight in support and that has come in through the week. It is really humbling, and it is the community that makes this job as rewarding as it is.

#### 4. CITY DEPARTMENT REPORTS

##### ➤ CITY ENGINEER

City Engineer Almborg stated we have been gathering information for Jennifer. She has been working on the Central Ely Sewer Project; kudos to her as she is digging deep and doing a great job for the City. Carl and Mike came to me earlier this week in trying to reduce overflows in our tanks. We had some good discussions and decided to make some adjustments to our well operations in the winter since they replaced the pump on 7P because it is now pumping a little more after the replacement. We have been working on our Bell Avenue and Parker Avenue CDBG Projects by getting the EA's and SHPO tasks completed so we can start the design work. Another thing we participated in this week is the EPA additional water sampling that is coming down the pike that we signed up for earlier in the year as a requirement. We had a podcast with them this week and it sounds like we will just follow what they want us to do. They will send us everything, pay for everything, and they will set it all up.

#### 5. REPORTS

##### ➤ COUNCILWOMAN WILLIAMS-HARPER

Councilwoman Williams-Harper stated I just want to say it was a pleasure to sit in on the Boys and Girls Club event we had honoring our students. The Boys and Girls Club is touching so many lives in our community and showing our students they are important future members of our community.

##### ➤ COUNCILMAN ALWORTH

Councilman Alworth stated I would like to share a report I sent to the Council, so the public is aware of it and the City Attorney doesn't get his feathers ruffled over my reports. This is my opinion on these items.

Date: October 3, 2022

To: Mayor Robertson  
Council Members  
City Clerk Lee  
City Treasurer/HR Director Trask  
City Engineer Almborg

From: Councilman Alworth

Subject: Governor Sisolak's Infrastructure Summit

I attended along with Mayor Robertson and City Engineer Almborg, September 30, 2022, in Las Vegas. The event was well attended and there were 6 breakout sessions to choose from for information and education. The following are highlights that I absorbed during the summit, not in any order.

- If the Guest Speaker(s)/Moderator was from State of Nevada level, kudos were given to Governor Sisolak for how he handled Covid-19 and his achievements during his term as Governor and how he is attacking the current inflation and possible recession.
- Same for the folks from the White House, President Biden is performing wonderfully and the monies he has and continues to dish out to fix the current problems is going to save our great Country.
- The City of Ely, if we already don't have a plan for future water usage, we need to think about putting one together. How long can we continue to supply water to out of City businesses and residents, not to mention if a large business goes in at the White Pine Industrial Park. What is our return on investments by selling water outside the City?
- Should WPC start thinking about getting their own potable water systems along with sewer treatment facilities, to take the demand for water and sewer treatment off the City of Ely? The City has very limited land for growth for both residents and businesses. The County has the land but require water and sewer infrastructure from the City for future growth.
- Interstate 11 thoughts surfaced again with strong emphasis on having it run down the eastern side of Nevada, which would have a significant impact on our City. Hopefully, the project would not completely bypass Ely as what happened in Wells, for example.
- A land inventory would be helpful for future expansions to identify available land for residential and commercial properties within the City limits along with what is open in the County.
- Does the City of Ely have a record of water rights they own? Water is the most valuable asset for growth of our City.
- The group was advised to be proactive in keeping water and sewer infrastructures update to the best of their abilities. Be ready for growth. I believe the City is very proactive, as long as there is money.
- Nevada Dept. of Environmental Protection spoke about having the ability to issue approved loans at an interest rate currently at 2.1%. But there is a catch, their funding comes from funding by the Federal Government. I will give Treasurer Trask the business card for Jason Cooper, to contact for more information. Still no final word on having to pay a 20% match for money awarded to the City. Hold up, per Cameron is in NDEP's office in San Francisco.
- Nevada's Infrastructure Bank invited entities to go online and look at their application for infrastructure projects.
- The following were two comments made in the closing session, that I believe have true meaning:
  1. Investments in our employee's are an investment in our future.
  2. "Leadership" starts at the Staff level.

Thank you.

➤ **COUNCILMAN FLANGAS**

Councilman Flangas stated I would like to thank Councilman Alworth for his report. I think it was very good and thorough.

➤ **MAYOR ROBERTSON**

Mayor Robertson stated you have my report for the events; there have been quite a few of them. I would also like to mention I received a call from Mayor Bagwell from Carson City today asking me to serve on the Nevada League of Cities Executive Board as the Small Cities Liaison and I accepted.

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

**A. CONSENT AGENDA**

Councilman Alworth disclosed I am a past member of the Volunteer Fire Department and bills that are paid on behalf of the City of Ely Fire Department I believe are paid in the best interest of the citizens.

Mayor Robertson disclosed my spouse is a member of the Volunteer Fire Department, but I do not vote on this and will not be abstaining.

**MOTION:** Move to approve the Consent Agenda item 6A-1 Minutes and 6A-2 Bills.

Moved by: Councilman Spear Second by: Councilwoman Williams-Harper Vote: Unanimous

1. Discussion/For Possible Action – Minutes

- September 8, 2022
- October 7, 2022

2. Discussion/For Possible Action – Bills.

- October 19, 2022

**B. NEW BUSINESS**

1. Mayor Robertson – Discussion/For Possible Action – Evaluation of Judge Michael Coster including, but not limited to consideration of character, alleged misconduct, professional competence, or physical or mental health. Possible action includes, but is not limited to, increase in pay or “no action.”

City Municipal Judge Coster stated I am asking for reconsideration of the discussion we had a couple weeks ago. Perhaps it was lack of preparation on my part in my second annual evaluation I have had in seven years as the Judge. I wasn't anticipating the question about pay and my reaction might have given that away. I thought the budget did not allow for that. I found out after that meeting, and I should have been aware, that I have never had a pay change since I started the job seven years ago. I had a discussion with Jennifer and Janette about it and in a sense that no one should feel taken for granted or overlooked the Mayor thought it should go back on the agenda and that is why we are here tonight.

Mayor Robertson stated yes, the Judge wanted this taken up again after consultation with the City Attorney and the HR Director and this was the proper action for that. The Judges salary was budgeted for the three percent increase at the very least, correct?

City Treasurer/HR Director Trask stated yes.

Mayor Robertson asked is there a number you had in mind?

City Municipal Judge Coster stated yes, \$30,000.00. Right now, I am making twenty five percent of the salary the Johnson Court Judge is paid and I do about sixty percent of the work hours he does. I am \$1,000.00 above the minimum on the pay scale the City Council just recently adjusted. I am currently at \$21,000.00 annually and asking for \$30,000.00 annually. I quickly want to share why I think it is justified. The hours of the job have increased because we have weekend work pretty regularly; unlike both of my

predecessors I have no complaints to the State Bar that have been ethical or conduct related; and we have had no appeals since month fourteen since I have been on the job of any case, so I think that is affirmation that the rulings are coming out right. We have fewer trials and the ladies that help me run that office do an outstanding job and very conscious of keeping things in a timeline. It is my personal nature in that I am very cost conscious in how we run the court in terms of using used equipment and avoiding unnecessary expenses whether they are for travel, training, or equipment for the courts.

Councilman Alworth asked the City Treasurer there was a three percent raise budgeted so what kind of impact will this \$9,000.00 raise have instead of a \$630.00 raise?

City Treasurer/HR Director Trask stated the Judge's salary is one hundred percent out of the General Fund, so it is just a matter of adjusting the budget along with all the other raises that affect the General Fund at this point.

Councilman Alworth asked how many more of these raises do we have?

City Treasurer/HR Director Trask stated I think we are at the end.

Councilman Alworth stated it keeps rolling, and rolling, and rolling, and getting into the augmentations and appropriations it will work out, but everyone needs to be aware of the financials of the City. I am not saying the Judge's duties are not worth it, because they are.

Councilwoman Williams-Harper moved to approve a salary increase to \$30,000.00 annually effective the next pay period. Councilman Carson seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action – Retroactive approval of Letter of Partnership to the Nevada Division of Tourism for White Pine County Tourism and Recreation's Destination Development grant application.

Councilman Spear moved to retroactively approve the letter of partnership to the Nevada Division of Tourism for White Pine County Tourism and Recreation's Destination Development grant application. Councilman Carson seconded the motion. The motion carried unanimously.

3. Mayor Robertson – Discussion/For Possible Action – Approval to narrow public comment to agenda items only at the beginning of city council meetings and designate the comment period at the close of the meetings for the public to comment on any matter relevant to or within the authority of the Public Body, all in accordance with NRS 241.020.

Councilman Alworth moved to approve narrowing public comment to agenda items only at the beginning of city council meetings and designate the comment period at the close of the meetings for the public to comment on any matter relevant to or within the authority of the Public Body, all in accordance with NRS 241.020. Councilman Carson seconded the motion. The motion carried unanimously.

5. Councilman Spear – Councilman Alworth – Discussion Only – Update on Porter Group efforts on the City of Ely's behalf to secure federal and State funding.

Councilman Spear stated there is no update tonight because we haven't had a meeting. We will have a meeting on Monday, October 31, 2022 and it looks like Cameron will have a resolution for the twenty percent match. It looks like the City is going to be eligible for at least the median household income and vacant properties on a current project. It is really good news because we were blind-sided on the twenty percent to begin with.



6. Councilman Alworth – Discussion/For Possible Action – Approval to apply with the Nevada Northern Railway Foundation as a co-applicant for a Federal Railroad Administration Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant for improvements to the HiLine track and three US 93 crossings between Ely and McGill; Nevada Northern Railway Foundation will cover the required twenty percent (20%) match and administer the grant, with no direct cost to the City of Ely.

Mayor Robertson stated I will disclose I am an employee of the Nevada Northern Railway but will not be voting on this item.

NNRY President Mark Bassett stated as this agenda item states this grant would be used for track improvements on the HiLine branch. We have done track improvements on the track from here to Ruth and we have the SNPLMA Grant to improve the track from here to McGill, but we do not have a grant for the HiLine Track. The HiLine Track is the one we use for our Astor Tourism Programs. Essentially, we have done minimum maintenance on for about thirty-five years so it is about time to do it. In addition to that we have three crossings on US 93. We have the one here by the Holiday Inn, the Club 50 Crossing, and the powerline crossing which the track is buried under about twelve inches of asphalt. These are very preliminary numbers, but it is looking like the rehab for the adverse line is about \$4.2 million, to do the three crossings on US 93 it is \$3.2 million with it coming in at just a little more than \$8.5 million making the twenty percent match \$1.7 million which we can use in-kind for that. Again, these are very preliminary numbers, and the grant is due December 2, 2022. The Foundation can't apply without the concurrence of the City so that is why I am here tonight.

City Attorney Cahoon stated it is my understanding the City may be open to the liability if the Foundation cannot meet the twenty percent match.

NNRY President Mark Bassett stated as we go through this process, we are working with the PORTER Group and a grant writer to make sure the Foundation covers that twenty percent match.

City Attorney Cahoon stated it might be in the best interest of the City to have an agreement with the Foundation outlining that. We can have that discussion at a later time.

Councilman Spear moved to approve applying with the Nevada Northern Railway Foundation as a co-applicant for a Federal Railroad Administration Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant for improvements to the HiLine track and three US 93 crossings between Ely and McGill; Nevada Northern Railway Foundation will cover the required twenty percent (20%) match and administer the grant, with no direct cost to the City of Ely. Councilman Flangas seconded the motion. The motion carried unanimously.

7. Councilman Alworth – Discussion/For Possible Action – Approval to engage the law firm of *Thompson Hine* for legal services regarding federal railroad law in connection with Great Basin Transmission's easement request to protect the interests of the Nevada Northern Railway Foundation and the City of Ely and to pay fifty percent (50%) of legal fees connected thereto up to \$14,400.

NNRY President Mark Bassett stated we will be bringing you a crossing agreement for a normal utility crossing, which is just an agreement for a wire to cross the tracks or go under the tracks. We sent an agreement to LS Power. They essentially want a lot more and actually want easements and there might be some property there to. On these crossings we are going to be dealing with the Federal Railroad Administration, the Surface Transportation Board, and State Law. Thompson Hine is our go to for any issues having to do with the Federal Railroad Administration or the Surface Transportation Board. This agreement the City and the Foundation will enter into is essentially a hundred year agreement because once those power lines go up they are not going to be coming down. The line is crossing the railroad approximately six different times between McGill up to Shafter and they want some land in Shafter too.

Councilman Alworth stated one thing that is very important, and I am sure you have heard this from other people too is if they are going to use our right-of-way, we have a value there and the City or the Foundation need to be paid for that.

NNRY President Mark Bassett stated yes, Thompson Hine is well aware of that. On our current wire crossing agreement, we have the prices in there. Nothing is ever simple with the Railroad and one of the things that puzzles me about this is there is a mile wide easement for a power line running parallel and sometimes on top of the railroad. It is called the Southwest Intertie. It is a mile wide and our right-of-way especially up at Shafter is only one hundred feet wide, so I am a little puzzled why they are coming to us, but I suspect when the Southwest Intertie (SWIP) right-of-way was created, it was created back in the 1990's and the Railroad was all on BLM property. The Railroad is no longer on BLM Property, it is on City of Ely and Foundation property. We are very early on, but one thing we have learned is it is better to have the horsepower ready at the beginning.

Councilman Alworth moved to approve engagement with the law firm of *Thompson Hine* for legal services regarding federal railroad law in connection with Great Basin Transmission's easement request to protect the interests of the Nevada Northern Railway Foundation and the City of Ely and to pay fifty percent (50%) of legal fees connected thereto up to \$14,400. Councilman Spear seconded the motion. The motion carried unanimously.

8. Councilman Alworth – Discussion/For Possible Action – Approval of Thompson Hine Conflict Consent/Waiver.

Councilman Alworth stated I believe this is because they are also our consultant on the Pumped Storage Project.

NNRY President Mark Bassett stated yes, but Thompson Hine has different specialties, and they are going to be representing the City of Ely and the Foundation as co-clients. What this conflict waiver does is eliminates any conflict between the two parties.

City Clerk Lee stated for clarification when Mr. Tutrone emailed it to me, he explained Thompson Hine does represent LS Power, but it is different attorneys in the firm and different departments. He would be the one helping us so that is the purpose of this conflict waiver that the City is aware and agrees to the fact that Thompson Hine does represent LS Power on other matters.

Councilman Alworth moved to approve the Thompson Hine Conflict Consent/Waiver. Councilman Spear seconded the motion. The motion carried unanimously.

9. Council Members – City Attorney Cahoon – Discussion/For Possible Action – Approval of the Settlement Agreement between the City of Ely and Ely Disposal Service, Inc., for the Seventh Judicial District Court Case No. CV-1808095.

City Attorney Cahoon stated I believe the Settlement Agreement speaks for itself.

Councilwoman Williams-Harper moved to approve the Settlement Agreement between the City of Ely and Ely Disposal Service, Inc., for the Seventh Judicial District Court Case No. CV-1808095. Councilman Carson seconded the motion. The motion carried 4 to 1 with Councilman Alworth voting nay.

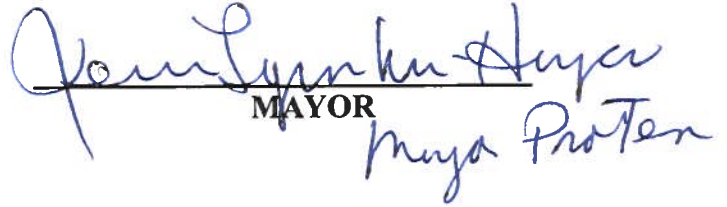
**7. PUBLIC COMMENT:**

No Public Comment

**8. 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 **5:52 p.m.**  
Councilman Spear seconded the motion. The motion carried unanimously.

  
ATTEST

  
MAYOR  
Moya Proten

