

CITY OF ELY

501 Mill Street Ely, Nevada 89301

City Hall (775) 289-2430

Cityofelynv.gov

ELY CITY COUNCIL REGULAR MEETING

November 10, 2022, 5:00 p.m. – Ely Volunteer Fire Hall – 499 Mill Street – Ely, Nevada

1. Mayor Pro Tempore Williams-Harper called the regular meeting of the Ely City Council to order at 5:00 P.M.; led in the Pledge of Allegiance and asked for Roll Call.

Members present:

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

Members absent:

Mayor Nathan Robertson

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 Building Official Craig Peterson
City Municipal Judge Mike Coster (Zoom)
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; Jennifer Drew, Caroline McIntosh, and Nora Tadic.

ELY CITY COUNCIL ATTENDANCE LIST

DATE: NOVEMBER 10, 2022

Print name below

Aaron Noll
Shannon Elliott
George Chachas
SM Arguena
Terrill Trask
JESS TRASK
Mickie Carson

Print name below

2. PUBLIC COMMENT

George Chachas stated my property at 622 High Street was vandalized and there was an attempted break in. On that same day Mrs. Nardi and her son Tony Nardi, who are neighbors, had vandals enter their property and Tony Nardi received the most damage. The streetlight at 567 Ely Street has been out for years and needs replaced.

Councilman Alworth stated Mayor Pro – Tempore there needs to be a point of order. He is not talking about anything that is on the agenda and you just read what public comment can be.

George Chachas asked when did you guys change it? You are not addressing any of the items I have brought up before.

City Attorney Cahoon stated I believe it was at the last meeting there was an item on the agenda to limit the public comment at the beginning of the meeting to agenda items only and the public comment at the end of the meeting can be on any topic the public would like to address the City Council with.

George Chachas stated there is no way someone can address in three minutes items on the agenda. I want to support Mr. Nall. Will I be able to speak during the item or do that now?

City Attorney Cahoon stated it is a public hearing so you will be able to speak during that time.

George Chachas stated on your agenda item 9-2 regarding the Murry Street Project Phase III it does not meet ADA standards. Power poles have not been relocated and those in wheelchairs do not have proper access to sidewalks. I have not received copies of the contracts for phase II and phase III as I have requested.

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

Councilman Spear moved to approve the agenda as presented. Councilman Flangas seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

➤ **CITY FIRE CHIEF**

City Fire Chief Stork stated to give an update, the boiler did show up yesterday afternoon and O’Flaherty’s hopes to get it installed on Monday. They wanted to wait until the temperatures came up because the first two days it may not be running. We do have heaters inside, so we don’t have to worry about any of the equipment freezing. We had two of our full-time employees and one of our Volunteers just pass their Firefighter I. I will be going on vacation starting next Tuesday and won’t be back until after Thanksgiving. I have somebody lined up to continue with submitting ambulance billing so that will all be taken care of while I am gone. Any day-to-day operations should be able to be handled by the assistant chief on duty. If there are any questions, I will be available by cell phone intermittently.

Councilman Alworth stated please extend Kudos to Jacob and Bodie for qualifying for their Instructor II Certification.

City Fire Chief Stork stated yes, that will be good for us because this last testing we did, Jacob was able to administer the testing. With our other instructors, we can now have someone be the lead instructor and Jacob or Bodie can request the testing from the State so we can do everything in house and extend training to other counties as well.

➤ **CITY CLERK**

Councilman Alworth asked since the Public Works Supervisor is not here, are we putting together a list of surplus vehicles and equipment that we may want to put out for bid? I see some pickups just sitting around now because we have new vehicles in the fleet.

City Clerk Lee stated I will ask Mike and get back to you on that.

➤ **CITY ENGINEER**

City Engineer Almberg stated we assisted the Fire station contractor that was doing some work in assistance with the State Fire Marshall knowing it was a priority to get the heat working at the fire station. We have also been working on SHPO information and our EA for the Bell Avenue Project and that will hopefully get sent tomorrow. We are also working on the sewer portion of the CDBG Project which is Parker Street in Central Ely. It will be a little larger because we have expanded the area to include the area for our sewer earmark. We are finalizing the quantities and the estimated life of the landfill and should have that shortly. We are also working with the landfill on the south diversion ditch in case we get a storm it won't wash out the landfill.

Councilman Alworth asked the transmission that is out due to failure at the Landfill does anybody have any idea what that cost might be.

City Clerk Lee stated Mike has not mentioned that he has received the quote yet. This week has been hectic with the election, and he ran to Vegas to get a trailer.

Councilman Alworth asked when they just did the engine replacement did that come in under budget?

City Treasurer/HR Director Trask stated I will have to look it up and get back to you on that.

➤ **CITY MUNICIPAL JUDGE**

City Municipal Judge Coster stated I wanted to notify the Council both clerks and I will receive state provided training in December. The schedule is not firm yet, but I believe both clerks will attend in Reno on December 5th and 6th, and I will attend the training by Zoom later in December. The training will be on the new traffic case handling starting in January.

➤ **CITY BUILDING OFFICIAL**

Councilman Alworth stated I have been out of town for about three weeks, and I have a question regarding some streets. In your report you mention Crown Castle Vista Grande, where is that?

City Building Official Peterson stated that is a location for a communications tower at lower Squaw Peak.

Councilman Alworth stated on the County report for T-Mobile/BLM there is Snoopy's Doghouse?

City Building Official Peterson stated that is also a communication tower.

Councilman Alworth stated you put out a good report.

5. **NNRY FOUNDATION REPORT**

NNRY President Mark Bassett reviewed the following report:

NEVADA NORTHERN RAILWAY
NATIONAL HISTORIC LANDMARK



Nevada Northern Railway Foundation
A Nevada 501 (c) 3 Non-Profit Corporation
Depot: 1100 Avenue A, Ely, Nevada 89301
Mailing Address: PO Box 150040, Ely, Nevada 89315
Voice: (775) 289-2085 • Web: www.nnry.com • E-mail: info@nnry.com

Monthly Operations Report for October 2022

1. **Locomotive Status – Updated**
 - a. Locomotives in service: #81, #105, #109, #204, #310, Wrecking Crane A & Rotary B.
 - b. Locomotive 93 is out-of-service. She needs repairs to her valve chest.
 - c. Locomotive 40 is out of service for her heavy repairs. We have started on her repairs; she will be out of service until 2023.
 - d. Locomotive 801 still needs some work to bring her into compliance with modern locomotive standards.
 - e. Locomotives out of service needing moderate repairs: #201 and #34
 - f. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Mining #309, Kennecott 802 and Rotary Snowplow B (for boiler overhaul.)
 - g. Locomotives out of service needing heavy repairs #80 and the military locomotives.
3. **Rolling Stock Status – No change**
 - a. Passenger equipment in service: #07, #08, #09, Flatcar #23, Coach #5, Baggage Car/RPO #20, Outfit Car #06.
 - b. Passenger equipment out of service: #10, #2 and #05 needing heavy repairs.
 - c. Caboose in service: #3, #6 and #22 are operational.
 - d. Caboose out service: #5
4. **Track Status – No change**
 - a. Keystone Branch is open
 - b. Adverse Branch is open.
5. **Ridership and Ticket Sales – Updated**
 - a. In October we carried 1,906 passengers, this is a 8% increase compared to 2021. It was the largest October that we have had in our 35 years of operation.
 - b. Year to date, we have carried 14,442 passengers, this is a 3% increase compared to 2021.
 - c. Since operations began in 1987, we have carried 344,803 passengers.
6. **Economic Impact – Data from Travel Nevada Visitor Facts Pony Express 2016-2020**

The average non-gaming & gaming daily expenditure per overnight visitor \$140.
Economic impact for October 2022 is 1,906 x 80% x 140 = \$213,472
Economic Impact Year To Date is 12,318 x 80% x 140 = \$1,617,504
7. **Social Media: Our reach on social media continues to expand, in the last 28 days:**
 - a. We reached 1,450,363 people.

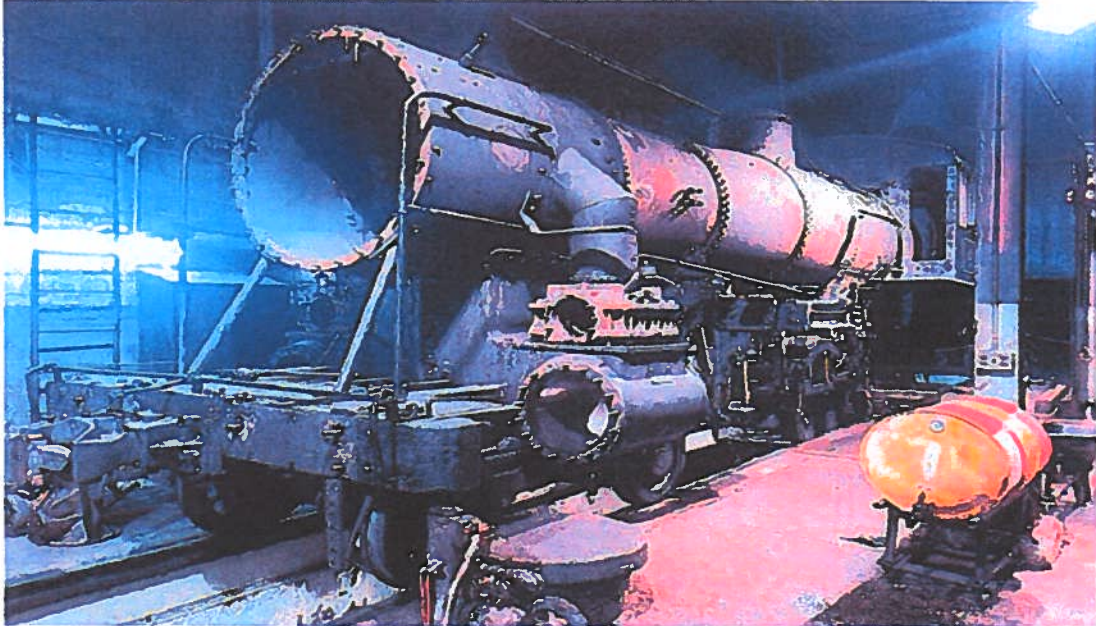
Award Winning Destination

Best Adrenalin Rush in Rural Nevada - 2020
Trip Advisor Certificate of Excellence – 2020, 2019, 2018, 2017, 2016, 2015, 2014
Best Museum in Rural Nevada – 2020, 2017, 2016, 2014, 2013, 2010, 2009, 2008
Best Place to Take the Kids in Rural Nevada - 2020, 2019, 2018, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007

- b. Post engagement was 196,026.
- c. We have 118,268-page likes.
- d. 162,036 people follow our page.

8. **Special Trains**
- a) We are running two Community Food Trains November 12 & 13
 - b) The ticket sales for our Christmas Train, Santa's Reindeer Flyer Train have been brisk.
 - c) The 2023 Sunset, Stars and Champagne Train is on our website and tickets are selling well.

9. **Work continues on Locomotive 40.**



The locomotive is essentially stripped down to almost nothing. Our plan is to remove the pilot truck in the coming month.

Councilman Flangas stated the Foundation received three buildings in McGill from Mr. Allen and I have been told you are going to rent them or sell them?

NNRY President Bassett stated we did receive three buildings from Mr. Allen. We are not going to rent or sell them but develop them. One building we are planning to use as a record storage building or archive building. The other building, we would like to use to tell the story of McGill, Kennecott, and Copper development there.

Councilman Flangas asked the other question I have is from people in McGill. They keep hearing there is \$10 million that is going to be spent there.

NNRY President Bassett stated that is correct. It is \$10 million from the federal government, and they were supposed to get us the money last December, and then in July, and I have not heard from them since. The money is to open up the track to the McGill Depot.

6. REPORTS

➤ COUNCILMAN ALWORTH

Councilman Alworth stated I would like to extend congratulations to our new council members that will be coming on board and glad you are ready to jump into this.

➤ MAYOR ROBERTSON

Mayor Pro – Tempore read the following report into the record:

November 10, 2022

MAYOR'S REPORT

1. I approved a Special Event License to:

Biggins BBQ & More on October 29, 2022 for a food booth at the Learning Bridge Charter School Trunk or Treat held at Learning Bridge Charter School - 1400 E 13th St.

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

1. Board Members – City Engineer Almberg – Discussion/For Possible Action – Approval of Mark Ridley's Will Serve Application to tap the City's water line at 1689 Great Basin Boulevard for a 1.5" water service and 13 fixtures with 27 drainage fixture units.

Councilman Carson stated the Municipal Utilities Board recommended approval this morning.

Councilman Alworth asked is this an apartment complex?

City Engineer Almberg stated it is a restaurant.

Councilman Alworth asked what is the capacity remaining on the handout?

City Engineer Almberg clarified the number is a running total of what is left for capacity.

Councilman Carson moved to approve Mark Ridley's Will Serve Application to tap the City's water line at 1689 Great Basin Boulevard for a 1.5" water service and 13 fixtures with 27 drainage fixture units. Councilman Alworth seconded the motion. The motion carried unanimously.

2. Board Members – City Engineer Almberg – Discussion/For Possible Action – Approval of Murry Street Sewer Main Upgrade Project Phase III Contract Change Order No. 1.

City Engineer Almberg stated this is for the Murry Street Project that was recently completed. The contract that goes out is based on estimated quantities and at the end of the day we pay actual quantities. The first change is for the French drain system. It is longer than what was anticipated so the change is for the extended length and the work associated with that. The biggest one for \$10,000.00 was for water and sewer connection to a house on Mill Street that at the time of design we didn't realize had service coming

from Murray Street. The change is based on unit cost, so it is the same cost we paid for every other service down that road. The last upgrade was the project specified ¾” water meter pits and because of the supply chain issue they were not available so to keep the project going they went with 1” water pits. This is the cost difference between the ¾” to the 1”.

Councilman Alworth asked on the \$10,395.00 meter pit lump sum you said was for one residence, but then on the Change Order Narrative it shows the meter pit at \$566.13 each.

City Engineer Almberg stated the \$4,700.00 is the additional cost above and beyond the ¾” meter pits.

Councilman Alworth asked why is Change Order #3 needed if you are updating in on Change Order #2?

City Engineer Almberg stated what Change Order #2 is we had to put a new meter in and the \$3,500.00 is the cost of the original meter and the other change order we have for \$4,500.00 is with the additional \$500.00. The other change order we have in here for the \$4,500.00 is we had eight of them and this was the additional on top of that.

Councilman Alworth asked on the back page of the invoice they pointed out they were back ordered. I understand the locking lid, insulated pad, and all that stuff fits any of those meters. What is the 1 X 9 ¾ “meter idlers for \$22.00 each?

City Engineer Almberg stated since there is not an actual meter, the idler is what goes in between and is a jump of where a meter will go in the future. The project was over time wise, but I have had a conversation with the City Attorney, and I don’t support pursuing any liquidated damages associated with that. They did a great job on the project and just got started a little bit late. They did a quality job and the impact to the residents along that road were still minimized. When you have a good contractor that gets in there does a good job and doesn’t disturb people, I don’t believe the City would want to penalize them and discourage them from bidding on future projects.

Councilman Alworth asked for public information how many days were they over even though we had a delay of parts? I also want to make a comment in they cleaned up every day and they took cases of bottled water to the residents. We never had one complaint over their lack of work versus the previous contractor on the other part of the job. I agree with what you are saying I just want to know how many days.

City Engineer Almberg stated fourteen days.

Councilman Carson moved to approve the Murry Street Sewer Main Upgrade Project Phase III Contract Change Order No. 1. Councilman Spear seconded the motion. The motion carried unanimously.

7. 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 Building Official Peterson – Public Hearing – Discussion Only – Consideration and possible approval of appeal by Richard W. Nall estate representative Aaron Nall regarding building code violation at 736 Avenue G, Ely, Nevada.

Mayor Pro Tempore Williams Harper stated per the City Attorney’s suggestion we will listen to Mr. Nall and then have our City Building Official speak.

Aaron Nall stated I would like the Remove Structure Order to basically be revoked because the structure is UBC 2018. The Inspector did not take any measurements. I asked him if we could take measurements and can I prove my case to you and he said, “nope, everything is wrong” and left. There are numerous projects in town that are a hazard, and I would like the same consideration as everyone else. There are modulars and mobile homes sitting on cinder blocks and if some kid bumped his three-wheeler into that he could die by being crushed by the entire building. There is not caution tape or

taped off in any way. There are several decrepit buildings that look like they have been broken into and that is a hazard for a person breaking in. I don't understand why those people weren't ordered to put up fencing, when my project is completely to UBC Code, and he never measured anything.

George Chachas stated I am concerned about selective enforcement. The gentleman's project is minor compared to what you have in violation across the City. Any setbacks he has, most of them should be grandfathered in. The only big issue is the lean-to or whatever you want to call it and that is nothing. He brought up a home in a trailer park that is on cinder blocks, doesn't meet the setbacks and it is not fenced off; all construction must be fenced off prior to completion. We are letting these things slide so why are we worried about a little lean-to. I am also concerned, going back to 2020, Kansas Home Solutions was remodeling three different homes and they didn't have a business license. The permit was issued on August 17, 2020, for 450 Fifth Street, 648 Murry Street, and 1381 Mill Street; Ramsey Construction was the name on the permit. However, he purchased his business license in July of 2021. Only one home was finished and that was 450 Fifth Street by what appears was done by a contractor without a proper City business license and the work was done by someone who was not licensed. The selective enforcement has to stop. Also, 318 Ely Avenue there was no permit, no Certificate of Occupancy, and yet there is a family living in there. There was an individual to change his zoning from residential to commercial and he did that because it was cheaper for him to do the work without hiring a contractor, so he did that work and came back and asked for commercial zoning from the Regional Planning Commission. If he would have had the project inspected by the Building Inspector, I wouldn't have had a problem, but he said he didn't.

City Building Official Peterson stated you will see in your packet an itinerary of what I was going to discuss today and supporting documentation. **I cannot legally issue a permit on this project for the following reasons:**

1. Does not qualify for an owner builder exception per NRS 624.031(5).
It says a homeowner can do work on their own home, live in the home, and don't intend to sell or lease the home. Mr. Nall is not the homeowner but does live there and the home is currently for sale and for lease.
2. Exceeds 1/3rd rear yard coverage for accessory structures as specified in ordinance 11-11-4(c).

This could be waived through a variance, but that process would have to be completed before a building permit would be allowed to be issued. I could issue a permit to a building contractor on this with some specific engineering.

3. Appears to not meet the required side yard setback of 5 feet as specified in city code 12-4c-4.

I do stipulate I didn't get a chance to pull much tape on this as it was a pretty harry situation and Mr. Nall and I did not end up being best friends. I certainly didn't feel comfortable sticking around and conducting a thorough investigation. I have done this long enough I can pick up things in moment's notice.

4. Lacks the required footings and does not meet any of the provided exceptions found in the international residential code 2018.

That states accessory buildings that are free standing don't necessarily have to meet the frost line if they are under 600 square feet. This would not account for that as it is an addition or extension onto an existing structure that according to Google Earth is approximately 1200 feet. This would require those footings.

5. It is attached to an engineered structure which would require an engineered means of attachment and support.

The building it is attached to is an old metal truss style kind of barn building. It is not a conventional building you would find in the building code. Therefore, there is no prescriptive means in the building code in order to tell someone how to positively attach one structure to another because it was specifically engineered, and it would take an engineer to dictate the terms of that attachment.

6. The building official is not allowed to waive code requirements for the convenience of applicants only in situations where code compliance is not practical.

If there are constraints that we cannot meet every facet of the building code, then that is something we can certainly take into consideration of alternative means and methods.

7. If classified as a free-standing structure it does not meet the fire-resistant construction requirements found in Section r302 of the 2018 IRC for buildings less than 2; from another structure.

This states if you have two structures that are within five feet of each other you cannot have any openings and the adjoining walls and an area of four feet need to be fire rated in order to protect one structure from the other. I would not classify this as free-standing; it is a lean-to in its construction.

Reasons a permit is required:

1. Appears to exceed maximum 200 sq. ft, per Google Earth and assessors site measurement tools it appears to have a floor space around 250 sq. ft. when generously measured.

I measured in caution and did not measure approximately two feet that was under the overhang. I tried to use the minimal measurements that I could based on the pictures I had obtained.

2. Does not qualify as freestanding per definition.

When we don't have a definition that is stated in the Building Code, we are required to go to any of the major dictionaries to grab their definition and use those.

3. Contains electrical

A permit is always required to run electrical to any structure.

Reasons it is a dangerous structure:

Building code is something that has built up over the years based on experiences engineers have after going out after disasters and deciding what failed, what succeeded, and how we can make things better. It definitely has redundancy and if you miss one or two things it doesn't mean your building is going to collapse. We allow for things to be missed, human error, material deficiencies, and if it were just one or two issues we wouldn't be here tonight.

1. Lack of required footings/frost protection

We are required to get down thirty-six inches for frost depth and/or for accessory free-standing structures under six hundred feet you can do a shallow footing, but it has to be a minimum of twelve inches.

2. Lack of braced wall lines per the IRC, braced wall lines protect a structure from out of plain, gravity and seismic loads

Out of Plain loads are wind or an imbalance of a snow load. The Code requires a minimum of eighteen inches of braced wall lines on each side of a portal framed structure. A portal frame is anytime you have a large opening. The reason they have

eighteen inches on either side is those are braced wall lines which means they are sheathed with structural sheathing and then they are nailed off at a very prescriptive rate; typically, that is six inches in the center and twelve inches in the field for the nailing pattern. It basically protects the building from racking in the events of strong winds, seismic events, and the overloading of snow. It is very, very critical for the safety of the structure those brace lines be adhered to. There are no alternative methods in the building code. They are strictly required unless an engineer was to determine otherwise and provides a detailed plan that exempts those.

3. Lack of required hold downs/inability to keep structure secured due to lack of bolt embedment length of 7 inches

The minimum embedment length is seven inches and that was added to the Code after an earthquake in the late eighties, because what they found out was the minimum embedment length was critical in keeping structures in place when the earth started moving. A minimal amount of seismic activity would be detrimental to this project.

4. Header is over spanned

You will notice in the pictures it appears the header beam runs all the way across the entire structure. It does not, that is a fascia board that goes on top of whatever beam is over the opening itself. Basically, the construction of this thing is a couple of jack studs that come up and support a beam and then walls that collapse in onto it. That is where that braced wall line needs to be is where that connection is made. Anytime we get over vastly nine feet, dimensional lumber in any capacity is not satisfactory for any opening and it has to be a piece of engineered lumber. I didn't get a solid look at what was there given the circumstances of that day, but I know it wasn't an engineered piece of lumber.

5. Header is under supported
 - A. Lack of full height king studs, lack of required header connection to king stud
 - B. Improper jack stud installation, lack of required jack studs, lack of proper connection of jack to king studs.

If you notice in the pictures in the field, we have a two by six that is sandwiching in these two jack studs that are not connected and are required to be connected and required to be positively connected.

6. Lack of required beam strapping

Anytime we have a beam of this magnitude of portal opening coil strapping is required so we don't get any displacement.

7. No ledger or beam support on side bearing against existing structure, the entire roof structure is supported on aged plywood alone on the east side since the existing structure is an engineered structure a header must be used in this location. A ledger board a minimum of 2" could be used if the proper beam was used.

This is what concerned me the most. The roof is essentially supported on aged plywood. What we have is a lean-to and there is nothing to support the roof load.

8. Lack of mechanical supports/ledger board for roof joists which would need to be solidly attached to a properly sized beam.

There needs to be a beam running across the adjoining buildings for the roof to be supported on.

9. Does not meet required fire rating for a structure within 2 feet of another structure if classified as a freestanding structure.

Legal Authority:

1. Scope – anything we are building over 200 feet we are required to comply with the Code.
2. Notice and Orders – This states that the Building Department will send out notice regarding violations to the Building Code.
3. 105 required – This states that it is required to have a permit anytime we are messing with something that is over two hundred square feet that falls under the jurisdiction of the Building Code.
4. Limitations – The Building Code Board of Appeals which is for building code alone and does not have to do with the Notice and Orders. It does state the Board of Appeals does not have the right to waive Code provisions.

If there is anything that needs further explanation, I am happy to do so.

Aaron Nall stated the beam on the front and where it connects to the existing building has been ledgered on the back where he is concerned about the ledgering. I asked him what other things I needed to address, and he refused to acknowledge that and stated everything was wrong. I asked him if he could be more specific and at that point, I was very polite with him and he said no, I don't need to do any of that. He was talking about the front beam not meeting the building code standards; it is triple laminated, so if I have to go get my contractor from Las Vegas who has an engineer to sign that off I will. I still don't understand why that has to be removed. I am not trying to keep it the way it is if it is a danger, I am just asking that the order be removed or revoked until I can address all of the issues. Right now, with the temperatures we cannot even pour concrete below the frost lines because it won't cure up beyond there.

Building Official Peterson stated the reason I didn't provide a comprehensive list at this inspection was because in order to make this code compliant not only would the building have to be widened, but we would also have to undermine the entire building in order to install proper frost protection under. There is really no workman like way that can be accomplished in any meaningful, safe way that maintains the integrity of the structure. In my experience I didn't see there was a way to make the proper corrections and be code compliant.

Mayor Pro Tempore Williams-Harper stated I feel good about what you have said, but I want to go back to the very first thing. You talked about a homeowner needing to do this building.

Building Official Peterson stated correct. The owner builder exemption in State law means the homeowner can work on their own property so long as he lives there and resides there and is not going to put it up for sale or lease for an entire year. You have to be the owner of the property to grant that order otherwise a licensed contractor is required.

City Attorney Cahoon requested this item be closed and move on to the next item for further discussion.

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

1. Council Members – City Building Official Peterson – Discussion/For Possible Action – Consideration and possible approval of appeal by Richard W. Nall estate representative Aaron Nall regarding building code violation at 736 Avenue G, Ely, Nevada.

Mayor Pro Tempore stated once again I am asking it specifically says you have to be the homeowner and he is not?

City Building Official Peterson stated correct. Someone can apply to the State Board of Contractors for an exception if they would like and then I would be obligated to honor that exception if the State Board of Contractors granted it.

Mayor Pro Tempore Williams-Harper asked is he aware he can do that and jump through those hoops?

City Building Official Peterson stated I believe he is aware now.

Councilman Alworth stated number one he is not the property owner and I think that is important. I know you didn't rank these in any order, but I think number four can be ranked right at the top also. Any building without a good foundation is not worth anything. How can you do anything on this building if the foundation is not correct?

City Building Official Peterson stated that is why I didn't offer any corrections at that time. I just didn't see a feasible way and I used to be a brick layer before I became an inspector.

Mayor Pro-Tempore Williams-Harper stated you did say there were some things that if we approved, we would be out of compliance and be liable.

City Building Official Peterson stated potentially if we waived a code compliance, we are saying they don't matter without any actual research or foundational information to back that up. I am sympathetic to a lot of people's situations such as hardships that we try to work around, but existing driveways don't equal a hardship as far as the building code is concerned and they can be removed as equally as they can be applied in order to put in proper foundations. That has to take place at the beginning of the project theoretically it may be possible, but I have never seen it before, and I have seen a lot of things.

Mayor Pro Tempore Williams-Harper stated I did understand you to say there are a couple of things you could work with him on?

City Building Official Peterson stated as far as the structure itself the only way it would be approvable through the building code is if an engineer specifically approved what was precisely there. We call it stamping your way out of a problem in the industry and I have been a part of a number of those projects. Again, the reason I didn't offer a correction list is because I don't see a manner in which an engineer would approve this structure as is and/or offer any substantial corrections. If they did, we are certainly willing to look at their engineering.

Mayor Pro Tempore Williams-Harper stated am I to understand that he didn't understand all these things, but now does have an understanding and the situation was so tense you were not able to go over all of this?

City Building Official Peterson stated correct, we didn't have a thorough discussion on all of the issues with the project at all. It was a limited amount of time I was there in which Mr. Nall withdrew his consent to search and invited me in at the beginning of the project and then requested that I leave after the discussions began in which case I did. The photo included in the packet was taken after I had withdrawn.

Mayor Pro Tempore Williams-Harper stated am I to also understand that should Mr. Nall say he would like to talk to you again and go over these things again one by one you would certainly do that?

City Building Official Peterson stated sure, I don't bring my personal feelings to work. I just ask that all of our interactions be as respectful as they can be.

City Attorney Cahoon stated I will add a sixty-day extension to remedy the situation was issued to Mr. Nall on September 20, 2022 which means he has another nine days to correct the issue, or he did indicate he was going to get a second opinion and I don't know if that has been done.

City Building Official Peterson stated for clarity this was not a tear down order it was an order that I was going to place a Certificate of Non-Compliance on this property. We did not have the dangerous building code adopted at the time this enforcement initiated and I didn't have a tear down order appropriate in the building code. A Certificate of Non-Compliance gets placed on a title whenever there is a serious issue at hand. When there is a sale the title company runs a title search and there is a flag stating there is a fairly serious problem that needs to be remedied with the property and ninety-nine percent of the time it will stop a sale unless it is a cash sale.

Councilman Alworth stated I drove by and right now that property is up for rent. If someone rents this is this structure attached to the home, they want to rent out or is it a structure that kids could run into? It is a hazard for anyone to go into this construction.

City Building Official Peterson stated I am well supported under the uniform abatement for dangerous building code to initiate a remediation order on it. I don't have that in the works right now but is appropriate if there is not an agreement to have it removed. It is outside of compliance with State Law by building something and then renting it out to other folks so it may also be a criminal matter if you don't meet the requirements to conduct the construction.

Councilman Alworth stated my thoughts are it needs to be tore down and start over again. If you don't have the foundation right, you don't have nothing. Craig, you have done a great job putting this together and if he wants to get an engineer to stamp it as compliant that is his business. We can't have the City have the liability. Craig is doing the job he was hired to do, and he has a lot of degrees and training in this field. This is so obvious it is a wreck and the possibility of it going up for rent in the housing shortage we are having and a family getting hurt or even killed by this structure. There is no other way than to deny his appeal.

Councilman Spear asked is this something that can be put on hold and give him an extension?

City Building Official Peterson stated the only enforcement we have is for the Certificate of Non-Compliance and that is removeable. It is not a permanent stain on somebody's title. If you remove the problem, then we file a Certificate of Withdrawal that removes that title encumbrance. It is not like a remediation order where if he didn't remediate it we would do so with public funds and then back charge the taxes or something like that. To Mr. Nall's credit the non-structural framing and the prosecution of the workmanship generally speaking is very nice. He certainly does have some experience in framing, but it is the critical structural elements that are of concern to me and again I don't have the authority to approve any of those outside of the building code that we discussed tonight, I only have the ability to approve an engineer's recommendation stating they are compliant or equivalent to building code requirements.

Councilman Spear stated the homeowner builder rule is tough, and it is there for a reason. I have never been excited about after construction you have to keep it one year, but that's the rules. I drove by and the construction looked good to me, and you could have the beam removed or an engineer look at it, but there is no way in nine days you could get the footings in.

City Building Official Peterson stated it is possible an engineer would look at the structure in total and decide if we had the proper beam for proper support potentially frost protected footings may not be an issue. I think the real problem we are going to run into is the bolt embedment.

Aaron Nall stated I did look into pouring the footings post construction and there is such a thing as "slab on grade" but that does fall back to the minimum edge footing. My proposal to fix that is to drill a small hole and my buddy does what is called a vac-truck. What we could do is vac and fill at the same time with concrete. The problem is right now with the temperatures I don't see a way to do it because the concrete would have to set within seventy-two hours. I didn't realize there was an issue with renting so I can pull that off the market. I was just trying to generate income because I know the housing

market had slowed down. I can take it off the market and then brace it to the existing slab and then pour a small footer on the outside edge to prevent wind shear problems through the winter and then at the time of the thaw I would go in and have it poured and have it held up at the same time. The front beam can be pulled up and held in place to not fall over and then any construction can be done with zero weight on it at that point as it would be on the temporary supporting beams. There is a way to do it and I have talked with my friend that put me in contact with an engineer.

Councilman Spear stated I think if you are going to take it off the market and make sure it is secured for the winter; it is still going to need to be redone. I just watched someone lift a whole house and put a foundation under it so I know it is possible, but it has to be engineered.

City Building Official Peterson stated it will still require a contractor per State Law.

Councilwoman Williams-Harper stated forgive my naivety for not understanding every single thing, but I think what is most important is you are trying to get something built however you need to follow the letter of the law. I am wondering if there is a way to give more guidance and structure that the two of you could possibly sit down and talk about?

City Building Official Peterson stated the building code strictly prohibits me from directing the work. In this case it would require an engineer to not only design something that would be appropriate, but honestly given the proposal for an ex-post facto foundation to be put in an engineer's guidance would be required as well. My job is to certify that it is per the engineering. I don't do any design or look at anything that is out of compliance and say that is good enough. In this case a contractor and engineer would be required.

Councilwoman Williams-Harper stated what you are saying is he needs to take the suggestions you brought forth and then talk with you.

City Building Official Peterson stated he needs to talk to a design professional. Again, the non-compliance is revokable. It is revokable the minute we come into compliance either through proper engineering or removal.

City Attorney Cahoon stated the options in front of the Council are either to approve the appeal or deny it and it is my understanding a denial of the appeal will not prevent Mr. Nall from continuing to remedy the issue.

Councilman Alworth stated I go back to "remedy the situation" which is the foundation in my opinion. He can contact his engineer and figure out how they are going to pump this up. I don't understand how you can fix anything if you don't have the foundation fixed to start with. We don't want him to go in there and put a new heading in if the building is still going to fall over.

City Building Official Peterson stated I was the lead inspector on the Salt Lake City Temple Project before I came here to Ely. They were lifting a one hundred- and fifty-thousand-ton stone building in the air and putting some seismic pads underneath it so there are all sorts of things that can be done. The question would be whether it would be worth the cost and that is not a decision for me to make. If proper engineering is presented to the Building Department, it will always be considered.

Councilman Spear moved to deny the appeal by Richard W. Nall estate representative Aaron Nall regarding building code violation at 736 Avenue G, Ely, Nevada.

Councilman Alworth seconded the motion adding the stipulation to not give direction to the City Building Official to withdraw the Certificate of Compliance until the foundation is up to Code and other work can be completed. The motion carried unanimously.

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

3. Board Members – City Engineer Almberg – Discussion/For Possible Action – Acceptance of Murry Street Sewer Main Upgrade Project Phase III, PWP WP-2022-162.

City Engineer stated this is just a formality of completing and accepting the project as finalized.

Councilman Carson stated the Municipal Utilities Board recommended approval of this item.

Councilman Carson moved to accept the Murry Street Sewer Main Upgrade Project Phase III, PWP-2022-162. Councilman Alworth seconded the motion. The motion carried unanimously.

10. 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.

MOTION: Move to approve the Consent Agenda item 10A-1 Minutes and 10A-2 Bills.

Moved by: Councilman Alworth Second by: Councilman Spear Vote: Unanimous

1. Discussion/For Possible Action – Minutes
 - September 22, 2022
2. Discussion/For Possible Action – Bills.
 - October 31, 2022

B. NEW BUSINESS

1. Mayor Robertson – Discussion/For Possible Action – Approval to add City Treasurer Janette Trask as an additional Signatory on all City of Ely bank accounts.

Councilman Alworth asked what are the auditor's thoughts about this?

City Treasurer/HR Director Trask stated I asked them first before I put this on the agenda, and they said since I am not creating the checks anymore, they have no problem with it.

Councilman Spear stated the only problem I have is we could actually have two employees signing checks. I think it needs to have one employee and one Council Member.

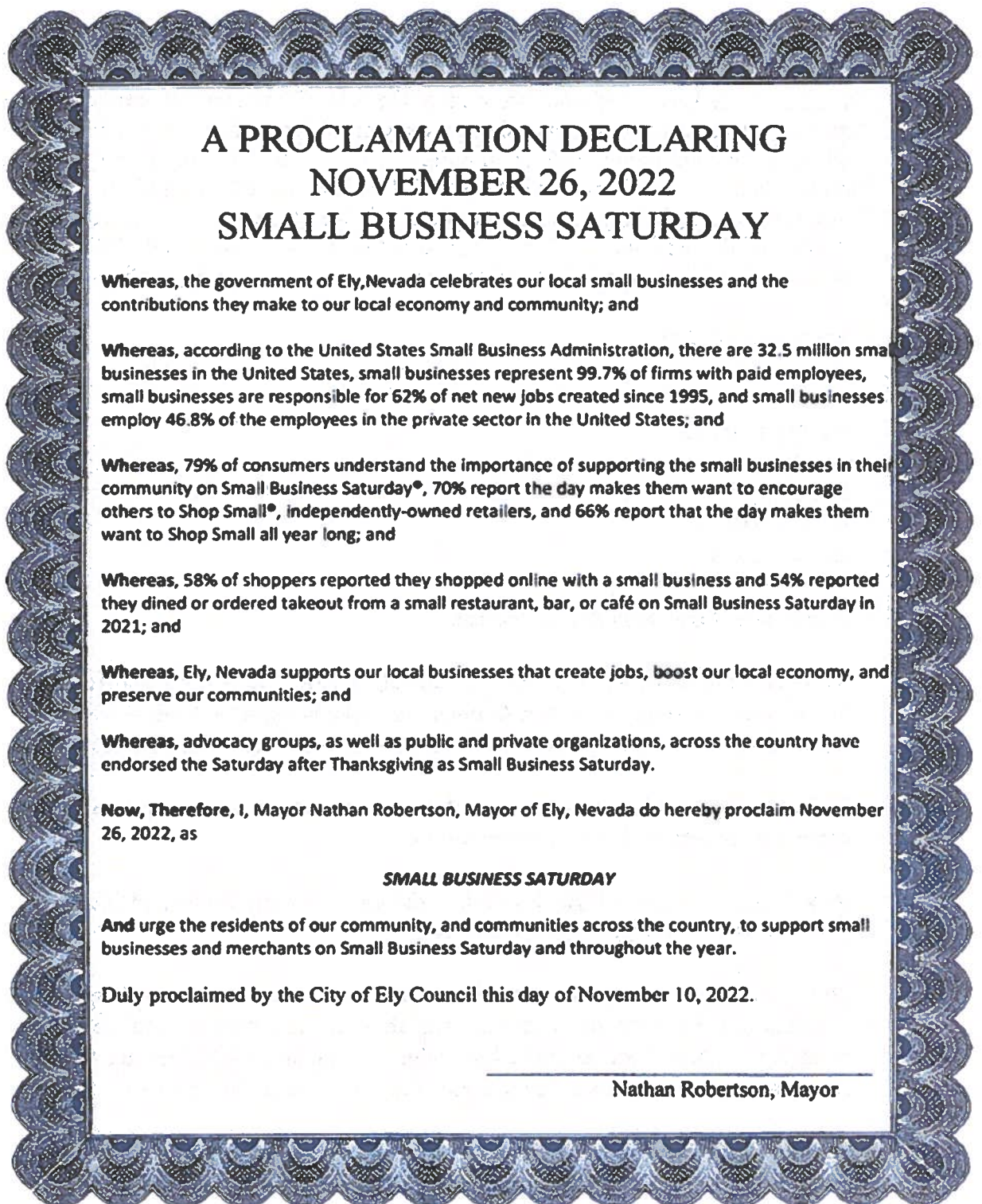
City Treasurer/HR Director Trask stated that is probably what will happen, but there have been cases recently where she ended up having to use the mayor's stamp and to me it is just one more check signer.

City Clerk Lee stated for clarification I don't believe I have ever used the mayor's stamp on a check. I have on a business license but unless it is an emergency, I don't remember ever having to do that on a check because we have four signers, and I can get a hold of one of the others.

Councilman Spear moved to approve the addition of City Treasurer Janette Trask as an additional Signatory on all City of Ely bank accounts with the stipulation all checks are signed by one appointed official and one elected official. Councilman Alworth seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action - Approval of Proclamation to declare November 26, 2022 Small Business Saturday in the City of Ely.

Mayor Pro – Tempore Williams-Harper read the following Proclamation into the record:



Councilman Alworth stated I support small businesses and we have a small town, but one thing that hurts these small businesses is these cell phones. Cell phones do a lot of business outside of this community. There are days where Fed Ex and UPS are on my street at the same time. We need to do what we can, and we have new businesses coming to town all the time.

Councilman Alworth moved to approve the Proclamation to declare November 26, 2022 Small Business Saturday in the City of Ely. Councilman Flangas seconded the motion. The motion carried unanimously.

3. 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 Alworth stated when we meet with Cameron again it will be based on the results of the election for what will happen next.

11. PUBLIC COMMENT:

George Chachas stated ongoing concerns regarding proper footings when putting trailers in a trailer park; his leaky roof which he went to the State Contractor's Board on and to this day still has leaks and the previous Building Inspector told me off and said he hired a poor contractor; no permit on the old choir building; his request for reimbursement on the sewer problem he took care of on his property at 681 Parker; the billing for his property at 490 High Street, the lack of ADA compliance on 15th and 16th Street recently constructed by NDOT; and the William Bee Ririe Hospital not being ADA compliant. Mr. Chachas stated you have all of these things, but you are going after people like Mr. Nall.

November 10, 2022

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

Dear Mayor Robertson & City Council:

As we embark on changes to the city council, I'd like to take this opportunity to thank Councilman Ed Spear and Councilman Ernie Flangas for their service to our community. I wish you both the very best in your future endeavors.

I'd like to also thank, the remainder of the city council members for their commitment and service to our community.

Mayor Robertson, thank you for your assistance on many issues and your wisdom when I greatly needed it this year.

Councilman Alworth, you have been the "watch dog" and have stayed on top of everything. After working for the city and then the county, your knowledge and expertise is simply "invaluable". I consider your personal integrity to be your strongest asset and wish to "thank you" for your outstanding service.

Thank you.


Sincerely,

Marietta Henry

12. 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 **6:31 p.m.** Councilman Spear seconded the motion. The motion carried unanimously.


ATTEST


MAYOR
Mayor Robertson