



CITY OF ELY

501 Mill Street Ely, Nevada 89301

City Hall (775) 289-2430

Cityofelynv.gov

ELY CITY COUNCIL REGULAR MEETING

February 23, 2023, 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. Pastor Bob Winder offered invocation. Mayor Robertson led in the Pledge of Allegiance and asked for Roll Call.

Members present:

Mayor Nathan Robertson

Councilman Terrill Trask

Councilman Kurt Carson

Councilwoman Samantha Elliott

Councilwoman Jerri Lynn Williams-Harper

Members absent:

Councilman Jim Alworth

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

Public Works Supervisor Mike Cracraft

City Fire Chief Pat Stork

City Engineer B.J. Almberg

City Police Chief Scott Henriod

City Building Official Craig Peterson

City Municipal Court 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 on the following page) and the following persons attended via video conference: Geri Wopschall, Desiree, Nora Tadic, Tyler West, Kay Lynn Roberts-McMurray, and Rhiannon Scanlon.

ELY CITY COUNCIL ATTENDANCE LIST

DATE: February 23, 2023

<u>Print name below</u>	<u>Print name below</u>
Josh Lieberman	
Brend Simpson	
Jason Waywood	
Stefanie Waywood	
Sandy Moreno	
Amber Ramsey	
Kyle Horvath	
Benjamin Moreno	
Anne Kellogg	
George Chachas	
Caroline McIntosh	
Matthew Park	
Peter Bjork	
Janet VanDusen	
Michael Cannon	
SMorgan	
Salvador	
Tony Gonzalez	
Ken Ross	
Dan Sanders	
Jess Trask	

2. PUBLIC COMMENT

Caroline McIntosh stated I serve as the Chair on the White Pine County Tourism and Recreation Board and Chairman of the White Pine Mainstreet Association. I am here this evening to voice my opposition to the agenda items to abandon Avenue E. White Pine County Tourism and Recreation was recently selected as one of the six communities in Nevada for a Destination Development Grant. The focus of the grant application was to create a connected community and abandoning a city street is the exact opposite of what we are trying to accomplish in connecting our communities’ assets and attractions. It makes even less sense when the purpose of abandoning the street is to open a Dotty’s Casino without meeting the fifty-room lodging requirement. From a tourism perspective we need more lodging to accommodate the increase in visitors. In 2021 the visitors spending in White Pine County was almost \$51 million as reported by Travel Nevada. Fifteen percent of our local work force is attributed to the hospitality industry as reported by Dr. Fred Steinmann from UNR College of Business. We have a goal of diversifying our local economy. A connected community with additional lodging will help increase visitors and visitors spending. A stand-alone casino without lodging will not increase visitors or visitors spending. Yesterday we were informed that Ely was named number two in the one hundred and fifty best small towns in America by the Family Destination Guide. The caption read, “A picturesque and historic town nestled in the heart of the Great Basin offering a unique blend of adventure and nostalgia.” This is a great honor and tribute to the great efforts of many including the City of Ely, White Pine County Tourism and Recreation, Nevada Northern Railway, volunteer organizations that host events, Great Basin National Park, White Pine County, local businesses, and many other groups and individuals. The City of Ely is a strong partner in supporting local tourism and recreation; closing an existing street negates the goal of a connected community seeking to diversify our economy through increased tourism. Thank you for your consideration of rejecting the Avenue E Abandonment Proposal.

Sandy Moreno stated I live at 795 E. 8th Street and our property is right on the edge of the potential development. What the lady was talking about regarding Avenue E; I don’t

think she quite understands that part of the reason for closing Avenue E is to make the two parcels or separate areas split by Avenue E more cohesive. I think the elevation change is what is going to affect Avenue E. I am really looking forward to having something new in this town and something that isn't locally owned. If some of the local businesses are opposed to the new development, then I think it is kind of their own fault. We have been coming here since 2011 and I don't know how many times we have been unable to go out to eat. I hear you already have a ninety-room hotel coming in so that should appease the hotel situation. You have a lot of empty buildings, restaurants, and hotels now and nobody is stepping up to come fix them up and bring them up to code. I have heard comments about the buildings here being historic, but nobody has interest in fixing them up. It is not just a casino; there will be a non-local restaurant that might be interested in being open on holidays, weekends, and Sundays. When you are traveling it is really hard to get up early in this town and have breakfast before hitting the road. There are only two places in town you can get breakfast early in the morning. If you want to attract tourism, I think something like that would also add to the value of the town as being a local site for tourists. There is not a lot of traffic on Avenue E as we live right there. I don't think it is going to affect tourism if they have to drive two hundred feet further and turn down another road. I am really for the project. It is time to move on and do some updating. I think if you tell this developer no, we don't want your business, I think it is going to send a big signal out to the other developers that might be interested in coming here. They have put a lot of time and effort into figuring this out and nobody else has been willing to buy all this property.

Jim Ramsey stated I am the primary owner of the property in question on item number one. I am eighty-one years old, and my wife is Seventy-six and the motel is over eighty years old. I don't want another vacant building in this town any more than you guys do. We already have four vacant motels. I think it is time for me to step aside and my motel to step aside in favor of something new and improved and hopefully we won't have to build anymore roads or highways to do it. I appreciate your time, thank you.

White Pine County Tourism and Recreation Director Kyle Horvath stated my comments are regarding the proposed development by Pine West being considered tonight. Since I have been here, our office has been a driver of positive change in this community, and no one can accuse us of being anti-growth or anti-progress. In fact, together with many of you I am working on projects that promote a pro-business community in planned and sustainable growth. I am very excited to see attention being cast on this particular intersection. This high-profile area could definitely play a major role in contributing to our economy, but I am concerned about a particular proposed business that is asking the City Council to engage in some creative interpretation of one of its own ordinances. An ordinance that creates equity in the local business environment and improves the revenue stream of room tax into the city coffer. I have read the code requiring fifty rooms for any gaming property with more than fifteen machines and to me it is very clear what the intent is.

Mayor Robertson stated Mr. Horvath I don't mean to step on your comments, but the agenda item is just about the abandonment. If you want to address the fifty-room issue that will be another agenda item in the future, or you may address it in the final public comment.

Stephanie Woywood stated my husband and father-in-law own and operate the Prospector Hotel and Gambling Hall just down the road. We are here to urge you to vote against any type of road abandonment for this project. I know you all have a lot on your plates and there is a lot going on in the community. I think that everyone on all sides of this can agree we want to spruce up the town and clean things up as it is important for our families and the next generation coming up. We also have to look at the bigger picture and I understand there are things we cannot talk about at this meeting, but we can speak to the tip of the iceberg on what tonight's vote can open pandora's box to. I know there has been a lot of talk whether it is Dotty's or not and I see Mr. Lieberman shaking his head saying it is not, but it is important before we take any kind of vote we know exactly who is going to be leasing this from Pine West and we need to know exactly what's going on. We can't abandon roads in our town and have people move from their homes in the middle of a housing crisis for some developer out of Texas who is Pine West that

can't even answer questions at our Council meetings. I think it is important to know exactly what we are getting into here and have all the facts. I think it is important to support local families, local homeowners, and local businesses in town that help a lot of families get a paycheck and put food on the table.

George Chachas stated I am speaking as a private citizen and not in any official capacity. On your agenda item 6-1 you are to consider a possible abandonment of a road or easement. This item was improperly noticed and passed by the Regional Planning Commission (RPC). What they approved was a 280' long by an 80" portion of Avenue E between blocks 29 and 32. This item needs to be denied for improper notification and sent back to the Regional Planning Commission (RPC). Nevada Open Meeting Law states the agenda item must be specific and does not allow for so called typos; the public is being misled. Pine West Holdings is not the property owner in question and there is no evidence that any of the property owners have appointed or authorized in writing Pine West Holdings to speak on their behalf on this issue. There are only affidavits they are owners of the property, meaning the original owners and not Pine West. The City of Ely street and alley abandonment criteria states if the answer to any of these questions is yes, then the roadway should not be abandoned in particular questions one, two, three, and possibly five; but we don't know because the answer has not been given. NRS 268.152 to NRS 268.568 inclusively states a city may not under NRS 268.512 to 268.568 assist any manufacturing industrial warehousing, other commercial enterprise, or any organization for research and development to locate in the City of Ely or within ten miles of the City which would compete substantially with an enterprise organization already established in the City or the County in which the City is located. We have numerous businesses that are going to be affected and yet here you are assisting one individual business. On your agenda item 6-2 you are to consider a possible vacation or abandonment to the road. The abandonment is 280' long by 20' wide of the alley way does not pass the criteria to justify the request. The City of Ely street and alley abandonment criteria states if the answer to any of these questions is yes, then the roadway should not be abandoned in particular again questions one, two, three, and possibly five and six. Again, Pine West is not the actual property owner.

Benjamin Moreno stated I just want to say as far as Avenue E is concerned there isn't much traffic there and as far as the beautification or whatever place we hold nationally as far as this city is concerned. There are no redeemable qualities about Avenue E that would make one go off the highway and go down that Avenue and say oh, how beautiful this is. What we want to do is progress, move forward, and make the city actually beautiful. I hope you do something that is going to benefit the City because when is the next opportunity going to come up to do anything with those properties? Is it going to be an eye sore for the next fifty years with nothing to be built upon it. It would be a good idea to close Avenue E just because of the grading they are going to have to do in order to make it like my wife said, cohesive.

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

Councilman Carson moved to approve the agenda as presented. Councilwoman Elliott seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

➤ CITY CLERK LEE

City Clerk Lee stated I submitted a letter in opposition to AB95 to the Nevada Assembly Committee on legislative operations and elections today. This bill would require all local candidates for public office to submit petitions of candidacy. The CDBG income surveys for Morley Avenue and Orson Avenue only had a fifty percent response rate so we didn't qualify as low to median income, and we weren't able to apply for those grants this year. Hopefully we can get those projects done another way. The City has sent out forty-five failure to remove snow letters to property owners and so far, thirty-two have complied. Administrative Assistant Cobb prepared ninety-seven Intent to Lien letters which I signed and sent out February 3, 2023. We have had seven of those pay in full and six have paid their landfill fees due.

➤ **CITY PUBLIC WORKS SUPERVISOR**

City Public Works Supervisor Cracraft stated I finally get to tell you that our rebuilt pump and motor will be here tomorrow morning. The oil pump for the dozer at the Landfill will be here on or before March 17, 2023, and that should be up and running finally. I want to give a big shout out to the Water Department. In the last few weeks, we have had a few broken water mains and last night they were out until midnight working as it was quite a project.

➤ **CITY ENGINEER ALMBERG**

City Engineer AlMBERG stated I think I mentioned before that our EA's are in for Bell Avenue and Central Ely. They did come back and had us modify one little form which we have turned in. CDBG is reviewing it now, but based on the preliminary stuff they are pretty happy with it and even said they were going to use it in some of their other trainings. We should be hearing from them shortly and then can move forward. As Jennifer said we are not able to proceed with our CDBG projects this year regarding the LMI areas. We have had some disagreement on those areas that have changed over the last several years and so in our office we are gathering information on where our older LMI areas are because nothing has changed in my eyes. We will go back and see if we can get them to reevaluate those areas, so we don't have to deal with this annually. We are working on some improvements for Campton Street so we can apply for a TAP grant, and it may be a potential project for one of our earmarks. We are working on our Aultman plans that we need to have submitted by June for this next coming phase that will begin not this summer, but the following summer. We obviously have plenty of snow out there, so we are working with Mike to put a plan together for some of this runoff to minimize any flooding this spring. Our Landfill runoff ditch is complete and will be hitting the streets for contractors to submit bids on next week. Our Categorical Exclusion is in for our Central Ely Project, and we have not heard back yet. We are also working on some of these fire hydrants that were discussed last meeting that are located on private property and narrow down how many are on private property. Once we figure that out, we will make a plan how we are going to deal with that.

5. REPORTS

➤ **COUNCILWOMAN WILLIAMS-HARPER**

Councilwoman Williams-Harper stated we are still monitoring the grant process for things we are hoping will open up the railroad a little bit more and that is due I believe February 28, 2023. There have also been some dealings with who owns what property and the historic preservation of documents and so forth. We have a bill in the first reading and that is moving forward.

➤ **MAYOR ROBERTSON**

Mayor Robertson stated I was able to spend a few days at the Legislature last week lobbying for some of our bills. I was able to meet with about ten legislators and met with some people in the Governor's office. I plan to go back this next week. I was excited to read the article about us being the second-best town behind Hawaii which is hard to beat.

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

A. CONSENT AGENDA

Mayor Robertson stated my husband is a member of the Volunteer Fire Department and is not treated any differently than any of the others so I will not be abstaining, and I also don't vote.

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

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

1. Discussion/For Possible Action – Bills

- February 13, 2023

B. NEW BUSINESS

1. Councilman Carson – Discussion/For Possible Action – Review of employee and elected official feedback on draft City mission statement and subsequent City mission statement revisions, with determination of next steps prior to approval.

Councilman Carson stated round two looks good and I would like to thank everyone for their input. I am in favor of number two on the revised suggestions. Does anyone else have any comments?

Mayor Robertson stated I know there was some talk of possibly holding a public hearing to take some input from the community on this before we finalize which I think would be a good idea if we are not in too much of a hurry to get this done.

Councilman Carson moved to have a public hearing for the citizens of the City of Ely to have input and feedback on the draft City mission statement and subsequent City mission statement revisions prior to final decision. Councilwoman Elliott seconded the motion. The motion carried unanimously.

2. Councilwoman Elliott – Discussion/For Possible Action – Request Mayor Robertson, with the support of City staff and input from Council Members, to prepare and give a State of City address in accordance with NRS 266.190 2. (a). Address to be given at the first City Council meeting in March and also submitted in writing.

Mayor Robertson stated this is something we did last year and like I mentioned input on any special topics, or any input from the Council or staff I am happy to include. Would it be problematic to move this if approved to the second meeting in March?

City Attorney Cahoon stated no.

Councilman Carson asked do we need to put this on the agenda every year or can we just have a set date to reoccur.

Mayor Robertson stated I would prefer the Council ask for it, so it is not automatic, and they have some input.

Councilwoman Williams-Harper stated I think it was a great idea. I was pretty proud of what was put together and all the things that were said. I think it was a high spot and a lot of times our citizens don't know everything that is going on. It was well put together and eloquently stated and something I think we should do again.

Councilman Trask moved to request Mayor Robertson, with the support of City staff and input from Council Members, to prepare and give a State of City address in accordance with NRS 266.190 2. (a). Address to be given at the second City Council meeting in March and also submitted in writing. Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.

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

1. Council Members – City Building Official Peterson – Public Hearing – Discussion Only – Consideration of a petition for vacation or abandonment of a road or easement by Applicants, represented by Pine West Holdings, LLC, are requesting that an approximate 280' L x 80' W portion of Avenue E between Blocks 29 & 32 be vacated/abandoned to accommodate a future Commercial Development. The Applicants and the property addresses and/or general locations in Ely, NV are as follows: 466 East 7th Street, 777 Avenue E, 701 East Aultman, and Avenue E (Block 29).

Mayor Robertson stated I would like to point out this is for abandonment, and it was already on the RPC and was there a recommendation?

City Attorney Cahoon stated there was recommendation for approval contingent on the parcels becoming one and once we get to the action item I will address it further.

Mayor Robertson asked so for information during this public hearing, the abandonment would be contingent on the properties being sold and the zoning approved?

City Attorney Cahoon stated yes, I guess I will just address it now. I would like to ask the Council to take it one step further and make it contingent on the building permit, and B.J. also brought to our attention there is a sewer line that runs under Avenue E that we would need an easement for. I would also make the granting contingent on that easement.

Councilman Carson asked that would have to be relocated on the developer's dime I am assuming.

Mayor Robertson stated I don't think we will be relocating it; I think it will just be an easement.

Councilman Carson stated I think we need it relocated, myself.

City Attorney Cahoon stated let's move this item to discussion and just ask for public comment.

George Chachas stated you are not addressing the fact that it was improperly noticed on the agenda. The abandonment is for 280' and 80", not 80' as you have on your agenda. Again, the Nevada Open Meeting Law is specific, and you are misleading the public.

Mayor Robertson asked this was noticed for RPC and did we have to notice it?

City Attorney Cahoon stated it was noticed for the RPC meeting and a new notice went out for the City Council agenda. I would assume the notice was corrected because in the RPC there was another mark for the inches.

City Clerk Lee stated I would just like to note for the record that our agenda is correct. It does not say inches, it does say feet.

Sandy Moreno stated I don't have any concerns about the abandonment; I am for it. I did want to add in regard to the sewer line since it was brought up that it is really deep. The home that is behind our property which is right next to the vacant lot on Avenue E has the sewer line running directly under it. We know this because we had to have a plumber come for something and we got one of your maps. The vacant lot was for sale at one time, and someone was interested in buying it but because of the depth of the sewer line and the location of it, it would be darn near impossible for an average person to tie into that. Anyone that would have the money to build on that lot is not going to do it and look at the back of the old falling down motel so that land is basically useless for anyone to put a home on or anything else on. I also know you have a root problem, so if you don't go with this project the City is going to end up with another project.

2. Council Members – City Building Official Peterson – Public Hearing – Discussion Only – Consideration of a petition for vacation or abandonment of a road or easement by Applicants, represented by Pine West Holdings, LLC, are requesting that an approximate 280'L x 20' W (5,600 sf.) of the Alleyway of Block 29 between Avenue D and E be vacated/abandoned to accommodate a future Commercial Development. The Applicants and the property addresses and/or general locations in Ely, NV are as follows: 466 East 7th Street, 777 Avenue E, 701 East Aultman, Avenue D (Block29), and Avenue E (Block 29)

George Chachas stated you are not addressing the issue in regard to your policy on abandonments of streets or alleys.

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

City Engineer Almberg stated we are certifying that there is 51.37 miles of road within the City of Ely with 35.72 miles being paved, 15.65 miles being unpaved, and the square miles within the corporate limits are 7.65 miles.

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

1. Council Members – City Building Official Peterson – Discussion/For Possible Action – Consideration of a petition for vacation or abandonment of a road or easement by Applicants, represented by Pine West Holdings, LLC, are requesting that an approximate 280' L x 80' W portion of Avenue E between Blocks 29 & 32 be vacated/abandoned to accommodate a future Commercial Development. The Applicants and the property addresses and/or general locations in Ely, NV are as follows: 466 East 7th Street, 777 Avenue E, 701 East Aultman, and Avenue E (Block 29).

City Attorney Cahoon stated before the Council starts discussion on this item our City Code 8-1-0 does provide the policy addressing George Chacha's comment. In order for every applicant to be treated equally the Council is to consider whether the road way currently used has access to any private or public property, if it is currently used as a route for any utility, if it is wide enough to practically be used as either a utility roadway or corridor, will isolate any property from public access, will diminish in any way the access of safety or any utility services to any property, and does it have any future potential as a walking path near a park or buffer zone for other public service.

Mayor Robertson stated if an easement is granted my understanding is the property owners, whether that street is abandoned or not would not be able to build over that sewer line that is there. They would have to grant us access and if we had to go in and dig up some improvements they have there, they are responsible for repairing those.

Councilman Carson stated I think the problem is that it is not in the road, it goes across property.

Mayor Robertson asked is that something that can be moved?

City Engineer Almberg stated the sewer line goes from the intersection of Great Basin and Avenue E, angles across that property, and comes out near 8th Street by the old forest service building. The lady that spoke earlier was correct in that it goes under people's property and I don't know if the City would want an easement under that. My recommendation would be if the abandonment is approved to relocate the sewer line to go down Avenue D and tie in to itself at 8th Street. The concern that was mentioned was they need that road because of the grade difference between the two properties so that tells me that the deep sewer is going to get even deeper and we would be digging into their parking lot and everything else. I think the only option for the City would be a relocation.

City Attorney Cahoon stated I will also add in the drafting of the Order of Abandonment and Deed I would like there to be a condition that beyond the building permit for some reason the development ceases or no longer progresses that the easement would revert back to the City as well.

Mayor Robertson asked the representative from Pine West Holdings are these terms agreeable?

Josh Lieberman with Pine West Holdings, LLC stated being able to replat is first before we can even go to a building permit. We have to replat upon our purchase and I think it was along the same lines as our rezoning that upon our purchases is when the abandonments would go through is what we initially discussed over the last several months.

Mayor Robertson asked the condition of moving the sewer line as part of the abandonment agreeable?

Josh Lieberman stated yes, we fully anticipate moving most utilities into the right-of-way. We are fully accustomed to moving any sewer lines, natural gas lines, and overhead electric into the right-of-way as it is usually the preferred approach.

Councilman Carson asked while you are up here can we talk about gaming and what your intent is on that?

City Attorney Cahoon stated it is not on the agenda.

Councilman Carson stated it just feels like we are putting the cart in front of the horse here.

Mayor Robertson stated to be clear what is in front of the Council tonight is a conditional abandonment. If Pine West decides the development isn't feasible or they hit some other obstacle or snag and do not complete the property purchase or the development the abandonment is a moot point and does not go through.

Councilman Trask stated you are stating you need this before you can even move ahead and get the business license.

Josh Lieberman stated yes, this is our next step to continue on.

Mayor Robertson stated he needs this to go to his next step and if he doesn't do anything the property and the street will stay the same.

City Attorney Cahoon stated the Regional Planning Commission's recommendation is that it be contingent on the joining of the parcels making it one and that is acceptable to you, right?

Josh Lieberman stated yes.

City Attorney Cahoon stated I think as long as I am able to include in the Order of Abandonment and Deed that it is contingent on the actual development and there is a reversion back to the City if development doesn't occur within a certain time period that would meet our concern and our needs.

Mayor Robertson stated if the abandonment is granted that the conditions be purchase of the property, getting a building permit for the project...

Josh Lieberman stated no sir.

City Attorney Cahoon stated we will stick with the RPC's recommendation as it being platted as one parcel, and if there is any stoppage of development or if they back out of the project the easement of that road would be reverted back to the City.

Mayor Robertson stated there are only two conditions then?

City Attorney Cahoon stated also the relocation of the sewer line.

Mayor Robertson stated the three conditions then are: relocation of the sewer line into the right-of-way, purchase of all the properties, and if development halts or does not proceed for any reason the abandonment will revert back to the City of Ely.

Josh Lieberman stated typically with our development agreements in Colorado and Nevada projects we enter into an agreement with the cities when the road abandonment occurs it stays as an easement for the entire stretch of the abandonment until all the work is completed. Once the work is fully completed then those easements would go away. They would be temporary easements across Avenue E and the alleyway until all construction is done. It is typically what we have done in other redevelopment projects, and it gives the City all the abilities within those public roads. It will take a couple of years to get everything cleared and developed.

Mayor Robertson asked has the utility corridor for like Mt. Wheeler Power and AT & T been addressed?

Josh Lieberman stated there are power lines and our plan is to not move those and just grant easements for those power lines.

Mayor Robertson stated I certainly feel comfortable with the conditions. There are obviously other concerns the community has brought up that will be addressed as the project proceeds or doesn't, but the issue of the abandonment itself is what's on the agenda for the Council.

Councilman Trask asked Fire Chief Stork are there any issues with this safety wise?

Fire Chief Stork stated no, I am in the same boat. Until there is a project or a design of what's going up we won't know if it will impact us. We have access down all the other roads, and we will have access into all of their buildings. From the Fire Department's perspective there is nothing hampering us at this point.

Mayor Robertson asked were there any adjacent property owners or property owners that were noticed that were against this abandonment?

City Attorney Cahoon stated I believe everybody that was required to be noticed was noticed.

Councilwoman Williams-Harper stated I just have to be honest and say there are a whole lot of ifs, what ifs, and buts. It is very confusing to me because I am asked to give permission for something. We are saying it is just a street but we know the end product is something being built and that something being built doesn't match what our ordinance says that it should. I feel like the cart is before the horse and we would possibly be doing one thing that would lead to something else that is not necessarily favorable so I am having a real hard time with this.

Mayor Robertson stated there is no question that this is a request from a developer who intends to develop the property. I noted earlier there are concerns from the community on what that development might be. They are valid and need to be answered in the proper place and time and they will be, but at the moment what is in front of the Council is someone who would like to purchase these properties and wants to know the City is going to let them consolidate them. The condition is if that doesn't happen the abandonment doesn't happen either. For them to proceed with the development and for us to get to these other conversations the Council has to give a yay or nay to this step. If they say no, then the whole process dies right now, and we never get to those other discussions. This is just the way things have to progress and I know it may feel like the cart is before the horse, but there is no other way for this to proceed than the process they have laid out here. Does that make sense?

Councilwoman Williams-Harper stated it does, but you are asking me to do something and once I do it I am not sure what you are going to be doing.

Councilman Trask stated this gives Pine West an opportunity to take it to their next step and they are still going to have to come back to us with their next step and we get to say yay or nay.

Mayor Robertson stated approving this step does not approve this development in total and the community still has opportunity for input.

Councilwoman Williams-Harper stated I understand that but I am still going to say in my mind it is the cart before the horse because I am trying to make something happen in order for something else to happen whether you agree or disagree.

Mayor Robertson asked councilwoman Williams-Harper do you have a recommendation of another process you would like to use?

Councilwoman Williams-Harper stated I don't know; I really need to see what the other folks have to say because that is honestly how I feel.

Mayor Robertson opened item 2.

2. Council Members – City Building Official Peterson – Discussion/For Possible Action – Consideration of a petition for vacation or abandonment of a road or easement by Applicants, represented by Pine West Holdings, LLC, are requesting that an approximate 280'L x 20' W (5,600 sf.) of the Alleyway of Block 29 between Avenue D and E be vacated/abandoned to accommodate a future Commercial Development. The Applicants and the property addresses and/or general locations in Ely, NV are as follows: 466 East 7th Street, 777 Avenue E, 701 East Aultman, Avenue D (Block 29), and Avenue E (Block 29)

Mayor Robertson stated I assume this abandonment would have the same stipulations as the other.

Councilman Trask stated I just want to point out I think the stipulations safeguard what your concerns are because if we move forward with these two items that allows them to go to the next step. If they come back and say we are not going to move forward with development, we will maintain the easements and right-of-ways.

Mayor Robertson stated right, and the immediate affected property owners have expressed their support of the property which those are the people that have been noticed with the required 300-foot radius of the project and there is only one in opposition.

Councilwoman Williams-Harper stated I just have to say again, and I am not going to apologize if I am a thorn in somebody's side, but I understand rules and regulations and so forth. If I were to say we should go ahead with this, and I was Pine West and come back later and we say no; what is the purpose?

Mayor Robertson stated because that is the process we have to work with.

Councilman Carson stated the way the agenda is worded that is all we can really do is to take the next step and we are not committing ourselves to anything else at this point. We have a lot of work to do on this for sure, but that will be for another night.

Councilwoman Elliott stated I think Mr. Lieberman knows that too. He is here tonight advocating for the land so he and we can move forward. I think we need to compartmentalize this project. This is the first of many conversations on this topic.

Mayor Robertson stated it is the same kind of process we went through on a residential property some months ago. Somebody had bought some residential properties and wanted to reconfigure how they were laid out because they were going to build a house. They couldn't proceed with that plan until they knew if the City was going to let them do that. They still had to go back and fill out the permits, have the review, and be approved. They couldn't do any of that until those abandonments were approved and that is what we are doing here in concept.

Councilwoman Elliott moved that an approximate 280' L x 80'W portion of Avenue E between Blocks 29 and 32 be vacated on the following conditions: 1. All applicant properties must be consolidated under one parcel held by one owner; 2. Abandoned property reverts back to the City of Ely if proposed commercial development does not take place; and 3. Developer must relocate sewer line to City right of way. Councilman Carson seconded the motion. The motion carried three to one with Councilwoman Williams-Harper voting nay.

Councilwoman Elliott moved that an approximate 280' L x 20'W (5,600 sf.) of the Alleyway of Block 29 between Avenue D and E be vacated on the following conditions: 1. All applicant properties must be consolidated under one parcel held by one owner; 2. Abandoned property reverts back to the City of Ely if proposed commercial development does not take place; and 3. Developer must relocate sewer line to City right of way.

Councilman Carson seconded the motion. The motion carried three to one with Councilwoman Williams-Harper voting nay.

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

Councilman Carson moved to approve the Certification of Roads for Fuel Tax within the City of Ely, Nevada, pursuant to NRS 365.550. Councilwoman Elliott seconded the motion. The motion carried unanimously.

B. NEW BUSINESS CONTINUED

3. Councilwoman Elliott – Discussion Only - Review of commercial driver license issues as they pertain to City and local business staffing.

Councilwoman Elliott stated this conversation came up not only with you, but also with people I meet with at my day job. CDL drivers are few and far between in our town and we not only need CDL drivers for the City, but for other local jobs. Great Basin College (GBC) does have a course up in Elko that we send clients to. It is about \$5,500.00 for a five-week course and they come out with a Class A CDL. They do have the infrastructure set up to offer a CDL course in Ely, because they already have it set up in Elko. I think the main point is we want the City to work with GBC to see if that is something we can get at our campus in Ely. They have land and trucks; they would just need an instructor. It is possible the instructor in Elko could come to Ely for five weeks and instruct ten Ely people. However, we want to work with this, I think it is definitely something Ely could benefit from.

Mayor Robertson stated there were two facets of the CDL issue. One that Councilwoman Elliott brought to my attention and another that relates to our Fire Department and my day job as a construction manager for a paving company. The DMV here no longer does testing or provide any type of support for heavy trucking whether you are on the CDL side, or you are trying to get your truck licensed or any of that. Which means for any of the licensing issues, recertification, or truck certifications; for example, the Fire Department has to send a fire truck with at least two employees to Elko for the day which leaves the City without that equipment or employees to get that done. It really puts the community at risk knowing that our Fire Department and Volunteers are as small as they are. It creates quite a liability and an expense for the businesses here as well. Part of this discussion was if there was something we had missed from the other Council Members or the staff as far as that issue. I think we would like to approach GBC about having that class here and lobbying the State to bring back some of those services.

Councilwoman Williams-Harper stated I whole heartedly agree and the kids at our high school want to drive the trucks and the heavy machinery. I mentioned before that I was at a conference and there are simulated machines that can help those kids learn those things and be prepared for the test. I am hoping at some point we could get one of these simulators that perhaps someone from the City or someone from the mine could join together in some way and teach our kids.

Mayor Robertson stated there are probably ten private industries as well as the City and the County that could benefit from having those kind of facilities here. The training and getting these kids into well-paying jobs in the community and making sure they don't have to leave to do that is important.

Councilwoman Elliott stated there was a woman in my office that wanted to do this, but she was going to have to stay in Elko for five weeks and is a single mother. It is a huge burden and a barrier for people.

Councilwoman Williams-Harper stated we are also trying to have realistic CTE Programs for the kids coming out because we want them to stay in the community.

Mayor Robertson stated in the future the Council will probably see some agenda items for letters of support and permission to use the lobbying firm on some of these things.

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

Councilwoman Elliott stated we met with Cameron this week and we put in for four projects that include the Fire Station, Sewer Plant, walkability on Campton Street, and security cameras throughout the City. A lot of those come from different funding throughout what the Senate says. We have a pretty good chance at hopefully getting all of them.

Mayor Robertson stated what I understand is we are putting together a priority list with our sewer infrastructure at the top and working down from that.

5. Council Members – City Attorney Cahoon – Discussion/For Possible Action – Approval for the City of Ely to execute a "Subdivision Settlement Participation Form" (Exhibit K), pursuant to the One Nevada Agreement on Allocation of Opioid Recoveries ("One Nevada Agreement") previously agreed upon (by City of Ely in August 2021), electing to participate in the Walmart Settlement and release all claims against Walmart.

City Attorney Cahoon stated this is similar to the other settlements the City has engaged in. The anticipated allocation for the City on this is and estimated \$1,197.36. This is just to confirm that we do want to take part in that settlement and receive the allocation.

Councilwoman Elliott moved to approve for the City of Ely to execute a "Subdivision Settlement Participation Form" (Exhibit K), pursuant to the One Nevada Agreement on Allocation of Opioid Recoveries ("One Nevada Agreement") previously agreed upon (by City of Ely in August 2021), electing to participate in the Walmart Settlement and release all claims against Walmart. Councilman Trask seconded the motion. The motion carried unanimously.

9. PUBLIC COMMENT

White Pine County Tourism and Recreation Director Kyle Horvath stated thank you for letting me finish. To bring you up to speed we are pro-development, pro-growth, very excited this corner is getting attention, but super concerned about one of the proposed businesses that is asking the City to engage in some creative interpretation of one of its own ordinances. I have read this code requiring rooms for any gaming property with more than fifteen machines and to me it is very clear what the intention is and what the benefit of having a law like this on the books. This is not me speaking out against gaming or casinos or anything like this but is truly asking you not to bend the rule you have in place to create an inequitable environment for businesses. On top of that I don't understand what the benefit to the City would be by bending that rule to allow a franchise casino to go in at this key intersection with no lodging properties, thus no lodging revenues associated. Last year the City of Ely received \$369,000.00 in room tax and your partner, The Nevada Northern Railway, a huge player in this community, received \$333,000.00 in room tax. Over \$400,000.00 was reinvested in this community through grants, events, facility supports, community projects, and marketing. A few months ago, I was in here working with the City Council on a proposal because the City needed more money to do good things and bending this rule would leave money on the table that clearly is needed. In addition to that the Woywods are building another multi-million-dollar branded hotel that is going to bring in hundreds of thousands of dollars of revenue annually to the City. What's their motivation to follow the rules if we are going to bend it for other people. Gaming revenues have very little benefit to the City's budget as it all goes to the State, but room tax does have a benefit to the City's budget and those additional rooms could help with that. Hotels also employ way more people than casinos do. Our current gaming facilities are not packed, and you have no problem finding a slot machine around here so why would you consider bending your own rule for this business and put additional burden on local business owners who kept this town going through thick and thin. They support local organizations, they shop local, and they are valued members of this community. There is a strong chance that one of our lodging/casino properties could go under if this business came to town so who's room tax income are you okay with potentially losing, and which chamber member is it okay to go out of business so more slot machines can go

in at a truck stop casino. In 2019 White Pine Mainstreet conducted a community wide survey on what businesses our community wanted and would support. It was things like clothing, breweries, bookstores, entertainment, groceries, home goods, and shoes that ranked really high, where additional gaming wasn't even mentioned. That corner could play a major role in our quality of life and visitor experience, and I don't think it is worth bending your own ordinances for this particular business. We don't need to jump at every proposal in the name of free marketing and competition especially if it goes against your constituents, your lodging property owners, and the families that have already invested so much into our community. I am very glad this corner is getting the much-needed attention, but I urge you to not create an unfair business environment and put added stress on your valued community by going against your own policy.

Stephanie Woywod stated my husband and father-in-law own and operate the Prospector Hotel and Gambling Hall and I would just like to say what he said in that the ordinance is pretty clear and was voted on unanimously by our previous City Council which Kurt Carson was a part of. Kurt, you have served our community for a very long time, and we do appreciate your support throughout the years. The ordinance is cut and dry and I know everyone is worried about this word "may," but we have to look at section H of this ordinance; "shall be required to comply with F-12." There is a fifty-room minimum for fifteen machines. If you go over the fifteen machines, we have an ordinance for that. Every town and county here in Nevada have an ordinance for a reason to protect us from these predator companies. Our family has been in this community for thirty years. We employ a lot of families and a lot of people have worked for us for over twenty years. We are all for healthy competition and we have great relationships with the other casino owners here in town. We are all banding together to fight this project to the very end because we cannot have some rules for me, but not for the. We all have to be on the same playing field and yes, the word is out, we are looking at a multi-million-dollar project that is going to supply hundreds of local jobs to this community. That is a lot of paychecks for families putting food on the table. If a predator company comes in here not a single dollar is going to stay here. Pine West out of Texas doesn't give a damn about anybody in Ely they are just here to bounce. Who is going to lease this property? They say it is not Dotty's but does that mean we don't have someone lined up to lease it yet, because if it is not Dotty's, it is someone in that ball field. There is a reason they are going to have these machines and not have the rooms to go along with it. The rooms are what makes the money for our town, gets money for all these organizations, and that is why it is so incredibly important. If this thing does go all the way through at least one casino will go out of business and hundreds of local families that have worked here for generations are going to lose their jobs. I am not saying may, they will. We appreciate your consideration in denying anything from Pine West.

Mike Coster stated I would like to thank and give my hugely positive impression of work done by the Ely Fire Department. In the last week or so I have had several contacts with them in the context of a lifelong Ely resident who has had medical difficulty and who now is in the hospital, but previously had declined the assistance of the Fire Department. In each encounter at the residents house the Fire Department and EMS folks arrived promptly, they were very professionally equipped, very organized between the different crew members, and what really stood out to me is they were extremely sensitive and appropriate in their communication with this senior in this sensitive situation. It truly exceeded my expectations, and I was hugely impressed and personally appreciative of the great service that they afford this community.

Anne Kellogg stated I am here representing the Hotel Nevada as well as my own interests in Ely. Thank you for your time and I appreciate the process you have to go through to get things done. I want to echo what Kyle said about the impact the room tax revenue has on White Pine County as far as tourism and recreation go as it is what funds them primarily. They help our town have fun things to do and bring people into our town which is important. I know the ordinance that was passed in 2017 has a little loop hole and I want to encourage you to look at that and take some real consideration not just for this particular project, but for future projects. Slot parlors are predatory, and they don't work in other communities. Las Vegas found that out the hard way and that is why the other sixteen counties in Nevada decided to go ahead and have an ordinance that would require these larger taverns be limited to fifteen machines or less unless they had rooms to go along with it. I also want to echo what Stephanie said too in that we cannot afford to have a hundred more machines in this county. It would deeply impact all four of the casinos that operate here. Ely's existing casinos would suffer some job loss as a result of a slot parlor without rooms going into a project like this. The revenue generated by a slot parlor would quickly get transferred out of town, most likely. In the next few weeks and month as you

consider this ordinance, I would like to really encourage you to be thoughtful in your consideration and I am happy to sit down and talk with any of you as well as the others would be. When my dad was alive, he died in May of 2020, he and Burt were partners in the Hotel Nevada and the Prospector until 2016 and worked really hard together to get this done. They worked with a lot of people here in town including the Tourism and Recreation Board. Thank you for your time and consideration.

Pat Robison stated I was on the Council in 2017 when we put that ordinance in place for a very good reason and you know what that is Kurt, so I hope you will stand behind that. Ely is very small, and we don't have the population that we used to have when I was growing up. It is down to about a third of what it was. We don't need anymore coffee places, gambling places, and there was a good reason that ordinance was there so I really want you to consider that. I don't think we have the population to support it. I don't want to see any of our locals that have stayed in Ely and kept it going, go under because a franchise wants to come in here. Do these people live here and pay taxes? I don't know. I know the people that are currently working to keep their businesses going do. I support everything Kyle and Stephanie said.

Brad Simpson stated I sit on the Ely Mainstreet Committee and our process for redevelopment is working hard with the State of Nevada to redo Highway 50 coming through and that will help maintain the businesses that are here and redevelop the downtown. I don't believe this project will add anything to our main street environment and the businesses that are coming in. I am retired law enforcement and I have seen the effects of the institutions they are planning. I don't want to see that for Ely. I want to see the downtown develop, I want to see the businesses renovated, and I want to see the new highway come through which will bring new businesses in. This project doesn't really focus on anything but what they want and what the land owners think they are going to get.

Sandy Moreno stated I live on East 8th Street and I am a little confused if these people are recommending shutting down the whole project and leave the old buildings and businesses as they are and deny the property owners the chance to sell their properties. I think Jim left, I adore Jim, but he is no spring chicken and the lady that owns the Bon Aire Trailer Park she is the same age as my mother. I think if you keep postponing the inevitable it's not going to happen and remain a dump. I keep hearing about beautify this and beautify that. I don't see much action going on downtown. There are a lot of abandoned buildings and no one can afford to upgrade them and maintain them. No one can afford to tear them down, but someone is willing to do that and I think you need to take advantage of that. Talking about putting a hotel in our neighborhood if that is what they are talking about, there is no room. It will end up being another Holiday Inn where you know what is exactly across the street. Then once the motel is built you are going to complain about the man that has the shop across the street and tell him he can't use his shop because it makes noise, or the dogs in the neighborhood that bark. If you put a multi-story motel down there; they are not only going to be able to see in my back yard, but probably in your back yard because that is the only way to go there is up. There isn't room for what people are talking about; a motel. I understand people want different things and it may not be the perfect fit, but it is still better. For those who think we don't need another coffee shop, they must have time to stand in line for twenty or thirty minutes for a cup of coffee. When my nieces and nephews travel they look on the map and they want to see a name brand coffee place because that is where they hit; that is just the younger generation. I understand their business concerns, but I have to admit three of the last meals that we have eaten out has been at these businesses and each time our order has been wrong. I would like to go out more, but the local businesses don't seem to care about the customer as much and we are running out of choices. It is not going to be just a casino; there will be a restaurant in there as well. I think the word "may" if they didn't want it in there, it wouldn't have been put in the ordinance.

George Chachas stated my concerns on the development is it will eliminate housing. You will do away with the Bon Aire Trailer Park. You have done away with another trailer park that also allowed RVs. The Council gives lip service to the need for housing, but yet you are impeding it. Where are these people going to relocate to? Mr. Chachas stated ongoing concerns regarding his request for the name of the individual that allegedly owns thirty properties and unwilling to sell them in the City that was mentioned in a previous meeting; his request to be put on an agenda for a \$300,000.00 grant for housing; his request to be put on an agenda for a \$250,000.00 donation for revenue he has lost; his billing for his property located at 490 High Street; the drainage coming from the Bath property onto his property ruining his alleyway and driveway; the City

Clerk's fence that is encroaching onto the sidewalk that he would like addressed; and The NDOT project on Avenue D between 14th and 15th Street he alleges does not meet ADA.

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

Councilman Carson moved to adjourn the regular meeting of the Ely City Council at **6:31 p.m.** Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.



MAYOR


ATTEST