



CITY OF ELY

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

ELY CITY COUNCIL REGULAR MEETING

July 13, 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 5:00 P.M., 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
Councilman Jim Alworth
Councilwoman Jerri Lynn Williams-Harper

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

City Clerk Jennifer Lee
City Treasurer/HR Director Janette Trask
City Attorney Leo Cahoon
City Public Works Director Mike Cracraft
City Fire Chief Pat Stork
City Engineer B.J. Almberg
City Police Chief Scott Henriod
City Building Official Craig Peterson
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, Rhiannon Scanlon with rPlus Energies, Greg Copeland, and Desiree Ramirez.

ELY CITY COUNCIL ATTENDANCE LIST

DATE: July 13, 2023

Print name below

Mishon Huest
Brenda Downing
Bill Brewer
Kerri Pinter
Michael Carson
Stef Wagnard
Mark Bassett

Print name below

2. PUBLIC COMMENT

Kerri Pintar
1417 Mill Street

New Business Item #8. I would again strongly object to the City Council selling off this property to be developed for future housing in Ely. While we can all agree we are in desperate need of housing in this community, I need to remind you this is not something you should be engaging in as a government entity. It's no secret I'm against those luxury apartments coming to Bell Avenue whether I want them or not, but better the Woywod's and 5D waste their millions on luxury apartments which won't rent for \$2,000 or more per month then you unnecessarily expend my tax dollars following suit on Belfort.

Case in point, I attended the Co. Commission Meeting on June 28th to hear the update JCR was asked to provide regarding the stalled housing project on 17th street. JCR representative Casey Jones, complete with his shimmy and shake, gave a laughable report regarding what his plans going forward look like beginning in August 2023; from "partnering" with Weaver to build the houses i.e. playing CYA for selling the lots without permission per Article 3 of the quitclaim deed, a tentative date to begin curb and gutter pending discussion with the City or whomever to have laterals ran without paying hook-up fees until the lots are sold, to hearing Commissioner Howe praise him for his company contribution to this community and yet none of the SNPLMA projects are complete either on time or under budget. The whole thing makes one want to barf!!!

The county too should not have engaged in trying to solve the housing crisis we face in White Pine County as this has not turned out well for them either. Contrary to the spew Commission Howe was alluding to, all they have succeeded in doing is opening themselves up to have to file litigation to correct the misdeeds of JCR; and I'd personally like to see ethics complaints filed for the DA, County Manager, then Chairman Richard Howe in addition to legal action taken against JCR for violating the terms of the agreement and profiting in excess of \$180,000 from selling the lots outside the scope of the agreement.

Additionally, I would like to see the State Contractors Board revoke the Contractors Licenses which JCR is currently working under as the Qualified Individual for obtaining the license, Rowdy Olds, is no longer affiliated with JCR; he's not living in the State of NV nor present on the job site supervising these projects that JCR is currently under contract for. So many questions and insufficient answers certainly coming forward from that meeting.

I will again state to this council that neither you, nor the Co. Commission, should not be in the housing business...PERIOD!!! It's not too late to learn from the County's mistakes and not repeat the same as city of Ely representatives, and that includes NOT waiving water/sewer hook-up or permit fees in conjunction with the County's upcoming request to aid in their miserably failing housing project!!! Steer Clear!!!

Rhiannon Scanlon stated I am a Development Associate with rPlus Hydro working on the White Pine Pumped Storage Project. I would like to comment on today's agenda item B-6. I am grateful to give you all a quick update about the White Pine Pumped Storage Project and the licensing process with the Federal Energy Regulatory Commission (FERC). The FERC has sent rPlus Hydro a letter dated April 28th identifying several deficiencies and additional informational requests; this is a standard part of the licensing process. On June 12th rPlus Hydro submitted our response to the fifteen deficiencies and we are on track to respond by the July 27th due date for the additional information request. For citizens to easily access information about the project we request the Mayor and City Council update the news post on the City's website to be the project specific website link which is www.whitepinepumpedstorage.com instead of the general company website and I thank you for your consideration on that. I do have a few other quick updates. We did receive the joint letter filed by the City of Ely and the Nevada Northern Railway with FERC, dated May 1, 2023. We appreciate the comments, the additional information requests, and the additional studies request; and plan to submit a response in the next few weeks. rPlus Hydro has also begun a Visitor Use and Experience Survey effort to inform a supplemental study request by the National Park Service related to potential recreational impacts to the Nevada Northern Railway. The survey was developed in consultation with the NPS and NNRY. The first survey event was in June and was quite successful. We are on track to gather a statistically significant number of surveys. The second survey event will take place next week and there will be a total of four survey events. Lastly, I am pleased to inform you that a technical working group led by BLM Bristlecone Office has been formed to address potential impacts to wildlife. Other members include rPlus Hydro, White Pine County, The Nevada Department of Wildlife, and the Nevada Sagebrush Eco System Team. These meetings will occur monthly. We look forward to providing additional information and other project updates at an in-person City Council meeting in the next couple of months. Thank you for your time.

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

Councilman Alworth moved to approve the agenda as presented with a recommendation to move item six under New Business up on the agenda. Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

➤ **PUBLIC WORKS DIRECTOR**

Councilman Alworth asked on the Wastewater Treatment Plant report, Raul mentioned "hopefully the plant won't divert so often. It does need to be cleaned with a Vac-truck." Do we have a Vac-truck in town or are we going to have to pull one from somewhere?

Public Works Director Cracraft stated we would use Sanitary Septic here in town.

➤ **CITY ENGINEER**

City Engineer Almberg stated last week Councilwoman Williams-Harper and I had the pleasure of meeting with Senator Cortez Masto, and it went really well. We thanked her for a lot of good things she has done for our community with our different projects that are going on. We are finalizing the Ninety percent plans and anticipate possibly submitting those tomorrow. We are starting on our CDBG projects which include Parker Avenue water and Steven Avenue sewer for down in Central Ely the beginning of the new fiscal year.

➤ **CITY BUILDING OFFICIAL**

City Building Official stated the Golden Gate Permit has been issued. They are still pending their Will Serve in regard to their solution to the roads, but they will be getting started here shortly. Today, the Elkridge Motel was closed to occupancy because they were caught working on it yet again. It has been posted numerous times and the Sheriff's Department has been notified that anybody there at this point is going to be trespassing until we get a permit and a reuse plan for that building.

5. NNRV FOUNDATION REPORT

Mayor Robertson stated I want to disclose I am a part-time employee of the Foundation, but this is not a voting matter.

The following report was reviewed by NNRV President Mark Bassett:

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.nnrv.com • E-mail: info@nnrv.com

Monthly Operations Report for June 2023

1. Locomotive Status – No change
 - a. Locomotives in service: #81, #105, #109, #204, #310, 801, Wrecking Crane A & Rotary B.
 - b. Locomotive 93 is out-of-service. Repairs are almost done, she should be steaming next month.
 - c. Locomotive 40 is out of service for her heavy repairs. We have started on her repairs; she will be out of service until 2024.
 - d. Locomotives out of service needing moderate repairs: #201 and #34
 - e. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Mining #309, Kennecott 802 and Rotary Snowplow B (for boiler overhaul.)
 - f. 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 and #22 are operational.
 - d. Caboose out service: #5 and #6. Caboose #6 needs a 50-year waiver.
4. Track Status – No change
 - a. Keystone Branch is open. We had some soft spots that we tamped up.
 - b. Adverse Branch is open.
 - c. Museum Branch is the track between the East Ely Depot and the White Pine Public Museum. It is now open for traffic.
5. Ridership and Ticket Sales – Updated
 - a. In June we carried 2,579 passengers, this is a 12% decrease over the previous year. It was our second largest June in 35 years.
 - b. Year to date we have carried 5,810 passengers, this is a 3% decrease compared to 2022.
 - c. Since operations began in 1987, we have carried 353,655 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 June 2023 is $2,579 \times 80\% \times 140 = \$288,848$
Economic Impact Year To Date is $5,810 \times 80\% \times 140 = \$650,720$
These numbers only reflect the economic impact of our train passengers and does not include visitors who did not ride the train.

Award Winning Destination

Best Historic Railroad of the West – 2022
Best Adrenaline Rush in Rural Nevada – 2020
Best Museum in Rural Nevada – 2022, 2020, 2017, 2016, 2014, 2013, 2010, 2009, 2008
Trip Advisor Certificate of Excellence – 2022, 2021, 2020, 2019, 2018, 2017, 2016, 2015, 2014
Best Place to Take the Kids in Rural Nevada - 2020, 2019, 2018, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007

7. Social Media: Our reach on social media continues to expand:
March:
 - a. We reached 946,649 people.
 - c. We have 131,600-page likes.
 - d. 180,583 people follow our page.
8. The track between the White Pine Public Museum and the Nevada Northern Railway Museum is now open.





And the Dirt mural is now complete.

B. NEW BUSINESS

6. Councilman Alworth – Discussion/For Possible Action – Approval to send a letter to the Federal Energy Regulatory Commission (FERC) from the City of Ely and the Nevada Northern Railway Foundation regarding rPlus Energies’ responses to FERC’s concerns over rPlus Energies’ White Pine Pumped Storage Project.

Mayor Robertson stated I want to again disclose I am a part-time employee of the Foundation, but this does not affect my job and I don’t vote on this.

Energy Lawyer Marvin T. Griff with Thompson Hine reviewed the draft letter to the Federal Energy Regulatory Commission below:

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[Thompson Hine Letterhead]

July [@@], 2023

Kimberly D. Bosc, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

RE: Comments on June 12, 2023, Response and Corrections (Response) of White Pine Waterpower, LLC (Applicant or WPW) to April 18, 2023, Federal Energy Regulatory Commission (FERC or Commission) Letter of Deficiencies and Additional Information Requests (Deficiency Letter) and May 25, 2023, Additional Information Request (Additional Request) Concerning Final License Application (FLA) for the White Pine Pumped Storage Project (P-14851-003) (Project)

Dear Secretary Bosc:

The City of Ely, Nevada, (City or Ely) and Nevada Northern Railway Foundation (NNR) (collectively ELY/NNR), jointly submit the following comments in this proceeding on Applicant’s Response to the Commission’s Deficiency Letter and Additional Request concerning the FLA that WPW filed February 27, 2023, with the Federal Energy Regulatory Commission (FERC or Commission). As shown herein, WPW has failed to correct the deficiencies with its application by the June 12th deadline imposed by the Commission in its Deficiency Letter.

Introduction

ELY/NNR respectfully submit that the additional information supplied by Applicant continues to be insufficient on critical foundational Project matters. In ELY/NNR’s April 28, 2023, submission with FERC (Document Accession # 20230501-5051; referred to hereafter as FLA Comments), which are hereby incorporated by reference, ELY/NNR explained why from their unique perspective better usable data consistent with these Commission’s deficiency requests is essential.

At pages 18-22 of additional Study Request #2, ELY/NNR explained that reliable and robust data is necessary to show the impact of the Project on short- and long-term economic impacts on Ely’s tourist industry. ELY/NNR described that the number of workers needed for the construction and post-construction phases of the project will have an impact on the area’s tourism, recreational hunting enthusiasts, traffic, and businesses serving the recreation industry and the local resident population. “The entire spectrum of recreational economic loss,” explained ELY/NNR, “must be analyzed and studied to determine how this massive project will affect the recreation industry in Ely.” FLA Comments at p. 20.

In additional Study Request #3, ELY/NNR described the need for reliable data to gain a better understanding of short- and long-term impacts of the Project on Ely apart from impacts on the tourist industry. FLA Comments at pages 22-27. ELY/NNR explained that this data is needed for a fulsome understanding of the wide range of Project impacts on Ely’s housing, employment, and population; public and social services; healthcare; cultural character; transportation, traffic, property

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values, economy, and taxes; social services; infrastructure; and on its municipal services (e.g., police, fire, water, sanitation, roads).

Applicant's Response is inadequate. As discussed herein, its Response too frequently is comprised of a series of "expectations" and "anticipated" outcomes rather than the additional reliable data and analysis the Commission directed Applicant to supply. This information was and is not optional. There are many reasons Applicant should supply this information is needed. Apart from the fact that the information is required under the Commission's regulations, and was required to be filed by June 12th pursuant to the Commission's Deficiency Letter, the data and analysis is necessary to address the range of areas under the Project that can adversely affect the Ely and White Pine County communities from top to bottom.

Comments on Specific WPW Responses

Deficiency No. 2

This deficiency addresses WPW's failure to identify in the FLA the McGill Ruth Consolidated Sewer and Water District (McGill Ruth District) and any other irrigation district, drainage district, or similar special purpose political subdivision that has water supply sources near the location of the proposed project area.

In its response to this deficiency request, Applicant provides little additional information regarding entities – McGill Ruth District or others – whose water interests could be affected by the Project. Indeed, WPW downplays McGill Ruth District's water concerns, claiming that McGill Ruth District merely "expressed . . . interest in the project." WPW's characterization contrasts sharply with McGill Ruth District's April 26, 2023, Comment and Protest (McGill Ruth District Comments) in which it raised several serious concerns regarding the potential adverse impacts of the Project on McGill Ruth District's water interests.

ELY/NNR agree with McGill Ruth District that further analysis is required to "ensure there is no potential degradation to the water quality of ground and surface water sources related to project construction, water pumping, electrical generation facilities, and any discharge of water." McGill Ruth District Comments at p. 1. ELY/NNR also agree with McGill Ruth District that Project construction and reservoir fill and maintenance needs "may not allow the aquifer the ability to recharge and stabilize for multiple years. . . [and that] in an already over appropriated basin will likely have detrimental effects on the groundwater basin as a whole." *Id.* at p. 2. The District's section III comment also resonates with the City that communication between the WPW and the District involving Steptoe Basin water usage by the Project has been poor. Ely too has generally been kept in the dark regarding Project plans that could have major adverse impacts on the City's water supply.

The issues raised by McGill Ruth District are similar to the water issue concerns Ely discussed in ELY/NNR's April 28, 2023, Comments submitted in their FLA Comments. At pages 24-25 of the FLA Comments, Ely specifically raised concerns that the Project could draw water from the same subsurface aquifer on which the City depends. Ely explained that this could lead to a host of serious problems for the City. For this reason, Ely asserted that there is a critical need for additional hydrological studies to get a "complete understanding of the Project's impact on Ely's water supply."

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Id. at p. 25. To be sure, WPW's terse response to Deficiency No. 2 provides little information to allay these serious concerns.

Deficiency Nos. 8, 9, 10

Deficiency No. 8 involves WPW's failure "to include on-site manpower requirements and payroll during and after project construction" required under Section 4.41(f)(5)(iv) of the Commission's regulations. The Commission directed WPW to correct the FLA and provide the missing information.

WPW's Response is not in compliance with the Commission's directive. Applicant has not derived its data through reliable study and analysis. Applicant itself describes the additional information it has supplied as "estimates" only of what the Applicant "anticipates." WPW concedes that the new information it has provided in certain key areas is based on nothing more than "applicant's industry knowledge of previously completed pumped storage project construction experience." It recognizes that even this basis is wobbly, however. According to WPW, the "estimates provided are subject to change." Response at p. 16. Firmer foundations exist in a house of cards. WPW's information should be deemed inadequate and unacceptable.

Deficiency No. 9 involves WPW's FLA shortcomings under Sections 4.41(f)(5)(v)(A) – 4.41(f)(5)(v)(C) of the Commission's regulations requiring specific Project data on construction personnel who currently reside within the project's affected area, would commute daily to the construction site from places outside of the project area, and would relocate on a temporary basis within the project area. The Commission directed Applicant to "correct the FLA in accordance with the Commission's regulations to include the number of construction workers who currently reside in the project area, would commute daily, and would relocate temporarily."

WPW's additional information supplied to Deficiency No. 9 is deeply flawed. This is clear from Applicant's assertions about available housing stock for projected Project construction workers. WPW claims that there were "approximately 1,000 vacant housing units in White Pine County [(County)] . . . [which are] potentially sufficient to accommodate most of the non-resident workers during the construction phase of the project." Response at pp. 19, 22. Applicant itself recognizes its housing information is of questionable reliability over the minimum seven-year Project construction period when it acknowledges that "the condition, size, pricing, and market availability of the housing needed at the start of each phase of construction are not known at this time." *Id.*

Notably, WPW's housing information is also at odds with Ely's understanding represented in the FLA Comments that "White Pine County is currently facing a housing shortage" and that the County "needs at least 450 new residential units built right now." FLA Comments at p. 24 (emphasis added). The area's current hotel room inventory cannot be viewed as a solution to Project construction worker needs as hotel accommodations presently cannot fully meet the demands of tourist visitors on many days of the year. *Id.*

Applicant "anticipates" that its "EPCW contractor" – who has not even been selected – will solve the housing shortage through "expansions of" existing RV parks or other temporary housing infrastructure." Response at p. 21. But this information is little more than a "Field of Dreams" deflection to a current housing shortage that will be exponentially more complex under the Project.

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Ely rejects any notion that the Project should be allowed if it would entail “man-camps erected by Applicant in an unidentified location to meet the immediate housing needs of hundreds of new workers.” FLA Comments at p. 24. Robust analysis and reliable data is needed to enable meaningful long-term planning to arrive at proper solutions to a critical gating issue raised by the Project. The Commission’s regulations compel nothing less.

Deficiency No. 10 involves Section 4.41(f)(5)(viii) of the Commission’s regulations. FERC directed WPW to “correct the FLA in accordance with the Commission’s regulations to include a fiscal impact analysis evaluating the incremental local government expenditures in relation to the incremental local government revenues that would result from the construction of the proposed project.”

Once again, Applicant has not provided the information required under the Commission’s regulations: In lieu of providing the necessary data and analysis, WPW oddly relies instead on the extreme economic gyrations that have rocked the City and area. WPW’s response to the Commission is essentially that because the local communities “developed as mining communities and over the years have experienced a boom-and-bust pattern of development related to the business cycle of mineral extraction . . . there is sufficient existing infrastructure near the project, such as schools, public safety, utilities, hospitals, and housing that has the capacity to support the project.” Response at p. 21. Hence, without providing any further supporting analysis, WPW “anticipates” all community impact issues can be adequately addressed. According to Applicant, all of this will be easily handled and will not burden the local communities. WPW states that it “expects” there will only be positive tax revenue gains at all levels of government, conceding however that the bulk of tax revenues will not remain locally. *Id.*

Ely, for one, is not convinced. In the FLA Comments, Ely identified the various areas under the Project that require further data and analysis. *See generally* FLA Comments at pp. 18-27. Ely cites one example alone involving potential impact on the City’s landfill needs that would cost the City in excess of \$10 million. WPW has not addressed this issue at all in its Response. Nor is there any discussion of likely increased municipal water costs. Likewise, there is no analysis on cost impact on traffic and degradation of City streets. Instead, WPW’s Response is comprised of a series of “expectations” and “anticipated” outcomes rather than the additional reliable data and analysis required by the Commission. This information should have been supplied as directed.

Deficiency Nos. 12 and 13

These deficiencies involve information required by the Commission that Applicant failed to include on the FLA Exhibit G maps. ELY/NNR in their FLA Comments discussed many of these same inaccuracies, but also included several others involving the NNR, whose tracks and railway tourist operations would be expected to pass through the construction and location of most of the Project’s principal works and features.

Deficiency No. 12 requires Applicant to show the location of all project works and principal features pursuant to Section 4.41(h)(1) of the Commission’s regulations. In its Deficiency Letter, the Commission identified a series of items needing to be corrected in the Exhibit G maps included in the FLA. One important problem with the maps not discussed by the Commission in its Deficiency Letter, however, involves a proper showing of the NNR’s Mainline and HiLine.

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In their FLA Comments filed over a month ago at the time the Commission issued the Deficiency Letter, ELY/NNR explained that:

In the Project area, the City of Ely owns the land that the jointly owned [M]ainline railroad track is on. On the HiLine, the City and the Foundation jointly own the railroad tracks but not the land on which the track is located.

In their FLA Comments, ELY/NNR also stated that:

the G-5 Map presenting the Project Boundary currently does not, *but should*, accurately depict the train track right-of-way and the City of Ely’s property on the Mainline. Doing so will likely reveal more Project Boundary overlap exposing the need for still further information and possible studies. (FLA Comments at p. 11)

The revised maps filed with WPW’s Response continue to display the Mainline incorrectly – as residing on BLM property – and still do not properly show the full extent of the HiLine right-of-way. Even though WPW has known about these inaccuracies in their FLA Exhibit G maps since the time ELY/NNR filed their FLA Comments, WPW has chosen not to correct these mistakes. Hence, serious deficiencies in the maps remain with the depiction of the NNR railroad facilities that are located in and traverse through the heart of the Project.

In their FLA Comments, ELY/NNR raised the concern that the inaccuracies involving the Mainline depiction, among other things, relate directly to important Project water issues. ELY/NNR explained that the Applicant’s planned groundwater well drilling plans might constitute an unauthorized interference with Railway operations. ELY/NNR also explained that the Applicant’s wellfield conveyance access road location raises Project Boundary overlap issues with the Mainline track and right-of-way and could adversely affect the NNR’s Mainline passengers’ ridership experience.¹ *See* FLA Comments at p. 11.

Another highly troublesome mistake that persists under the revised Exhibit G maps involves WPW’s treatment of the spoil disposal site. Without explanation, this Project feature now seems to have vanished entirely!

In the FLA, WPW represented that the spoil disposal site would serve as a permanent Project feature:

4.1 **Spoil Disposal** A permanent spoil disposal site shown on drawings in Exhibit F[] will allow the storage of approximately 1,005,000 cubic yards of spoil arising from the lower reservoir and underground excavations that cannot be reused as fill material. Additional areas adjacent to the spoil disposal location have been identified, should the

¹ In its response to Deficiency No. 6 involving compliance with any relevant comprehensive plan under Section 4.38(f)(6) of the Commission’s regulations, Applicant says “[t]he project is not subject to the Nevada Statewide Comprehensive Outdoor Recreation Plan [Nevada Recreation Plan].” Response, p. 12. WPW reasons that this is because “the principal project features are located entirely on land managed by the BLM Ely District Office.” *Id.* As discussed above, it is highly likely that properly drawn maps will show interference with NNR’s property and rights-of-way. In any event, ELY/NNR question whether WPW can justify its total avoidance of compliance with the Nevada Recreation Plan given the substantial impact the Project will have on the NNR, a major recreational and tourist attraction in the state.

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spoil area requirements grow through the development of the design. (FLA, Exhibit A, section 4, p. 20)

In Deficiency No. 13, the Commission called out WPW's Exhibit G maps under Section 4.41(h)(2) of the Commission's regulations because "Exhibit G does not appear to show all proposed project features, including the soil disposal area . . . enclosed by the project boundary."² The Commission directed WPW to "correct Exhibit G maps to enclose all proposed project facilities and features within the proposed project boundary."

Rather than correcting the maps as directed, WPW's revised maps and additional information submitted in its Response raise new questions. In its response to Deficiency No. 13, Applicant "confirms that the project boundary encloses all permanent project features." ELY/NNR wonder how that can be. If the spoil disposal site is a permanent feature area as represented in the FLA, Exhibit A, and as shown on Exhibit G, Map G-5, of the FLA, then it should be discussed or shown somewhere in WPW's Response consistent with its confirmation. Has the proposed spoil disposal site location changed? If so, where will it be located? Applicant has completely failed to address this deficiency as required.

Other Matters

In its response to Deficiency No. 6, WPW discusses Project impacts on the Greater Sage Grouse, ungulates, and raptors. WPW states that a technical working group (TWG) has been formed to discuss mitigation measures. Ely has a significant interest in protecting the area's native wildlife. The City asks that it be apprised of future TWG meetings so that it can **[INCLUDE?: participate in and]** be apprised of these mitigation measures developments.

Yours truly,
City of Ely, Nevada
Nevada Northern Railway Foundation

/s/ Marvin T. Griff
Marvin T. Griff
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1919 M Street NW
Suite 700
Washington, DC 20036
202.263.4109
Marvin.Griff@ThompsonHine.com
Their Attorney

Nathan Robertson
Ely City Mayor
501 Mill Street
Ely, Nevada 89301

² ELY/NNR also questioned the accuracy of the FLA Exhibit G maps involving the spoil disposal site for similar reasons. See FLA Comments at p. 9.

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(775) 289-2430

Mark S. Bassett
President
Nevada Northern Railway Foundation
PO Box 150040
Ely, Nevada 89315
(775) 289-2085
president@nnry.com

Councilman Alworth moved to approve sending the letter to the Federal Energy Regulatory Commission (FERC) from the City of Ely and the Nevada Northern Railway Foundation regarding rPlus Energies' responses to FERC's concerns over rPlus Energies' White Pine Pumped Storage Project. Councilman Carson seconded the motion. The motion carried unanimously.

6. REPORTS

➤ COUNCILMAN CARSON

Councilman Carson stated I would like to send some kudos out to the County, our Road Department, and Mike Cracraft for completing the first section of scrub seal on 12th and 13th Street from Avenue M to Aultman Street. It turned out really well. We have put a lot of time and effort into this trying to find the money and coming up with a plan. It is nice to be a part of a project where everyone's ideas get put together and get to see the ball rolling on it. I think we have a really good product and time will tell.

➤ COUNCILMAN ALWORTH

Councilman Alworth stated I would like to say good job on the end of Steptoe Park, it is really nice now.

➤ **COUNCILWOMAN WILLIAMS-HARPER**

Councilwoman Williams-Harper stated we did have a great meeting with the Senator, and she was very pleased to see what is going on in the City.

➤ **MAYOR ROBERTSON**

Mayor Robertson stated I would like to thank Mayor Pro Tempore Williams-Harper and City Engineer Almberg for stepping in while I was out of town to take care of that. We had the best people on the job.

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

1. Board Members – City Clerk Lee – Discussion/For Possible Action – Recommendation for approval to remove past due utility fee penalties up to the amount of \$3,770.75 from 5 Avenue B, McGill, Nevada at the request of Property Owner, Jose Arellano.

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

Councilman Carson moved to approve the removal of past due utility fee penalties up to the amount of \$3,770.75 from 5 Avenue B, McGill, Nevada at the request of Property Owner, Jose Arellano. Councilwoman Elliott seconded the motion. The motion carried unanimously.

2. Board Members – City Clerk Lee – Discussion/For Possible Action – Recommendation for approval to remove past due utility fee penalties up to the amount of \$1,479.70 from 20 Sunshine Street, Ruth, Nevada at the request of Property Owner, Jose Arellano.

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

Councilman Alworth asked why are the names on the bills different from the name on the agenda item?

City Clerk Lee stated Mr. Arellano bought both properties at a tax sale and those on the bills were previous owners.

Councilman Carson moved to approve the removal of past due utility fee penalties up to the amount of \$1,479.70 from 20 Sunshine Street, Ruth, Nevada at the request of Property Owner, Jose Arellano. Councilwoman Elliott 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. Mayor Robertson – Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 749, Bill No. 2023-03, proposed ordinance establishing City Council's option to assign to the Public Works Director a supervisory role over the Water/Sewer Department, Wastewater Treatment Plant, Landfill, Streets, and Animal Control.

**Kerri Pintar
1417 Mill Street**

Item 1 – Public Works Director supervisory capacity role under Ordinance #749. This seems like a no brainer to utilize the Public Works Director in this capacity. Personally, I have been pleased to deal with Mr. Cracraft on numerous issues relating to the City and I find his professionalism refreshing and he's always quick to attend to my concerns. This council cannot, and should not, micromanage the city employees individually when you have hired qualified staff to do just that. Trust the process that the employees you have selected to fill these positions are doing what is in the best interest of not only this board but the residents of the City of Ely.

2. Mayor Robertson – Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 750, Bill No. 2023-04, proposed ordinance updating and amending Title 1, Chapter 6, Section 1(E) of the Ely City Code increasing appointed official salaries.

Kerri Pintar
1417 Mill Street

Item 2 – Increasing Appointed Officials Salaries under Ordinance #750. Again, I think this council was very generous in awarding performance-based salaries to the employees of the City of Ely, recognizing just how great your employees are, and you all deserve the same. The amount of time I personally spend researching pertinent issues and preparing my comments is time consuming so I can only imagine the time you each spend to be informed prior to these meetings and you too should be monetarily awarded for your services as public service is sometimes a thankless job. While I may not always agree with your decisions, you show up and do the job.

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

1. Mayor Robertson – Discussion/For Possible Action – Approval of Second Reading of Ordinance 749, Bill No. 2023-03, proposed ordinance establishing City Council’s option to assign to the Public Works Director a supervisory role over the Water/Sewer Department, Wastewater Treatment Plant, Landfill, Streets, and Animal Control.

Councilman Alworth moved to approve the Second Reading of Ordinance 749, Bill No. 2023-03, proposed ordinance establishing City Council’s option to assign to the Public Works Director a supervisory role over the Water/Sewer Department, Wastewater Treatment Plant, Landfill, Streets, and Animal Control. Councilman Carson seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action – Approval of Second Reading of Ordinance 750, Bill No. 2023-04, proposed ordinance updating and amending Title 1, Chapter 6, Section 1(E) of the Ely City Code increasing appointed official salaries.

Councilman Alworth moved to approve the Second Reading of Ordinance 750, Bill No. 2023-04, proposed ordinance updating and amending Title 1, Chapter 6, Section 1(E) of the Ely City Code increasing appointed official salaries. Councilman Trask 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.

Mayor Robertson stated my spouse 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 10A-1 Minutes and 10A-2 Bills.

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

1. Discussion/For Possible Action – Minutes
 - May 25, 2023
 - June 8, 2023
2. Discussion/For Possible Action – Bills.
 - June 26, 2023
 - July 7, 2023

B. NEW BUSINESS CONTINUED

1. Mayor Robertson – Executive Assistant Sherry Wood, MVA PHR, Nevada Rural Housing– Discussion/For Possible Action – Approval of Resolution 2023-09 providing for the transfer of the City of Ely’s 2023 private activity bond volume cap to the Nevada Rural Housing Authority.

Nevada Rural Housing Deputy Executive Director Mishon Hurst stated thank you for the opportunity and the continued partnership to ask for the transfer of the private activity bond volume cap. We are requesting again for this body to transfer the unused private activity bond volume cap to the Nevada Rural Housing Authority to continue the momentum of our home ownership programs. Nevada Rural Housing Authority has been in operation since 1973 and we serve all rural communities in Nevada with populations under one hundred and fifty thousand. The private activity bond cap transfer is not a cash line item on your budget, rather it is an allocation from the State that you can transfer to us. We use it to operate our home ownership programs. To give you a little bit of information about our home ownership programs, since 2006 when they started, we have provided sixty-seven home buyers in the City of Ely over \$9.4 million in affordable mortgages, more than \$326,000.00 in down payment assistance, and more than \$100,000.00 in federal tax savings directly to City of Ely residents. This private activity bond cap transfer enables us to continue those programs. In addition, I want to provide an update from our agency of other happenings. Our agency also provides rental assistance in the form of a voucher program in the fifteen rural counties. We have a weatherization program throughout parts of the State, we develop affordable housing, we do property management, and the home ownership programs.

Councilman Alworth stated I was at the County Commission meeting yesterday in which Commissioner Van Camp asked a question twice, and no offense I felt you beat around the bush when she asked, “what projects in White Pine County can you say benefited from this money?” Here we are \$238,920.16 and I have been involved with this since 2000. I know every year it goes through. We are in dire need for housing, and can you help me get a better feeling on that?

Nevada Rural Housing Deputy Executive Director Mishon Hurst stated the private activity bond cap operates our home ownership program, which provides down payment assistance, homebuyer education, lender education, and the mortgage credit certificate program. The private activity bond cap transfer to our agency does not build new housing. It provides the opportunity for first time homebuyers to get into affordable home ownership through several different means.

Councilman Alworth stated I still think somewhere in your bookkeeping system it has to show where the money went. You have to be accountable for the money these entities are giving you. To me there is a big void and not enough transparency.

Nevada Rural Housing Deputy Executive Director Mishon Hurst stated the private activity bond cap is not a cash line item. You are not transferring cash to our agency; it is an allocation to assume debt that’s provided by the State to all the local jurisdictions. It is kind of hard to understand but is the ability to leverage debt, and we do that through providing affordable mortgages and the mortgage credit certificates.

Mayor Robertson stated the numbers are off by one on the resolution and what is on the agenda?

City Attorney Cahoon stated it is not a material defect that would violate the Open Meeting Law, so the motion needs to be for resolution 2023-10.

RESOLUTION No. 2023-10

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELY, NEVADA PROVIDING FOR THE TRANSFER OF THE CITY'S 2023 PRIVATE ACTIVITY BOND VOLUME CAP TO THE NEVADA RURAL HOUSING AUTHORITY; AND OTHER MATTERS RELATED THERETO

WHEREAS, pursuant to the provisions of Chapter 348A of the Nevada Revised Statutes ("NRS") and Chapter 348A of the Nevada Administrative Code ("NAC"), there has been allocated to the City of Ely in White Pine County, Nevada (the "City," "County" and "State," respectively), the amount of \$238,920.16 in tax-exempt private activity bond volume cap for year 2023 (the "2023 Bond Cap"); and

WHEREAS, the Nevada Rural Housing Authority (the "NRHA"), has requested that the City transfer its 2023 Bond Cap to the NRHA for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income ("Single Family Programs"); and

WHEREAS, the City is a local government as defined by NAC 348A.070; and

WHEREAS, Section 348A.180 of the NAC provides a procedure whereby the City may, by resolution, transfer to any other local government located within the same county, all or any portion of its 2023 Bond Cap; and

WHEREAS, pursuant to NRS 315.983(1)(a), the NRHA is an instrumentality, local government and political subdivision of the State; and

WHEREAS, the NRHA is located within the County, pursuant to NRS 315.963, which defines the NRHA's area of operation as "any area of the State which is not included within the corporate limits of a city or town having a population of 150,000 or more."

NOW, THEREFORE, the City Council of the City does hereby find, resolve, determine and order as follows:

Section 1. Recitals. The recitals set forth herein above are true and correct in all respects.

Section 2. Transfer of Private Activity Bond Volume Cap. Pursuant to NAC 348A.180, the City hereby transfers its 2023 Bond Cap in the amount of \$238,920.16 to the NRHA for its Single Family Programs.

Section 3. Use of 2023 Bond Cap. The NRHA will use the 2023 Bond Cap for single family purposes in calendar year 2023 or carry forward any remaining amount according to the Internal Revenue Code of 1986, as amended, for such purposes.

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Section 4. Representative of City. Pursuant to NAC 348A.180(1), the Director of the State of Nevada Department of Business and Industry (the "Director") may contact Jennifer Lee, City Clerk, City of Ely, regarding this Resolution at (775) 289-2430 or by email at cityclerk@cityofelynv.gov or in writing at 480 Campton Street, Ely, Nevada 89301.

Section 5. Additional Action. The Mayor and Clerk of the City are hereby authorized and directed to take all actions as necessary to effectuate the transfer of the 2023 Bond Cap, and carry out the duties of the City hereunder, including the execution of all certificates pertaining to the transfer as required by NAC Ch. 348A.

Section 6. Direction to the NRHA. The NRHA shall notify the Director in writing as soon as practicable of the occurrence or nonoccurrence of any term or condition that would affect the disposition of the 2023 Bond Cap.

Section 7. Representative of the NRHA. Pursuant to NAC 348A.180(3), the Director may contact Diane Arvizo, Director of Homeownership Programs of the NRHA regarding this Resolution at (775) 886-7900 or by email at Diane@NVRural.Org or in writing at Nevada Rural Housing Authority, 3695 Desatoya Drive, Carson City, Nevada 89701.

Section 8. Obligation of the City. This Resolution is not to be construed as a pledge of the faith and credit of or by the City, or of any agency, instrumentality, or subdivision of the City. Nothing in this Resolution obligates or authorizes the City to issue bonds for any project or to grant approvals for a project or constitutes a representation that such bonds will be issued.

Section 9. Enforceability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution. This Resolution shall go into effect immediately upon its passage.

Ely City Council – Regular Meeting – July 13, 2023

ADOPTED, SIGNED AND APPROVED this ____ day of _____, 2023.

CITY OF ELY, NEVADA

By _____
Nathan Robertson, Mayor

ATTEST:

By _____
Jennifer Lee, City Clerk

Councilwoman Elliott moved to approve Resolution 2023-10 providing for the transfer of the City of Ely's 2023 private activity bond volume cap to the Nevada Rural Housing Authority. Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action – Approval of Resolution 2023-11, A Resolution Annexing Mineral Heights and surrounding area south of Ely and west of U.S Highway 6, 50, & 93 that is serviced by City of Ely water and/or sewer.

Mayor Robertson stated this is in response to an agenda item we had back in June requesting the preparation of this resolution. The resolution was prepared by Basin Engineering, City Staff located there, and City Attorney Cahoon.

Councilman Alworth stated tell me the whole process.

Mayor Robertson stated correct me if I am wrong Leo, my understanding is the City passes a resolution announcing their intent to annex, this gets filed with the County Clerk, then goes to the Regional Planning Commission who will hold a hearing at which point the public can give input on that, and the Regional Planning Commission will vote up or down on that.

Councilman Alworth stated so they take all the heat?

Mayor Robertson stated I guess they could if there is heat to be taken.

Councilman Alworth stated I didn't attend the CTX presentation. Does the increase of population that lives in Mineral Heights increase our money on CTX?

City Treasurer-HR Director Trask stated there are portions that go into CTX and yes, population does affect it.

Mayor Robertson stated this is a resolution. If there are concerns about this, I am going to channel my best and say I would like the entire Council to be on the same page with this. The City is serving quite a large population outside the City limits and these people deserve to have representation in their billing, utilities, and City government. They are attached to our hip whether they like it or not and to make sure they have representation I think is a key thing. I think it is also key because businesses looking to relocate here, contractors, and things like that the calculations are based on population. A lot of times the City of Ely gets kicked out of the application pile before we even get a chance to have our resume looked at and having those people counted benefits them and the City as a whole. As we have gone the rounds on the financial impact, I think we will be a little up on some things and a little down on other things but will mostly be a wash. There are some unknowns in the process of how that will all shake out, but I personally think this is long past due. I think the intent was these properties that were being serviced by City utilities would be annexed and now we are so far past that, where if we were to extend to properties now, they are not even abutting the City limits at this point and logistically difficult to continue that.

Councilman Carson stated when I first got on the Council, we did a push on this too. Now that I have been around a while and have had some time in the saddle I am really worried about more manpower for the roads and more equipment. The County residents do pay an additional surcharge for utilities, and I think we need to charge them that because we have additional water storage tanks, pump stations and lift stations for the

sewer. The further out of town we get the more expensive it gets, and we are going to have to figure out how to offset that. It is really a concern of mine. We have three guys in the Road Department right now and how many more are we going to need along with additional equipment? It all adds up.

Councilwoman Williams-Harper stated can we impose a charge to defer the cost of what we are talking about?

Mayor Robertson stated a little bit of my concern is I am not sure we are in the rights to be charging what we are charging them at the moment. I think we have the cheapest utilities in the State and anytime we have to deal with USDA on that we certainly get that thrown in our face. The system is one hundred and twenty years old in places and it's something we need to look at for everybody. I think targeting certain neighborhoods is difficult to do in that respect. I don't have the number in front of me of how many road miles or extra work this will be on our three-man road crew, but if the vast scheme of things I don't think it is much. I would be shocked if this increased our road miles more than two or three miles. In my mind it is an issue of stepping over progress to pick up pennies and we need to make sure the City, the systems, and the people are all operating as they are supposed to. Where the people are being counted where they need to be counted; the people that need to have a say, have a say; and the taxes are being recorded how they need to be recorded if you are getting the benefits. We do a lot of the maintenance on these roads anyways in our exchange with the County and we already maintain all the sewer and water infrastructure there because it is already ours.

Councilwoman Williams-Harper stated I think they should be able to do that, but is there anything we could be blindsided by?

Mayor Robertson stated I am not going to say there is not; I don't know everything. I sat down with the Treasurer and my understanding is because of the charge we do charge those in the County the impact if that were no longer charged would be right around \$23,000.00 annually. In the vast scheme regarding our budget in the Water Department it is not a huge amount. I think that amount would be offset by the money we would have come in for the additional road miles and the CTX calculations.

Councilman Alworth stated Ms. Pintar made a comment on the Belfort property. It is the only land in the City limits that I can think of that we can put some sort of housing on. If we can annex in Mineral Heights we then can continually move to the south, because we could just keep adding on to it. The Ward Mountain tank a lot of people think is a big tank that was put in for fire suppression and there is a water line behind those new houses. The way I understand it is if a developer came in it would be their responsibility to put in water lines, laterals, and all that.

Mayor Robertson stated there are two things at work here. We annex people who are already served by City utilities and like you are saying Councilman Alworth if a developer were to come in and want to expand that and connect into our utilities in the City, they would be required to do so because they are within a four hundred foot radius of a municipal water facility already. Then they would be required to annex in if they are going to get served by City utilities.

Councilman Alworth stated we are never going to expand housing in the City if we don't figure out a way to do it, and that is one way to do it.

Mayor Robertson stated I want to be completely transparent with the Council and the public here should we get through this process I want to identify other areas and focus on those we are also servicing with City utilities. This was the first section we looked at as it was easily identifiable. I think we can go farther with it, and I think we should.

Councilman Carson stated I do understand what you are saying, but I am still really worried about manpower and labor. If we have another winter like we just had, we will need two or three more guys by the looks of the overtime and more equipment. It is something to be cautious about.

Mayor Robertson stated I am hoping we get to the point that based on our population and however this development goes that we have the funds to hire more guys.

Councilman Alworth moved to approve Resolution 2023-11, A Resolution Annexing Mineral Heights and surrounding area south of Ely and west of U.S Highway 6, 50, & 93 that is serviced by City of Ely water and/or sewer. Councilwoman Elliott seconded the motion. The motion carried 4 to 1 with Councilman Carson voting nay.

3. Mayor Robertson – City Attorney Cahoon – Discussion/For Possible Action - Approval of Business Impact Statement regarding Business Impact Study completed on amending Title 3 Chapter 6 “Gaming Code” to require gaming license applicants intending to operate 16 or more slot machines to have at least 40 hotel rooms.

Mayor Robertson stated correct me if I am wrong Leo, this statement is the codified statement of the findings from the previous meeting?

City Attorney Cahoon stated correct.

Mayor Robertson stated this is only to contemplate this statement. If there are corrections or if the Council feels the statement doesn’t accurately encompass their findings as stated in the meetings, that is what we are here to discuss.

City Attorney Cahoon stated amendments can be made prior to the Mayor’s signature.

Councilwoman Elliott asked where does this go?

City Attorney Cahoon stated it is required by NRS and will be filed in the Clerk’s office once it is signed and can be viewed by the public.

Councilwoman Williams-Harper moved to approve the Business Impact Statement regarding Business Impact Study completed on amending Title 3 Chapter 6 “Gaming Code” to require gaming license applicants intending to operate 16 or more slot machines to have at least 40 hotel rooms as presented. Councilman Carson seconded the motion. The motion carried unanimous.

4. Mayor Robertson – Discussion/For Possible Action – Annual Performance Evaluation of City Treasurer and Human Resources Director Janette Trask to include, but not limited to consideration of character, alleged misconduct, professional competence, or physical or mental health. Possible action includes, but is not limited to, termination, suspension, demotion, reprimand, reduction or increase in pay, promotion, endorsement, engagement, retention, or “no action.”

Mayor Robertson stated if you recall we are attempting to do these reviews on an annual basis for city officials. You received an email before the 4th on how the process works as a refresher.

City Attorney Cahoon stated there was a timeframe in order to submit comments that would essentially criticize or have anything negative to say about Ms. Trask’s performance and nothing was submitted during that notice period.

Mayor Robertson stated that is for a specific issue or item a council member may want to address?

City Attorney Cahoon stated yes. Council members can make comments about her general performance, but nothing critical as that needs to be noticed in advance.

Councilwoman Elliott stated as a new council person you have been very easy to work with and you have taken the time to educate me on budgets and how the City operates. I appreciate you and your knowledge with the City.

Councilman Trask stated I would like to ditto what Councilwoman Elliott said. I have had lots of questions and I appreciate your willingness to answer all of them.

Councilwoman Williams-Harper stated I would like to add when there are questions or more work to be done you explain things and I echo what the others have said.

Councilman Carson stated thank you for all your hard work. It has been a long time and a rocky road sometimes, but you do a great job.

City Treasurer-HR Director Trask stated I think my accumulated time from my coming and goings is about thirteen years as Treasurer.

Mayor Robertson asked how do you feel the workload between the two positions has been in the last year? Has it been manageable or are there changes that need to be made?

City Treasurer-HR Director Trask stated I will say that it has been more manageable since Desiree has been willing to do a lot of training. It depends on the time of year. The problem with getting staffing has eased up since COVID, but there are still some issues there I am trying to get worked out. Overall, with Desiree's help it is manageable.

Mayor Robertson asked are there other staffing issues that need to be addressed in your department? I think you have one of the largest administrative staffs.

City Treasurer-HR Director Trask stated I have three and I feel there is enough people to get everything done.

Mayor Robertson asked are there any concerns you would like to bring to the attention of the Council.

City Treasurer-HR Director Trask stated just the usual, just ask if you have questions. I do send out emails so be sure and check your emails.

Mayor Robertson stated communication in this type of organization is key especially for the city officials that are trying to communicate with five different council members. Do you feel communication has been adequate or are there any changes or procedures you would like to see implemented or would like to implement as far as communication?

City Treasurer-HR Director Trask stated yes, there has been some issues with communication, I think we all know that. I don't mind face to face, but email is good because then you have a paper trail of going through things.

Mayor Robertson stated for example, during the budget season when we are trying to keep the Council informed of the budget process and how it is going, we have tried something different almost every year. Do you feel this last year was successful or would you like to try something different?

City Treasurer-HR Director Trask stated actually I liked this last year's approach because to me I was sending it out and that gave you all time to look at it and ask your questions. This way instead of a committee where only two council members saw it, I was able to put it out to all of you to look at and ask questions.

Mayor Robertson asked were there three drafts that were sent out in the process?

City Treasurer-HR Director Trask stated I don't recall.

Mayor Robertson asked are there other points of communication you would like to see more input or more buy in from the Council as the process goes? I know you send out your finance reports.,

City Treasurer-HR Director Trask stated like I always put at the end of my financial reports, if you have any questions, please contact me. I am not going to repeat myself if it is the same issue every month. I don't mind the questions; I just need you guys to ask questions if you have them.

Councilwoman Elliott stated for me being a new council member I may not know the questions to ask. I did like your latest report that had a little more detail. Sometimes over explaining is helpful to someone new and may not know all the information that Councilman Alworth knows.

City Treasurer-HR Director Trask stated I went back and looked at all my reports and when something comes up, I mention it. In July there is not a whole lot to report as I am getting ready for the audit and doing year end entries. If unexpected stuff comes up I will mention it, but you all usually know about it because it is reported by the Public Works Director or the Fire Chief so I feel like a lot of that information comes to you guys in their reports. I have never felt a need to keep repeating it.

Mayor Robertson stated I think with more questions there is more of an explanation on those reports. Anything else you would like to add or request?

City Treasurer-HR Director Trask stated I didn't budget myself a raise, but I feel like with the amount of years I have in and what I have been through the last year which includes getting through all my audits without any major findings, if you would like to give me an increase of three percent, I would be happy to take it. I am currently at \$72,500.00 and a three percent raise would increase it to \$74,675.00 annually so we are looking at a minimal amount that can be absorbed into the budget.

Councilman Alworth stated here we go again. It is not in the budget. She does all the numbers, and she says she can get it, but when are we going to stick to a budget? You all sat around and voted on the budget and here we are changing it already. I was not involved in the budget approval.

Councilwoman Elliott moved to approve the Annual Performance Evaluation of City Treasurer/HR Director Janette Trask including an increase to her salary of 3% annually. Councilman Carson seconded the motion.

Councilwoman Williams-Harper stated is there any way when we are budgeting....

Mayor Robertson stated in this process, if I might, my understanding of how this gets included in the budget is the Treasurer will ask the appointed officials if they are going to be asking for a raise. It will probably need to be stated a couple of times here, even if it is in the budget the Council does not have to approve that.

Councilman Carson stated I don't know if I agree with that method of doing it. I think it should be set aside each year percentage wise and if they are doing a good job then they get that percentage.

City Treasurer-HR Director Trask stated that is something we can address during the next budget process.

City Attorney Cahoon stated we are getting off topic so you could have another agenda item in the future for this.

Mayor Robertson stated for this agenda item, that will come out in the draft. In this case she didn't plan on asking for a raise and that is the draft that goes out to the Council for review. If the Council would have said, we just want to do the three percent, the budget process time is the time. If the Council wants to pass a policy that is their job, and we can certainly look at that.

Councilman Trask stated I do need to disclose that City Treasurer-HR Director Trask is my mom and so I will be abstaining from the vote.

The motion carried 3 to 1 with one abstention from Councilman Trask and Councilman Alworth voting nay.

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

Councilman Alworth stated there is not much change at this time. We have the awards coming forth, but we haven’t got all the money yet.

Councilwoman Elliott stated Brian had mentioned there is some money coming out for fast charging electric stations for cars.

7. Councilman Alworth – Discussion/For Possible Action – Approval of First Reading of Ordinance 752, Bill No. 2023-06, proposed ordinance adding Chapter 16 “Mobile Vendors” to Title 3 of the Ely City Code to regulate mobile vendors by licensure; and providing other matters relating thereto.

Councilman Carson moved to approve the First Reading of Ordinance 752, Bill No. 2023-06, proposed ordinance adding Chapter 16 “Mobile Vendors” to Title 3 of the Ely City Code to regulate mobile vendors by licensure; and providing other matters relating thereto. Councilwoman Elliott seconded the motion. The motion carried unanimously.

8. Councilman Alworth – Discussion/For Possible Action – Approval to direct City staff to cut down and remove trees and broken branches from the City of Ely Belfort property prior to having the property appraised OR approval to solicit for bids to have the cleanup project completed within two weeks of acceptance of bid with payment for such work to come from Community Support Funds titled “Housing.”

Councilman Alworth stated I attempted this last year, and it was not an agenda item, but rather can we get it done. This is just another approach. The trees are dead and an eye sore. I don’t know if Mike’s crews have chainsaws to do it, so that is why I gave the option. We have \$500,000.00 in Community Support Funds for housing, and I guess we don’t need to do it until we find out if we can find an appraiser to come and appraise it. It is City property is the problem. We are going around ragging on everybody about cleaning their place up and we have an eye sore there.

Mayor Robertson asked do we have any idea how much time it would take or what it would cost to clean that up?

Public Works Director Cracraft stated Jim’s right, we started to work on it and then I was told to back off of it for a bit. If we cut them down, it would be a lot easier.

Mayor Robertson stated whether or not we sell it the property needs cleaned up. To be clear the City won’t be building on this property. We are looking to dispose of it to have it be put on the tax role so that somebody else can build houses on it.

Councilman Alworth asked when do you think you can do it?

Public Works Director Cracraft stated I think we can get it taken care of in the fall instead of hiring someone.

Councilman Alworth moved to direct City Public Works Director Cracraft have trees and broken branches from the City of Ely Belfort property removed. Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.

9. Councilman Alworth – Discussion Only – Update on the Industrial Park Sewer Pumping Station from City Treasurer, Public Works Director, and City Engineer to include, but not limited to: date pump failed, cause of pump failure, pumping costs to date, broken down between local vendors and outside vendors and estimated pumping costs until pump is in place and working, replacement pump status, including estimated deliver and installation cost including selection of company to perform installation, and options if any, being investigated, for a short-term remedy that would be safe and environmentally sound to reduce pumping costs.

Councilman Alworth stated I appreciate Mike, the Treasurer, and B.J. putting their heads together to come up with this synopsis. I don't know if any of the other Council Members had a chance to look at this, but I was pretty intimate on what we were trying to achieve on this. This is a serious problem, and it is not going to be fixed very easily or very cheap. Right now, there is basically \$267,000.00 that has been spent and we are a long way from being done. We mention \$320,000.00 in the budget next year; throw that on top of the \$267,000.00 and you are at \$586,000.00 which is over a half million dollars. One of the issues is it is an old sewer system and are we going to be able to get it fixed in a timely manner? To me it is a big, huge expense and maybe in the past we should have had replacement pumps. I am not going to ask questions, because then you get into deliberation, and this is discussion only. We sent pumps off to get repaired and when they came back, they didn't fit in the hole right, and the pumping costs are astronomical, and it is getting worse. We are going to suck it up; there is no doubt about it. I have to ask my two fellow Council Members; did you know the cost of this project before you read this on the magnitude of this problem that started back in October? This is to open up everybody's eyes. I have a question and it is not to be deliberated but once this beast is repaired and we get a big housing development out there will this pump station handle a growth of apartments or houses out in the Aspen area? Will it be able to handle thirty to forty more homes?

Mayor Robertson stated I would like to disclose I work for a company that would like to do some development out there. My understanding is if that pump station is not sufficient to accommodate those houses, once again as we discussed during another item, it would be incumbent upon that developer to add another pumping station or to put in a bigger pumping station. They would be responsible for that and those are impacts the City is contemplating when improving. I think this is a perfect example of how we can better use taxpayers' dollars and how we can more effectively plan so we are not caught unaware. My dad's youngest brother lives in Virginia and is also an optometrist, they drive all over the country and will not replace their transmission until it breaks and if that happens to be in Missouri or wherever they do that. I would tell you right now they pay more money replacing a transmission then if they planned to replace it before they left home, and this is the same kind of situation. We have relied almost exclusively over the past on the memory and knowledge of our employees of where the bodies are buried and when something gets installed. I will say as an employee of that developer, when we approached the City and said we need some information before we lay out this subdivision the City didn't have any data of when this pump station was even installed. We've since found some which has been great. I am always shocked when we don't have that kind of information and I have been working in this community long enough to know that when information is needed a past employee is called and that is just not the way to do these kinds of things. Investing in that type of planning I think saves us money, so we are not caught unaware on these kinds of projects where we are having to spend so much. It is what it is, and I think we are kind of dealing with it the way we are. I know Councilman Alworth has brought up some suggestions on can we look at other ways at funding this? The Enterprise Fund is capable of handling this at the moment. However, I prefer spending this on other things.

Councilman Alworth stated I will bring an action item to the next agenda. This is more for just information which will roll into a possible agenda item.

Councilman Carson stated I just want to briefly touch on annexation again; this is out in the County. If you annex people in you will have more hook-ups, and it is more expensive to do business the further you get out of town. This was a maintenance issue, but something to really think about with more people, more wear and tear, and more manpower. It is going to be expensive.

Mayor Robertson stated I think that makes it more incumbent on my office and this body to make sure that the City plans because planning saves money. If you look at how much we are spending because we didn't have a plan in place, I think it is a stark example, but as we expand, more businesses come in, and we try to address this housing shortage it becomes that much more important that we plan for these kinds of things rather than waiting for it to go down. What is the difference between discussion and deliberation on these things?

City Attorney Cahoon stated we are getting into a little bit of deliberation on this. It is a fine line and kind of vague. It is hard to monitor. Discussion items are generally intended to receive information and when you get into argument or advocating for one position, or another it is more in the realm of deliberation. Discussion items should be used for if we have a presenter presenting information.

10. Councilman Alworth – Discussion/For Possible Action – Approval to request a list of City surplus vehicles, unused equipment, and miscellaneous material to publish a notice for public auction.

Councilman Alworth stated I understand it is already in process, but it was by word of mouth, and I would like to get this rolling so that it happens. There is some equipment up in the burn tower yard and because the gate is open, people are driving around seeing it and asking if it is for sale. If this gets approved, I will get with Mike to show him what these people are snooping around and finding.

Mayor Robertson asked can we do a live auction instead of a closed auction? I think the public gets shortchanged on a silent auction.

Councilman Alworth stated I think some of the vehicles is where the big money is and some of this other stuff is junk, but people want it and have a use for it. I think a minimum type of bid would work best.

Councilwoman Elliott moved to request a list of City surplus vehicles, unused equipment, and miscellaneous material to publish a notice for public auction at the September 14, 2023, meeting. Councilman Alworth seconded the motion. The motion carried unanimously.

11. Councilman Alworth – Discussion/For Possible Action - Request City Treasurer to provide greater detail in her monthly financial report when non-budgeted events occur exceeding \$10,000 or are likely to occur.

Councilman Alworth stated I am not so concerned with the General Fund entries and so forth. It is the Enterprise Fund because that is where all the big money is with landfill, water, and sewer. If we have a breakdown, it is a huge thing. Again, using this last example of the Industrial Park Pump Station. I just feel that \$10,000.00 is not even going to be in effect until halfway through the year, but if we were to have a hiccup and say hey, we are over budget right now. I will give you an example, which she knows as well as I do, the road fund wages never get covered by the revenue; they never have and never will unless we do something different. My idea on this is once it reaches that trigger point maybe the rest of the Council can ask questions. I will give you another example, what went on at the Landfill with the dozer this year and the unbelievable expense there too. Do you know how much it cost on for the engine and the transmission (looking at Councilwoman Elliott)?

Councilwoman Elliott stated no, but I am sure you do.

Councilman Alworth stated I do, but that is just an example. What we need to do is just keep everybody on board of what's going on. I know she doesn't want to keep repeating things, but some stuff we need an update. We went from \$320,000.00 being spent in this fiscal year on the Industrial Pump Station and in three months we are at \$330,000.00. It is just a different way of looking at the budget. Again, when she wrote the write up this time, I admit her and I locked horns because I was asking for more of a write up on the Enterprise Funds and thank you very much you did.

City Treasurer-HR Director Trask stated I do it every year and I will say I feel I have mentioned it in the report more than once and the fact that since December it has been brought up in almost every meeting about that lift station. I think you are all aware that it has created a huge cost. All you have to do is look at your financial statement and you can see the services as I pointed out at one point are going way over budget because of this issue.

Mayor Robertson stated the agenda item is about a policy and not a specific event. On the policy could you walk us through, because your financial reports do update us on where certain funds are in regard to the budget amounts in the fiscal year. Is there a process for raising a red flag for when we are going over budget?

City Treasurer-HR Director Trask stated yes, I will bring it up. In my last July report and I will probably do it again. I point out the biggest expenses with our biggest one being POOL/PACT liability insurance; I note that every time in here. It is going to be at one hundred percent and skew your budget as the year functions as a whole by being over the budget amount, but it is going to level out and I explain that. I feel like I do that with any items that jump over or are spent early on in the budget process, and they will even out. These that are unexpected I have noted in my report. Do I report it in every single month? No, because we have discussed it in almost every single Council Meeting.

Councilman Alworth stated the request is from this Councilman; I want a dollar amount. I understand the insurance thing, and everyone understands that, and I am not asking for that type of stuff. This is a dollar amount that I am asking for by saying, “hey folks we have now spent this much money, and in the budget, we had this.” I don’t need a big, long dissertation. She mentioned on the sewer, “you are all aware of this.” Yes, we are all aware of this, but we need to know the cost and the public needs to know. Here we are, this keeps getting higher and higher; guess what, sewer rates are going up and then the public asks why because they never heard about it, that is all I am trying to say. I don’t want some drawn out drama on this thing. Good heavens, it is what a Councilman is requesting from an employee who responds and answers to the Council, so I am leaving it at that. I have an agenda item and it is not a policy Mr. Mayor, it is a recommendation to have anything over \$10,000.00 or likely to occur. Look at the visions and what is coming down the pike.

Mayor Robertson stated this request has been brought forward by Councilman Alworth and are there questions from the other Council Members on this item for clarification?

Councilwoman Williams-Harper stated I think we need to clearly define what that would be whether it is a red flag or what when things start to spiral or happen, so we are aware of that and not have to tell us every time. We just need to agree is it going to be \$10,000.00 or \$50,000.00.

Mayor Robertson stated so you are suggesting if there are items that are over a certain dollar amount, they are triggered by a red flag at the beginning of the report?

City Treasurer-HR Director Trask asked can I give you a suggestion?

Mayor Robertson stated please.

City Treasurer-HR Director Trask stated I don’t ever remember one time him specifically asking me, because it is usually telling me, he wanted a specific amount in that report. All I got is, “you’re not doing it right.” If you guys have questions, as I have just said back in my personnel session ask a question. I would be more than happy to give you what you want or have a discussion on it, but I want civil discussions on it. I don’t want to be micromanaged on my report. I am open to suggestions as long as it stays my report. Can any one of you tell me you did not understand this lift station issue was costing us money?

Councilman Alworth stated no, because they are not aware of it and don’t know nothing about it.

Councilwoman Elliott stated we are aware of it, but when you go weeks between meetings, and it is all accumulated I think we tend to forget that it adds up over time and that is what we see on paper is that it is adding up and you are the one that has pointed that out and we appreciate that. I don’t think we are saying anyone is in the wrong.

City Treasurer-HR Director Trask stated all I have to be asked is can you give me a total amount, which we did in that report that was done.

Councilwoman Elliott stated maybe that is a better way for us to word the agenda item. We appreciate the greater detail.

Councilman Alworth stated in the first part of the meeting there is a section for the Treasurers Report, and you can put it in there. Chief Stork puts a detailed report on all kinds of stuff. Again, I was in the Department for thirty-six years and I read that, and I appreciate what they are doing. I am not asking to create new. The General Fund is easy to manage on the budget because she has her thumb nail right on these guys. When a heavy piece of equipment breaks down it is a serious cost. The Enterprise Fund as you know, or you should know, is run like a business and not on taxes like the General Fund is. If you don't want the report; throw it away. I am the only one that looks at it, reads it, and tells her about this and that. The report is not even required by NRS or anything.

Mayor Robertson stated these reports are strictly for the benefit of the Council to get information from our appointed officials.

Councilwoman Williams-Harper stated you are both right. Some of these things spiral or happen and if it's big money we should know so we are not coming to you and saying, "what's this?"

City Treasurer-HR Director Trask stated you are welcome to come to me and ask that.

Councilwoman Williams-Harper stated that is not what I am saying because we can do that. I think really what the question is, is I don't care what you do, how you do it, or what your dog whistle is going to be. If there is a dog whistle next to that item because it is really different than it was or unexpected, I know to ask more about it.

Councilman Carson stated unfortunately, maintenance is kind of my thing so I am talking to Public Works Director Cracraft every day so I know what is going on, but for somebody that doesn't do that it probably would be helpful to see a red flag or a friendly reminder of why it is going up and what the process is. I don't think it is a bad thing.

Councilwoman Williams-Harper stated whatever it is you choose, and you have put it on here and we didn't ask about it, shame on us.

Councilman Trask stated just listening to all of this I think it goes back to our planning conversation. I think if we are asking for this report as a council and they are not technically a requirement this might be something that we can come up with templates. I would ask Councilman Alworth if he had a template or something he was thinking because then we are not micromanaging any of our employees. If we come up with a template, they can quickly add things into it and we are not putting more work on them. I think this might be on us if we are specifically asking for it by coming up with the templates and not having appointed officials rewrite the wheel, we need to create the wheel.

Mayor Robertson stated that might make everyone's job easier instead of providing information that the Council doesn't find useful and maybe a simpler report stating we just want to know x, y, and z and red flags above this, is maybe all they want.

City Treasurer-HR Director Trask stated you guys don't think that is micromanaging my report?

Mayor Robertson stated the report is for the Council though and we want to make sure it is effective use of the employee's time and effective tool for the Council to understand the information they need to understand to make the decisions.

Councilman Trask stated I think we could go to all appointed officials and see if the information we are asking for is possible, simple, and to the point. Also, something

longevity wise that anyone in those positions could fill in those reports and new council members will be able to be in the know as Jim thinks that we are not.

Councilman Alworth stated first of all, hear this loud and clear everybody, I don't consider I am micromanaging. I am an elected official that has a responsibility for the fiscal accountability for this City and if anyone thinks I am micromanaging they are entirely wrong. Every appointed official reports to the Council and the Mayor. I ask for something and I get it. The template that Mr. Cracraft and I worked on for a work order process, so far it is working great. The Treasurer is a treasurer, she is not a bookkeeper. We locked horns over the report in May because I told her you are not telling us anything new. She expanded on it, and I congratulated her on it today. It was good and that is not micromanaging. I am trying to help my fellow council members understand; this is not my first rodeo with the City. I have about eighteen years involved with being the Treasurer and everything else. Every time I try to bring something up, she does what she is doing now and walks away. I am not a micromanager and I resent that. I am trying to get something done in this City that is positive. I will question every council member and appointed official; you tell me what you have done to improve the City right now. The Mayor has great ideas and c'mon Council Members let's hear it, because I am almost up to my limit with dissatisfied, run away employees; appointed officials. I will take this item off the agenda. You guys run your City how you want to. We will be in the dark like mushrooms, and you know what else goes with mushrooms.

City Attorney Cahoon stated the item is to simply request additional information and not to criticize her performance in any way.

Councilman Alworth stated I am not criticizing her performance. I ask for something; vote on it. My recommendation is to pull it off the agenda.

Councilman Alworth moved to quash the request for City Treasurer to provide greater detail in her monthly financial report when non-budgeted events occur exceeding \$10,000 or are likely to occur. Councilwoman Elliott seconded the motion.

Councilwoman Williams-Harper stated I think the discussion went in a direction we didn't want it to go. I am going to say that Jim just brought up some information that when things go haywire because more money is spent or has to be spent because that is the way the world works, and I think all that was being asked was if you get an item like that just put a little red flag by it. It is just that simple and it is my business if I don't understand to ask. We just went out on a tangent because I feel that is all he was asking. It is not micromanaging.

Mayor Robertson called for the vote.

The motion carried unanimously.

11. PUBLIC COMMENT

Kerri Pintar stated I live at 1417 Mill Street and with respect to the new ordinances put into effect tonight, I would ask that we not forget to enforce the ordinances already in effect such as Ordinance 4-3-2 relating to public nuisances. The residence at 755 Mill Street has a disabled vehicle in the driveway which hasn't moved for months, which is allowed, however, the mounds of trash bags on each side of it are as tall as the fence are not. Given the increasingly hot temperatures we are experiencing these days the garbage, weeds, etcetera need to be addressed sooner rather than later. The smell or view of blight is nothing we want prospective visitors to our community to see when entering on this major thoroughfare. As to your decision on the Belfort to have the City staff remove those trees; kudos to you because we got an estimate to remove trees on Bell Avenue behind Clerk Lee's house from the tree trimmer in town and it was over \$15,000.00 for one stretch of trees. We are getting ready to run the power from Woywods property on the east side of the street to our street and we are going to upgrade the transformer for our whole block because that is what Mt. Wheeler has requested and then we have to wait for somebody else to tie in before we get reimbursed any of those fees. So, when you are looking at these things such as luxury apartments please don't forget to include the potential impact fees from those projects they need to pay. Lastly, I just want to say thank you to the City

Treasurer/HR Director for the work she does and congratulations on her three percent raise. I don't think that mitigates the hostility that you guys beheld her to in that last agenda item.

Jim Alworth stated I live at 805 Avenue I and I resent the fact sitting here as an elected official they are calling me a micromanager. This is the last time I will stand for that. It is not the truth, and they need to watch their mouth. Mike Cracraft and I started with a work order request thing; it was working well. It is not required by NRS, so it is over with Mike, you've seen the last of me. Hang on boys and girls; you run the City. Thank you.

12. 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 **6:54 p.m.** Councilwoman Williams-Harper seconded the motion. The motion carried unanimously.



MAYOR



ATTEST