



CITY OF ELY

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

ELY CITY COUNCIL REGULAR MEETING

August 24, 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.** Joshua Baek offered an invocation. Mayor Robertson led in the Pledge of Allegiance and asked for Roll Call.

Members present:

Mayor Nathan Robertson
Councilman Terrill Trask (Zoom)
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 Engineer B.J. Almberg
City Fire Chief Pat Stork
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 below) and the following persons attended via video conference: Geri Wopschall, Tyler West, and Nora Tadic.

ELY CITY COUNCIL ATTENDANCE LIST

DATE: August 24, 2023

Print name below

Robert Parker
Bill Wolf
Mae Vantassell
Josh Lieberman
Kyle Horvath
SHADACH ROBERTSON
Kerri Pintar
Anna Kellogg
GARY TULL
Heal Freitas
J. Stephen

Print name below

2. PUBLIC COMMENT

Bill Wolf stated in regard to item number five, if this is what I think it is, this is regarding an unofficial policy the city has had from the time Mr. Alworth was the City Clerk and Danny Griffith ran the City parks. To bring this up in a City Council Meeting is kind of foolish and seems like it is something that should be handled by the City Clerk with the employees. I would hope that one of the council members would move to take this off the agenda because it is inappropriate to be addressed at the City Council Meeting because if it is a personnel issue, it is the Clerk's job to handle it and it is a policy Mr. Alworth himself put into place years ago.

**Kerri Pintar
1417 Mill Street**

New Business Item #1: Proceeding with the Belfort property appraisal for possible sale is a bad idea. The county has egg on their face with the Sumrall/Park Avenue project and the JCR/17th Street project. I would caution you on following their ill-advised path and getting into the housing business regardless of how desperate we are for additional "affordable" housing.

New Business Item #4: Revision of Ordinance 751. This has been a long hard-fought battle from all sides and I'm pleased at your willingness to come together and find a workable solution for all parties moving forward. The community as a whole will benefit from the new infrastructure as well as job opportunities should Pine West Development proceed with their planned Terrible's project.

New Business Item #5: Use of Employer Property described in your personnel manual. If this is such a problem why was the individual(s) not asked to participate in the resolution? Why did the item have to be placed on the agenda? Why not just have a conversation with those involved? Your employees are your greatest resources and you are not recognizing them as such in this punitive capacity. Shame on you for making mountains out of mole hills when this could have been handled internally.

New Business Item #2: Performance Evaluation of Fire Chief Stork. Having been present for the Annual Fireman's BBQ held last weekend, I would like to tell you regardless of what Pat's actual job is, you CANNOT put a price on his dedication to this community whether or not he's

"officially" on the clock...because he's ALWAYS on the clock. This community is fortunate to have him leading the department and as such you absolutely should recognize that monetarily tonight with a raise.

I am, however, very concerned with the process in which you are granting these raises as they seem all over the board. On July 13th you awarded a 3% raise to Treasurer/HR Trask and that was certainly not enough for the personal attack she was subjected to by this Council that one evening.

July 27th you awarded no raise for Clerk Lee because she didn't ask for one. Shame on you. She is the face of the City Hall and keeps this city running on a daily basis. Just because she didn't ask doesn't mean you should not have granted the same 3% given to Janette.

Last week, in my absence, you discussed the performance evaluation of City Attorney Cahoon. Now while I'm a firm believer in Leo doing an admirable job of keeping you on task and towing the line, I am dumbfounded how he asked for a \$15,000 raise and you approved \$25,000. What the hell??? Councilman Alworth your comment "Well it's only a budget" certainly doesn't align with the position you took when voting against Janette's unbudgeted raise. Was there \$15K - \$25K budgeted this fiscal year for Leo's raise?

Finally, congrats to you all for the raise you gave yourselves in however many years as it too is well deserved. Like it or not, you put in the time and absolutely deserve monetary compensation for your service!!!

Anne Kellogg stated I live at 510 East Fairview Lane and am here on behalf of the Hotel Nevada. I am here regarding item number four and have some deep concerns regarding the now proposed bill 2023- 05. I believe most of us agree that the corner of Great Basin Boulevard and Lincoln Highway is one of the most iconic intersections in the State of Nevada and needs attention. However, we have all spent the better part of 2023 fussing around with an ordinance that was initially passed in 2017 and reworked because of an error in wording. We have participated in meetings, emails, phone calls, economic impact studies. Several weeks ago, you approved a wise compromise that worked for the proposed chain coffee shop, service station, convenience store, restaurant, and bar with a reasonable amount of slot machines for a business of that size and type. What you are considering now with the increase to forty slot machines will make it okay to operate restaurants that are really “slot parlors” in disguise. Massaging this ordinance to expand the number of machines to forty would give this operator a significant market advantage. With all due respect I urge you to consider an ordinance with language that would limit the bars and restaurants to twenty-nine or less slot machines, with thirty slot machines still requiring a minimum number of hotel rooms. I haven’t changed my tune; I have been saying this for months.

White Pine County Tourism and Recreation Director Kyle Horvath stated this is about the agenda item that we have all been here for months about. I was driving through town with my son who is a twenty-two-year-old photographer who deals with film, and photographs of retro buildings. He runs in a circle of people that are international. We drove past the property that is in question and he said, “wow, that is the most photographed building in Ely. Did you know that?” I said, “no, it is the most controversial building in Ely, and it is about to be demolished.” The vibe in the car was the same as watching you, Nathan, or Mark seeing a rare classic car being pulled off to be demolished for no other reason than the property owner let it sit in the front yard and rust. This is a major economic win and is bittersweet, but it is not bittersweet because it does not solve any of our problems, and it is not bittersweet because it shrinks tourism’s capacity, it is not bittersweet because you are jeopardizing a housing project that we desperately need or a lodging project that would actually have an impact to the community. It is bittersweet because during this whole time you have failed to ensure that we do not lose another historic building. You have no policy combatting blight or incentivizing programs for businesses to clean up their properties. In fact, I feel like through this move you have disincentivized property owners to invest by telling them it is okay to let their properties deteriorate, the City will do nothing, and you can wait for a big payout one day. You spent a lot of people’s time and got really creative on making sure Pine West got what they wanted, but I have been trying to work with you since April to give your downtown businesses \$20,000.00 to repaint their facades and improve their properties. I can’t get any of you to give me a call to make that happen. It’s weird because Tonopah was at the same conference and wrote the same incentive program and they funded it for half of what I am proposing, and their entire downtown is repainted. I am highly competitive and that is embarrassing that Tonopah beat us on anything. The other thing that is concerning is that you guys dismissed some really factual statements from people that have been in the industries their entire lives for opinions. One of the most concerning ones is it is not your job to gatekeep or interfere with the economy. I am here to tell you if it is not your job then whose is it because laissez faire government has gotten us blight in the downtown. We need to have goals, plans, and hold people to standards. I can tell you many successful communities that do that and they have goals, stick to those goals, and hold their community up. I hear all the time we can’t have nice things, we can’t have flowers downtown, we can’t have a fresh coat of paint, but we can, should, and you guys are the ones it starts with. I hope you understand your role in this process of rebuilding our economy and our downtown.

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

Councilman Alworth stated I would like the removal of item B-8 and the City Attorney can explain why.

City Attorney Cahoon stated the reason for that is the NRS unfortunately states that the statement has to be released with the agenda and it wasn’t put out until today. It will be released with the agenda at the next meeting.

Councilman Alworth moved to approve the agenda with removal of item B-8. Councilwoman Williams Harper seconded the motion. The motion carried unanimously.

4. CITY DEPARTMENT REPORTS

➤ **CITY FIRE CHIEF**

City Fire Chief Stork stated the new hire has accepted the position and will start this weekend. Assistant Chief Sean Pena has passed all of his paramedic testing and is fully qualified to run at the paramedic level in our department now, so that is a big thing. All of our hose testing is finally completed for our ISO. The big problem we are going to be facing going forward is the roof on the station. With this last bunch of rain, it was like being under a colander inside. We need to do something about getting all of that dilapidated solar equipment off the roof and the possibility of re-sheeting it. There has got to be no less than forty holes in the roof they put there when they put the solar stuff up. It hasn't worked since day one and I have already spoken to the Mayor. There is going to be a company coming to town and we are just going to get a budget price from a roofing company to see where we are at and then strategize a plan going forward. I think it is something we need to get taken care of before it turns into a super huge cost problem down the road.

Councilman Alworth stated good job on the Jailhouse fire.

City Fire Chief Stork stated if the Sheriff's office hadn't noticed that when they did that would have been a whole different outcome. They were the ones that happened to be in the neighborhood and noticed all the smoke, investigated the flames, and pulled the fire alarms. They notified us and then started evacuating people. A lot of perfect timing went on in that event.

Councilman Alworth stated kudos to you and the Volunteers for the BBQ.

City Fire Chief Stork stated that went over well. We cooked over five hundred pounds of meat and served over six hundred and fifty people. Every bit of that money goes back to the youth of our community in the scholarship program.

➤ **CITY ATTORNEY**

City Attorney Cahoon stated we are seeing a turnaround on the liens from those letters that I am sending out on the foreclosures. I should have a number by the next meeting on how many we have received, payments, and the dollar amount on those payments.

➤ **CITY CLERK**

City Clerk Lee stated we have received the fully executed Armory Lease Amendment from the State, and we will go forward on that basis.

➤ **CITY PUBLIC WORKS DIRECTOR**

City Public Works Director Cracraft stated last week I wasn't present, but the installation of the sewage pumps was awarded to Mumford General Contracting, LLC by the Council for \$108,549.00 and since that was awarded, I have been able to do some value engineering with the owner. He did send me a revised bid today and the amount is \$77,149.00.

Councilman Alworth asked, "what is the monthly rental cost on the super sucker truck?"

City Public Works Director Cracraft stated I want to say it is \$7,800.00 and that is what allowed us to do this value engineering is that we are doing the pumping.

Mayor Robertson asked while we have that equipment, is there anything else you are planning on doing with it?

City Public Works Director Cracraft stated there are some things we want to clean out at the Wastewater Treatment Plant and some manholes too.

5. REPORTS

➤ COUNCILWOMAN ELLIOTT

Councilwoman Elliott stated I did go to the tourism and recreation meeting this week and nothing to really report there. I did spend a couple of hours with Councilman Alworth the other day driving around the town with him showing me different projects. I was able to get a good visualization of our City. I also spent an hour with Mark Bassett down at the rail yard checking out projects they have been working on and getting a better visualization of that.

7. 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 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 7A-1 Bills

Moved by: Councilwoman Elliott Second by: Councilman Alworth Vote: Unanimous

1. Discussion/For Possible Action – Bills.
 - August 11, 2023

B. NEW BUSINESS

1. Mayor Robertson – City Clerk Lee – Discussion/For Possible Action – Acceptance of Proposal from *Mathews Appraisal* to appraise the City's property located on Belfort Avenue, APN 001-121-01, for a total fee of \$2,500; appraisal to be paid for with Community Service funds committed for housing.

Councilman Alworth stated the City cut the trees down and it looks great and changed the whole appearance. It also made it look bigger.

Councilman Alworth moved to accept the proposal from *Mathews Appraisal* to appraise the City's property located on Belfort Avenue, APN 001-121-01, for a total fee of \$2,500; appraisal to be paid for with Community Service funds committed for housing. Councilman Carson seconded the motion. The motion carried unanimously.

2. Mayor Robertson – Discussion/For Possible Action – Annual Performance Evaluation of City Fire Chief Stork 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."

Councilman Carson stated I would like to disclose that I have been close friends with Pat Stork for over thirty years. I don't think that clouds my judgement in this matter. I don't receive any monetary substance from this, so I believe I can vote on this matter.

Councilman Alworth stated I would like to make the same disclosure. We have been friends for thirty years fighting fires, but I feel I can make a non-biased decision on this no matter how it turns out. I would like to start off by saying this is a no-brainer. You are not going to find a more dedicated individual with the experience he has with the City. When the fire happened at the Jailhouse, he got very little sleep because he was up all night, but he was back to work the next morning. I can't say enough in that you will never be able to hire a fire chief to fill his shoes. The County has had about fourteen fire chiefs and basically, he is running the County. I have all good things to say.

Councilman Carson stated I think he does wonders for this community. He is there day and night and really puts his heart and soul into this. The County is huge, and they run in it day and night and he keeps everyone together and in line. I couldn't think of a better guy to do this job.

Councilwoman Williams-Harper stated Fire Chief Stork is wonderful. He was in my abode when we were going through some stressful times, and it is really neat when he walks in your house because you don't expect that. He does his job very well and I appreciate that.

City Fire Chief Stork stated there have been some challenges for sure this year, with staffing being one of them; you see it everywhere. When you look at the fire service it used to be one of the sought-after jobs and they were super competitive. The last time Clark County did their thing, they dropped all their requirements just to fill their academy. People just don't want to work anymore. We are facing a struggle right now and it is throughout the whole City trying to get people to work. I can't commend my staff enough for the extra hours they are putting in. Some of them put in one hundred and ten overtime hours. It is really going to help to get this other position filled. We have to have that two-person staffing because if you look at the call volume in July, we ran about one hundred and sixty calls in one month and one hundred and thirty of those were within the City limits. There are times we have three ambulances out at once. We always cover the calls, and the Volunteers always step up to cover the extras whether that is fires, car wrecks, or other things having them run in multiple directions. We have had a lot of traumatic calls lately that have taken their toll on some people. I have given thirty-five years of my life to this fire department with ten years as a Volunteer and twenty-five years employed by the City. I am the most senior employee right now and the only person eligible to retire except for Dale. It has been tough at times, but I have stuck it out. I have taken on a lot of tasks which include keeping our billing going and that is going well. We used to be able to get a lot of extra billing on car wrecks and a lot of the laws have changed regarding the way things go. However, a lot of time Lund is running rescue, but we are running our ambulance, so we are billing on the medical side of it versus not stripping our resources. We try to keep everything in balance whichever direction we go, to make sure we have enough people in the City and McGill and Ruth help when needed. I am getting to the point where I am at the end of my career. I have approximately three years to go and I will be maxed out on my retirement. Like I said in the past when you guys redid these wages the City really hadn't given raises forever. A percent and a half is not a raise, and there were many years that is all anybody ever got. In the last two years is when they finally started to give some raises and you have redone the pay scale, but Jim hit the nail on the head; When I retire you are not going to find someone to take the position for what the pay scales are and at some point, we have to get up with the times.

Mayor Robertson stated understanding that staffing has been a big issue are there other challenges the Department is having?

City Fire Chief Stork stated our equipment right now for the most part is holding out as we have fairly new equipment. We will probably have to replace Rescue 1 in the next couple of years. We have already talked with the Treasurer about what we have in the capital. The price of these things is astronomical. Anything to do with public safety they put extra zeros on it.

Mayor Robertson stated the other thing is if you are getting close to retirement, we want to be sure you are training a replacement. This is the kind of job and community that it would be very difficult for someone to come in from outside the community to take this job and why I think you are one of the most effective people to have in that job right now is because of your time in the community and department. You can't put a price on that kind of experience and knowledge. I think someone coming up and stepping into those shoes is important. Do you feel like we are having the opportunity to do that?

City Fire Chief Stork stated it is tough because we have such a young Department right now. Back in the day everyone in the Department had fifteen plus years on the career side and a lot of our guys right now are five years or less. We have some that are from

out of the area and struggle with them knowing where to go. We had a call on Duck Creek Basin on one of the creeks and the crew that was on, was kind of lost but dispatch got them there. There is a lot to having someone local that knows all the landmarks and places to go. There are a couple of the guys, and I haven't zoned in on one fully yet, but definitely leaning towards one and doing a lot of extra work with them on things that need to be done. I believe it would be in the best interest of the City to bring someone up in the ranks when I do leave. Like Jim said, the County has had fourteen fire chiefs in the last fifteen years, and it is a disaster. You bring someone from out of the area for whatever reason it does not work. You have to have the community buy in and people that are invested here and heart to do this job.

Mayor Robertson asked is there anything else you would like to mention?

City Fire Chief Stork stated yes, when I was here last year, I told you guys when I got to this point, going into the last three years of my career my plan was to be topped out and I am starting those last three years. I would like to at least be up to that but would totally accept an added bonus like Leo got with no argument once so ever.

Councilman Alworth stated the Chief's maximum would be \$115,000.00 and from what he is sitting out now that would be a \$10,000.00 increase to get him there.

City Fire Chief Stork stated look at the engineer's pay scale it is \$65,000.00 to \$110,000.00; you are not going to find an engineer that is going to work anywhere near that. The pay scales are low and need to be revised.

Mayor Robertson asked what are you asking for?

City Fire Chief Stork stated I want to be at least at the minimum of \$115,000.00.

Councilman Alworth moved to approve the Annual Performance Evaluation of City Fire Chief Pat Stork including an increase to his salary of \$10,000.00 bringing his annual salary to \$115,000.00. Councilwoman Elliott seconded the motion.

Mayor Robertson asked is that agreeable to you?

City Fire Chief Stork stated that will keep me here another year at least.

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 Clerk Lee – City Engineer Almberg – Public Hearing – Discussion Only – Review of proposed CDBG projects and additional project ideas suggested by the public. Proposed projects and estimated funding are listed below. **Only projects listed here and proposed at the meeting will be forwarded to the Council for approval.**

• Morley Avenue Water-Sewer Project	\$895,500.00
• Stevens-Orson Sewer Project	\$637,400.00
• Parks Water Reclamation Feasibility Study	\$ 75,000.00
• Central Ely Drainage Improvement Project	\$426,700.00
• White Pine Public Museum Project	\$213,000.00
• 7 th St. Drainage Improvement Project	\$251,600.00

Julie Steven stated I live at 392 Ely Avenue, and I would like to speak in regard to the Central Ely Drainage Improvement Project. I was at the last meeting and proposed a new drainage system be put in. We came and provided pictures and I have a few more tonight. We had a good downpour that lasted about fifteen to twenty minutes and that is what has caused what is shown in the pictures today. The City did come clean it up, but our concern is if we can't get this with federal funds with every rainstorm it is going to

continue to deteriorate, and the dirt/boulder drainage system is wearing away. We had proposed an underground drainage to direct the water elsewhere.

B. NEW BUSINESS CONTINUED

3. 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 did meet with Brian from the Porter Group this week. We also had a local person named Ian attend with us that is very well versed in electronic vehicles and actually drives a Tesla and lives in Ely. Within the next year there is a grant that Ely will be applying for as far as charging stations at the railroad, and potentially a commercial one at Love’s. This is something we are working with them on right now.

Councilman Alworth stated it is really interesting that most of the charging stations in Ely don’t work unless you have an adapter kit. If someone comes here in a rental car they might be stuck here if they don’t have the right adaptor.

Mayor Robertson stated I did reach out to Tim Robb at the Governor’s Office to hopefully get us in touch with someone in the Governor’s office of Energy regarding the State’s plan regarding Highway 50 to make sure we are coordinating with them. I also talked with Bryan Reed, and he said a lot of State money went into the charging station at R-place 5.

4. Councilman Alworth – Discussion/For Possible Action – Approval of First Reading of Ordinance 751, Bill No. 2023-05, proposed ordinance amending Title 3, Chapter 5, Section 13 of the Ely City Code to require gaming license applicants who intend to operate 16 or more slot machines to have a restaurant and bar or at least 30 hotel rooms; and providing other matters relating thereto.

City Attorney Cahoon stated there was a typo in the release of the Ordinance, it should be 751 at the top and not 75. I would like to add definitions for restaurant and bar to section 3-5-2 which is the definition section of the gambling chapter. I may need to change a little bit of the language under G as it currently reads 16 or more slot machines, and I may want to add “but not more than 40” making the intent anything over 40 slot machines would have to have the hotel rooms. On section G-2 it says 40 or more and again that should say more than 40 so anything over 40 would trigger the hotel requirement. I would like to ask the Council if we could have a discussion on G1(a) and (b) on the amount of patrons that should be at the bar and restaurant and how long the restaurant should be open. I would like clarification on what the Council would like to do with that. At previous meetings there was a discussion on having minimum square footage of these locations. There was discussion on five acres and the reason I did not include that in here is because there were comments during public comment that some of these other locations have less than five acres and still have the hotels. The language was also starting to get a little confusing as I added that in there, but if the Council would like that in there, I can certainly do that for the second reading. It just made it cleaner to remove that at this point and I wasn’t sure if it was necessary after some of the comments that were made.

Councilwoman Elliott stated I think if we can clean up the language as far as defining “a kitchen”, so it is not a slot tavern where people are thinking it is just a scummy place to go gamble, but is a kitchen, restaurant, and bar with games. We want that to be more of a secondary piece.

City Attorney Cahoon stated that is what I would put under the definition of a restaurant with the idea being it would have language such as: the restaurant shall serve food served to patrons at tables or booths and include a kitchen. I can define that further to include a dining area with sitting area for x number of people in a room separate from the on-premises kitchen.

Councilman Alworth stated the comment regarding the seating for the bar and restaurant is that something that has to go through the fire department regarding maximum

occupancy? We would have to get input from the Building Inspector of the Fire Chief on that.

City Fire Chief Stork stated all bars and restaurants have an occupant load and it depends on the size, layout, where the tables are positioned, and if the tables are permanent fixtures to the floor or if they are moveable. There are a lot of moving parts and Craig could probably expand on it even more. It would not really be something you guys set; it would have to go by code once they have submitted their plans.

Mayor Robertson stated so if the code stated you need this much seating here and that much seating there it would be incumbent upon the developer to design a building to accommodate that.

Mayor Robertson asked are we talking about doing that, or a square footage requirement?

City Attorney Cahoon stated I would like a number on the amount of patrons for each location because it mirrors the NRS for resort hotels. I think at one of the meetings there was a discussion that there be a minimum of twenty-five hundred square feet. We don't want to put something in the ordinance that in five years another company comes in and says we can't do twenty-five hundred, we can only do twenty-two hundred. We don't want to do something that would preclude other businesses from coming in.

Mayor Robertson asked would it be possible to do a percentage?

City Attorney Cahoon stated I think we could do any formula, but I would like to keep it as simple as possible.

City Fire Chief stated you don't want to have a hot dog machine spinning hot dogs on the counter and one chair to constitute a restaurant. You don't want to leave it vague to where people try and work all the angles.

Councilman Alworth stated the drawing that Pine West has handed out several times shows the tavern, restaurant, bar, and the gambling machines in six thousand square feet and they have to get everything in there by code.

Councilwoman Williams-Harper stated maybe the City Fire Chief and the City Building Official could get with Leo to get the wording correct.

Mayor Robertson stated I think the best way to do that is if the Council would come up with the seating numbers they feel comfortable with in this reading, that could be handed off to the Attorney who can coordinate with the Fire Chief and Building Official and say does this work per the code for the second reading.

Councilwoman Elliott stated this is saying twenty seats at the bar and forty seats at the restaurant.

City Attorney Cahoon stated my understanding of this is twenty is a little high and maybe that number should come down. I believe the forty patrons in the restaurant would be okay and I believe that is what was agreed upon by Pine West. We want to think about other companies that could come in the future. We don't want to set it so high that other companies would be precluded from complying with this code.

Mayor Robertson stated this is a minimum just to be clear, they can always do more.

Councilwoman Elliott asked Anne with the Hotel Nevada how many bar stools do you have?

City Fire Chief Stork stated at Racks we have approximately thirty-two seats for patrons to eat at a table on the inside and we can fit eighteen to twenty bar stools around the bar and that is a fairly small building.

Anne Kellogg with the Hotel Nevada stated I would estimate fourteen or fifteen around the bar comfortably, but keep in mind when people are gambling at slot machines at the bar, they don't necessarily want neighbors bumping into them.

Councilwoman Elliott stated maybe twenty at the bar is too many, so maybe we bring that to fifteen and still forty at the restaurant.

Councilman Alworth stated I like the idea of twenty because there are some sports bars in the Sparks area that keep expanding and if they just came in with a sports bar all they are going to have, is like Racks, a bar and some sandwich type stuff.

Councilwoman Elliott moved to approve the first reading of Ordinance 751 with the changes that City Attorney Cahoon recommended. Councilwoman Williams-Harper seconded the motion.

Councilman Trask asked I just want to make sure this motion includes looking at the language on what constitutes a restaurant.

Mayor Robertson stated yes, that is something the Attorney is going to look at for the second reading.

City Attorney Cahoon stated just for context I pulled up the definition for a resort hotel. These are for larger counties that require one thousand rooms or more and they require at least one bar with permanent seating with capacity of thirty patrons. This is what I have been building this off of so we could mirror the NRS.

The motion carried unanimously.

5. Councilman Alworth – Discussion/For Possible Action – Review and direction for enforcement of City of Ely Personnel Policy Section 2.16.1 Use of Employer Property and Premises.

Councilman Alworth stated this is on the agenda and I didn't really write this back in the day. I give credit for the whole employee personnel manual to Janette as she took that on back when she was the City Treasurer and got that up to speed from where it was at. The reason it is on the agenda is we had a hiccup is all I am going to say. In that policy the first sentence says, "employees will use the City's property and equipment, including but not limited to, monies and funds, communication equipment, tools, vehicle equipment, and facilities only for work related purposes." We had a hiccup where some personal stuff was done outside of the policy and was observed by the public that caused a lot of heartburn. I contacted the Mayor on it and he contacted the hiccup maker, so it was discussed with the individuals Mr. Wolf. I asked what we do for enforcement and that is why it is here. As said in HR if it is not documented, it never happened. I think we should write a little thing, put it in an envelope, and stick it in the employee's file.

Mayor Robertson stated I will say a couple of things on this. I know this practice has been going on for a long time and I think it's a benefit to the employees and has been. I would hate to see that go away entirely but would like to add clarification on that to know this is something that should only take place under the direction of the employee's supervisor, and that it should only take place outside of regular business hours; before eight or after five.

Neal Freitas with Pool Pact Human Resources stated we do have the policy as Jim pointed out, and it does say unauthorized use. Everything needs to be approved, but it is a perk of being an employee of the organization. If people were washing cars or using a lift, I would hope they would need to follow all the safety requirements and not have someone that is not familiar with the equipment. The risk is when somebody gets injured, then who assumes that liability.

Mayor Robertson stated if I have done this in my personal business it is an employee, I have to know I feel comfortable with, and if not, I am going to be there. It has to be incumbent upon the owner, the supervisor, or whoever it is. This has been a benefit to

the employees for a long time. We do have situations at the Fire Department where they go up and work out and use City equipment or change their oil, but no City consumables should be used during that.

Councilman Alworth stated during my first tour of duty there were several times I brought my own soap to the fire station and washed my own car on the weekends. I should have mentioned the hiccup happened during working hours and that was the issue. You can't do this stuff during working hours even if you are off the clock, it is the public's perception and it was a bad judgement call.

Neal Freitas with Pool Pact Human Resources stated you bring up a good point in that it is a public perception of is there a misuse of funds or property being used there. You are going to run into people that work different shifts and want to use facilities on their days off and the public is going to drive by and wonder what is going on if they see an employee in shorts cleaning his car.

Councilwoman Williams-Harper stated I felt we had a hiccup also when we couldn't put the banners up when they were put up the previous year, but now couldn't be put up. I don't know how, but I think if that is going to happen again it needs to come to the board first.

Councilwoman Elliott stated I think if this is something that has already been handled on a personnel level and we are fine. I think those department heads can handle what their staff are doing, and this doesn't need to come to us.

Councilwoman Williams-Harper stated it did this time.

Councilwoman Elliott stated it shouldn't have had to. I don't think in the future it needs to come to us. They are all on notice now, know we are going to be watching, and I don't think they need to be micromanaged.

Councilman Carson stated with that being said we know we can't compete with the mine wages. This is a small perk for the employees if they can keep it after hours. We have such a terrible time with recruitment and retention of employees, I think this is a small gesture to keep them around.

Councilwoman Williams-Harper stated that is not what I am saying, I agree with that. What I am saying is there was an issue that banners couldn't be put up and if they have been being put up why they can't now.

Councilwoman Elliott stated that is two different issues.

Councilwoman Williams-Harper stated it is still use of City property.

Mayor Robertson stated right and something like that has come before the board and will continue to because the City has to dedicate the funds to an outside entity.

Councilwoman Williams-Harper stated but it wasn't before.

Mayor Robertson stated it has come to the board every year for approval, it didn't just happen.

Councilman Alworth stated I think this is a different agenda item.

Mayor Robertson stated It has been going on for a long time and I think it needs to continue, but for clarity that it happens with a supervisor's approval and outside of normal business hours.

Councilwoman Elliott stated I one hundred percent agree.

Councilman Alworth stated I agree with that, but what happened was during business hours which is totally wrong. I worry about what Neal said in the perception of the public. What are we going to do?

Councilwoman Elliott stated we tell them the City is hiring and they can come work for us and have the perks of the City.

City Fire Chief Stork stated this really baffles me because we have done this the whole time I have worked for the City. The guys on their days off are not using City oil, but they come up and use the bay and I have never once heard the public complain. We have an isolated incident it sounds like to me and it is getting blown out of proportion.

Councilman Alworth stated Chief Stork let me point one thing out, this happened during business hours and that is the issue.

Mayor Robertson stated let me ask a couple of questions. Your guys are doing it around back instead of around front where the public sees them?

City Fire Chief Stork stated right.

Mayor Robertson stated it would be different if your guys pulled up in the space in front of City Hall doors and decided to change their oil at two in the afternoon, and that's all I am saying.

City Fire Chief Stork stated it is and it is perception. You are going to have certain people that you could give a million dollars to, and they will complain because you didn't put a rubber band around it. You are not going to make everybody happy.

Mayor Robertson asked, "Neal are there other entities that put that kind of clarification in there?"

Neal Freitas with Pool Pact Human Resources stated it is with prior authorization and leave it up to the department heads to make those decisions.

Councilwoman Elliott stated if we put too much regulation on and one of the employees has to use their personal car to go out of town and they are working a half day and need to do an oil change during business hours, but our policy says you can't. I think with prior authorization and permission covers us.

City Attorney Cahoon stated however, I will state the policy specifies that it is for only work-related purposes, which would preclude what we are discussing.

Neal Freitas with Pool Pact Human Resources stated you are right Leo, but whoever you work for tell me you don't allow or there isn't personal use of some of the equipment whether that is on a computer or things like that. Unfortunately, what you are talking about is right out there in front and people do personal business at work sometimes whether that is getting a fax or sending a fax because it is time sensitive. You are now splitting hairs because if you are trying to create a policy such as that you are never going to get there.

Mayor Robertson stated I don't think it needs to be in the policy, but if the Council would like to give some direction stating we are going to allow this, it needs to be within these bounds. I still don't have a problem with it being outside the normal eight to five working hours. An oil change is never that critical that it can't wait a couple of hours. What's the pleasure of the Council on this item.

The item died due to lack of motion.

6. Councilman Alworth – Discussion/For Possible Action – Approval to add the following sentence to City of Ely Personnel Policy Section 2.16.1 Use of Employer Property and Premises: "Employees are prohibited from storing private equipment, e.g., ATVs and UTVs, on City of Ely property."

Councilman Alworth stated this was not anywhere in the policy and it has been a practice. When I talked to the Mayor, he and I felt it is a liability if there were to be a fire in this building or wherever it is stored at, and we will be buying a brand new one of those things. Once again it is the public's perception asking can I bring my machine down and store it in your old fire station. Does it really need to be in there? We are not a storage facility, that is out on McGill Highway. That is why I have placed this on the agenda is to add that to the policy.

Councilman Carson asked do we have any personal equipment stored right now? I don't know of any.

Councilman Alworth stated yes, there is an ATV stored in the old phone bay.

City Public Works Director Cracraft stated that ATV is the City of Ely's.

Councilman Alworth Stated the Suzuki is?

City Public Works Director Cracraft stated yes, the Suzuki and Can-am.

Councilman Alworth stated I thought the Can-am belonged to you Mike. I stand corrected; I thought the Can-am was yours. I am sorry. If stuff gets tight and you bring your own snowplow down that's good and it helps out, but if it gets to that point the City needs to buy another machine.

Mayor Robertson stated I agree with having the equipment necessary for employees to do their job on hand. I know other cities have dealt with storing personal vehicles on public property. I know we have to be careful because I know the mayor's office is full of personal stuff that I have brought in to do the job, but it's not vehicles.

Councilman Alworth stated in the previous administration we had a guy at the Wastewater Treatment Plant that said he owned all the cars that came in to the landfill and he was storing them in the cabbage patch or corn field. That was an issue when the insurance people came, and they said you can't do that and had to get them out. The NDEP said you can't store cars in the sewer overflow.

Mayor Robertson stated one of the other municipalities I was talking about had a problem with employees storing camp trailers either out behind city facilities or on city property and I don't know that we have ever had that. What's the pleasure of the Council on this item?

Councilman Alworth stated let it die for lack of motion.

7. Councilwoman Williams-Harper – Discussion Only – White Pine Chamber of Commerce report.

Mayor Robertson stated I would like to make the disclosure that the Executive Director is my spouse, and this is not a voting item.

Councilwoman Williams-Harper stated the Chamber of Commerce has requested that once a month they be able to come and tell us what's going on, so the community knows.

White Pine Chamber of Commerce Executive Director Shadrach Robertson stated I took over this role from my predecessor, Wayne Cameron, at the beginning of the year. After one hundred and two years I am happy to report, the Chamber of Commerce is the strongest it has ever been. We have increased the represented businesses and memberships with having more than ever before. We have memberships across a diverse range of industries representing businesses across Ely and White Pine County and that translates to a stronger economy. We for the first time in one hundred and two years are now a part of and represented by the U.S. Chamber of Commerce, which is a national recognized coalition of chambers of commerce. I helped found the State version of that, the Silver State Chambers of Commerce. The network and alliance of chambers across the State of Nevada helps us in the legislative processes to represent White Pine County

and the City of Ely's interests on a state and federal level. The City of Ely is a Chamber Member and has been for quite a while. I look forward to working together with the City on projects similar to the project the Director of Tourism and Recreation mentioned with façade improvements. We are here to provide an economic report every month, which has not been provided in the past. It is my pleasure to report that the economy in Ely and White Pine County is very strong with a very low unemployment rate. According to EmployNV there are fewer than one hundred vacant positions in the County and that number has dropped every single month. The Chamber of Commerce, Join Incorporated, EmployNV, and Vocational Rehab are just some of the organizations that are helping keep unemployment down and the economic outlook positive. The City and the County have some things to look forward to in the near future. The Chamber of Commerce is assisting County wide organizations to facilitate the October 14th Ring of Fire Eclipse Festival that will span over about a week. The Chamber is working with the Office of Small Business Advocacy in the Lieutenant Governor's office, Join Incorporated, EmployNV, SBA, SBDC, and White Pine County Tourism and Recreation to hold a small business resource fair on November 3rd and 4th. If there are any questions, feel free to call me at any time. It is my pleasure to serve in my capacity and role as the Executive Director.

9. Council Members – City Attorney Cahoon – Building Official Peterson – Discussion/For Possible Action – Approval to initiate abatement action against 748 Murry St. Ely, Nevada, APN 001-322-07, currently owned by Robert C. Parker, to remove an accessory structure car port that is in violation of Ely City Code 12-4C-4 and 12-16-2.

City Building Official Peterson stated a little history on this is the original owner communicated with Brad back in 2020 about the requirements of putting a carport in. Generally, neither here nor there, there is a little bit of a transactional relationship between the prior owner and the current owner. On November 22, 2022, a Notice and Order was sent after our department received a complaint indicating that both the carport was oversized and needed a permit and it did not meet the setback requirements. I believe that letter stated a variance application would be the way to go to make that an approvable structure. An extension due to hardship is granted through October 4, 2023. There was a title transfer that happened between the previous owner and the current owner also on April 4th. I was advised to notice the new owner, so we waited until the information was updated at the Assessor's office, I re-noticed on April 11th once the contact information was updated. Mr. Parker contacted me on April 5th to discuss options, so he was clearly aware this was in violation when he purchased the structure, and I met him on site. At some point between the 5th and the 15th I gave him multiple options for compliance including moving the carport and applying for a variance again. All of the suggestions I offered were summarily rejected. This is where we are now. The carport is on the property line the best we can tell and clearly does not meet the setback requirements. Based on the small size of the property and somewhat lack of utilization the variance application was my suggestion to move forward, but we have not had a variance application since the enforcement has been initiated. On top of it being a carport, two of the sides are enclosed and a carport is defined as being open on all sides, and a garage is being enclosed on any sides. At this point it is non-compliant in a few different ways. The setback requirements are ten feet from the rear yard and five feet from the side yard.

Mayor Robertson stated so the Council knows, could you explain the structures that do get put up that don't meet that setback requirement and the traditional way, we go about that in applying for a variance?

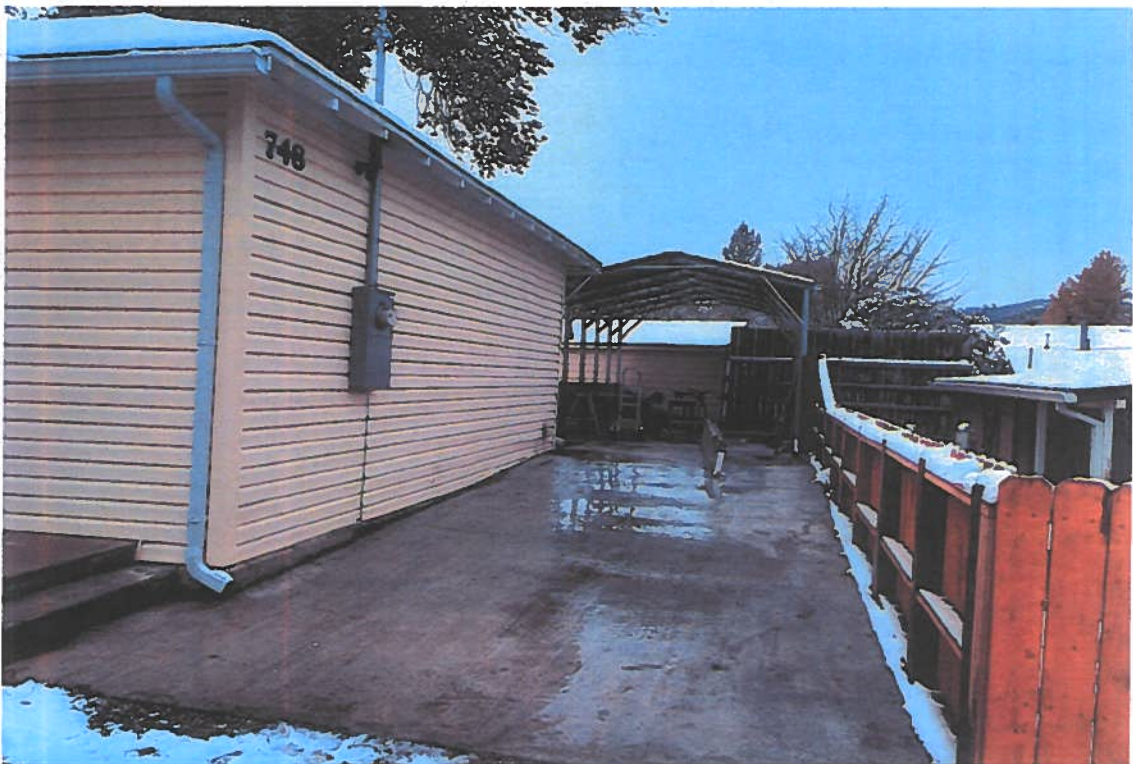
City Building Official Peterson stated the process would be a variance application and then there will either be approval or denial by the Regional Planning Commission.

Mayor Robertson stated notices go out to the neighbors and they are typically granted if they meet fire rating.

City Building Official Peterson stated yes, that is our primary concern. We also don't want to add any drainage to neighboring properties. We do have an ordinance that prohibits that.

Councilwoman Elliott stated you sent that to Mr. Parker, and he is just not responding?

City Building Official Peterson stated he just wasn't willing to make the corrections as indicated. He said, "it is not moving, and it is not coming down."



Property Owner Bobby Parker stated I did buy that property in good faith and the carport was already there when I purchased it. I didn't know about the problem when I purchased it up until I got letters from Mr. Peterson. There was a shed there prior to the property being rebuilt that was a fire hazard. Mr. Tull who is here tonight is the one making the complaint. I have a letter here that explains the previous owner's relationship with Mr. Tull.

Bobby, sorry about all the trouble you are having with my former neighbor Gary Tull. He use to be a super friendly guy. We use to talk and do things for each other and even go to dinner. Not sure what the problem is but he is why the carport is where it is now.

When he was building his car port we would talk about the process and why he didn't need to pull a permit for the concrete or the carport itself. Only that it needed to be 5 feet from the house. And that is all he said about my carport is quote "keep it on my side of the property line", which it is by at least an inch.

Gary was there and blessed off with where I placed my concrete and when I replaced the fence, his fence. Gary was aware of all I was doing pertaining to the property line. Almost daily for months he would come out and look at things and ask questions. Each time he walked away satisfied only warning me about crossing the property line. Constantly I assured him that I would stay on my side of the line.

When Gary built his carport, I even helped him with the assembly of his carport as well as the replacement of the fence and the removal and replacement of the south side of his roof. Only after the completion of my carport, which Gary physically helped me set up the frame did he have issues. The carport is over 5 feet from the house and I installed a gutter to divert water which Gary was also conceded with. I met all of Gary's requests. There should not be any issues.

Anyhow, sorry for your troubles and I hope it all works out for the best

*Text mess.
Rec. 8-24-23*

from: Mike Belin, previous owner of said property

001-322-07



Mr. Parker stated all I have to say is the carport is in excellent shape and made it through the winter we just had. If anyone had seen this house prior to this problem they would have said bulldoze it down. I pay taxes on that house, it is livable now, and before I bought it, it wasn't until the previous owner rebuilt it. I don't know what happened between the previous owner and Mr. Tull, but I didn't do all this. I am a victim of purchasing this property and I just want to move on.

Councilwoman Elliott asked, "how much does it cost to apply for the variance waiver?"

City Building Official Peterson stated a variance cost depends on the amount of mailings that have to go out. Those mailings have to go to anyone within a three hundred radius of the structure and traditionally they run between \$500.00 and \$800.00.

Mr. Gary Tull stated I live at 746 Murry Street and the problem is with that carport, it dumps all the snow and water onto my property. If you notice at the top of the photo there is a gutter that does not work and the only way to clean that gutter is to bring an extension ladder into my yard and go up and clean it out; there is a big tree over that carport. What if someone fell and broke a leg cleaning that gutter? I would be responsible. Those are my concerns and I ask that it be moved over and get it away from the property line.

City Building Official Peterson stated I would like to add a point of clarification. My notice did not go out until April 11th, and I have a text message from Mr. Parker on April 5th indicating he would like to talk with me regarding the house at 746 Murry.

Mayor Robertson asked, "Mr. Parker, what is your objection to applying for a variance?"

Mr. Parker stated the cost, and I bought that property in good faith.

Mayor Robertson stated no question, but being a property owner does incumbent some responsibility on the owner.

Mr. Parker stated I didn't build it and there was already a shed there prior to that. Mr. Tull lived there then and was aware of that.

Mayor Robertson stated those facts aside, that doesn't address the zoning issue.

Mr. Parker stated there was a previous garage there.

Mayor Robertson stated that doesn't make it okay. Are you asking us to ignore this then?

Mr. Parker stated I think it should be tabled and discussed later on.

Mayor Robertson stated in what context?

Mr. Parker stated the price of the variance. You are asking me to spend thousands of dollars for what reason?

Mayor Robertson stated hundreds of dollars and it would depend on how many people live in the area.

Mr. Parker stated I could possible do that if it would bring it to an end.

Councilman Carson stated I have a question for the Building Official. Is it illegal to drain on someone else's property?

City Building Official Peterson stated we do have an ordinance that prohibits draining on someone else's property. I do believe they tried to mitigate that with gutters, but I don't know the success of it.

Mr. Parker stated the gutter drains onto the driveway.

Mayor Robertson stated I see where it is intended to drain. Mr. Tull, could you come to the podium? Could you explain why the gutter doesn't work from your perspective?

Mr. Tull stated it's a rinky-dink little stainless-steel gutter that both the endcaps were gushing water today onto my property. The snow does the same thing because it builds up on that side and comes down on my property.

Mayor Robertson asked, "there is no ability to maintain that except for from your property?"

Mr. Tull stated you can't clean that gutter unless you come on to my property and it's thirteen feet in the air.

Mayor Robertson asked how do we typically address drainage when we have granted these variances for other properties?

City Building Official Peterson stated I have not experienced a variance that included a drainage issue.

Mayor Robertson stated it seems like from my recollection in the past when we have done these, we have asked them to set it at least five feet back to address the drainage issue. That is just me speaking from memory and this one you are saying sits right on the property line?

City Building Official Peterson stated to the best of our assessment.

Mayor Robertson asked what are the options for the Council tonight? Would it be to start abatement proceedings, or the Council could allow a forbearance on the proceedings given they could receive an application for a variance.

City Attorney Cahoon stated if that is the direction the Council wants to go, I would recommend a time limit to have that done.

Mayor Robertson asked are there any other options available to the Council tonight?

City Attorney Cahoon stated if he does not comply with an abatement order he could be fined one hundred dollars a day. We could get a warrant and abate it ourselves.

Mayor Robertson stated the abatement we are talking about is just taking down the structure, right?

City Building Official Peterson stated correct.

City Attorney Cahoon stated so we can give him a certain number of days to abate it and if he fails to comply, I will apply for a warrant and City crews can go on and abate it. We would then place a lien on the property of the cost to do that. It is also a misdemeanor violation so I could always prosecute.

Mayor Robertson stated those are your options? What are the options for the Council to do tonight?

City Attorney Cahoon stated again, I would recommend if he is considering a variance application and the Council would like to give him time to try and resolve the drainage issue and apply for a variance, I would recommend sixty days to do that.

Mayor Robertson stated the drainage issue would have to be something addressed in the hearing for the variance with the Regional Planning Commission?

City Building Official stated correct, the plan would have to be approved by them.

Councilman Carson asked would we be getting off the agenda item if we did go ahead and grant Mr. Parker a ninety-day extension to apply for a variance because it doesn't say that in the item?

City Attorney Cahoon stated no, I believe it is in the scope. I would just say that we give him the ninety-day extension and if there is no action in the ninety days then we initiate the abatement process.

City Building Official Peterson stated there is another issue at hand here and that is we don't have any proper permitting. It is a structure that is over two hundred square feet, so it does require a permit. A variance cannot waive that requirement so that would have to come along with the variance compliance.

Mayor Robertson stated this is not the property owner that put this building up.

City Building Official Peterson stated I understand that, but the mother of the property owner still lives there and if they are in communication, I am sure he can get the documents. What was conveyed to me is that the engineering documents were appropriate and able to be provided.

Mayor Robertson asked, "so you would recommend adding a permitting requirement to the motion?"

City Building Official Peterson stated correct.

Councilman Carson moved to give a ninety-day extension to the current property owner to apply for a variance and provide required permitting engineering documents. If in ninety days, there has been no action the City will initiate the abatement process. Councilwoman Elliott seconded the motion. The motion carried unanimously.

8. PUBLIC COMMENT

Kerri Pintar stated I live at 1417 Mill Street and on public perception Mr. Alworth, the next time someone complains to you, would you please take the time to inform them that working hours vary for your employees. In particular, the Public Works Director. He is on site here between 5:00 a.m. and 6:00 a.m. every morning until after 4:00 p.m. five days a week. He is well outside his forty-hour limit when he is here. Second, you talk about enforcement in item number five in

new business and not to beat a dead horse, but it has been six weeks since I inquired at the July 16th meeting about City Ordinance 4-3-2 relating to public nuisances. The residence at 755 Mill Street continues to be riddled with garbage, weeds, and unsightly plastic bags covering the entrance to the residence. We have a skunk problem in the canyon, and we are using live traps to catch them at our house and rehoming them up Murry Summit. Something needs to be done towards enforcement of your ordinance because if we all do our part perhaps the overwhelming presence of these skunks in the canyon will be solved without us having to trap and relocate them. On item six under new business about employees storing property; again, this was an unnecessary agenda item as it was a simple question to the Public Works Director or whoever is in charge of the City assets and could have been answered quickly, but instead you spent time on the item and now I am spending time on the item and surely, we have more relevant items to be discussing. With that said, is there an application I can obtain and complete to get George's three minutes of public comment in the event he's going to continually be absent from these meetings going forward? Can I be his proxy?

9. 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 6:38 p.m. Councilwoman Elliott seconded the motion. The motion carried unanimously.



MAYOR


ATTEST

