



# CITY OF ELY

501 Mill Street Ely, Nevada 89301

City Hall (775) 289-2430

[Cityofelynv.gov](http://Cityofelynv.gov)

## ELY MUNICIPAL UTILITIES BOARD REGULAR MEETING

**October 12, 2023, 8:00 a.m.** – Ely Volunteer Fire Hall – 499 Mill Street – Ely, Nevada

1. Member Ross called the regular meeting of the Municipal Utilities Board to order at **8:00 a.m.**, led in the Pledge of Allegiance and asked for Roll Call.

Members present:

Chairman John O’Flaherty  
Vice Chairman Dale Derbidge  
Member Greg Rivero  
Member Sherrie Marquez

Members absent:

Member Ken Ross

City Officials and staff present:

Councilman Kurt Carson  
Councilman Jim Alworth  
City Clerk Jennifer Lee  
City Public Works Director Mike Cracraft  
City Attorney Leo Cahoon  
City Engineer B.J. Almberg  
Administrative Assistant Patti Cobb

Also, in attendance: Members of the public in attendance at the Ely Volunteer Fire Hall signed in (appears below): None

### 2. PUBLIC COMMENT

George Chachas stated ongoing concerns regarding his request for a copy of the permit the City had to obtain to fix the water line on Aultman Street on March 5, 2023; the installation of water taps and sewer connections for his property located at 729 and 733 Great Basin Boulevard; the alleged damage done at 745 Great Basin Boulevard by Q & D Construction; the water line that extends from Loves to the Charter School in his opinion should have been the responsibility of the developer; his request for a complete list of RVs the City has permitted and if they are paying utilities; and the drainage onto his property from the Bath’s property that is causing erosion on his property due to the lack of curb and gutter.

**3. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE UTILITY BOARD.**

**A. CONSENT AGENDA**

**MOTION:** Move to approve the Consent Agenda item 3A-1 Minutes.

Administrative Assistant Cobb attested the September 14, 2023, minutes are a true and accurate transcription of the meeting as the Zoom recording was reviewed and listened to for accuracy.

Moved by: Member Rivero Second by: Member Marquez Vote: Unanimous

1. Discussion/For Possible Action –Minutes.

- September 14, 2023

**B. OLD BUSINESS**

1. Board Members – *Robinson Nevada Mining Company* (RNMC) representative – Discussion only – Update to the Utility Board on the *Robinson Nevada* Development, Ruth Pit Development and water mitigation efforts within the City of Ely.

City Clerk Lee read the following email into the record:

**From:** Frederick Partey <Frederick.Partey@us.kghm.com>  
**Sent:** Wednesday, October 11, 2023 8:37 PM  
**To:** Jennifer Lee <CityClerk@cityofelynv.gov>  
**Cc:** Amanda Hilton <amanda.hilton@us.kghm.com>  
**Subject:** Utility Board Meeting- 10/12/2023

Hello Jennifer,

I will not be able to attend tomorrow utility board meeting, I am by this email providing you an update on "Old Business" Item B 1. *Ruth Pit development and water mitigation efforts within the City of Ely.*

Robinson continue to mine from the Ruth pit complex, here is the breakdown of fresh water dewatering effort from the South block.

About 9,406gpm is being pumped, 3,122gpm is going into Gleason Creek and the rest is going to the mill for ore processing. RW-7P- is delivering 1,125gpm into the city water system.

Please let me know if the utility board has any questions.

Thanks,

Frederick

**C. NEW BUSINESS**

1. Councilman Carson – Discussion/For Possible Action – Review of draft Georgetown Ranch Bid Invitation, with possible revisions and recommendation to approve.

Councilman Carson stated I think the new Invitation to Bid clearly spells out our terms that we do need weed control, replacement of fencing, and to divert the wastewater treatment facility water. I am looking for other suggestions anyone may have.

Chairman O’Flaherty stated some of these things were promised on past leases.

Councilman Carson stated Leo in the first sentence it says the term of the lease will be in five-year increments. Do you think it would be advantageous to put it is not renewable in there.

Vice Chairman Derbidge stated it has to be rebid every five years.

City Attorney Cahoon stated yes, we could put that in there. I did want to bring up that this item is just a review of the draft with any possible revisions. There has been an offer on the land to purchase it, so the Board can still approve this today, but at the October 26, 2023 City Council meeting we will have an item for the City Council to consider what they would like to do with it by either continuing to bid it out or sell the land.

City Clerk Lee stated just to clarify it is not the entire piece. It is six hundred and fifty acres.

Chairman O’Flaherty asked what is the total acreage?

City Clerk Lee stated the total acreage is one thousand nine hundred and eighty and it would reduce it to about eleven hundred acres if that portion was sold.

City Engineer Almberg stated the portion they are interested in buying is on the north side of the road by the Fireside as you head to the prison.

Vice Chairman Derbidge asked with the land being near the airport are their stipulations by the FFA for what that land can be used for?

City Attorney Cahoon stated we need to look into it and what the options are. We have just been approached by someone wanting to purchase it. If the Council decides to go forward with that, we will definitely look at all the options.

City Clerk Lee stated just to clarify the motion will be to approve adding the recommendation of no automatic renewal.

Vice Chairman Derbidge moved to recommend approval of the draft Georgetown Ranch Bid Invitation, with the revision to add language stating no automatic renewal and to be

bid out every five years. Member Rivero seconded the motion. The motion carried unanimously.

2. Councilman Alworth – Discussion/Possible Action – Review of research and history on the installation of the White Pine County Industrial Park Sewer Lift Station and discussion on possible revisions on the City’s standard operating procedures of accepting utility system additions and ideas regarding continued operation/repair of said sewer lift station.

Councilman Alworth stated the sewer pump station was installed in 1981 so it has had a good run. Unfortunately, On October 1<sup>st</sup> over a year ago it went down and there has been extensive work getting it back together. I want to thank Jennifer and her staff for doing the research back to 1981 to get this information. The resolution agrees for the City of Ely to provide water and sewer services to the White Pine County Industrial Park and in 1991 was when Aspen Heights went in, so you have forty-three homes out there. When they moved in, they started using the same system. It is really a bazaar in 1981 when they put that pump station in it was \$297,000.00 to put it in, and here we are now forty-two years later, and the pump is down. It is a major thing and pushing to the tune of close to \$400,000.00 to get this thing going. The issue I have is all of our sewer systems, with the exception of the Industrial Park, go to the Wastewater Treatment Plant via gravity and this one they have to pump it back to the sewer plant. It is mind boggling that nobody thought about this. The City of Ely pays the pumping costs to pump it to our facility to process it. In my opinion, why does the City pay the power cost, which is around \$7,000.00 a year, to pump County waste to our facility for processing. I think we need to take a hard look at the agreement since the new system should be installed by the end of the month, maybe saying we are going to split operating costs. They pay a surcharge out there and they have a capital improvement surcharge which is very minimal when you sit down and look at the total cost. Right now, out at the Industrial Park there are nine small commercial businesses, two medium commercial businesses and two large commercial businesses and the total those businesses pay for capital improvement is \$1,581.00 and that doesn’t cover anything on this when you are looking at close to \$400,000.00, and again it ran for close to forty-two years. In the Aspen Heights area, there are forty-three homes and their capital improvement surcharge for the year is \$2,812.00 for the year, so you are looking at basically about \$4,000.00 for capital improvement which is not even a drop in the system. I think we need to look at what we need to do in the future so the City does not have to pay to pump County waste. In the resolution it says the Industrial Park is a step towards increasing and broadening the County’s economic base. There is a lot of space still out there in the Industrial Park. I just want to encourage us all to put our heads together to come up with something.

Vice Chairman Derbidge asked is there any provisions in City Ordinances for anybody to hook up out there, is there a cost?

City Engineer Almborg stated a sewer connection fee is \$1,750.00 in the City and I believe it is \$4,500.00 outside the City limits, and to clarify that is for a standard sewer.

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If it is for a larger sewer that has more fixture units then it is actually based on the fixture units so it could go up above that amount.

Chairman O'Flaherty asked what does the BHP subdivision pay out there for surcharges because we need to be fair with everybody?

Councilman Alworth stated it is the same amount. It is \$5.45 a month for capital improvement and a \$9.93 charge because they are outside of the City. Some of the houses in Mineral heights are on septic systems.

City Attorney Cahoon asked Councilman Alworth were you referencing a City/County agreement?

Councilman Alworth stated there was a resolution 81-8 authorizing White Pine County to enter into an agreement with the Ely Municipal Water Company and City of Ely to provide water and sewer service to White Pine County Industrial Park. There is no mention of the maintenance cost. The pump has been there a long time and maybe back then the power cost wasn't that bad. If you look at the power costs, I got from Mt. Wheeler we had a couple of hiccups because the pump wasn't even running, and we got hit with a \$770.00 power cost. It is a mystery so one of their technicians came out and took the meter off and tested it and it was good at the end of September. The only cost we got at the end of September was the meter cost, but we don't know what happened from September 1<sup>st</sup> to the end of September. It is pretty amazing what our crew has done out there and I just wanted to bring this up for consideration since the system is going to be brand new. I don't think the rates are wrong because they have been in place. It is the fact that the City is paying to pump County waste.

Vice Chairman Derbidge asked how would you include that fee for the City of Ely because there is not enough being collected to cover the electric fee?

Councilman Alworth stated you can see the capital improvement fee is not going to cover another major breakdown.

City Engineer Almberg stated you just explained the capital improvement fee, but you are also getting a monthly utility fee on that as well.

Councilman Alworth stated remember that pump station is the only one that has to have a pump, to pump sewage back to the treatment plant.

Vice Chairman Derbidge stated then the users should have to pay that extra fee is all I am saying.

Councilman Alworth stated absolutely the County should be paying that for the Industrial Park and the County residents.

Vice Chairman Derbidge stated the users should be paying it.

Chairman O’Flaherty stated just for point of clarification McGill has a lift station and the people serviced by that lift station don’t pay any additional fees?

Councilman Carson stated they don’t. It is a lot smaller system with only about thirty people on it and the power is not a big issue like this one.

Chairman O’Flaherty stated I have to agree with you Jim it is really sad we have come to \$400,000.00 on this. I personally think that is outrageous. You have two pumps out there and somebody should be checking that on a daily basis so if one pump goes down, we address it. I think the \$400,000.00 is extraordinary and I think that is from a lack of maintenance. Capital improvement is to pay for things like this and if you are going to have the County residents pay more than you have got to be consistent for all County residents.

Councilman Alworth stated my suggestion is it’s not to the County residents, but to the White Pine County Commission because they are the ones that took ownership of this and wanted it.

Chairman O’Flaherty stated the City accepted it. It is the City’s property not the County’s; correct me if I am wrong.

Councilman Alworth stated again, this is a stand-alone problem. It is the only place to have sewer pumped and that is the uniqueness of this.

Chairman O’Flaherty stated I agree with you, in the same essence we did have two pump stations at one point in time and the City extended that sewer main all the way down to Bath Lumber to accommodate that. Did we charge anybody else fees for that? No, because that is capital improvement. I agree with you, but if we do this, we have to be consistent with our charges outside the City of Ely.

City Attorney Cahoon stated in the backup documentation I am seeing two resolutions, one by the City and one by the County, referencing an agreement between the County, City, and Ely Municipal Water, but the agreement attached is not that agreement, it’s the agreement with White Pine County and the contractor to do the project.

City Clerk Lee stated right. Councilman Alworth is proposing a new agreement.

City Attorney Cahoon stated is there an agreement between the County and the City specifically?

City Clerk Lee stated Resolution 81-8 is the acknowledgment that the City is accepting ownership.

City Attorney Cahoon stated my reading of that is it is referencing an external agreement.

City Clerk Lee stated I will do some more digging.

City Attorney Cahoon stated if there is an agreement we would need to get our hands on that, and I can take a look at that.

Councilman Alworth stated I went to the White Pine County Recorder's office and got the information on why the Industrial Park was created and it says, "it is the desire and intention of White Pine County, the developer," so that is what keyed me in on this. If they are the developer, they can't put lots out there for development unless there is a sewer pumping station. Jennifer stated to me the City agrees to put the pipes in for a new subdivision and then she did her magic and found this additional information. I think a new agreement needs to be put in place because we have a brand-new facility out there.

Chairman O'Flaherty stated I think that is well noted.

Chairman O'Flaherty moved to direct City Attorney to research further to see if there is an agreement on the installation of the White Pine County Industrial Park Sewer Lift Station for further discussion on possible revisions on the City's standard operating procedures of accepting utility system additions and ideas regarding continued operation/repair of said sewer lift station. Member Derbidge seconded the motion. The motion carried unanimously.

#### **PUBLIC COMMENT**

George Chachas stated as you do your homework, I think it was when I was mayor in 1990, we increased the connection fee before it was standard and that is why they are paying more. I ask you to look at NRS 266.263 regarding public works; the City's power is subordinate to the Regional Planning Agency. We need to narrow this down so everybody is thinking the same. The last item I have is in regard to part seven of the Open Meeting Law. The second alternative that allows for public comment involves multiple periods of public comment which may be heard before discussion of each agenda item, but before the public body acts on the item.

3. Member Derbidge – Discussion/For Possible Action – Clarification of message on utility bills regarding contacting the City of Ely prior to contacting a plumber.

Vice Chairman Derbidge stated on the billing cards it states call the City before a plumber to avoid unnecessary expenses. The verbiage does not say you must call the City first, so if the problem happens to be in the City side and you called a plumber you still shouldn't have to pay for it, but that is not what the City is doing.

City Clerk Lee stated just for clarification, if you look at the bottom of the last bill we sent out, we had more room because the water restrictions ended so I amended it to say the City will not pay for plumbing services we did not request and call the City first on water/sewer issues outside your home.

Vice Chairman Derbidge stated to me what you put on there without going through the City Council is not correct. What is the difference if you call a plumber out and it is on the City's side. Why shouldn't the City pay for it?

City Clerk Lee stated if the City crews go out and determine whose issue it is and whose line responsibility is it then it is no cost to the City because we are paying those crews whether they do that or not. The other way is basically giving a blank check to the public to call a plumber without our knowledge or authorization.

Chairman O'Flaherty asked what about after hours and on weekends?

City Clerk Lee stated Carl always goes out after hours and on the weekends or Ed, whoever is on duty.

Chairman O'Flaherty stated one thing I would like to know is, are there written rules of what the responsibility of the City is and what the responsibility of the homeowner is?

City Clerk Lee stated there is the City Code that discusses where the responsibility of the City ends and the responsibility of the homeowner starts.

Chairman O'Flaherty stated I guess the question I would have, is if there was a line that was plugged or a lateral that broke and that was causing an issue and damage to a property owner is that the City's issue or the homeowners issue?

City Clerk Lee stated it would depend. Having experienced that personally where we had the sewer backing up into our home and the City refused to pay. The only reason we were eventually compensated for our damages was because we hired an attorney and it was found to be the fault of the camera company, so their insurance covered it. Even in that extreme case the City did not cover it.

Chairman O'Flaherty stated I understand. I guess the issue that arises with this is a lot of our utilities are extremely old with some of our sewer lines going back to the early 1900's and unfortunately trees grow. I would say ninety percent of issues with plugged sewers are roots and it can be on the property owner's side or the main side. I have encountered when you dig it up it is actually in the main with either a broke lateral or there is a root infestation that is so large that it has to be removed. When you have the homeowner sitting there watching you and they see this what do we tell them? On a new system you don't have this, and we are encountering this and when the homeowner all of a sudden has a flood you don't usually call the City first, you call a plumber.

City Clerk Lee stated it is the homeowner's responsibility if they are the one that ordered the service from the Plumber.

Chairman O'Flaherty stated I understand what you are saying, but if it is obvious that the basement is flooding not from their usage, but from the main is there anything set in the Code or procedure that takes care of that?



City Clerk Lee stated as much as we have is in the City Code, but the Utility Board and the City Council could certainly extend that either by amending the Code or a resolution. I would certainly be willing to work with members of the Board if they would like to draft a resolution up.

City Attorney Cahoon stated I am not seeing anything in the Code that specifically addresses this issue, so I would recommend that if it is something that has been an issue in the past it should be written down in Code so that it is very clear for everyone.

City Clerk Lee stated I think it would be best to bring back a draft resolution to the Municipal Utilities Board.

The item died due to lack of motion.

### **PUBLIC COMMENT**

George Chachas stated I am glad you brought this up and I want to remind you that I went through this situation. I wrote a letter to you folks back on August 21, 2017, regarding the sewer problem I had with my property at 681 Parker caused by the City backing up due to lack of grade and we never got reimbursed. I just ask for fair treatment.

Jim Alworth stated the City sewer crews have mains they know are trouble and they hit those as often as they can. On my first tour of duty with the City we had a grant to televise our sewer lines and there was an individual on South Bell Avenue that kept having back up into his basement. The camera crew went down there and where the line was coming out of his house it looked like a horror movie. The lines coming out to the main was almost full of roots from his property and we had him look at it and he said thank you, you will never hear another word from me, and I believe he fixed it. He had been blaming the City, but it was not in the main.

4. Board Members – City Clerk Lee – Discussion/For Possible Action – Recommendation for approval to remove past due utility fee penalties up to the amount of \$244.09 from 19 Keystone Street, Ruth, Nevada at the request of Property Owner, Nathan and Kezia Kelly.

City Clerk Lee stated the Kelly's are the new owners. They have paid the balance off and are asking for the penalties to be waived.

Vice Chairman Derbidge moved to recommend approval to remove past due utility fee penalties up to the amount of \$244.09 from 19 Keystone Street, Ruth, Nevada at the request of Property Owner, Nathan and Kezia Kelly. Member Rivero seconded the motion. The motion carried unanimously.

5. Board Members – City Clerk Lee – Discussion/For Possible Action – Recommendation for approval to remove past due utility fee penalties up to the amount of \$175.86 from 3013 North 9<sup>th</sup> West Street, Ely, Nevada at the request of Property Owner, Laura and Wray Cote.

City Clerk Lee stated this item is the same situation as the last.

Vice Chairman Derbidge moved to recommend approval to remove past due utility fee penalties up to the amount of \$175.86 from 3013 North 9<sup>th</sup> West Street, Ely, Nevada at the request of Property Owner, Laura and Wray Cote. Member Rivero seconded the motion. The motion carried unanimously.

6. Board Members – City Clerk Lee – Discussion/For Possible Action – Recommendation for approval to remove past due utility fee penalties up to the amount of \$382.28 from 1405 Lyons Avenue, Ely, Nevada at the request of Property Owner, Ordination of Heliotropes, LLC.

City Clerk Lee stated the new owner has paid off the balance and is requesting a waiver of the penalties.

#### **PUBLIC COMMENT**

George Chachas stated I don't have a problem with these folks getting write offs, but I want equal protection under the law. I want to remind you that I paid for my property at 490 High Street regarding the principal as instructed in a letter from City Clerk Lee dated November 25, 2019, and yet the City is currently billing me for \$2,227.23 and I do not use the utilities. I have paid every month since I bought the property. The City has failed to reimburse me for the overpayment I made for the old Ely Grade School at 622 High Street. You wrote off all the back billing for young Tom Bath when he bought the Plaza Hotel. I bought the school at the same sale, and I didn't get the same consideration. I also want to remind you that the City Council members gave the property owner at 790 Avenue I a \$4,000.00 or more write off and they used all the utilities for years and had not paid. The Council said there was an employee error to justify the write-off. Federal law prohibits discrimination in any federally funded or assisted public utility.

Vice Chairman Derbidge moved to recommend approval to remove past due utility fee penalties up to the amount of \$382.28 from 1405 Lyons Avenue, Ely, Nevada at the request of Property Owner, Ordination of Heliotropes, LLC. Member Rivero seconded the motion. The motion carried unanimously.

#### **4. CITY DEPARTMENT REPORTS**

##### **➤ VICE CHAIRMAN DERBIDGE**

Vice Chairman Derbidge stated I have a question on public comment. On public comment as I read it is just on that item and not to rant about something that happened ten years ago, five years ago, or ten months ago. Am I correct?

City Attorney Cahoon stated it doesn't exactly specify that. The law does state before adjournment there has to be at least one public comment period given for the public to address any concern they may have.

Vice Chairman Derbidge asked does the public body have the choice to have public comment at the beginning and at the end of the meeting, but not to have public comment on each individual item?

City Attorney Cahoon stated that is correct, you do not have to have it on each individual item.

City Clerk Lee stated Chairman O'Flaherty has chosen to do it on each item.

➤ **PUBLIC WORKS DIRECTOR**

Public Works Director Cracraft stated on the Wastewater Treatment Plant the bearing went out on the screw pump and it was down for about a month. The local contractors did a wonderful job, and it is back up and running. We are on schedule with the lift station. We were able to drain the three and a half miles of sewage that has been sitting there for a year back into the vault and continue to pump it out. Hopefully, in the next two to three weeks we will have the new pumps put in and be ready to go. We installed a gate valve into the sewer line so if this ever happens again in the future, they can shut it off without having to drain the lines down.

Councilman Carson asked is there going to be an extra bearing for the screw pump ordered to keep on the shelf?

Public Works Director Cracraft stated yes, two of them; one for the upper and one for the lower. We were able to install the pump and motor for the North Street Well and it is functional now.

Councilman Carson stated for clarification, when we do work on the wells, since six is down the Mine had agreed to help with maintenance of our other wells. Do they help on stuff like that?

Public Works Director Cracraft stated I can't remember if they were doing that one or not.

City Engineer Almberg stated they initially repaired it and got it back online, but we haven't approached them on this pump and motor.

Public Works Director Cracraft stated we can approach them.

Councilman Carson stated maybe we should look into what the agreement says and go from there.

➤ **CITY CLERK**

City Clerk Lee stated I have been working on CDBG eligibility which is due tomorrow. Our scheduled third public hearing for CDBG projects will be December 14, 2023. Unfortunately, the Governor's office is still using the 2015 HUD numbers so we are still ineligible, and any selected projects will have to have income surveys. We are concentrating on the ones that have the fewest number of homes and the City will be doing those this time to hopefully get better results than last year.

➤ **CITY ATTORNEY**

City Attorney Cahoon stated I have a report on the Landfill liens. According to the August lien report there were one hundred and seven liens in the City and the County. As of October 9, 2023, my office sent out twenty-eight letters; eleven have been returned for inability to deliver. There have been eight lien letters collected on so far with a total collection of \$8,028.20 and I believe we have three payment plans that have been set up to get those liens paid off.

➤ **CITY ENGINEER**

City Engineer AlMBERG stated we are working diligently with NDOT on the Aultman Street Project. We are starting to meet more regularly as we are getting to the final details and the bidding for the project should be hitting the street next March, and later that summer they will award that project. We are also working diligently on our CDBG Bell Avenue Project and are hoping to have that tied up and turned in for approval to the State in the next week or two. We will then start working on completing the Central Ely Sewer Line CDBG Project. On our Central Ely sewer line earmarked project, we are working through the environmental exclusion. We did meet with them a while back and we can proceed with this project and do everything except turn a shovel prior to this exclusion being approved. We anticipate the exclusion to be approved soon. I say that because we are coming into winter and now is a good time to let all the leaves fall and we can do the aerials to complete the rest of the design.

**5. PUBLIC COMMENT**

George Chachas stated I am one of the people the City Attorney sent out a letter to in regard to my property at 490 High Street for possible foreclosure. I want to remind you again that I went to Chrissy Shady on October 3<sup>rd</sup> to check any liens against my property, and she said there is only one and it is not against George Chachas. I have told you that since I bought the property. My deed is dated May 19, 2017, and on June 13, 2017, a lien was placed on the property under Valencia Birmingham which is not my name. I am tired of being singled out. I think there is discrimination that is intentional. It needs to be cleared up, and I want my money back. When I bought the property at the tax sale, I told the treasurer if there are any liens, I want to make sure they are paid for because the City doesn't like me, and I don't want any problems. She stated anything on the books you paid for when you bought the property. Now you are coming after me for Valencia Birmingham and you filed the lien a month after I bought the property. There is nothing on file for me folks, stop the discrimination. When I ask for public information, I believe the Nevada Open Meeting Law states an answer should be given within five days and not five years.

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City Clerk Lee stated the next meeting is scheduled for November 9, 2023

**6. ADJOURNMENT: THE MEETING MAY BE ADJOURNED BY APPROPRIATE MOTION OF THE MUNICIPAL UTILITY BOARD**

Chairman O’Flaherty adjourned the regular meeting of the Municipal Utilities Board at **9:05 a.m.**

  
\_\_\_\_\_  
**Attest**

  
\_\_\_\_\_  
**Chairman**

