



# CITY OF ELY

501 Mill Street Ely, Nevada 89301  
City Hall (775) 289-2430 - Fax (775) 289-1463

## ELY CITY COUNCIL MEETING

**February 8, 2018 5:00 p.m.** – Ely Volunteer Fire Hall - 499 Mill Street-Ely, Nevada.

1. Mayor Van Camp called the regular meeting of the Ely City Council to order at **5:00 p.m.**, led in the Pledge of Allegiance, Sue Winder offered the Invocation and Mayor Van Camp asked for Roll Call.

Members present:

Mayor Melody Van Camp  
Councilman Ernie Flangas  
Councilman Kurt Carson  
Councilman Tony DeFelice  
Councilwoman Jolene Gardner  
Councilman Sam Hanson

City Staff present:

City Administrator Robert Switzer  
City Attorney Charles Odgers  
City Treasurer Janette Trask  
City Engineer B.J. Almberg  
City Building Official Brad Christiansen  
City Fire Chief Ross Rivera  
City Police Chief Scott Henriod  
Deputy City Clerk Jennifer Lee

Also in attendance: Members of the public signed in (appears below).

*Ely City Council attendance list. 2-8-18*

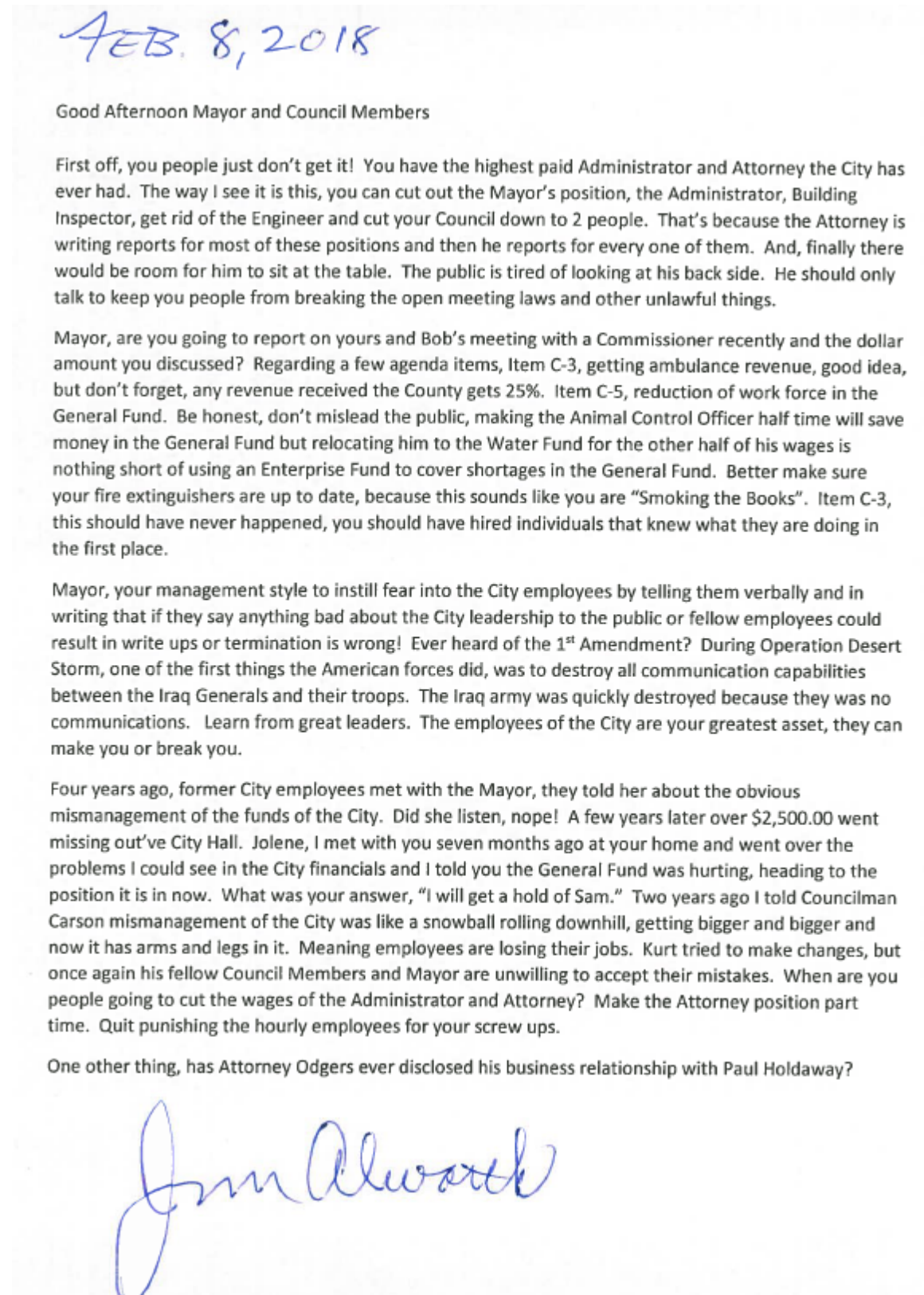
<i>Maria Apacoke</i>	<i>Kay McMurray</i>
<i>Elaine Salvo</i>	<i>Caroline McIntosh</i>
<i>Cheryl Moriega</i>	<i>Frederic Parley</i>
<i>Carol Maternia</i>	<i>Pat Robison</i>
<i>MAUREEN OTZELBERGER</i>	<i>Mark Basset</i>
<i>Debi Wapochal</i>	
<i>ANDREW HAYES</i>	
<i>MATTHEW LIVERANI</i>	
<i>Juan Gonzalez</i>	
<i>Jane Vandenberg</i>	
<i>Pat Hildray</i>	
<i>June</i>	
<i>Denny Green</i>	
<i>Kathie Guntak</i>	
<i>Jim Alworth</i>	
<i>Penny Alworth</i>	
<i>Scott Henriod</i>	
<i>Ken Kiewar</i>	
<i>Ray Sawyer</i>	

## 2. PUBLIC COMMENT

Kerri Pintar stated Kerri Pintar, 1417 Mill Street. Madam Mayor, thank you for changing this arrangement; it is more conducive for the rest of us to see everybody. Under Old Business Item No. 1 *Apeceche Trailer Park*, as I said last time I had the opportunity to attend this court hearing and what I learned was that the City Council and your staff did not follow through and did not make documentations of decisions made during the meeting with regards to notifying the applicants of those decisions. Bottom line, the cost to the City and Ms. Labra was excessive and unnecessary. I would respectfully request that you Madam Mayor, as well as Council Members, exercise due diligence and come prepared to apply sound reasoning and not personal agendas tonight when we revisit this matter and do the job the citizens elected you to do. I find it ironic that we just spent \$28,000.00 in grant money with Mr. Brooks to identify things we could do to make the City better; 87 of those 89 items could cost us \$10,000.00 collectively. You're looking to restrict an established business of thirty-five plus years because somebody's made a complaint and why? That business is bringing money into the City, in the business license and water fund, sewer, everything else. It's time to take corrective action and reduce any further expenditures from the dwindling general fund with any further pending litigation regarding this matter. So it's my hope tonight you'll consider 'grandfathering' those six or seven trailers in and move past this.

Cheryl Noriega stated my name is Cheryl Noriega and I live in McGill, Nevada. I'm here to support Gloria Labra, owner of *Gloria's Trailer Park*, and the tenants living there. The court order is to consider the recommendations of the Planning Commission to 'grandfather in' the current residents in the RVs, to remain until they no longer need to be there. There are currently four tenants in Gloria's RV. These circumstances are not their fault, nor the fault of the owner of the park, but a lack of communication between City Hall and the business owner. Please have some compassion for these residents; it would be a hardship for them to have to move. This has been stressful for everyone.

Jim Alworth stated read his letter appearing below into the record.



Linda Davis stated regarding Item C, New Business, No. 5 by City Administrator Switzer: Bob Switzer is targeting two people, the Animal Control officer and a Parks worker to pay for the mistakes of you, the City Council because you have bad spending habits; these two people have nothing to do with the City overspending, yet you want to make them accountable by making them pay the consequences for your bad habit. Does not the County Interlocal Agreement for the County to share Animal Control services state the City will provide one full-time equivalent Animal Control officer? The County pays the City \$30,000.00 a year for such service and such payment is to increase 1.5% every year of this agreement. Have you had a meeting with the County and discussed this? If not, how can you just choose to break an entire contract because you have bad spending habits? Your attorney, Mr. Odgers, should be giving you better advice than this. If the County only pays \$15,000.00 instead of the \$30,000.00, you really aren't saving the \$50,995.00 that Bob Switzer states, maybe \$33,000.00, if that. You had a prime opportunity two weeks ago to save the City of Ely approximately \$110,000.00 plus that you failed. Your attorney makes around \$130,000.00 a year in wages and benefits. Several months ago you made



Brad Christiansen take a reduction in pay and I believe suit was to follow for Switzer and Odgers, but that never happened; instead they got raises and extra vacation pay. How about cutting their wages or even cutting their positions totally? That would save the City close to \$240,000.00 a year. Hire a part-time attorney at a reasonable wage. You people up here, all of you, are responsible for this shortfall of the City of Ely and you are the ones who should be paying for the shortfall and giving up your wages, not the two innocent employees you are targeting. You need to revisit the work performance of Bob Switzer and in addition, take a good hard look at the performance of your attorney, Chuck Odgers; he is costing the City of Ely a lot of money.

Matt Liverani stated my name is Matt Liverani. I live at 743 Lyons Avenue. On October 26th, I sent an email to Mr. Switzer in regards to overpayment of landfill fees. I paid forty months for landfill fees on property I no longer own. I found out when the property was taken from me. At the time I was told that I was only in the time of the six months from that day. According to NRS 354.230: Claim for Refund to the Board of County Commissioners or the County Treasurer in those cases where the county treasurer is authorized to make a refund within 3 years after the time the claim was incurred. In the NRS there is nothing relating to municipalities, however that should give me a claim going back to October of 2014, 36 months. I was given a credit for six months in the amount of \$78.00, thus leaving a balance of \$390.00 for the remaining 30 months. I respectfully request that I be issued a refund for that money that I paid on a property that was taken by the County and then subsequently sold to another party.

City Attorney Odgers asked could you give me that address, please?

Matt Liverani stated 729 Clark. The property was recently demolished.

Deputy City Clerk Lee read the public comment letter appearing below into the record.

February 7, 2018

Mayor, City Council Members, I would like the following read into the minutes during the public comment period at the February 8, 2018 City Council Meeting..

On your agenda item 8 C#5 where Robert Switzer is proposing to have a reduction in force in the General Fund to cut expenses, needs to have more realistic thought put into it to make it work. I would like to know why Robert is looking at cutting the dedicated hard working city employees jobs or cutting back on their hours when it isn't their fault the city finances were run into the dirt by the administration. I think the Mayor and City Council needs to look at other alternatives in saving monies in the General Fund. Some food for thought for the Mayor and City Council is, you people helped put the City in the financial condition it is in so all of you should look at giving up your pay as Mayor and City Council for the next 5 months which would save the City over \$18,000 in itself. You need to seriously look at shutting down the recycling plant until the General Fund recuperates. With Robert's plan on a reduction in force you are going to be short handed in manpower in the General Fund to operate the Recycling Center and if you use the Landfill Crew or the Street Department you are going to have to reimburse any of these non General Fund employees for their time, so you won't be saving monies in the General Fund. You can't keep on using the Street Department as they have too much work that needs to be done on the streets and don't have the time to work the Recycling Center. Even before you have your reduction in force you used the Street Department 5 times in January when they should have been removing snow off the streets. Another way to save money is to make the Deputy City Clerk an exempt employee and you won't have to pay her overtime to attend the Council Meetings and you won't have to move the meeting date and time. Lay off the City Administrator and split the work between the Deputy City Clerk and the City Treasurer. This would save you close to over \$100,000 with his wages and benefits. Cut the City Attorney back to a part time employee and cut his wages accordingly. Take away the Attorneys million dollar life insurance policy and make him have the same life insurance policy as the rest of the city employees. Cut the City Engineer back to a part time position as you can't afford to do any work so why pay him close to the \$150,000 to \$200,000 per year you have been paying him. You could do away with the Municipal Judge and his 2 clerks and have the Justice of the Peace handle all the City's court cases. What you are paying for wages and benefits for Muni Court would make up what you would be losing in fines. YES THESE ARE HARSH CUTS, but this is what has to be done if you are going to be serious in trying to keep the City out of being placed under financial stewardship.

Rick Stork  
City of Ely Resident

George Chachas stated on your agenda item 8C-5 you're to consider a reduction plan; I did not see reducing the Building Inspector from \$84,000.00 a year to \$27,000.00. The dog catcher doesn't make that much and the City needs that animal control. Cut your overpaid staff by fifty

percent (50%). On your agenda item 8B-1, you're to consider the *Apeceche Trailer Park* 'grandfathering'. The park needs to be allowed to operate as it has historically for decades; it provides affordable housing space and brings the City revenue. It gives an option to those who can't afford larger housing options. The City needs to stop selectively enforcing the law. You've yet to address the deficiencies at the new Carson park on the 500 block of Orson. You need to pay their legal fees. That was an issue that never should have been at this point. Mayor, you're supposed to be growing a community, not killing it. On your agenda item 7-1 regarding the sewer issue at 681 Parker, will I be allowed to address the issue at the time?

Mayor Van Camp stated yes.

George Chachas stated on your agenda Item 5 regarding the Nevada Railroad Foundation, I've yet to receive any of the information requests from back on October of 2015. The City may be in financial hardship and you are failing to collect track rental from *S & S Railroad* which may be in the several million dollars. Are you still paying for their audit and insurance of any kind? If so, they need to be cut off. NRS states you must not subsidize any private business. If they claim they're a private business, then they need to stand on their own. Have you brought back the utility billing to City Hall? You've yet to correct the billing errors, mine included. I'm the only person I know of that's been removed from City Hall at least four times to make my payment. Two of the officers who escorted me out because I wouldn't leave until I got a receipt are here in the audience tonight. Why are you paying a CPA accountant in addition to Treasurer Trask, if she knows what she's doing? City ordinance states your treasurer must have a degree in accounting; you don't do that. The so-called \$391,000.00 in uncollected landfill billings goes back to Treasurer Trask, Jim Alworth, Attorney Briggs, Sears and now Odgers. In regards to the State highway improvements on main street, the State highway needs to pay all those fees. You don't have a penny to pay the maintenance on any of that beautification. Those roads have to stay as is. You narrow it – Downtown is slowing down enough as it is – where are you going to get the \$5,000.00 for maintenance for the shrubbery?

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

Councilman Carson stated I'd like to remove under New Business C, No.3. We need more time.

Councilman Hanson moved to approve the agenda minus Item 8C-3. Councilwoman Gardner seconded the motion. The motion carried unanimously.

**4. CITY DEPARTMENT REPORTS**

- FIRE CHIEF

City Fire Chief Rivera stated hopefully the new fire truck will be here next week. On the item for a reduction in the work force for the City of Ely, will I have a chance to talk? I am part of the General Fund.

Mayor Van Camp stated okay.

- POLICE CHIEF

Councilman Flangas stated I've been blinded by trucks with four headlights. Is there anything the Sheriff's Office can do?

City Police Chief Henriod stated the law regulates high beam use versus low beam use. Get the best vehicle description you can, so my deputies can look for that vehicle.

- CITY ATTORNEY

City Attorney Odgers stated I've been working with Councilman Carson on the EMS matter. I've had several discussions with the Department of Taxation and the Secretary of State's office. Other than that, I've been working on the compact with the Tribe for their growth facility. I met with the Fire Chief this week on the new fire ordinance they would like enacted.

- CITY ENGINEER

City Engineer Almberg stated I apologize I don't have a report in the packet; I was out of town. NDOT met with the power company regarding conflicts on the storm drain system and it went well. We're completing our As-Builts for the Ely Avenue Water Project and will be getting that to you shortly. We've also been assisting Chuck with some parcels along the Railroad; we are



having trouble finding maps the deeds are referring to. We've also been coordinating with Carl – he brought us a list of problems he's had – to put leaks on a map; to date, we don't have a cluster of problems and it covers the whole City.

## 5. NNRy FOUNDATION REPORT

NNRY President Mark Bassett reviewed his report appearing below and stated we completed the boiler overhaul on Locomotive No. 93 in time for her to operate on her 109<sup>th</sup> birthday. On January 13<sup>th</sup> at one o'clock we had 75 people ride the train and had 95 people on the Fireworks train. The Pontiac is done. We have the entire 2018 schedule on our website and are twenty percent (20%) ahead of last year on pre-season ticket sales. Roger Brooks suggested that we do more with the Ghost Train, so we created a logo and will be using it on t-shirts and mugs.

### NEVADA NORTHERN RAILWAY

A NATIONAL HISTORIC LANDMARK



#### Nevada Northern Railway Foundation

Depot: 1100 Avenue A, Ely, Nevada 89301

Mailing Address: PO Box 150040, Ely, Nevada 89315

Voice: (775) 289-2085 • Web: [www.nnry.com](http://www.nnry.com) • E-mail: [info@nnry.com](mailto:info@nnry.com)

#### Monthly Operations Report for January 2018

1. Locomotive Status – Updated
  - a. Locomotives in service: #40, #93, #105, #109, #204, #310, Wrecking Crane A & Rotary B.
  - b. Locomotives out of service needing moderate repairs: #45 – We have started repairs on this locomotive.
  - c. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Mining #309, #81 and Rotary Snowplow B (for boiler overhaul.)
  - d. Locomotives out of service needing heavy repairs #801, #802, #81, #80 and the military locomotives



Locomotive 93 getting ready to run the hill on her 109<sup>th</sup> birthday train, January 13, 2018.

#### **Award Winning Destination**

Best Tour in Rural Nevada – 2017

Nevada State Treasure – 2013 & 2012

Trip Advisor Certificate of Excellence – 2017, 2016, 2015, 2014

Best Preservation Effort in the West • Attraction of the Year – 2012

Best Museum in Rural Nevada – 2017, 2016, 2014, 2013, 2010, 2009, 2008

Best Museum - Special Recognition – 2010 • Favorite Nevada Attraction – 2008

Best Event in Rural Nevada – The Polar Express – 2017, 2016, 2015, 2014 & 2013

Best Place to Take the Kids in Rural Nevada – 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007

2. Rolling Stock Status – No change

- a. Passenger equipment in service: #07, #08, #09, Flatcar #23, Coach #5, Baggage Car/RPO #20, Outfit Car #06.
- b. Passenger equipment out of service: #10, #2 and #05 needing heavy repairs.
- c. Cabooses in service: #3, #6 and #22 are operational.
- d. Cabooses out service: #5

3. Track Status – No change

- a. Keystone Branch is open
- b. Adverse Branch is open.
- d. The Foundation received a \$347,670.22 grant to replace the signals at the US 93 crossing. The parts for the crossing have finally shown up. We will do the construction in the spring.

4. Building Status – No change

- a. We're working on the Carpenter Shop.
- b. McGill Depot - Our next step is to do the electrical work, outlets, switches and lights.
- c. The garage that was hit by a car is being repaired. It is really coming out grand!

5. Ridership and Ticket Sales – Updated

- a. In January we carried we carried 205 passengers. This is double what we did last year. We ran a Locomotive 93 birthday train and that was well attended with 76 riders. The Fireworks train sold out. And then we ran a train to be part of the Fishing Derby. Considering that all of the supporting event cancelled, I was very pleased with the ridership.
- b. Annual ridership was 205. This is an increase of 105 passengers or 105% over last year. 2017 was the largest year we have ever had, our challenge will be to top it.
- c. Since operations began in 1987, we have carried 273,532 passengers.

6. Upcoming Events – Updated

- a. Winter Photo Shoots February 9-11 and 16-18. Both Photo Shoots are sold out.
- b. Our first Nevada Northern Photography Workshop February 22-25

7. Ghost Train Logo – At the

Roger Brooks presentation, he suggested that we focus on our nickname, The Ghost Train of Old Ely. We took his suggestion to heart and commissioned a logo that we will be using.



Councilman Hanson stated Wikipedia has a nice piece on *Highway 50* today, especially the Ghost Train.

NNRY President Bassett stated the Star Trains are tracking just under last year, so they will probably sell out.

## 6. REPORTS

### CITY COUNCIL

Councilman Hanson stated I attended the County Water Advisory Committee. I met with several staff members on our financial situation.

Councilman Flangas stated I'm pleased with the progress we've been making in beautification of Downtown Ely. I'm glad we're finally going to get the signs up to label 11<sup>th</sup> Street Nevada Northern Rail Way. I've read about the County Commission going ahead to put solar panels by



the Airport. The Airport out there is on the Georgetown Ranch, so shouldn't we be notified that they're going to do something on our property?

City Attorney Odgers stated Yelland Field is owned by the County.

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

1. Board Members – City Attorney Odgers – Discussion/For Possible Action – Review of City Attorney's discussion with Max Ahlvers of *Ahlvers Plumbing's* regarding the events which transpired during his work to restore sewer service at 681 Parker Avenue in July 2017.

City Attorney Odgers stated John has threatened to sue the City

John Chachas stated that is your attorney's interpretation. There is no intent to go into litigation.

George Chachas stated I want to reiterate my brother's concern. He's not elected. You folks are. The problem at 681 Parker was caused because you have a sewer line that's flat. Have you seen that report?

Councilman Hanson stated yes.

George Chachas stated the flow is supposed to be a 2 and you've got a .05. There was a concern at a previous meeting whether we got a permit or not; it was in the works. It was an emergency situation and the plumber started. I asked if in the case of *The Cove* – you had a water break in middle of the night – City crews fixed it; it was an emergency situation and I asked "Did you get a permit for that" and your attorney said: Yes, we did. No, you did not. I went out to the State Highway and asked how the protocol was and the man lied to you. In an emergency situation, the State Highway allows emergency digs. (Handed out NDOT letter) I know that you have to have a permit to dig into the street. It was an emergency. 4<sup>th</sup> of July, I've got family there; a week before that I called Carl, he reamed it out and said he wasn't getting anything. After that I reamed it out a couple times, still didn't work; I had my brother do it. Then we got a roto-rooter from *Bath Lumber*; that didn't do it. Then we got the plumber and the only other option is possibly the connection to the main line broke off; in that case, that would be my responsibility to fix. When we went down there, my line was fine. When we cut the top of the City line off, sludge oozed out. I can't control that. I did my due diligence. All I want is my money back. I don't want to go to court. I want to remind you of the Civil Rights Act of 1964, the Federal Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, etc. I want a roll call Vote. I want to know how you people stand and your reason for it.

City Attorney Odgers stated Nevada Revised Statutes 41.033 does not require the City to investigate to determine if there's a problem. The City has no obligation to investigate every line that we have in order to determine if there's a problem. The City is obligated once a problem is identified to repair and remediate that problem; the City is doing that from what I understand. I'd invite you to look at *Schroeder v. Ely City Municipal Water Department* from 1996 where the Schroeders sued the City of Ely Water Department because they had a water line break that damaged their house; the Nevada Supreme Court held that based on Nevada Revised Statutes 41.033, the City had no liability for the damage to their property. Your issue falls under that reason as well. The City is not liable under 41.033 to pay you.

George Chachas stated we disagree. That line is flat and you knew about it; not only did you ream it out on that occasion, but you've reamed it continuously in previous years. If the City put it in improperly, they damaged us. All I'm asking for is for that money that was done out in the City street.

John Chachas stated Madam Mayor, I'm going to repeat what I told you before and what is verbatim in the Water Board minutes. When Mr. Ahlvers arrived on the job, he assumed that the problem was on our side of the line; so, he told me that he needs a permit to do the dig on City property. Carl was there. B.J. ended up coming. He was told that he could dig that day and procure the documentation for the permit at a later time. If the City was supposed to do that dig,



they should have stopped us right then, Carl should have went back to the shop, got his backhoe, dug up the line, found the problem, saw that it was the . . . the problem of the line being installed incorrectly because it generated this problem; he should have stopped us. He didn't. He gave us approval, so we continued. It's not our responsibility.

Councilwoman Gardner asked who called the plumber?

John Chachas stated I did. And the plumber called Carl to come down.

Councilwoman Gardner stated and that's the expense.

George Chachas asked pardon me?

Councilwoman Gardner stated that's the expense.

George Chachas stated the work, the expense of the plumber and the work done in the City street. Had it been a break on my side, I'll give you that; it would be my responsibility. It would have to be dug anyway. I would have paid it, but it was not our problem. It was your folks' problem and that's all we're asking for. I'm asking for a vote, a Roll Call vote and I want to know the reason.

Councilman Carson stated for me I guess the reason is I've watched a lot of basements get flooded throughout the years in the main line, roots grow in there or whatever and unfortunately, the homeowner is liable for their basement; sometimes it's tens of thousands of dollars, you know. There's just unforeseeable things and I think this really falls into that category. Like POOL PACT said, now we know about the problem and are liable for it from here on, but I'm not in favor of it.

George Chachas stated years ago you still reamed the line out and you had the same problem.

Mayor Van Camp stated thank you.

George Chachas asked roll call vote?

Councilman Hanson stated well, there has to be a motion and no one's made a motion as I recall.

Mayor Van Camp stated thank you.

George Chachas stated thank you.

2. Board Members – City Engineer Almberg – Discussion/For Possible Action – Acceptance of the completion of the WWTP Aeration Basin Air Improvement 2017, PWP #WP-2017-194 and Approval of Change Order No. 1 to the final cost of the project.

City Engineer Almberg stated reviewed the Change Order appearing below and stated during construction the air blower was put on concrete pads and the existing underground electrical was not as anticipated based on previous drawings, so to remedy that situation we raised that concrete slab six inches (6”); when we raised it six inches, the piping ran into the handrail that’s around the aeration basin. The other thing is we raised the pipes that ran into the cat walk.

<b>CITY OF ELY CONTRACT CHANGE ORDER</b>		
	Change Order Number:	<b>1</b>
	Date:	<u>January 29, 2018</u>
	Location:	<u>Ely, White Pine, Nevada</u>
Contract for:	<u>WWTP Aeration Basin Air Improvement 2017, PWP # WP-2017-194.</u>	
Owner:	<u>City of Ely, 501 Mill Street, Ely, Nevada, 89301</u>	
To Contractor:	<u>O'Flaherty Plumbing &amp; Heating, 965 Great Basin Blvd., Ely, Nevada, 89301</u>	
You are hereby requested to comply with the following changes from the contract plans and specifications:		
<b>Description of Changes</b>	<b>DECREASE</b>	<b>INCREASE</b>
Modify Handrail for Blower Piping	\$ 0.00	\$ 586.25
Additional Stainless-Steel Leader Pipe Welding Lot	\$ 0.00	\$ 1,149.50
4 Each Stainless Steel Handless (\$112.00 Each)	\$ 448.00	\$ 0.00
4 Each Epoxy Handles (\$20.00 Each)	\$ 0.00	\$ 80.00
TOTALS:	\$ 448.00	\$ 1,815.75
<b>NET CHANGE IN CONTRACT PRICE:</b>		<b>\$ 1,367.75</b>
<b>Justification:</b>		
1. Adjustment in quantities at unit bid prices to add the following: Items on the bid proposal not needing to be installed. Additional water meters and service lines. Reduction in asphalt pavement patch.		
Original amount of the Contract: <b><u>Two Hundred Ninety-Seven Thousand, Two Hundred Fifty-Six Dollars, and Zero Cents (\$ 297,256.00)</u></b>		
Total of previous change orders: <u>0</u>		
Contract total before this change order: <b><u>Same as original</u></b>		
Contract will be increased by: <b><u>One Thousand, Three Hundred Sixty-Seven Dollars, and Seventy-Five Cents (\$ 1,367.75).</u></b>		
Contract total including this, and previous change orders will be: <b><u>Two Hundred Ninety-Eight Thousand, Six Hundred Twenty-Three Dollars, and Seventy-Five Cents (\$ 298,623.75).</u></b>		
The Contract period provided for completion will NOT be increased. This document will become a supplement to the contract and all provisions will apply hereto.		
City of Ely	_____ Mayor	
O'Flaherty Plumbing & Heating	_____ John O'Flaherty, President	

City Attorney Odgers stated the Utility Board recommended approval. Mr. O'Flaherty abstained from it.

Councilman Hanson moved to accept the completion of the WWTP Aeration Basin Air Improvement 2017, PWP#WP-2017-194 and Approval of Change Order No. 1 for the amount of?

City Engineer Almberg stated \$1,367.75.

Councilman Hanson stated \$1,367.75.

Councilman Carson seconded Councilman Hanson's motion. The motion carried unanimously.

3. Mayor Van Camp – Discussion/ For Possible Action – Approval to withhold overpayment by *Outwest Excavating and Grading* for the 2014 and 2016 recycled metal payments received by the City of Ely, until the current metal pile at the Landfill is sold, for repayment, at no interest, from the City's portion of the proceeds earned from the sale of the current metal when the metal pile is sold.

Paul Holdaway stated I am the owner of *Outwest Excavating*. The old contract was written that I paid the City a percentage of the San Francisco American Metals Market price. Unfortunately, the cost of a subscription for the American Metals Market is about \$3,000 a year, so it's not something I purchase because it's too much money for what I do. So, I have to rely on the buyers for the pricing because they have access to that. Last year I had to review these documents and found that when I paid the City for both 2014 and 2016, the prices I had been given from the buyers was the heavy metals pricing instead of the shredded metal pricing, which in 2014 is almost \$12.00 a ton and in 2016 was \$8.00 a ton. So in 2014, the City was overpaid \$3,970.49 and in 2016 the City was overpaid \$4,782.55. So, I respectfully ask that the City allow me to withhold that payment next time I sell metal.

Councilman Carson stated it's an old contract. I have a hard time being liable for that mistake.

City Attorney Odgers stated he can bring a claim under a contract claim.

Paul Holdaway stated I'm not asking for any interest. I'm just asking for the money overpayment.

City Administrator Switzer asked what's the current price on metal?

Paul Holdaway stated it's about \$125.00 a ton. They're predicting it will go to \$150.00 in March, so I'd like to sell it in the next couple months.

Councilman Carson asked would you be willing to negotiate lowering the prices if we pay this bill?

Paul Holdaway stated probably not. There have been some other things, that you're well aware of, that have transpired that we need to discuss at a later date over my current contract.

4. Councilwoman Gardner – City Administrator Switzer – Discussion/For Possible Action – Approval of Amended Resolution 2017-13 Resolution from the City of Ely to document the current rates for Water and Sewer in the City of Ely.

City Administrator Switzer stated this resolution simply memorializes the rates we've had in place since 2012; we were unable to find the originating resolution, if there was one. There's no increase in the rates.

Councilman Hanson moved to approve Resolution 2017-13. Councilman Carson seconded the motion. The motion carried unanimously.

5. Councilwoman Gardner – City Administrator Switzer – Discussion/For Possible Action – Approval of Amended Resolution 2017-14 Resolution from the City of Ely to document the Landfill rates in effect and include the Landfill rate previously approved by the City Council for commercial waste going across the scales.

City Administrator Switzer stated this memorializes what we currently charge and adds in the change of how we calculate charges for commercial waste based upon weight, rather than volume. We also encountered an issue with this and had discussed it at a previous meeting when we considered the \$5.00 fee charged if an individual does not have their utility bill showing the current bill paid up. If we're basing that discussion on purely paper receipts, that may work. However, as you know, in the past two or three years we've been encouraging utility customers to go online and sign up to have their bills paid electronically; it's problematic from that perspective on how customers would be presenting their bills to show that they're paid up. With



that in mind, I would recommend that the City, if this resolution goes forward, approve the Landfill rates, again memorializing the rates that we currently charge and implement a start date of April 1<sup>st</sup> for the residential charge of \$5.00 per load until we can come up with a better solution on how to verify that individuals have paid their current utility bills.

Councilman Hanson asked what did the Board say on this one?

City Administrator Switzer stated that recommendation was not in there. They approved the resolution as it stands right now. This issue was brought up just today that we need to work through better.

Councilman Carson stated I have a problem with billing the residents on the asphalt and concrete because when we purchased the scale, it's stated in the minutes we'd never use it for residential use; maybe we were considering just the household garbage as that.

City Administrator Switzer stated right.

Councilman Carson stated I just wanted the construction waste, mainly for commercial users.

Councilman Hanson stated yeah.

Councilman Carson stated there's a difference between household and construction. It's not what I intended. I don't know what everybody else intended.

Councilman Hanson stated that's what I thought it was as well.

Mayor Van Camp asked what about the person who's bringing in a trailer/truck load of a garage they tore down?

City Attorney Odgers stated the minutes from approval talk about construction waste. It did not differentiate between private parties versus contractors.

Councilman Carson stated right.

Councilwoman Gardner stated I move to approve Amended Resolution 2017-14 to document the Landfill rates in effect and include the Landfill rate previously approved by the City Council for commercial waste going across the scales. Councilman Hanson seconded the motion.

Councilman DeFelice asked do we want to amend that to say residential and concrete?

City Attorney Odgers stated it includes the residential in there because that was part of the original decision made by the Council. It's within the purview of the agenda item as written.

The motion carried 3 to 2, with Councilmen Carson and Hanson voting Nay.

6. Councilman Carson – City Administrator Switzer – Discussion/For Possible Action – Establishment of requirement that all City of Ely elected/appointed officials and staff route potential engineering questions through the City Administrator, with the City Administrator determining which items will be submitted to *Basin Engineering*.

Councilman Carson stated it's not a money savings. When we go see B.J., it's under the retainer. Over the past couple years, I've noticed B.J. getting pulled a million different ways when it's unnecessary; it might be a good idea to route it through Bob first.

Councilman Hanson stated when I want to have additional information, I like to be able to call him. Would it hamstring Carl or anybody else who needs to work on something?

City Engineer Almberg stated I want my door to be open. I don't change the path of where we're trying to go because someone comes in. For the most part, I do a great job of keeping Bob informed. People are telling me when they leave, they're going to talk to Bob. I'm supportive of keeping Bob informed because he's the head of the ship.

City Administrator Switzer stated I can't recall lately where there's been an issue with me not knowing what was brought to B.J. B.J. would not start a project without coming to me.

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

### **A. CONSENT AGENDA**

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

1. Discussion/For Possible Action –Bills.
  - January 24, 2018
  - January 27, 2018

Councilman Hanson moved to pay the bills. Councilman Flangas seconded the motion. The motion carried unanimously.

### **C. NEW BUSINESS**

1. Mayor Van Camp – Caroline McIntosh – Discussion Only – Update on the activities of the Downtown Public Plaza and Nevada Northern Rail Way (11<sup>th</sup> St. East) Beautification Teams.

Caroline McIntosh stated as you recall in October Roger Brooks did a whole week in Ely and had the grand finale at the Bristlecone Convention Center October 13<sup>th</sup>. This is a follow up on that meeting and those eighty-seven plus observations and suggestions. The City of Ely was awarded a Travel Nevada grant in the amount of \$28,000.00, with an equal match of volunteer hours. The volunteer hours are at \$20.00 an hour; currently, there have been about 500 volunteer hours logged, so about \$10,000.00 of the \$28,000.00 has already been worked on. A shout out to our Mayor, who has been at almost every meeting, Councilman Flangas and our City Engineer. Any interested citizens can come. The Downtown Beautification/Public Plaza and the Nevada Northern Railway Beautification Teams meet every three weeks with between ten to thirty people and we are adding people. We are in the process of building a web page and a *Facebook* page. We also have a steering committee that meets weekly. City Engineer Almberg has created updated concept drawings from input received at the Nevada Northern Rail Way meetings. The Nevada Northern Rail Way Team would like to obtain additional funding. The \$750,000.00 TAP grant is for two blocks, so we'll be seeking additional funding for a complete project. Steve Baer and Evelyn Grime with NDOT are part of our steering committee. Each block on Aultman Street will honor a different culture that created our community. We found out our way-finding sign plans wouldn't comply with NDOT and federal right-of-ways. Our current goal is refreshing the existing planters/benches - we'll do a theme per block that will enhance that culture but meet businesses' needs, getting their approvals - and adding bike racks/trash receptacles with a common pattern language, which are more expensive so we're hoping that we can get them welded by *KGHM* or someone else, and of course, the way finding signs. The Team is sponsoring a spring/summer window painting contest at the end of April and *Robinson Nevada Mine* has given us the funding to cover the paint and prizes. How can you help? We need help with the Clean Up initiatives and the ordinances to take care of this blight, so the steering committee is creating a resource list of companies who can help with clean up. We're not trying to give the businesses ultimatums; we want to give them help, support and resources.

Ken Kliewer stated the *Times* modeled their old building to match the Depot. We could also put up some false fronts.

Pat Robison stated I would like to encourage more people to come out and all suggestions are taken seriously.

Mayor Van Camp stated I'd like to thank Caroline and the other committee members.

2. Mayor Van Camp – Councilman Hanson – NNRy President Mark Bassett – Discussion/For Possible Action – Approval of Letter in Support of opening the railroad track from the Nevada Northern Railway Museum to the White Pine Public Museum through a Nevada Department of Transportation "Transportation Alternatives Program" grant to be applied for by the Nevada Northern Railway Foundation; upon information and belief, there is no fiscal impact to the City.

NNRY President Mark Bassett stated we have the opportunity for what NDOT calls a TAP grant, specifically Historic Transportation. We're in the process of putting the grant together and the goal of the grant is to open up the track between the Railroad Museum and the White Pine Public Museum; as we do that, we do have a walking trail between the two museums and thought we'd ask to have that paved at the same time. We have people who come all the time that want to ride

the train and we just can't run trains at any time. We have a small locomotive that we can use and it should increase visitation to both museums.

Councilman Hanson moved to approve a letter in support of opening the railroad track from the Nevada Northern Railway Museum to the White Pine Public Museum through a Nevada Department of Transportation "Transportation Alternatives Program" grant. Councilman Carson seconded the motion. The motion carried unanimously.

## B. OLD BUSINESS


1. Council Members – City Attorney Odgers – Discussion/For Possible Action – Consideration and possible approval of City Planning Commission's January 26, 2017 recommendation to 'grandfather' in the six or seven recreational vehicles in place at the *Apeceche Trailer Park* on January 26, 2017, as per Judge Maddox's December 22, 2017 Order in Case No. CV-1707087 requiring that the City Council re-consider this matter.

Councilman Carson stated My father Keith Carson and my step-mother Paula Carson own a trailer park two blocks from this location. I will be abstaining from this. Last time this got dropped in front of us I had an ethics violation charge. The Ethics Board did find me Not Guilty on it, that I could vote on this matter, but I choose not to head down that road again.

City Attorney Odgers read the portion of Judge Maddox 's order appearing below and stated in your packet you have a copy of Judge Maddox's signed order .

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner's request to require the Ely City Council to consider, on the record, the recommendation of the City of Ely's Planning Commission to "grandfather" the six or seven recreational vehicles until the current occupants leave or pass away, or consider some other variation of grandfathering the residents who were living in recreational vehicles at 730 Avenue C, Ely, NV on January 26, 2017. This Order should not be interpreted as a requirement that the City Council grant such a request, only that they consider the merits of the request on the record and document, on the record, their reasoning for approving or denying the request of the Petitioner.

ORDERED this 22<sup>nd</sup> day of December, 2017.

  
SENIOR DISTRICT COURT JUDGE

Julie Cavanaugh-Bill stated I'm an attorney from Elko and represent Gloria Labra, who is the current owner of what formerly was the *Apeceche Trailer Park*, now called *Gloria's Trailer Park*. We're requesting the approval of the Planning Commission's recommendation, so that the recreational vehicles can be 'grandfathered' in. In the minutes from the January 26, 2017 meeting it was stated there were six or seven recreational vehicles. Unfortunately, one of the tenants passed away last summer, so there are in fact five recreational vehicles at issue here. All of these tenants pre-existed before Ms. Labra purchased the trailer park; some of them would experience extreme economic hardship if forced to move and apartment housing in the community is limited. So, we would ask that the Council approve to allow those residents to remain living there until they either choose to live elsewhere or pass away. We submitted to the Council some letters confirming the compliance in terms of voltage, amps, electrical overhead lines and a backflow system; things that she's been doing and making sure that are in compliance over the course of the last twelve months. Unless the Council has questions, we ask for that recommendation to be approved. At the time of that meeting last year – I've read through the minutes and Mr. Odgers and I had numerous discussions – it appeared the Council focused on



the application for Special Use permit, and the Judge noted it on the record that the recommendation about the 'grandfathering' was not considered at that meeting.

Councilman Hanson moved to approve the City Planning Commission's recommendation to 'grandfather' in the five remaining residents in recreational vehicles currently in place at *Gloria's Trailer Park*. Councilman DeFelice seconded the motion.

Councilman Flangas asked on this matter as the sitting chairman of the Planning Commission when this recommendation was made to 'grandfather' in, is it proper for me to again vote?

City Attorney Odgers stated you're now sitting on the City Council and you're free to participate.

Councilman Hanson stated I looked at the documentation about the power company coming out and checking everything. It appears that every concern . . .

City Attorney Odgers stated before you go down that road, let's have Mr. Christiansen come up.

City Building Official Christiansen stated if you should pass it, the things that were looked by *Mt. Wheeler*, by *JW Electric* . . . ; this is all site work. It's not for each individual unit. So, I would ask if you do pass this is I've given the Attorney the prescriptive codes required for RV specific sites. What they're talking about right now is for the park and onto the property, for the water that comes into the property, not where it's at for each unit.

Councilman Hanson asked is that the responsibility of the individual unit?

City Building Official Christiansen stated that's the responsibility of the park owner, the RV park owner.

City Attorney Odgers stated it's not a recreational vehicle park. If you ask Mr. Christiansen when it was set up, was it set up as an RV park or as a mobile home park?

City Building Official Christiansen stated as a mobile home park.

City Attorney Odgers stated so in lies the first ultimate problem which is that the property – while it may have been non-conforming use in the past – the City Council made the decision back in January of 2017 not to allow it to remain as a recreational vehicle park. Judge Maddox found error because we did not enter into negotiations or discussions regarding whether or not you wanted to 'grandfather' them in on the record. However this turns out today – approval or disapproval – the discussion needs to focus on that issue alone. We know it's not set up for an RV park. We know, and Judge Maddox supported, that you don't have to re-zone it; there's sufficient evidence relative to that. So the focus of your discussion needs to be on whether or not A. You want to do it in terms of our master plan; B. If you don't want to do it, why don't you want to do it in terms of the master plan requirements. By this time, you are all familiar with the ordinances pertaining to recreational vehicles in a residential part of town. This would have to be classified as a C-2 zone and C-2 zone by definition is a general commercial district. The purpose of the general commercial district is to provide a commercial district for business activities normally associated with the sales, distribution of new or used merchandise, service facilities and business professional offices; Title 12, Chapter 6. In addition to that, it can't be a C-3 zone because C-3 will be highway, so by necessity it has to fall into the C-2 zone because RV parks are not allowed in a C-1 zone under the current covenants. Title 12, Chapter 15 discusses the issue of non-conforming uses, Again, the non-conforming use may have occurred as late as 1986 or as early as 1986. When your predecessors created your ordinances, they created very specific decisions, such as recreational vehicles have to be in a C-2 zone or a C-3 zone, though it can't be in a C-3 zone because there's no highway access. I recommend against it for the same reasons today as I did in 2015. It does not conform to your Master Plan. She is surrounded on all sides by residents, either an M-2 zone or an M-3 zone. You have issues relative to NRS 118(B) that are going to have to be complied with to make it a recreational vehicle park. On top of that you're going to have to meet all the building code requirements to make it a recreational vehicle park. The fact that it's currently set up for a mobile home park versus a recreational vehicle park is again, proof of what the intended purpose of that property was, which is a mobile home park. We've denied applications, and Brad and I have worked diligently every time we find a recreational vehicle in a mobile home park to notify the owner it needs to be moved. We've

notified people when they're using a recreational vehicles inappropriately in their single residential units. This will be going way against what the movement of the City Council was in 2015. So, my recommendation would be to disapprove the Planning Commission's recommendation for 'grandfathering'.

Councilman Hanson stated the reasons for 'grandfathering' would simply be on a humanitarian basis for those who are tremendously impoverished, who would not be able to find any place else . . .

City Attorney Odgers stated Mr. Hanson, I'm going to stop you. There's no evidence of these impoverishments; none has been provided. None was provided previously. You're making an assumption.

Councilman Hanson stated I'm making an assumption based on what I've heard tonight by the plaintiffs. The RVs I've seen as I've driven by there don't bespeak a great deal of financial wealth. I think from a humanitarian basis it would be desirable to have those these folks 'grandfathered' in.

Councilwoman Gardner stated if we 'grandfather' them in, and any of your RVs move out, you can't put another RV back in.

City Attorney Odgers stated it wouldn't even just be the RV, it would be the occupant. So, if the occupant left, that goes away.

Councilman Flangas stated some of the people living in these RVs came before the Planning Commission and they were senior elderly people, with a minimum amount of finances to continue living; that was one of the reasons why it was recommended to 'grandfather' those in at that time because as times progress, they will disappear. To this day I find that the 'grandfathering' clause would be more than adequate to allow. As they are deceased or move, then it cannot be replaced by another one.

Councilwoman Gardner asked on all this information we got, that's just for the water line going in, the power line; it's not each RV.

City Attorney Odgers stated correct. It is not set up . . .

Councilwoman Gardner stated do they have to do their upgrade for each RV to make it legal?

City Building Official Christiansen stated yeah. There are some things that have to be done. Where you're getting your water from at each site, those have to have an anti-siphon valve, which screws onto the water spigots; it prevents the water from going back into the system. These are all safety measures.

Councilman Hanson asked is Ms. Labra prepared to pay for those changes to bring it up to that standard?

Julie Cavanaugh Bill stated yes, she is and we would ask for ninety days if that's reasonable to the City Inspector.

City Building Official Christiansen stated yeah.

Julie Cavanaugh Bill stated to provide that it would be in. All of the RVs are skirted. I believe that the back ones she had in there get checked individually, but she's more than willing to have the City inspector come out and make sure that they're all meeting safety standards. With respect to Mr. Odgers' comment about the zoning, M-1 and C-2. Ms. Labra is not asking at this time for a Special Use Permit or re-zoning, just to 'grandfather' them in to allow these people to continue living in these homes and not be forced out. I think it is a humanitarian thing in the balance. I think it's a fairness issue. There was a lot of confusion about the notice and what notice was given. When the City changed it years back, people weren't noticed. We reviewed the list of people of who received notices and it was only those individuals on private residential properties that had an RV that someone was residing in. So, the tenant, the owner of the parks didn't received notice until that March 2016 meeting, of which some of the parks still did not have notice; Ms. Labra said as the park owner, she would have been present. The number one thing is Council Member Hanson's comment that we have five people who have lived here for at least

several years, one for ten years, and these are their homes and the testimony provided before the Commission demonstrated that they would have economic hardship if they were forced to leave.

Gloria Labra stated when I first bought the trailer park, I was approached by Odgers saying that I was going to be receiving a change of zoning; I did not understand what he meant at the time. When I received the letter that he said, and actually, I didn't even receive that letter because I did it when I was at the City because I was working at the City. Then I went to my brother-in-law and said if he had received this letter and he said 'No'; he had not received any letter before. I was worried about what was going to happen to my business, so I talked to Brad Christiansen about what the changes I had to do and it was expensive; he said not to panic, it wasn't going to be that much. Look at where we're at. I've spent \$16,000.00 to pay her for a mistake that you guys, somebody made. I just wanted to say that I was talked to that it wasn't going to be a big issue to change this and it wasn't going to be a problem; they didn't really say the truth of what's going on.

Councilman Hanson's motion passed 4 to 0, with Councilman Carson abstaining.

4. Councilman Hanson – City Administrator Switzer – Discussion/For Possible Action – Pursuant to City Code 1-5-5 (A), Approval of Resolution 2018-01 to Change the Day and Time of the Ely City Council regular meetings to 8:30 a.m. on the second and fourth Fridays every month.

City Administrator Switzer stated part of the impetus behind this was to save monies in the General Fund. The main issue would be the overtime pay for Jennifer Lee. Upon further analysis, twenty-five percent (25%) is charged against the General Fund and seventy-five percent (75%) goes against the Enterprise Funds. The other factor would be if other staff were required to attend and they would be on overtime as well.

Councilman Carson stated if you wanted to move it to day time, Friday would be a bad day because it's a travel day. These meetings do drag on forever. If we did our homework more, we will have reached out to Bob and Chuck and these meetings would speed up.

City Administrator Switzer stated we've implemented these agenda reports for critical financial impact on the City.

5. Council Members – City Administrator Switzer – Discussion/for Possible Action – Acceptance of City Administrator's General Fund Expenditure Reduction Plan, to include a reduction-in-force affecting the General Fund.

City Administrator Switzer stated at our last meeting, one of the take-aways was that the Council desires formulations for policy for ways to solve problems or issues. As the Agenda Report concludes, the City Treasurer has given a report to this Council for the remaining part of the fiscal year. This is just the beginning. I will be coming with additional recommendations. On page 2 under the financial analysis \$50,995.00 is incorrect in that the local bargaining agreement requires thirty days-notice to any employee laid off. My best estimate is that the City will realize \$43,250.00 of total savings if the Council moves forward with this plan, which includes elimination of one Parks position, cutting Animal Control to half time and a hiring freeze on temporary summer help.

Councilman Carson asked are you taking into consideration that Cracraft will need help, so we'll be pulling from another department?

City Administrator Switzer stated this number is based solely on having two full-time in Parks/Cemetery. Our parks may not be mowed once a week.

Councilwoman Gardner stated as far as the Cemetery, people pay perpetual care and that Cemetery needs to be taken care of.

Councilman Carson stated I don't see Mike surviving without the help he has now.



City Attorney Odgers stated as far as Animal Control is concerned, I have an issue relative to the Animal Control Interlocal Agreement requiring us to maintain a full-time Animal Control officer; while entertaining a need to reduce the expenditures, there may be a corresponding reduction in the revenue coming in from the County relative to that position.

City Administrator Switzer stated I have a different opinion to that. When the County helps us collect for our Interlocal Agreement on past due landfill charges, I'll get concerned about having a half-time position in the Animal Control.

City Fire Chief Rivera stated since the Fire Department is funded through the General Fund, there's been heresay there may be a reduction in my work force. I only have four people and we're talking about public protection. The Volunteers have stepped up and funded a lot of things. I'd hate to see my workforce reduced over something we had no control over.

6. Councilwoman Gardner – Discussion/For Possible Action – Approval of First Reading of Ordinance 710, Bill No. 2018-03, an Ordinance amending City Code Title 3, Chapter 1, Section 4 General Business Licenses, to change the due date of all business licenses to July 1 of each year, to allow for the pro-rating of business licenses for businesses starting on a date other than July 1 of each year.

City Administrator Switzer reviewed the New Business fee chart below and stated on October 8, 2015, the City Council changed business license renewal periods to one year from obtaining the original license; this reverts that back to having all business licenses due July 1<sup>st</sup> of each year.

**Business License Fee Example for 2018-2019**

**THIS APPLIES TO NEW BUSINESSES  
ALL EXISTING BUSINESSES WILL BE BILLED FOR JULY 1**

Assumption: \$120.00 annual license fee. Below is an example of the charges to a business under the amended ordinance

<u>Due by Month</u>	<u>Amount Due</u>	<u>Next Renewal</u>
March 2018	\$ 40.00	7/1/2018
April 2018	30.00	7/1/2018
May 2018	20.00	7/1/2018
June 2018	10.00	7/1/2018
July 2018	120.00	7/1/2019
August 2018	110.00	7/1/2019
September 2018	100.00	7/1/2019
October 2018	90.00	7/1/2019
November 2018	80.00	7/1/2019
December 2018	70.00	7/1/2019
January 2019	60.00	7/1/2019
February 2019	50.00	7/1/2019

Councilwoman Gardner moved to approve the First Reading of Ordinance 710. Councilman Hanson seconded the motion. The motion carried unanimously.

7. Council Members – City Administrator Switzer – City Treasurer Trask – Discussion/For Possible Action – Acceptance of Corrective Action Plan for the over expenditure in the Fire Protection/Street Improvement Fund, noted in the Nevada Department of Taxation's January 25, 2018 letter, pursuant to NRS 354.6245.

City Treasurer Trask reviewed the Nevada Department of Taxation January 25, 2018 letter to the City of Ely and the Fiscal Year 2017 Fire Protection/Street Improvement Fund Budgetary Compliance plan appearing below.

January 25, 2018

Robert Switzer  
City of Ely  
501 Mill Street  
Ely, NV 89301

Re: Plan of Corrective Action – Fiscal Year 2017

Dear Mr. Switzer:

Pursuant to NRS 354.6245, the Department of Taxation is charged with the review of all annual audits to determine their compliance with statutes and/or regulations. The department must also identify all violations of statute and/or regulations reported therein.

On approximately January 12, 2018, the Department received the annual audit report for Fiscal Year 2017, in which the auditor noted violations of statute and/or regulations on page 91. Based on the evaluation the Department of Taxation has found the plan to be satisfactory.

However, the auditor overlooked an over expenditure for appropriations in the **Fire Protection/Street Improvement Fund**, in the Streets and highways Function. Please submit the district's plan of corrective action to correct the violations (required pursuant to NRS 354.6245) by February 26<sup>th</sup>.

If you have any questions, please call me at (775) 684-2027. My e-mail address is as follows: [sulewis@tax.state.nv.us](mailto:sulewis@tax.state.nv.us).

Sincerely,



Susan Lewis, Budget Analyst  
Local Government Finance

## **Corrective Action Plan**

### FY2017 Fire Protection/Street Improvement Fund Budgetary Compliance

The Fire Protection/Street Improvement Fund's function budgets will be monitored and analyzed monthly. Adjustments, appropriations or augmentation as allowed by NRS will be used to bring these function budgets into compliance. Our outside accounting firm, Hinton & Burdick, will also be reviewing and making professional recommendations as needed.

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Mayor Melody VanCamp

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Council Member Kurt Carson

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Council Member Jolene Gardner

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Council Member Marion Hanson

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Council Member Anthony DeFelice

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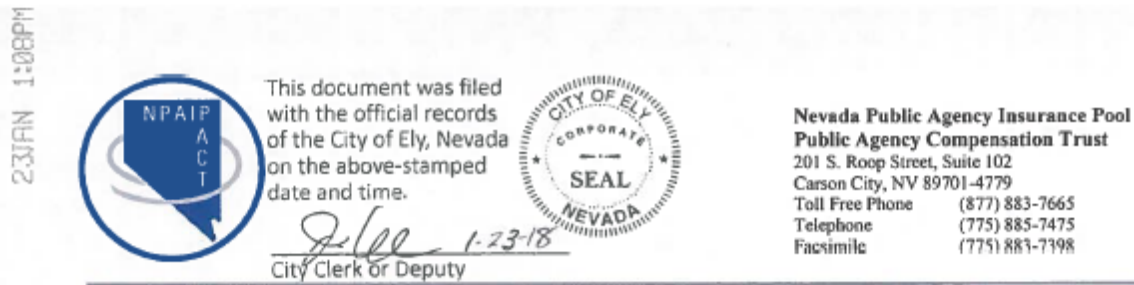
Council Member Ernest Flangas

Councilman Hanson moved to accept the Corrective Action Plan for the over expenditure in the Fire Protection/Street Improvement Fund, noted in the Nevada Department of Taxation's January 25, 2018 letter. Councilman Carson seconded the motion. The motion carried unanimously.



8. Council Members – City Attorney Odgers – Discussion/For Possible Action – Acknowledgement of January 23, 2018 filing by City Attorney Odgers of a summary of all claims made against the City of Ely for tortious conduct, pursuant to NRS 41.0385.

City Attorney Odgers reviewed the tortious conduct claims summary report appearing below.



### **MEMORANDUM**

**DATE:** January 18, 2018

**TO:** Attorneys for POOL Members

**FROM:** Melissa Mack  
Accounting Tech

**RE:** NRS 41.0385

NRS 41.0385 requires that the attorney for each local government must file with the clerk of it's governing body by February 1<sup>st</sup>, a summary of all claims made against that government for tortious conduct. The summary must be categorized by wrong alleged and certain details provided for each claim. A copy of NRS 41.0385 is attached.

We made an abstract of the POOL's claims records for claims made during 2017. The qualifying tort claims have been transferred to the attached summary of claims form to assist you in complying with the law by February 1, 2018. Please make sure to advise the member to file a copy with the clerk or secretary of their board; or if this does not apply then the report is to be kept on file so that if a public request is made to see it, it will be available. We **do not** need a copy of the report back confirming the filing of the report.

If your agency was not a member of the Nevada Public Agency Insurance Pool during all of 2017, you should search your records for other claims to be added to the report. Also, if you know of any claims meeting the criteria under the law that are not shown in our report, please amend the report accordingly.

If you should have any questions concerning these requirements, please call me.

Enclosures

cc: Pool Liaisons without enclosure  
Pool Agents without enclosure

**SUMMARY OF CLAIMS**  
**FOR 2017**  
**CITY OF ELY**

No admission is made for any liability for such claim or any amount requested for any claim. This report is prepared pursuant to statutory requirements.

**TOTAL OF ALL CATEGORIES (I - III)**

TOTALS:	P#	1	P\$	997.95
	O#	1	O\$	Unknown
	J#	0	J\$	0
	C#	2		

See attached for detailed breakdown per category of wrong alleged.

**STATUS CODES:**

P =Paid  
O =Open or Pending  
J =Judgment entered but not Paid  
C =Closed with no payment

*Amounts shown include fees and costs (if any).*

Councilman Carson moved to acknowledge the January 23, 2018 filing by City Attorney Odgers of a summary of all claims made against the City of Ely for tortious conduct. Councilman Hanson seconded the motion. The motion carried unanimously.

## 9. PUBLIC COMMENT

Jim Alworth read his letter appearing below into the record and stated Jim Alworth, 805 Avenue I. I was glad to hear you folks did nothing on the reduction in force.

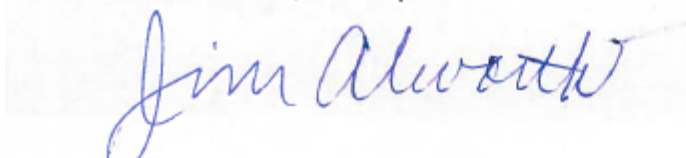
Ok, if you are able to pull the City out of this financial crisis what are the plans for the future? Have you thought about meeting with the School District, Hospital District and the County to try and renegotiate the CTX distribution for a greater percentage? The School District and Hospital would probably think why give the City a higher percentage when the County is going to get 25% of an increase. You have to get that 25% clause out the law enforcement agreement. The Attorney should have never allowed that, no matter what he was supposedly told to do. The Net Proceeds of Mine Tax is basically free money, visit with the County, try and get a larger portion during your cash shortfall. But, they need every dime for the new complex they are building, so good luck, but at least try. I would hope you are aware of the new mines that are opening in this area, plus the expansions of other mines. Have a mine representative come to a Council meeting so you have an idea of what their work force needs are, when construction will begin, start-up dates and projected mine life. All of this could result in a possible increase in Net-Proceeds-of Mine-Tax, your CTX tax increases due to their construction and equipment purchases. Start working on other sources of revenue, it is apparent your current income is not going to cut it. Don't put all your eggs into the revenue generated from marijuana proceeds, which can change at the whim.

You need to be thinking and maybe you are, about housing, what is the available housing in the area? Ask the local realtors and relay this information to the mines, construction companies, or they are just going to be bused or housed in RV parks outside the City. Look to the future!

If you want more tourists, you need to start promoting tourism better, be more pro-active, don't wait for the Railroad and the Tour and Rec Board to toot your horn. They are advertising in the Nevada Magazine along with almost every other City in the State, I see nothing from the City of Ely. Use the room tax money for what it was intended for, not to bail out the General Fund. Use it for advertising and promoting what Ely and what the area has to offer, continue to light up the dark streets with new low energy LED street lights. Improve the streets in the City, use it for property abatements, check into the cost for a billboard in Wells, Nevada, promoting Ely and letting the travelers know it is another 4 hours to Las Vegas from Ely. The more tourists you get to stay in the local hotels/motels the more money you collect and it doesn't cost the residents a dime.

But it is going to take manpower to accomplish these improvements and if you keep reducing your workforce down to just a few individuals, get ready to pay for contractors to do the work and you will run out of funds very quickly.

Plan, plan and continue to plan! Running the City needs to have more thought put into it other than how individuals can personally benefit.



Kerri Pintar stated Kerri Pintar, 1417 Mill Street. Love or hate Jim Alworth; everybody has their own opinion, but when he was our city clerk we were not in the position that we are in right now. We're paying a city administrator over \$100,000.00 a year in benefits and wages and paying the attorney \$133,000.00 or whatever on top of the \$67,000.00 that paid out of the General Fund for the S & S litigation; that makes Mr. Odgers worth \$200,000.00 in a year. Nobody's worth that. You people need to look at this. I understand not wanting to have the meetings on Friday because people can't run for these positions. There's no one in Ely right now that would file for one of these. People can't separate the job of the politics from the job outside of here, so nobody's going to want to run for these positions. Come 2020 when the elections come up, we're going to have been in receivership by the State for at least a year at the rate you guys are going, trying to spend this money. So, I hope you can figure out how to pull us out of the hole by June 30<sup>th</sup> because if not, all these discussions that we're having are a moot point.



George Chachas stated I called to the attention earlier of the Planning Commission people regarding *Whitmer Realty* selling a home on Lyons. I don't care if they're from out of town; they still need a business license. That particular home is going through foreclosure; what about the landfill, sewer, water billing? If anything happens to the previous owner, where are we at now? On Murry Street you have two businesses that opened up; in the 400 block new concrete was put in, I asked your compliance officer to make sure ADA went in there and it did not. Why and nothing's going to happen? Because he quit. RVs have been noticed across from where you live, Sam; that's all residential, you can't see RVs parked there and yet, you're going after these folks? She spent \$16,000.00. She's providing reasonable housing. Mr. Alworth said something about housing. You guys aren't doing anything. If anything, you're trying to kill what's available here. If you restrict access to housing, it's going to be more expensive. Nobody on this Council has done anything to bring in any kind of housing development. You're paying outside billing services for your utilities. I've told you more than once my billing is incorrect. Why are you paying someone else to take your utility bills? Here you're worried about a dog catcher. The dog's in City Hall. Get the dogs out. Business licenses for peddlers. You guys are giving the peddlers an opportunity to come in here and not pay the same fees that every other business person does. Now you're worried about your income not coming in properly. You folks are the problem!

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

Councilman Hanson moved to adjourn the regular meeting of the Ely City Council at **7:29 p.m.** Councilman Carson seconded the motion. The motion carried unanimously.

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**ATTEST**