



# CITY OF ELY

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

## ELY CITY COUNCIL REGULAR MEETING AGENDA

August 23, 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 **5:01 p.m.**, led in the Pledge of Allegiance, Bob 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 Officials and Staff present:

- City Administrator Robert Switzer
- City Attorney Charles Odgers
- City Engineer B.J. Almberg
- Municipal Court Judge Mike Coster
- Deputy City Clerk Jennifer Lee

City Officials absent:

- City Building Official Brad Christiansen
- City Police Chief Scott Henriod

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

PLEASE PRINT YOUR NAME AS BEST AS YOU CAN CLEARLY FOR THE  
Ely City Council attendance list. 8-23-18

W. MALIKEN UZELBERGER \_\_\_\_\_  
 Dean Day \_\_\_\_\_  
 Kerry Spruce \_\_\_\_\_  
 Pastor Bob Winder \_\_\_\_\_  
 John Duntz \_\_\_\_\_  
 Jake Gubler \_\_\_\_\_  
 George Chachas \_\_\_\_\_  
 M. COSTER \_\_\_\_\_  
 K. McMurray \_\_\_\_\_

City Attorney Odgers stated the City Planning Commission recommended tabling the sign ordinance.

### 2. PUBLIC COMMENT

Kerri Pintar stated I appreciate that Item 8-2 was tabled because I had some concerns on it. I'm still waiting for resolution on the ordinances of the twelve to fourteen people I turned in back in April for their 'non-cleanage' of their property. I would caution the Council creating another ordinance they don't have anybody to enforce when they're not enforcing the ones in place. Under New Business B-1 on this removal of Notice and Order for Mark Moattar, I hope you're going to withdraw whatever he has from the City because he did not do these repairs; one of the complaints I turned in was on him in April for his trailer park, on the corner of Avenue M; it has more garbage today than it had then when I sent Bob the pictures and there's still a sewage pipe running on top of the ground. There's no landfill collection bin on that property and yet, nobody's done anything for that. Under Number 3, Ratification of the City Attorney's selection of *Bowers and Associates*, that distresses me because that's the Board's job to find their attorney, not the attorney's job to tell you who you should hire.

City Attorney Odgers stated this expert is not an attorney; it is an accountant. We were up on the deadline and had a litigation session where I informed the Council.

George Chachas stated on Item, 9-1 extension of an 8" water line, the Council should approve this request; this would not cost the City anything, unlike what the City did for a developer across the road. The City has yet to reimburse me for the sewer problem I cured at 681 Parker Avenue. On Item B-3 hiring an accountant service for the *S & S* litigation, is *Bowers and Associates* related or associated with any of the board members of the Nevada Northern Railway Foundation?

City Attorney Odgers stated no, they're not. They're out of New York.

George Chachas stated the Nevada Northern Railway Foundation should pay all the costs of litigation since they're the ones who failed to do due diligence; Councilman Hanson, Councilwoman Gardner and Shane Bybee should be held accountable too. On Item B-4 to evaluate your contract with *Hinton Burdick*, the Council needs to get serious and hire an accountant with a degree. In regards to the sign ordinance, you need to stop nitpicking and harassing the businesses; people with no skin in the game should not be telling others how to spend their money.

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

Councilman Hanson moved to delete Item 8-2 and approve the agenda. Councilwoman Gardner seconded the motion. The motion carried unanimously.

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

- MUNICIPAL COURT JUDGE

Municipal Judge Coster stated we turned in our annual report to the State.

- CITY ADMINISTRATOR

City Administrator Switzer stated we had the audit team from *Keddington and Christiansen* here; they completed their work, everything looks to be in proper order and they should have the report done by the end of October.

- CITY ATTORNEY

City Attorney Odgers stated as some of you know, the hard drive on my computer crashed from midnight Thursday to late Tuesday. Nonetheless, you have a copy of my opposition to Mr. Lemich' judicial review. The City has been served with a complaint by *Ely Disposal*.

- CITY ENGINEER

City Engineer AlMBERG stated last time we had talked about some STOP signs on Avenue C; I touched base with the Sheriff's office and he's started collecting information. We're working on the discharge permit for the water tanks. NDOT has requested us to reach out to the owner of an existing monitoring well that needs to be abandoned and lowered prior to the highway work; the owner was supportive and is going to get a contractor lined out. We're working diligently on the Aultman sewer stuff.

### **5. REPORTS**

#### **CITY COUNCIL**

Councilman Flangas stated last night's meeting was a good event and I hope we do something with it.

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

#### **A. CONSENT AGENDA**

**MOTION:** Move to approve the Consent Agenda items 10A-1 Minutes & 10A-2 Bills.

Moved by: Councilman Hanson Second by: Councilman Carson Vote: Unanimous

1. Discussion/For Possible Action –Minutes.
  - July 19, 2018
  - July 26, 2018
2. Discussion/For Possible Action –Bills.
  - August 16, 2018

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

1. Councilman Carson – Kerry Sprouse of *KERRYCO, LLC* and Dean Day of *Day Engineering* – Discussion/For Possible Action – Authorization from the Municipal Utilities Board and Ely City Council for *KERRYCO, LLC* to extend the City’s eight inch (8”) water main south 900 feet from the vicinity of the Public Safety Building to Madison Avenue at *KEERYCO, LLC*’s expense.

City Attorney Odgers stated the Utility Board recommended that the installation of this be no deeper than six feet on top of grade. I met with Mr. Sprouse and Mr. Day; it sounds like their intent is to develop that land next to the Sheriff’s Office, with access to/from to come off of Madison coming out onto the Pioche.

Councilman Carson stated I’ve worked with Mr. Dean Day on many projects since I was eight years old. To me it doesn’t matter who the engineer is on this job. I haven’t talked to Dean or Mr. Sprouse about this project, but I talked to B.J. today about it. It’s a great asset to our utility line. I agree we need to keep that six foot maximum depth.

Councilman Flangas stated my family sold that property in question to Mr. Sprouse, so I hope not to show any prejudice whatsoever on the development.

City Attorney Odgers stated no abstention is required because that sale occurred many years ago.

Councilman Hanson moved to extend the City’s 8” water main south 900’ from the vicinity of the Public Safety Building to Madison Avenue at *KERRYCO, LLC*’s expense and to provide that the depth be no greater than six feet (6’) below future grade. Councilman Carson seconded the motion. The motion carried unanimously.

**10. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE ELY CITY COUNCIL.  
B. NEW BUSINESS**

1. Council Members – Mark Moattar – Discussion/For Possible Action – Removal of Notice and Orders on Mark Moattar’s property located at 682 Mill Street for failure to submit an emergency repair building permit application to the City building official within the next business day per IRC 2012 Section R105.2.1 Emergency Repairs, installation of more than two layers of roofing material and failure to hire a licensed contractor to complete the emergency repairs.

City Attorney Odgers stated since I do not see Mr. Moattar, I request that no action be taken and that the Notice stay in place; it is commercial property, so he is required to have a properly licensed commercial contractor.

2. Councilman Hanson – Discussion/For Possible Action – Approval to send a written Fire/EMS Services proposal to the White Pine County Commission.

Councilman Hanson stated I have had several members of the community approach me regarding the current situation of response to the rest of our community from our Fire/EMS personnel and it has been suggested by quite a few of these individuals to do a straight across exchange of fire and police services. Having discussed it with our Chief and other individuals, it would probably not be a straight across exchange. From the public safety point of view of us being able to respond outside the City limits, we need to make a push to the County to let them know we’re interested in doing something to get service back there, even if it doesn’t foresee such a drastic change as them dissolving their fire district; it has been suggested that the BLM would be interested in leasing the property which they have there. We’ve got several new County Commissioners starting in January and this would allow them time to ruminate upon this proposition. Even if the current County Commission is not disposed, we could consider allowing our EMS personnel to respond outside City limits.

Councilman Carson stated I’ve spent hundreds of man hours on this and I’d be willing to do it again if something changed or somebody came to the table. My feeling is we sent them a letter and they haven’t countered anything. The timing’s not there yet. We are making small steps working with the County and I would like to get a lot of the loose ends buttoned up because that’s the most contentious one.

Mayor Van Camp stated those folks who are complaining to you should go to the County Commission.

Councilman DeFelice stated a resident approached me about two critical community issues: police safety and fire safety. The County can’t support Fire and Emergency Services the way the City can. It doesn’t make any sense for the City to get their own police department because they do that better than we do. It’s a matter of exchanging services. One of the residents wanted me to make a comment on the record that there’s a simpler way to make things better for our community.

Councilman Hanson moved to send White Pine County a letter stating that the City is willing to enter into negotiations again for EMS services and potentially exchanging services, police for fire. Councilman DeFelice seconded the motion. The motion carried 4 to 1, with Councilman Carson voting Nay.

3. Council Members – City Attorney Odgers – Discussion/For Possible Action – Ratification of the City Attorney’s selection of *Bowers and Associates* as an accounting and shortline leasing subject matter expert for the lawsuit against *S & S Shortline Leasing*, with costs of expert services to be equally divided between the City of Ely and the Nevada Northern Railway Foundation.

City Attorney Odgers stated we had a requirement to retain and disclose our experts by last Friday. I retained them. The Foundation has retained them. We’ll split the cost equally. This is important because they’ll add some clarity to certain terms. There’s no retainer.

City Administrator Switzer stated for the record, we will be liable for four to five thousand dollars.

Councilman Hanson moved to ratify the City Attorney’s selection of *Bowers and Associates* as an accounting and shortline leasing subject matter expert for the lawsuit against *S & S Shortline Leasing*, with costs of expert services to be equally divided between the City of Ely and the Nevada Northern Railway Foundation. Councilman Carson seconded the motion. The motion carried unanimously.

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

1. Chairman Peeler – Public Hearing – Discussion Only – Consideration of a Petition for Vacation or Abandonment of a Road or Easement. The applicant, Robert Biamonte, wishes to have the streets and or easements between the Applicant’s Ely Street properties, from Third Street to Second Street, abandoned. The proposed abandonments are located between APN’s 001-141-02, 001-141-03, 001-141-04, and 001-142-07, Ely, Nevada.

Kerri Pintar stated Kerri Pintar, 1417 Mill Street. From the Assessor’s website, parcels 2,3, and 4 are attached to a fifty foot road in front of them that the City fathers founded on a map in 1907. However, parcels 001-45-04 and 001-45-03 were already abandoned by this Council - it was the Hase property that got abandoned, so those houses could be sold; so each of those parcels gained twenty-five feet where it was abandoned on the road, so that leaves fifty feet on either side of those parcels, but only twenty-five feet in front of them, attaching to these three parcels in question: No.s 2, 3, and 4. As far as parcel No. 7, it jumps over the road; so that’s another fifty foot road that he’s asking to have abandoned. I don’t have a problem with you abandoning these sections of road because I don’t believe they’re ever going to be developed. However, it comes to the issue that you cut off access behind those houses, should this person choose to close those. Blackridges and Jacobsens couldn’t access the back end of their property unless they come from the side; there’s no way for them to come back through, which seemed to be a major issue for a previous Council when it came to my road. I would ask the Council to look at that before they do that and see if Mr. Biamonte turned in easement releases from *Mt. Wheeler* and the other people that might be affected. We turned in one from *Mt. Wheeler* and still didn’t get it.

George Chachas stated I’m against the abandonment of the roadway. That alleyway behind the Hase and Isshi property is not fully abandoned; it was abandoned to the point where you allowed the structures that were built by the Hases or the Isshis on the alleyway to comply with basic fire codes. That alleyway, Ely Street east needs to stay open for services; it was plotted out years ago by engineers and there’s a reason for that. Third Street should not be abandoned. If you cross the railroad right-of-way, behind 7<sup>th</sup> was at least one home, maybe two; the homes burned down. Also in that area you had an accident with the Railroad; the train stopped at that point and that’s where your fire department/ambulance responded. It should also be a drop off point for the train because the staircases at the Renaissance Village stairs don’t meet ADA. Across from Third Street there’s a gate that accesses Mr. Bath’s property at the top of the hill.

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

1. Chairman Peeler – Discussion/For Possible Action – Consideration of a Petition for Vacation or Abandonment of a Road or Easement. The applicant, Robert Biamonte, wishes to have the streets and or easements between the Applicant’s Ely Street properties, from Third Street to Second Street, abandoned. The proposed abandonments are located between APN’s 001-141-02, 001-141-03, 001-141-04, and 001-142-07, Ely, Nevada.

City Attorney Odgers stated the Planning Commission took no action; it never received a motion. I would draw your attention to City Code 8-1-0 (appears below). There’s seven criteria and this would be considered a full abandonment based on the application. The applicant indicates the abandonment will be the entire street length and width on Third. On full abandonments, you have to answer “No” to all of the following: 1. Is the roadway currently used as access to any private or public property? You’ve heard



from Mr. Chachas, as well as Ms. Pintar that there are properties on the north side that Third Street does gain access to. More importantly as George indicated – we had Don Purinton in here earlier – the train had an accident and that’s where all of the Fire/EMS arrived at to remove those people from the train and get them treatment. So, it is an access point for the Railroad and the furthest point west where they can provide services until they get to Ruth. 2. Is it presently used as a route for any utility? Yes. We have a water line that runs up Third Street, underneath the railroad track to service the properties on the north side of the railroad. 3. Is the roadway or alley wide enough to be practically used as either a utility or roadway corridor? This was already answered. 4. Will the proposed abandonment isolate any property from public access? Yes, because there’s no road on the north side of the railroad tracks that would allow people access; you would require them to install a road to access their properties. 5. Will the proposed abandonment diminish in any way the access of safety or utility services to any property? Every single City staff member has advised not to abandon this. 6. Does the roadway proposed for abandonment have future potential as either a utility or roadway corridor? It’s a road now. 7. Does the roadway proposed for abandonment have potential as a walking trail, linear park, buffer zone, or any other public service? Again, we’re utilizing it now. Under NRS 278.480 you have to determine whether the abandonment would materially injure the public.

#### **8-1-0: STREET AND ALLEY ABANDONMENT CRITERIA:**

A. It is the policy of the city council to review each and every request for abandonment of a portion of any street or alley as defined by Nevada Revised Statutes using the following criteria to ensure all requesting parties are treated equally:

1. Is the roadway currently used as access to any private or public property?
2. Is it presently used as a route for any utility?
3. Is the roadway or alley wide enough to be practically used as either a utility or roadway corridor?
4. Will the proposed abandonment isolate any property from public access?
5. Will the proposed abandonment diminish in any way the access of safety or utility services to any property?
6. Does the roadway proposed for abandonment have future potential as either a utility or roadway corridor?
7. Does the roadway proposed for abandonment have potential as a walking trail, linear park, buffer zone, or any other public service?

Councilman Hanson moved to deny Robert Biamonte’s petition to abandon the streets between his Ely Street properties. Councilman Carson seconded the motion.

Councilman Flangas stated living right there, you have a fire hydrant at the corner of Ely Street and Third Street. If you close that off, the next fire hydrant is clear down on the corner close to the *Jailhouse*, so that’s not feasible to close that road. There was a road that crossed the tracks a little further to the west that went to property on the hillside; I’m familiar with it because I used to board my horses there and there is a water line and a sewer line going to that property. Denying this would be the most logical thing to do. That street is very heavily used when there are functions at the Renaissance Village.

Councilman Hanson’s motion to deny Robert Biamonte’s abandonment petition carried unanimously.

#### **8. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE ELY CITY COUNCIL AS RECOMMENDED BY THE CITY PLANNING COMMISSION.**

1. Chairman Peeler – Buzz Rosevear, PLS, *Basin Engineering* Survey Manager – Discussion/For Possible Action – Approval of Parcel Map for property located at ¼ Section NW Sections 22, Township 16N, Range 63E. The general location of the property is North of the Bypass, Ely, Nevada (APN 001-491-30). The applicant, *Ely Meadows, LLC*, desires to subdivide the parcel.

City Attorney Odgers stated I need to disclose that the principal owner of *Ely Meadows, LLC*, Bert Woywood, and his son three weeks ago bought ten tons of hay from my son and paid the normal rate everybody else does. The Planning Commission recommended approval. I met with Buzz Rosevear on this; he indicated the Woywoods have been approached and would have a buyer for half of it.

Councilman Hanson moved to approve *Ely Meadows, LLC*’s parcel map for property located at ¼ Section NW Sections 22, Township 16N, Range 63E, APN 001-491-30.

City Attorney Odgers stated just so we’re clear, this is not a subdivision map.

Councilman Carson seconded Councilman Hanson's motion, which carried unanimously.

4. Councilman Carson – Discussion/For Possible Action – Evaluation of contract between the City of Ely and *Hinton Burdick CPAs* for Payroll and Accounts Payable services.

City Attorney Odgers stated you recall when *Hinton Burdick* was retained for payroll services, it was for thirty-day increments.

Councilman Carson stated I put this on here as a friendly reminder. I hope it's working out for you.

City Administrator Switzer stated yes, it is. There are still a few tasks that have to be done 'in house', such as preparing the invoices. Timesheets have to be scanned and sent to *Hinton Burdick*. One of the main things was the payroll, to make sure we have the PERS reports done and paid.

City Attorney Odgers stated I need to go back on my report. I informed you via email that we have scheduled the deposition in Salt Lake City of Mr. Flanders and his daughter regarding the *S & S* contract, so I will not be here on the 10<sup>th</sup> and then Mr. Bassett's and Mr. Gianoli's depositions will be taken in Reno on the 13<sup>th</sup> and the 14<sup>th</sup>, which means I can appear telephonically if depositions are not ongoing.

## 11. PUBLIC COMMENT

Kerri Pintar stated 1417 Mill Street, Kerri Pintar. I'm sure that Mr. Biamonte paid his \$500.00 and I'd ask the Council to consider refunding his money because that was not granted, less the advertising fees he had to pay. It's not fun to pay that money and then get told "No". My utility bill got put in my neighbor's mailbox last week and then the neighbor asked me why my bill was \$25.00 less than his. My neighbor came to City Hall and found out for the two years he's lived there, he was assessed as though he lives in Mineral Heights. When you get called from a title company or someone comes in to change the water into their name, send someone out to verify they're being charged correctly. Maybe pull five houses a month to send Carl out to check. As people sell their houses, it should be addressed. The girl gave him one month's credit and said she didn't have authority to give him anymore, so I referred him to Bob.

City Administrator Switzer stated can you get with me afterwards?

Kerri Pintar stated yes.

George Chachas stated ongoing concerns regarding signs on Avenue D; two junk yards on Avenue D; a contractor working in the 1,000 block of 15<sup>th</sup> Street; non-ADA access at 790 Avenue I; and unmet ADA regulations on 7<sup>th</sup> Street.

City Attorney Odgers stated Mr. Chachas takes great pleasure in exercising his first amendment right. Even though it may be offensive, that individual has the right to put "Blow Me" on his sign on his fence. As far as the two junkyards Mr. Chachas keeps referring to, those are zoned manufacturing, so there's no issue to address.

Bill Sanford stated last night you guys all attended that deal. That was neat. What would it take for all you guys and them guys once a month to sit down and hash all this stuff? Kurt said 'What if . . . ?' He said 'Send them a letter'. Why not three or four of you go to the next meeting and ask them? Quit bad mouthing each other and move on.

Councilman Flangas stated what material did they use on the Georgetown Ranch road? It is wonderful and could be used within the City.

City Engineer AlMBERG stated it was a sealant oil for the asphalt; they rolled up about two inches of that asphalt and mixed it in, just like you would do on a normal construction project with water. They mixed it back and forth across the road, sprayed the oil on it, put it back down, compacted it and made it smooth. I had a conversation today with the guy from Humboldt County that came and prepped them to do that on Georgetown. They did it in a multiple phases because of the length of the road. That oil has some emulsifiers that set up and bind, so you only have a certain amount of time to work with it.

City Administrator Switzer stated I'm looking at doing the same thing with our Landfill.

Mayor Van Camp stated and we could do a little bit on the Recycle too.

City Administrator Switzer stated yes.

City Engineer AlMBERG stated NDOT assisted and did a chip seal over the top of it.

Councilman DeFelice asked that will hold up well on a less traveled road; otherwise, it's more maintenance.

City Engineer Alberg stated yes. It is an ideal candidate for certain roads here. On a public road as they pull out of their driveway, they're going to turn their tires on it; we don't have that on the Georgetown road.

Councilman Flangas asked how much did that stretch of road cost?

City Engineer Alberg stated the first round they did it is was about \$12,000.00 worth of oil. The first time Humboldt County brought down their distribution truck for free, assisted them and showed them the process. RTC is purchasing their own oil distribution truck, so the City and County can use this piece of equipment; we could use this regularly to seal our roads and do preventative maintenance.

Councilman DeFelice stated there's a similar application where you put down the first layer and then spray tar after that. Maybe we could do some small roads with a tar base, as opposed to an oil base, and it might be more effective. I've seen the tar work on County roads that hold high traffic areas.

City Engineer Alberg stated it's a possibility. Based on the cost there, it's ideal to try these situations.

**12. 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 **6:18 p.m.**  
Councilwoman Gardner seconded the motion. The motion carried unanimously.

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

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