



CITY OF ELY

501 Mill Street Ely, Nevada 89301
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ELY MUNICIPAL UTILITIES BOARD REGULAR MEETING AGENDA

August 9, 2018 8:00 a.m. – Ely Volunteer Fire Hall - 499 Mill Street - Ely, Nevada.

1. Chairman O’Flaherty called the regular meeting of the Municipal Utilities Board to order at **8:02 a.m.**, led in the Pledge of Allegiance and asked for Roll Call.

- Chairman O’Flaherty
- Member Ken Ross
- Member Paul Holdaway
- Member Dale Derbidge
- City Officials and Staff present:
 - City Administrator Robert Switzer
 - City Attorney Charles Odgers
 - City Engineer B.J. Almberg
 - City Water/Sewer Leadman Carl Siemer
 - Deputy City Clerk Jennifer Lee
- City Officials and Staff absent:
 - Councilman Kurt Carson

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

Municipal Utility Board attendance list. 8-9-18

George Chachas	_____
RANDY LEE	_____
Kerry Sprause	_____
Dean Day	_____
BRYAN PIERSON	_____
David Sturton	_____
Shawn Hamilton	_____
Federica Parker	_____

2. PUBLIC COMMENT

George Chachas stated ongoing concerns regarding the 490’ of Murry Street project pipe; reimbursement for curing the sewer problem at 681 Parker Avenue; the City paying for a water line upgrade between *Love’s* and the Charter School; bringing the utility billing back to City Hall; the City needing to hire someone with a bachelor’s degree in accounting; and his public information request regarding the backflow requirement at 7th and Clark and the RV park next to the *Copper Queen*. My 490 Ely Street bill is still wrong.

Chairman O’Flaherty stated let it be noted that most of these concerns have been resolved.

City Attorney Odgers stated I’d recommend to remove 3C-7 due to Councilman Carson’s absence.

Chairman O’Flaherty stated Item No. 7 is removed.

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

A. CONSENT AGENDA

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

Moved by: Member Derbidge Second by: Member Holdaway Vote: Unanimous

1. Discussion/For Possible Action –Minutes.

- May 10, 2018
- June 14, 2018
- July 12, 2018

Member Derbidge abstained from the May 10, 2018 Minutes due to his absence.

Member Holdaway abstained from the June 14, 2018 Minutes due to his absence.

Chairman O’Flaherty abstained from the July 12, 2018 Minutes due to his absence.

George Chachas stated I have a concern regarding the June 14th Minutes: Under public comment, the third paragraph down it states something in regards to “his property on 7th Street”. I don’t have any property on 7th street; that property I asked in regards to who took out the permit to dig for that service. That is not my property. It belongs to the *Copper Queen*. On May 10th under public comment, fifth sentence says: “has returned the steel pipe taken from the Landfill metal pile”; I didn’t state that. I said it was taken from the Murry Street project and needed to be returned to the City landfill.

City Attorney Odgers stated Mr. Chairman, just for the record, Mr. Chachas did say that metal was coming from the landfill. That is an accurate description.

Chairman O’Flaherty stated if there’s a correction, Jennifer, change it.

B. OLD BUSINESS

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

Robinson Mine Environmental Manager Frederick Parthey stated mining continues in the Ruth pit and dewatering efforts continue from the Ruth Pit. We are pumping about 10,000 GPM, excluding 6- and 7-P; the majority of that is going to the mill for processing. Depending on what’s going on, 2,000 to 5,000 GPM is going to Gleason Creek. We continue to provide about 3,000 between 6- and 7-P, as promised to the City of Ely. At this time, there are no plans to change anything and before we do, we will let you know.

City Attorney Odgers stated the Utility Board may be aware we received a complaint through the Nevada Department of Environmental Protection regarding the Gleason Creek flow. We had NDEP out here in late June; they did an inspection based upon the overflow and as a result of that, two things occurred. 1. We had to submit a de minimus permit for those times when the tanks overflow; that was approved by the City Council. We had a date certain we had to do it through NDEP, which is why it did not come before the Utility Board. So that cost the City \$200.00 for that de minimus permit. That permit, I believe, has already been approved or at least forwarded for approval. I received an email from NDEP about two weeks ago. One of the problems identified through that investigation was our contract with *Robinson Mine* requires us to produce 3,500 GPM 24/7/365 – even through the winter time - on 6- and 7-P; that creates a problem with NDEP, both with de minimus overflow status as well as the capacity of our system. We entered into some discussions with *Robinson Mine* to curtail that during the winter time. In other words, we aren’t going to be overflowing the Court House tanks all winter long; they’re going to cut back on production in order to keep that flow at a de minimus rate. We will be getting some discussions next month. I’m waiting to hear from *Robinson’s* attorneys relative issues that need to be talked about regarding the status of 6- and 7-P, regarding the flows, etc. Mr. O’Flaherty will be involved in those discussions. Once we leave the summer months, *Robinson* is not going to be pumping 3,500 GPM out of 6- and 7- 24/7; it will go to an ‘on demand’ up to 3,500 gallons and that is to prevent NDEP from coming back at us. It will also have an impact once we start the storm drain system next year.

Chairman O'Flaherty asked was there any damage caused by the overflow?

City Attorney Odgers stated NDEP found no damage. They found no issues other than the residual chlorine within acceptable standards. They were more concerned about the fact that we were discharging without a permit.

Chairman O'Flaherty asked who filed the claim?

City Attorney Odgers stated Keith Carson.

City Administrator Switzer stated I received a phone call from NDEP yesterday. The \$200.00 permit is not valid, due to the State's error. Two years ago, the State ceased issuing these \$200.00 permits, so we will have to go through another procedure to get a temporary one.

Member Derbidge asked how much do you have to pump a minute to keep the pit dewatered?

Frederick Partey stated 6- and 7- do contribute to dewatering. The way we best run is to shut 6-P and have 7-P running. With 7-P running, it will be probably 3,000 GPM. I am not a hundred percent sure whether 7-P has the ability where we can turn it down to produce less than 3,000 GPM; that's something that we should look into. The one comment I want to make is we need to probably look at our agreement and check; I think it's 3,000 GPM.

Chairman O'Flaherty stated I think it's actually 3,200.

Member Derbidge stated but you've got to know how much you have to take out to keep the water level down.

Frederick Partey stated I do. We need to take about 14,000 GPM, which includes 6- and 7-P. However if we shut 6-P off, that will not prevent us from mining. We are just putting in a well we call 37, which will continue to dewater.

Chairman O'Flaherty stated my only concern is this was implemented by *Robinson's* additional pumping for the mine. Murry Springs, I think we used a consumption of 3,000 or 3,500 gallons flow. The mine has created this problem.

City Attorney Odgers stated I don't disagree with the mine being responsible for any fees we have to pay to the State, but where we were at was NDEP gave us a time to buy this de minimus permit. We're still in negotiations with the mine; that discussion point would be appropriate for that.

Frederick Partey stated I also got a call that Robert talked about that those permits were no longer granted. There is a way around it. We do have a discharge permit for Murry Springs, so it will probably require us to meet with the City Utility Board and decide how they want to do this. Do we want to add that overflow to our discharge permit, which would take care of issues with the chlorine? We do not put the chlorine in the water, so if it exceeds it will come back to the mine and how do we resolve this. That's the only issue. The other way is what Chuck said is to cut off, so we don't have overflow. We would just provide what the City needs and then there is no overflow. It will probably require us to have a meeting to see how this works.

City Administrator Switzer stated there would be a cost of about \$1,000.00 if the City moves forward on its own.

City Attorney Odgers stated NDOT specifically asked us if there's a way to curtail discharge once construction starts. They're already planning to do bypasses on certain sections.

C. NEW BUSINESS

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 Engineer Almborg stated I don’t have any issues with what is proposed here, but we have no idea what is going in there; I don’t know that he does. I want to make it clear that it is their responsibility to make sure an eight-inch line is adequate for what they determine for the future. I am concerned, is that water line going down? I don’t want it to be covered. We want to make sure that water line doesn’t end up twenty feet deep because it’s unworkable. They’re not requesting a will serve. When they develop it, the City will come up with connection fees. Mr. Sprouse owns lots of property around there. I would anticipate as he continues to develop further to the south this water line will be extended, along with those other extensions, and this will be the final extension that serves all of that property. In the future that water line should come down Madison in between two properties, and then we’d have an existing water line that comes up Michigan Avenue back there; it should go down the back frontage of his property, along Michigan, and then that would leave a small section of a water main that would need to go over there in the future, but it would create a looped system.

Chairman O’Flaherty moved to recommend that *Day Engineering* do additional engineering based on water and subdivision regulations. Member Derbidge seconded the motion. The motion carried unanimously.

2. Board Members – City Attorney Odgers – Discussion/For Possible Action – Approval to write off previous balance owed by Elizabeth Jefferson of \$2,049.59, including penalties and lien fee, in the amount of \$1,035.71 for 45 South Nettie Avenue, Baker, Nevada, APN 005-113-05 AND to release the lien filed on the same. The current owner is *Gateway Accommodations, LLC*, business owner David Sturlin.
3. Board Members – City Attorney Odgers – Discussion/For Possible Action – Approval to close account number 2.9268.2 for 40 South Baker Avenue, Baker, Nevada, APN 005-113-04, as there is no longer a business or livable structure on this property AND to waive the remaining balance owed by the prior owner, Guy L. Sturlin Trustee, of \$14.32; this property is owned by *Gateway Accommodations, LLC*, business owner David Sturlin.
4. Board Members – City Attorney Odgers – Discussion/For Possible Action – Write off previous balance owed by Guy L. Sturlin Trustee of \$731.27, including penalties in the amount of \$235.77, for 55 East Carson Street, Baker, Nevada, APN 005-113-01. The current owner is *Gateway Accommodations, LLC*, business owner David Sturlin.

City Attorney Odgers stated I am not recommending writing off any of these. Landfill, water and sewer fees run with the land, not the person who generates them. At some point, the County Assessor’s office changed all the addresses in Baker without notifying the City, so we were sending bills to invalid addresses; we’ve fixed all of those issues. On 40 S. Baker, it’s a closed business and being utilized as storage only.

David Sturlin asked would the Board consider reducing the amount; the last one I received was up to \$2,111.53. The original lien was filed in the amount of \$1,429.17, according to the last record I have from White Pine County.

City Attorney Odgers stated Mr. Sturlin did remove the single wide that was uninhabitable, so I think we should back off from the point of removal to current on the principal balance.

David Sturlin stated the structure was removed approximately in June 2016. I would appreciate if they’d waive the penalties and interest.

City Attorney Odgers stated I would normally do that anyway.

Member Derbidge moved to recommend writing off the penalties/interest and determine what the principal balance was as of June 2016 for 45 South Nettie Avenue in Baker, Nevada and enter into either a payment plan or collect it in full. Member Ross seconded the motion. The motion carried unanimously.

City Attorney Odgers stated 40 South Baker was purchased and identified as the *Hitching Post Bar*; it is no longer the *Hitching Post Bar*, it is a storage facility. My recommendation is to write off this account and stop billing.

Member Derbidge moved to recommend writing off the balance owed for 40 South Baker Avenue, Baker, Nevada. Member Holdaway seconded the motion. The motion carried unanimously.

City Attorney Odgers stated 55 East Carson Street has a mobile home on it. There were three parcels that were sold as one, but are actually three parcels in the system at the County. The County changed the address. We've been sending the bill to the prior owner because we didn't know that he had this change. In March of '18, we find out Mr. Sturlin's the owner and transfer the balance over from the prior owner to Mr. Sturlin. Mr. Sturlin purchased this property in July of '15. The normal rule would be we would collect the balance as of June '15 and write off the penalties and interest.

Member Derbidge moved to recommend writing off the penalties/interest for 55 East Carson Street, Baker, Nevada and enter into either a payment plan for the principal balance as of June 2015 or collect it in full. Member Ross seconded the motion. The motion carried unanimously.

George Chachas stated once you do a motion, then you do public comment. You have sloppy paperwork being done at City Hall. I was at the Regional Planning Commission when they changed the addresses for the Baker area and they said the City would be notified. You had attorneys in the past who didn't collect on these liens, didn't move them forward; you should go after their Errors and Omissions. You're selectively enforcing the law, writing off some and not others.

5. Councilman Carson – Discussion/For Possible Action – Write off previous balance owed by *Federal Home Loan Corp.* of \$909.70, including penalties in the amount of \$259.70, for 390 S. 1st East St., Lund, Nevada, APN 006-035-04; the current owner is Shawn Hamilton.

Member Holdaway stated I need to abstain because I do a lot of work for Mr. Hamilton.

Shawn Hamilton stated I started getting billed on this property in '16. I pay the City a year in advance. Then in March of this year, I went from a \$70.00 credit to where I owed \$1,300.00 plus dollars; I'd like that waived off because it's obviously from a previous owner. I purchased the property in '13; the structure on it wasn't livable until '16.

City Attorney Odgers stated this was a foreclosure that occurred in 2012. When Shawn took over the property, the amount should have been brought over to his account. As of June 2016, the City was still billing *Federal Home Loan Corporation*. The Assessor had deemed the structure inhabitable. I recommend to deny writing off the principal balance and write off the penalties and interest.

Member Ross moved to recommend writing off the penalties and interest for 390 S. 1st East St., Lund, Nevada.

Shawn Hamilton stated when we started making our payments in '16, I did receive a bill for \$909.70. I took that bill to the City offices when you were in the red brick building and asked them what this was about; the lady went in the back, came back five minutes later and stated I didn't owe it because it was from a previous owner.

City Attorney Odgers stated an error by a City staff member doesn't negate an amount owed.

Chairman O'Flaherty seconded Member Ross' motion. The motion carried 2 to 1, with Member Derbidge voting Nay and Member Holdaway abstaining.

George Chachas stated this total amount should be written off like you did with others in the past, in particular Mike Venturino, Susan Jenson. You have a problem with your staff. All these liens should have been punched in the computer. When I was mayor in 2009, we had forty-two accounts/\$22,000.00 in arrears.

6. Councilman Carson – Discussion/For Possible Action – Refund half of previous balance owed by Lionel Hastings of \$845.00, for 33 Seventh Street, McGill, Nevada, APN 004-031-28 to Randy Lee, the current owner, who paid balance of \$845.00 on 1-4-18.

Randy Lee stated I purchased a property in McGill at the County tax auction on May 12, 2017; the address of the property is 33 Seventh Street, McGill. The City of Ely placed a landfill lien on the property June 13, 2017 for \$1,117.24. I was not notified of the lien until December 18, 2017. The City Attorney, Chuck, told me he was only allowed to forgive the interest and penalties, so I paid \$845.00 on January 4, 2018. It's puzzling to me how a monthly fee of \$13.00 can be allowed to grow for years to \$1,000.00 without anybody questioning why. I found out on my own that the previous owner had serious health issues, moved out of state and has since died. If the property was unoccupied, no trash was being generated to dispose of at the landfill, so the City was billing an unoccupied property for a service that was never used. How about if we split it?

City Attorney Odgers stated we weren't aware the land had been transferred; again, hopefully, we've got that worked out with the County. I've also changed our process, so that anything in its third year of a tax lien by the County, gets a lien filed on it, irrespective of how much is owed. I disagree with Randy's request. The assessment is charged to any inhabitable structure.

Chairman O'Flaherty moved to recommend not to refund half of the previous balance owed for 33 Seventh Street, McGill, Nevada. Member Ross seconded the motion. The motion carried unanimously.

George Chachas stated Randy bought his property at a tax sale. I bought my property at a tax sale, in particular the school. Young Tom Bath bought the *Plaza* at a tax sale, came before the City Council and this Board and said 'I didn't own the property'; you guys wrote off the whole amount. I've asked you to give me the same consideration on the school and you haven't done that. Now you're stiffing Randy. You've got to stop discriminating. Give that money back to that gentleman and put me on the agenda.

8. Board Members – City Attorney Odgers – Discussion/For Possible Action – Authorization from the Utility Board/City Council to send certified mail to the following businesses that their water will be turned off for failure to comply with the City of Ely's Backflow Prevention Program, established pursuant to NAC **445A.67185**, after having been advised on or about April 12, 2017 in writing, certified mail, return receipt requested, that installation of backflow prevention devices was required, that they needed to complete the process in 2017, that they have not completed the requirements, and setting the date for these businesses to comply before water is turned off, whether additional extensions of time will be authorized and if so, what the process will be utilized to request additional time: *Aldo-3 Enterprises, LLC*, 1603 Aultman Street, Ely, NV owner, Luis Tristan; *R&R Properties and Management*, 1000 South Pioche Highway, and 1011 South Pioche Highway, Ely, NV, owner Michael Rowley; *Green Mountain Apartments*, 195 15th Street and 9th Street and *Avenue C Annex*, Ely, NV, owner Masoud M. Moattar; *White Pine Motel*, 1301 Aultman Street, Ely, NV, owner Masoud M. Moattar; and *Katherine Enterprises*, 900 Avenue M, Ely, NV, owners Masoud M. Moattar and Roberta Virginia Thornton.

City Attorney Odgers stated before we can turn off the water service, we're required to serve them with notice via certified mail.

Member Derbidge moved to recommend authorizing Certified Mailings to the aforementioned businesses, noticing them that their water will be turned off for failure to comply with the City of Ely's Backflow Prevention Program.

Chairman O'Flaherty stated I will abstain because I've provided quotes to these gentlemen.

CHAIRMAN O'FLAHERTY HANDED THE GAVEL TO VICE-CHAIRMAN HOLDAWAY.

Member Ross seconded the motion. The motion carried unanimously, with Chairman O'Flaherty abstaining.

City Attorney Odgers left the Municipal Utilities Board meeting for court at 9:42 a.m.

George Chachas stated you need to give these individuals more time; they may be having financial problems. You're going to have these people evicted. You're here to help business, not kill it. Talk to them and find out what the problem is.

VICE-CHAIRMAN HOLDAWAY HANDED THE GAVEL BACK TO CHAIRMAN O'FLAHERTY.

4. CITY DEPARTMENT REPORTS

○ **CITY ADMINISTRATOR**

City Administrator Switzer stated the actions that we've heard today will probably continue, requests for relief from past due landfill fees. It's evident that these are rural addresses because the City has no 'hammer' to cut services like individuals connected to the water and sewer system. I hear every meeting that staff is not doing their job, but it's clear they are.

○ **CITY ENGINEER**

City Engineer Almberg stated we're very busy with the Aultman sewer/water project. We've seen CORE's engineering here this last week doing potholing where we want to make our connections, which NDOT graciously did since they had money left in their budget.

City Administrator Switzer stated NDOT found a water line made of wood.

City Engineer Almberg stated last week we met with NDOT over a street drainage easement; some of that is outside of City limits and we have been working with the County to get their easements there. The adjacent landowner is going to donate property to the City for an easement; Chuck will get the agreement together for the gift.

5. PUBLIC COMMENT

George Chachas stated ongoing concerns regarding the City not yet addressing the drainage coming off the railroad crossing on 7th Street, near 622 High Street; his public information request in regards to Councilwoman Gardner receiving thousands of dollars; reimbursement on the 681 Parker Avenue sewer cleanout; and the needed valley gutter installation at Ruby and Orson. On item C-7 in regards to the possible negotiation with *Outwest Excavation*, Article 10, Section 10.9: All changes need to be made and discussions held in an open meeting.

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

Chairman O'Flaherty adjourned the regular meeting of the Municipal Utilities Board at **9:55 a.m.**

CHAIRMAN

ATTEST