

City of Elko)
County of Elko)
State of Nevada)

SS May 11, 2021

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, May 11, 2021. Due to the restrictions found in the State of Nevada Emergency Directive 006, the meeting was held in the council chambers, 1751 College Ave., Elko and via GoTo Meeting.

This meeting was called to order by Mayor Reece Keener. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can participate in person, by phone, tablet, laptop, or computer by registering with the GoTo Meeting link provided in the agenda. Questions can be sent to cityclerk@elkocitynv.gov.

CALL TO ORDER

ROLL CALL

Council Present: Mayor Reece Keener
Councilwoman Simons
Councilman Chip Stone
Councilman Bill Hance
Councilman Clair Morris

City Staff Present: Curtis Calder, City Manager
Scott Wilkinson, Assistant City Manager
Kelly Wooldridge, City Clerk
Candi Quilici, Accounting Manager
Jan Baum, Financial Services Director
Dennis Strickland, Public Works Director
Dale Johnson, Utilities Director
Cathy Laughlin, City Planner
Jim Foster, Airport Manager
Matt Griego, Fire Chief
Jack Snyder, Deputy Fire Chief
Ty Trouten, Police Chief
Dave Stanton, City Attorney
Michele Rambo, Development Manager
James Wiley, Parks and Recreation Director
Bob Thibault, Civil Engineer
Jeff Ford, Building Official
DJ Smith, Computer Information Systems Coordinator
Paul Willis, Computer Information Systems Coordinator
Diann Byington, Recording Secretary

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

There were no public comments.

APPROVAL OF MINUTES: April 27, 2021 Regular Session

The minutes were approved by general consent.

II. PERSONNEL

A. Employee Introductions:

1.) Joshua Montoya, Firefighter, Fire Department

Present and introduced.

B. Swearing in of the Fire Department Driver/Operator II and Fire Marshal, and matters related thereto. **FOR POSSIBLE ACTION**

Jack Snyder, Deputy Fire Chief, introduced the Fire Department members and asked them to come to the front of the room.

Councilman Stone administered the oath to the firefighters. Family members pinned the new badges onto their uniforms.

I. PRESENTATIONS

A. Update by Jon Griggs, Chairman of the Western Folklife Center, Board of Trustees, on the National Cowboy Poetry Gathering, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Jon Griggs, Western Folklife Center and Board of Trustees, said it is this time of year they make amendments to artists' venues for the January gathering. In June of last year, they made the decision to not have the gathering. He announced they are planning a full live in-person event for this coming January. They are committing to artists and venues right now. There is still some risk. If we still have the state mandates for social distancing and masks, we will be scrambling for capacity for venues and such. The theme will be Keeping the West Wild. The Western Folklife Center and the Cowboy Poetry Gathering are very important to him. It is important to him to keep it here and he does his best to do that. He appreciates Council's support.

B. Presentation of City of Elko IT Department Year in Review, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Oasis Online began management of the City of Elko IT Department July 1, 2020. Dan Slentz, Owner of Oasis Online is presenting a City of Elko IT Department year in review. JB/DS

Dan Slentz, Oasis Online, gave a presentation (Exhibit “A”).

Mayor Keener said he has had a few suspicious emails and some employees have had their system compromised and hacked. He is worried about someone coming in and taking control of our network. Is there anything else he could do to mitigate that threat.

Mr. Slentz answered no. They have someone that is checking the backups daily and they have people performing vulnerability tests from the outside as a bad actor on a regular basis. It comes down to education and making sure the employees understand what those telltale signs are of a phishing email. The biggest threat is someone clicking on something they shouldn't.

Curtis Calder, City Manager, said there is coverage through the insurance POOL policy for cyber-attacks. Dan has worked with other POOL members that have had attacks. We have a really good team on the reactive side too. Dan is more proactive. He commended Dan, his team, as well as our own IT team, including Jan Baum who is constantly communicating with Dan and his team. We are in a much better position in our IT Department than we were a year ago.

Mr. Slentz introduced the local IT Technicians and his team.

Jan Baum, Financial Services Director, said we have a great relationship with Oasis Online. Their professionalism and reaction to our needs has been unbelievable. She thanked Mr. Slentz and his entire team.

- C. Presentation by Duncan Golf Management regarding Ruby View Golf Course, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Scott Wackowski, Duncan Golf Management, gave a presentation (included in packet).

Mayor Keener asked if they will be selling golf clubs in the club house.

Mr. Wackowski answered yes. They won't sell a lot of hard goods but they will have some. Full sets are typically bought as a custom order.

Mayor Keener asked if they are getting many hits on their Facebook page.

Mr. Wachowski answered they posted an add on Facebook that they were looking for employees. He didn't have the numbers with him but it has been productive so far. They do not use Facebook as a way to let people know of any issues at the course. They use it for promotions mainly. They will not put daily operations on Facebook.

Tim Pruitt, Lamoille, wanted to say welcome to Duncan Golf Management. The Council doesn't play much golf other than Councilman Morris. He asked that Duncan Golf start a relationship with the Men's Association and talk to the Men's Association about their plans with the Golf

Course. As golfers, we are excited to see anyone that is excited about golfing. We need to give the Council real feedback. He encouraged them to work with City Council to come up with ways to get the course back to what we would expect it to be, and what we are used to playing the last 30-35 years. Many of the golfers are concerned with the downward trend they have seen over the last 7-9 years. They are concerned on how it will turn around and they know the superintendent is struggling with manpower. When he was young, once a month the Men's Association volunteered to do some work at the golf course and they would be willing to help out now.

Mr. Wackowski stated their Golf Professional has met with the Ladies' and the Mens' Associations. If he isn't reaching out, they have events on the books. He personally does not meet with the Men's and Ladies' clubs; he leaves that for the Golf Professional. He is willing to sit with them and would love to meet everybody but that isn't typically what he does. Just so everybody understands, Duncan Golf Management oversees the Clubhouse operations, which is food, beverage and golf. They work closely in support of the Golf Superintendent, but the City and the superintendent maintain the golf course. Winter desiccation is the leading killer of dirt grass in Northern Nevada, and this was a bad year for that everywhere. There are a lot of golf courses that are having truckloads of sod delivered to get ready for the golf season. This is not an isolated issue to Ruby View.

Jon Warrenbrock, Elko, said, as you might know, the golf course has 9 positions available and currently only 3 are filled. The superintendent has some projects they are working on. They have been over-seeding the T-boxes and fairways. They have some projects that volunteers can come and help them with. They are anxious to have volunteers come up and help. The golf course is severely understaffed.

Mr. Pruitt said the Men's Association would be more than willing to help out.

- D. Presentation by Applied Analysis entitled "Ad Valorem (Property) Tax Rate Analysis – Alternatives and Key Considerations," and matters related thereto.
INFORMATION ONLY – ACTION WILL NOT BE TAKEN

Curtis Calder, City Manager, pointed out there was a new hard copy of the report on the desk (Exhibit "B"). There was a recent addition to the report. It is an additional scenario that Elko County asked for. The City and the County jointly funded this study.

Jeremy Aguero, Applied Analysis, gave a general overview of the report.

Mayor Keener asked about the gap year funding. He understands what happens in Fiscal Year 2021-2022 when that goes away, but please explain the graph in chart one.

Mr. Aguero answered that is on page 6, chart 1. What happens is, lets imagine that the tax rate was rounded off, and the value of his home was \$100,000. If the tax rate is \$1 and his property is \$100,000 and his property goes up by 10% to \$110,000, his property tax bill can only go up by 3%. The balance has to be otherwise abated. That is what this chart is saying here. What if my property value remained flat and the Council decided to raise the property tax from \$1 to \$2. Obviously, his property tax bill will jump. But it can't double in the State of Nevada. Residential home owners tax bill are restricted to increasing no more than 3%. Let's imagine that property rate dropped. That is what is happening in the City of Elko with the \$0.75 rate going away. In the

second year his tax rate would go from \$1 for \$100 of assessed value to \$0.25 per \$100 of assessed value. This is great for me because my tax goes down by a very large amount. But then we realize we have capital needs here in the City. The City Council decides to come back and take it to the \$1. In the chart it shows the incremental increases, 3% a year. You can eventually catch back up but it will take a very long time.

Councilwoman Simons asked Mr. Aguero to clarify that there is an option in which the County says they are going to use that whole tax rate that the School District was using and the City doesn't have any options.

Mr. Aguero answered the City always has options. The County has the option to increase their tax rate and then everyone will get their proportional share of the increase of the taxes that are available. You wouldn't get as much but you would get an increase in revenue.

Chris Johnson, 123 Woods Court, said there were two things that needed to happen to get the pay-as-you-go tax in place: voter approval and County Commissioners to raise the tax. He has thought about the voter approval and he is concerned and wonders how can the tax remain in place without voter approval?

Mr. Aguero answered because of the increment that is available to both the City and the County. They have the ability to increase their own tax rates so long as they remain under \$3.66. That point is a fair one on a number of levels. He didn't think the Elko County School District could re-impose this tax without having the vote of the people. The City can increase their operating tax rate to the legislative cap without the vote of the people so long as Elko County increases their tax rate up to the \$3.66 cap.

Mr. Johnson asked what is happening with the School District. They still need money for capital projects. This tax only comes up every 10 years and wasn't promoted. With some promotion and listening to folks, it would have made a difference. He has been in Council meetings and has asked as a citizen to look at the importance of schools and our students. What is the plan for the School District, what are their needs and how do we include Elko County School District with the plan between the City and the County?

Mr. Aguero said that was another fair question but his analysis was focused on what the tax increase would be and what the options look like. Someone is going to have to pick up the slack as it relates to school capital. He didn't have an answer for that.

Mr. Johnson asked if the County Commission could raise the tax and then enter into a local agreement with the School District for the next 10 years? Was that something the County and the School District could work out and keep it as a vote by the commissioners?

Mr. Aguero answered they would have to be careful with structuring that properly. NRS 361.457 creates prohibitions against agreements between local governments. We have to be careful that we are not creating anything that would violate that. There are about 10 ways it can be accomplished between the County and the School District.

Mr. Calder said he has reached out to the School District well over a month ago to try to have a conversation but he has not gotten a response. He wasn't sure if that was the same with Elko

County. There has not been a lot of communication. All of these local governments are on a timeline to submit their budgets. We were under the gun to put in the rate or lose it forever. We made the recommendation and the Council approved that under the tentative budget. His job is to advocate for the citizens of our community and that is what his recommendation was and City Council supported that.

Mayor Keener said he has heard talk of a special election in November but he has also heard from people that are more in the know in this than he is; that has already been foreclosed on because key dates have been missed for filing for a special election.

Mr. Calder stated that in order to facilitate a special election the School District needs to declare an emergency (and that may be on their agenda tonight to declare an emergency) so they can get standing before the Elko County Debt Commission. That is up to their board. If they can declare an emergency, then all of the other taxing entities can challenge that. We will wait and see what happens.

BREAK

IX. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible action to rename a portion of Powder House Road to Elko Mountain Way, and matters related thereto. **FOR POSSIBLE ACTION**

Staff is working toward acquiring Rights-of-Way and easements to allow for the installation of water mains and tanks in the area of Powder House Road. The proposed alignments of streets in the future development creates an intersection where Powder House Road would make a 90° bend if both sections were to remain as Powder House Road. Changing the name of the section nearest Lamoille Highway to Elko Mountain Way allows all of the residents using a Powder House Road address to maintain that address. No existing addresses would be affected by this proposed change. BT

Bob Thibault, Civil Engineer, explained this won't affect any addresses. The display map was in the packet that shows the layout of the future roads. You can see where it would make the 90-degree bend at the intersection. He was proposing changing the stretch from Lamoille Highway to the intersection so that all of the residents can maintain their addresses. There was a letter from Emma Barrington that Mr. Thibault read into the record (included in the packet). The existing sign for Powder House Road that is at Lamoille Highway, that is a lighted sign and it is fairly expensive to replace. It is also in a state of disrepair and not currently functioning. It already needs to be replaced. Regarding the Errecart Blvd. loop, he doesn't foresee anything on that side of the highway being Errecart Blvd. Errecart will connect from Lamoille at the hospital over to Bullion Road and Silver Street. He appreciates Ms. Barrington's letter but he felt they were justified in doing this name change regardless of those concerns that may not be appropriate.

Mayor Keener asked if we can't make it continue to be Powder House Road.

Mr. Thibault answered it is not a good practice. When a street makes a turn at an intersection, usually if you want to stay on the street that you are on you go straight through the intersection and not turn. Elko Mountain Way would continue to the east of that intersection up the hills and Powder House Road would continue straight south.

Scott Hubbard, 332 Powder House Road, stated his biggest concern is that we are talking about less than a quarter of a mile of a road, an established road. We are going to have Errecart Blvd on the other side at the hospital and we are Powder House Road (which was the first road up there) and now we are going to name another one right in the middle for a short change. He saw no benefit to anybody but the City. If the City wants to take over maintenance to this road, then knock yourselves out. Right now there is no maintenance on that road other than what the homeowners do to that road. He has issue with someone coming in and telling them the road name will change and there will be no benefits to this. He asked for a little bit back. They did allow another road to come up from Stitzel and tie into their road two years ago, which basically tripled the volume of traffic on that road. He is still the guy out there maintaining it.

Mr. Thibault admitted that he had no knowledge as to the maintenance. What we are trying to do is create that street on paper so that it can be built and eventually paved. If we can get those water lines constructed, which is the first step that the city intends to do up there, that would involve some grading of those roadways to the proper elevation and to the design of the subdivision that would be up there. It would allow for it to be developed and paved at such time. We are about to record a Deed of Dedication for that stretch of road.

Mr. Hubbard asked if there was an easement across there because he didn't believe there was.

Mr. Thibault answered there is an easement along that stretch. The BLM does not state an exact location; it's just across that quarter of the section that is presumed to follow the existing street. This will make it wider to a proper roadway width and define an exact location.

Scott Wilkinson, Assistant City Manager, emphasized the fact that we are working with the owners of this property. We have worked with the owners for 8-9 years. They have done a lot of engineering and have spent a lot of money on it. These road alignments you see are a result of that effort. We are working with them also to get some easements dedicated for roadways, waterlines and a tank site. Elko Mountain Way plays into that. That is what they would like to have that road called.

Dennis Strickland, Public Works Director, said he would think that if we are creating right-of-way and putting utilities in that section, that would tie us to providing some sort of maintenance to that piece of road. That has been a road but not a road maintained by the City of Elko for 17+ years.

Sheldon Hetzel, Elko West Properties, 781 W. Silver Street, said they would be a property owner that would benefit by the proposed utilities. They are excited to support this effort and cause and see it coming along. He did agree that driving up Lamoille Highway can be a bit confusing when there is a sign with Errecart Blvd going one way and Powder House Road going the other way. He appreciated the concept of extending Errecart the other way and thought it could be a compromise. There is a large portion of land that is annexed into the City that will benefit from these services coming through. If the proposed development of the water tank and such come into

being, it is a game changer for the City. It provides opportunity that will allow things to be developed. He appreciates the work that Mr. Thibault has put in.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to approve the street name change for a portion of Powder House Road to be named Elko Mountain Way as shown on the map included in the packet.**

The motion passed unanimously. (5-0)

VIII. PETITIONS, APPEALS, AND COMMUNICATIONS

- B. Review, consideration, and possible approval of a request from Elko POW/MIA Association for the closure of the round parking lot and the end parking lot in the Elko City Main Park for the Les Brown Memorial/Celebration of Life to be held on June 12, 2021, and matters related thereto. **FOR POSSIBLE ACTION**

The Elko POW/MIA Association are planning a memorial for Les Brown and would like to have it at the Main City Park. They would like to close a couple of the parking lots within the Park as they estimate at least 200 attendees. KW

Kelly Wooldridge, City Clerk, explained they are expecting about 200 people for this event and they are asking to close the circle parking lot in the middle and the end parking lot. Usually when people are renting the park they are getting the parking lots but they were concerned and wanted the parking lots only accessible for the people that are attending the event. She thought someone was present to talk about this.

Ken Adams, New Director Elko POW/MIA Association, said they are expecting a lot of people and parking will be an issue. There will be some parking at the VFW and the old EPD lot. The bikes that are coming in will be carrying the remains. He wanted the circle for the bikes. The ceremony will be in space one, 7, 8 & 9. He is very concerned with the parking for the event.

**** A motion was made by Councilman Stone, seconded by Councilwoman Simons, to approve the closure of the cul-de-sac parking in the Main City Park on June 12, 2021, for the POW/MIA Les Brown Memorial.**

The motion passed unanimously. (5-0)

V. UNFINISHED BUSINESS

- A. Review, consideration, and possible action for a determination from City Council on how to control public access to the golf course ponds, and matters related thereto. **FOR POSSIBLE ACTION**

The ponds were lined in the fall of 2020 and then refilled with water. Since that time there has been two instances where animals have gone into the ponds and could not get out without assistance from the owners. Once the owners of the animals entered the ponds they were also unable to exit the pond without assistance.

City Staff has implemented further safety measures in response to these incidents.

- Added additional warning signage around the ponds.
- Raised the pond level 24” to reduce the amount of exposed liner on the banks.
- Attached safety ladders around the ponds banks and life rings at these points.

NDEP has determined it is the City’s responsibility to control public access to the ponds since this is a publicly owned course. Staff is requesting determination from City Council on how they would like to control public access. DJ

Dale Johnson, Utilities Director, gave a presentation showing the options (included in the packet).

Mayor Keener asked for Mr. Johnson’s recommendation.

Mr. Johnson answered keep dogs on leashes. Staff has discussed the fence netting around the ponds and the stairs. It depends on what’s the best option.

Mayor Keener thought when the water level goes down people will go down the stairs and retrieve balls.

Councilwoman Simons agreed that it almost made going into the ponds inviting. She wondered if they could put signs all around it to make it obvious that you should not go in there.

Councilman Stone asked if dogs are not allowed.

James Wiley, Parks and Recreation Director, answered there is no official ban of dogs on the golf course, but they are supposed to be on leashes. Both of the instances we have had, the dogs were not on a leash. The dog park was proposed as a way to keep the dogs off the course and the ball fields.

Councilman Stone thought, regarding the net on the bottom, eventually sludge will get on that. Stairs are inviting people to get on there. He thought #4 was the most cost effective. If balls go over the netting with #5, will they go into the pond?

Mr. Johnson answered yes.

Mayor Keener said he has heard option #4 floated but have that fence be below grade so you wouldn’t be able to see it from the course.

Mr. Johnson answered the majority of it you would not be able to see.

Councilman Morris said the golfers also have to take some responsibility. He liked the steps idea and the cheaper netting option. It is a city-owned golf course but the users need to take some responsibility as well. We can’t fix everything for everybody. He has never seen a fence around a water pond.

Tim Pruitt, Lamoille, said Council asked what the golfers might want. We talked about putting in a 6-ft fence but that would change the play. By his understanding, once the grass regrows up to the rocks, if a golfer hits a ball right down to the edge of those rocks without a fence they will still be able to play over the pond or around the pond. Even a 5-ft fence at the rocks, if your ball goes right up against those rocks where you can still play it, then you can still play over the pond and make a typical play of that hole. He thought the steps were a good option. He has been in safety for 36 years so he could tell you that most of the golfers will not go into the ponds for a ball. The people that may go into the pond are the weekend golfers that may not understand the rules and ethics of golfing and they might see those steps and go down there. That is when you need the signage and maybe a one-way swing fence at the steps to control the access into the pond. The escape ramps will last a long time and the maintenance will be minimal. He felt the golfers would recommend the escape ramps.

Councilman Stone asked about the netting. Does it need to be a certain height?

Curtis Calder, City Manager, answered in discussion with NDEP, if this were a park, which it is not according to NDEP, that is why we are able to not do a 6-ft chain-link fence. One alternative, the fence netting would be below grade on the shelf below the rocks in the dirt section around the pond liner and you would only see it on the SE corner. It is not 6-ft tall and because it is secured at the bottom as well as the top, it should be effective in keeping all animals and hopefully kids out. In his estimation, that was probably the safest alternative.

Sheldon Hetzel, 781 W. Silver Street, complimented staff for putting together all the options. On option #2 you clearly have that as if you are lining the entire pond with it. What if you only put in a section just like that and put in a couple set of stairs. If the animal can find its way around the pond and find that and get out, would that be a cheaper alternative?

Mr. Calder pointed out this time of year the golf course is open. Both instances that occurred happened when the golf course was closed for the season. The animal side of it, no one wants to see an animal die but you also don't want to see a person go after an animal trying to help an animal and end up in a situation where there is no help. There are no golfers at that time and no one can hear anything.

Councilman Stone asked how much would it cost for staff to install that netting fence.

Mayor Keener wondered how staff would have time to install that when there is only three people working at the golf course.

James Wiley, Parks and Recreation Director, answered that creates some issues for the staff. They are already swamped at the golf course and can barely keep up with the mowing. If we are going to do the rope ladders, we already have rope ladders up there. He would much rather go with the stairs because they are going to hold up longer.

Eric Lattin, Black Dolphin Engineering, 425 Andy's Way, said all of these options seem reasonable from the engineering standpoint. When you install fencing, there is an anchor trench that the liner is attached into. The fence needs to be put in behind the anchor trench and move the rocks to be in front of the fence. He did not like the rope ladder because an animal may get stuck

in that. Those liners are slick. The steps may be a really good option but he wasn't sure how an animal would navigate the steps.

Mayor Keener thought it wouldn't be possible to put the fence in below grade level because of that anchor trench.

Mr. Lattin said there is a cut slope lined with rip-rap and then there is a bench where the liner anchors in. He indicated on the white board where the fence would go in. We cannot puncture the liner. The ponds are sunken down. The fence would go in below the cut slope.

Mr. Pruitt said the fence would still change the play of that hole. The fence will be the same elevation of the fairway. He understood the logic of a deer trying to get up on some netting. With the stairs, in his opinion, what they have found with animals and such in the pond, they will swim around until they find something. They can navigate stairs. The one-way gate at the top might panic a deer a little bit. The option of the fabric, everything can go up and down on the fabric and it won't change the aesthetics of the course. He and the other golfers he has talked to hope the fence is not the decision tonight. He felt it was a very poor design on the ponds and the banks are way too steep. We should have benched them or done something different. Now that we have to live with this, let's not make a bad scenario worse by changing the whole course.

Giovanni Puccinelli, 544 Skyline Drive, President of the Men's Association, said he has been listening to things. The one thing he agrees with Mr. Pruitt with is that you don't want to affect the aesthetics. He has played a lot of courses and you just don't see fences out there surrounding the ponds. He liked the steps idea. He agreed completely with Councilman Morris that people need to start taking responsibility for their own actions. Maybe put some leash laws in place on the golf course. When Steve Wackowski from Duncan Golf was giving his presentation, there was a comment made to get together with people. We used to have a golf financial board that Councilman Morris was on. Why not make it a Golf Advisory Board to where maybe you can have them be a liaison between the City Council and the Golf Course. That might help things out.

Mayor Keener didn't think a fence was practical. People do need to be responsible for their actions. You don't just land in one of those ponds; you have to make an effort to get down in there.

Councilman Hance said anyone can sue you for anything. People have embraced that. If we do nothing we are opening ourselves up for lawsuits.

Dave Stanton, City Attorney, said the Council can go any way with these options. The Council does have a certain amount of immunity from suing for decisions made in this capacity. The immunity is discretionary. We need to maintain the facilities with the public's best interest considered. A fence would keep everyone and everything thing out but the golfers would be impacted by that. If the steps or anything else was chosen, Council would need to make a finding for that. He also recommended some signage around the ponds.

Mayor Keener was thinking about the comments made by Giovanni Puccinelli. He was in the mind to take no action on this and remand it to the Golf Course Financial Committee for their recommendation on this.

Councilman Hance didn't think we had the time to bounce this back to a committee that isn't even in session right now. The safety liability of this is going to be short.

Mayor Keener stated that staff has taken some mitigation action by putting in some ladders and the life-rings. There is also signage that has been put out. We are on notice but it isn't like we haven't done anything.

Mr. Johnson said we are in compliance with NDEP and they have left it in our hands to do what the City wants to do.

Mr. Lattin said these ponds were existing. All we did was muck them out and relined them. They did not change any of the geometry of these. We had to hold the same volume of water that was there previously. NDEP approved this. Part of this approval was the signage and the life-ring. When he reached out to NDEP and told them the problem, they didn't understand what the issue is, and tell people to keep their dogs out of the golf course.

Councilman Morris thought we could put some ramps in for \$499 with some additional signage.

Councilman Stone liked that with the addition of the ladders. That way we are taking care of the people and the animals. If they can't get out, they shouldn't be in there anyway. That would give us 6 options to get someone out. If we create those options, the animals can be handled inexpensively and a ladder for people.

Councilman Hance said as long as we are in compliance with the permit then, anything else is just a bonus.

**** A motion was made by Councilwoman Simons to select Alternative #1, slope steps for each of the ponds and make the finding that is a cost effective method for people to be able to climb out in the case of an emergency, that will not impact the utility of the golf course, and ensure a way out in the case of an accident, and also ask that we include extra signage reminding people to keep dogs on leashes and stay out of the water.**

Councilman Stone said he would second it with the addition of **Alternative #1, pet friendly ramps.**

Councilman Morris thought that would be important. Not only would animals get out of it but people could also crawl out on that if they had to.

Councilwoman Simons thought they only needed one or the other.

Councilman Stone said he would like to see both. Dogs can't read. If they go swimming around the ramp will be easier for them to find. He would like to see it for the cost.

Mr. Pruitt said the steps would go all the way within 3 feet of the bottom. All year long most of the stairs are in the water. The dog ramps can have fabric that runs clear to the bottom of the pond. Then anything can walk out on the fabric. It is just the plastic you can't walk on. He asked what would be wrong with also getting an inexpensive temporary fence for the off-season to go around the pond since that is when the issues have happened.

Councilwoman Simons wanted to provide a reasonable route and not multiple routes. She did not accept the addition to her motion.

Councilman Hance seconded the original motion.

Councilman Stone and Councilman Morris wanted to go on the record that they would still like to see the escape ramps.

Councilwoman Simons restated her motion was to have the steps with extra signage.

The motion passed. (3-2 Councilman Stone and Councilman Morris voted against.)

II. PERSONNEL (Cont.)

- C. Review and possible approval of an adjustment to the City of Elko Management Compensation Schedule, for the positions of Police Captain and Police Lieutenant, effective July 1, 2021, and matters related thereto. **FOR POSSIBLE ACTION**

Due to ongoing salary compaction within the City of Elko Police Department, Staff is recommending that the position of Police Captain be moved from Grade 37 to Grade 39, and that the position of Police Lieutenant be moved from Grade 32 to grade 36. Although the position of Police Captain is currently vacant, there are two (2) Police Lieutenants currently employed at the Elko Police Department. The fiscal impact for the proposed adjustment is less than \$10,000 for FY 2021/2022. A copy of a memo to the Human Resources Manager has been enclosed in the agenda packet for review. CC

Curtis Calder, City Manager, explained this should address the ongoing compaction we have with the collective agreements. This will add 4 steps to the Lieutenants and hopefully provide for incentive for the Sergeants to step up to the Lieutenant positions as the Lieutenants retire or promote to Captain.

Mayor Keener spoke in favor of the adjustment.

Councilman Morris was also in support of the adjustment.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve an adjustment to the City of Elko Management Compensation Schedule for the positions of Police Captain and Police Lieutenant, effective July 1, 2021.**

The motion passed unanimously. (5-0)

III. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the warrants in the amount of \$1,041,902.19.**

The motion passed unanimously. (5-0)

- B. Review and possible ratification of General Hand-Cut Checks, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the Hand-Cut checks in the amount of \$56,883.84.**

The motion passed unanimously. (5-0)

IV. SUBDIVISIONS

- A. Review, consideration, and possible acceptance of Public Improvements for the Tower Hill Phase 4 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

The City Council approved Final Map 8-20 on November 10, 2020. A Performance and Maintenance Agreement was entered into on that same day.

The Developer has completed the public improvements in accordance with the approved plans. The City is in receipt of the required Certification of the project by the Engineer of Record. Upon acceptance of the public improvements by the Council, the Developer is required to provide maintenance security in the amount of \$13,850.80 for a 12-month maintenance period. MR

Michele Rambo, Development Manager, explained they have completed the improvements and they have passed the inspections. She did receive the maintenance bond today.

**** A motion was made by Councilman Stone, seconded by Councilman Hance, to accept the public improvements for the Tower Hill Phase 4 Subdivision.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible conditional acceptance of Public Improvements for the Tower Hill Phase 3 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Council approved Final Map 15-19 for Tower Hill Phase 3 on February 25, 2020. A Performance and Maintenance Agreement was entered into that same day.

The Developer has substantially completed the Public Improvements in accordance with the approved plans with the exception of a portion of the Lamoille Highway shared-use path. The developer is asking for a conditional acceptance with the understanding that the pathway will be completed prior to the City releasing the

remaining portion of the Performance Bond provided to the City in January of 2021. The City is in receipt of the required Certification of the project by the Engineer of Record. Upon acceptance of the Public Improvements by the Council, the Developer is required to provide maintenance security in the amount of \$102,095.20 for a 12-month maintenance period. This bond has already been paid.
MR

Ms. Rambo explained this item is slightly different because it is a conditional acceptance. We were waiting for the completion of the pathway. It still needs to be inspected. We do already have the maintenance bond.

Scott MacRitchie, Tower Hill, Jordanelle, Third Mortgage, said he would like to get the signatures on the plat for Phase 4 to they can record it. For Tower Hill Phase 3, we did complete the trail and they still need to go through the process to get it certified. He asked for a partial release of the bond up to the amount that Ms. Rambo has asked to hold back for the 1-year maintenance bond.

Mayor Keener stated he would be out of town Wednesday and Thursday but could sign the map on Friday.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, for conditional acceptance of public improvements for the Tower Hill Phase 3 Subdivision with the noted exception.**

The motion passed unanimously. (5-0)

VI. NEW BUSINESS

- A. Review, consideration, and possible approval of a Settlement Agreement and Release of Claims with Zach Woster, Chad Woster and Mercedes Woster based on a November 10, 2019 vehicle accident, and matters related thereto. **FOR POSSIBLE ACTION**

On November 10, 2019, Zach Woster sustained injuries when the vehicle he was driving collided with a fire truck driven by Robert Lino at the corner of Fifth and Idaho Streets. Mr. Lino, a volunteer firefighter with the City of Elko Fire Department, was responding to a call at the time of the collision. The fire truck was owned by the Nevada Division of Forestry and provided to the County and the City by means of interlocal agreements. The vehicle driven by Zach Woster was owned by his parents, Chad and Mercedes Woster. No lawsuit has been filed in relation to the collision. As a result of settlement discussions, Zach, Chad and Mercedes Woster have agreed to release their potential claims in exchange for \$150,000, to be apportioned between the City and the County. CC

Curtis Calder, City Manager, stated staff requests this item to be tabled because they have not received the signed version of the settlement agreement.

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to table this item.**

The motion passed unanimously. (5-0)

- B. Review and possible award of an advertising proposal from Lamar Airport Advertising to provide for the advertising within the airport terminal, and matters related thereto. **FOR POSSIBLE ACTION**

On March 9, 2021, Council authorized Staff to solicit proposals for the Airport Advertising Concession Agreement. Proposals were opened April 23, 2021. The airport received one (1) proposal from Lamar Airport Advertising. Lamar Airport Advertising is the current concessionaire for the airport. JF

Jim Foster, Airport Manager, explained he provided the proposal for review in the packet. There was only one. Lamar is a great company. He was looking for acceptance of the proposal and would come back with an agreement at a later council meeting.

**** A motion was made by Councilman Stone, seconded by Councilman Morris, to accept a proposal from Lamar Airport Advertising for the Airport Advertising Concession and authorize staff to negotiate a 5-year agreement to be presented to City Council for a future meeting.**

The motion passed unanimously. (5-0)

Shauna Forsythe, Lamar, thanked Council for their approval. They are proud to be the advertising concessionaire. Working with Mr. Foster and his staff has been phenomenal. Lamar looks forward to continuing the relationship.

VII. RESOLUTIONS AND ORDINANCES

- A. First reading of proposed Ordinance 859 amending Sections 2-1-2 (Applicability) and 2-1-4 (Permits) of the Elko City Code relating to accessory buildings, and matters related thereto. **FOR POSSIBLE ACTION**

Several sections of both the Building Regulations and Zoning Regulations address City requirements pertaining to accessory buildings, such as sheds. Staff has determined that these City Code provisions require further clarification. The City Council initiated changes to the appropriate sections at their meeting on April 13, 2021.

The changes to the Building Regulations include the addition and/or modification of definitions pertaining to accessory buildings and clarification of what types and sizes of accessory buildings require a building permit. These amendments are being made in conjunction with proposed amendments to the Zoning Regulations, which are agendaized separately on this agenda. MR

Michele Rambo, Development Manager, explained this is an update to some of our accessory building regulations in our building code section of the City Code. This was initiated April 13th and there have been no changes since then. She went over the proposed changes.

Mayor Keener asked if this was going to eliminate all of the issues that have been brought forth to City Council with respect to getting red-tagged on shed projects.

Ms. Rambo answered it will take care of most of them. Anything existing will be considered legal non-conforming. This will apply to any new construction or new sheds placed on property. We may have some issue with easements but we will discuss that in the next item.

**** A motion was made by Councilman Stone, seconded by Councilman Morris, to conduct first reading of Ordinance No. 859 and direct City staff to set the matter for second reading, public hearing and possible adoption.**

The motion passed unanimously. (5-0)

- B. First reading of proposed Ordinance 860 amending Sections 3-2-2 (Definitions), 3-2-5 (Residential Zoning Districts), 3-2-6 (RB Residential Business District), and 3-5-4 (Uses Permitted and Minimum Standards) of the Elko City Code relating to accessory buildings, and matters related thereto. **FOR POSSIBLE ACTION**

Several sections of both the Building Regulations and Zoning Regulations Address City requirements pertaining to accessory buildings, such as sheds. Staff has determined that these City Code provisions require further clarification. The Planning Commission initiated changes to the appropriate sections at their meeting on April 6, 2021 and recommended that the City Council approve Ordinance 860 at their meeting on May 4, 2021.

The changes to the Zoning Regulations include the addition and/or modification of definitions pertaining to accessory buildings, a reduction in required setbacks throughout all residential zoning districts, and other modifications designed to make the use and placement of sheds easier for both the City and its residents. These amendments are being made in conjunction with proposed amendments to the Building Regulations, which are agendaized separately on this agenda. MR

Ms. Rambo explained this is the portion that took a lot more work than the previous one. She went over the ordinance changes. Planning Commission has reviewed the proposed changes and she recommended conducting the first reading.

Mayor Keener asked regarding the last 2 shed issues that have been brought to Council, as it relates to setbacks, we had one on the Humboldt Ridge Loop, would that be in compliance now?

Ms. Rambo answered it would be as far as zoning is concerned. However, that shed is currently sitting within the 7.5-foot exterior side yard easement. We will still have to deal with that issue.

Scott Wilkinson, Assistant City Manager, said it is important to understand the difference between setbacks and easements. Easements are basically a right to utilize a piece of property for a specific use. That is different than the zoning setback. What we are accomplishing here with this proposed amendment, is to allow for a lot more use of yard areas because we are basically backing up the setbacks to most easement areas for most lots. Not all. Some larger lots have 10-foot easements around them. We not proposing that sheds are allowed in the front yard setback. The front yard and exterior side yards, which are along your street frontages, those are 7.5-feet to accommodate all the utilities that have to go in outside the street. If people have encroached into an easement they have the opportunity to try to vacate an easement. There is an application and a fee associated

with that. That isn't just a city approval; that is all the utilities too. He thought what was being proposed is the best that can be done to provide people the most utilization of their yards.

**** A motion was made by Councilman Stone, seconded by Councilman Hance, to conduct first reading of Ordinance 860 and direct staff to set the matter for second reading, public hearing and possible adoption.**

The motion passed unanimously. (5-0)

- C. First reading of Ordinance No. 861, an amendment to the City Zoning Ordinance, specifically Section 3-2-4; Establishment of Zoning Districts, 3-2-19; Nonconforming Uses & 3-2-21; Amendments, and matters related thereto. **FOR POSSIBLE ACTION**

Planning Commission at their April 6, 2021 meeting, initiated Zoning Ordinance Amendment 1-21. Planning Commission considered this ordinance at their meeting May 4, 2021 and recommended City Council adopt Ordinance 861. CL

Cathy Laughlin, City Planner, explained she started on this a long time ago with the help of Scott Wilkinson and Dave Stanton. It initiated with conversation with Mr. Stanton regarding zoning district amendments. We were normally running those as resolutions for approval and we came to the conclusion that should be done by ordinance. She summarized the proposed changes.

**** A motion was made by Councilman Stone, seconded by Councilman Morris, to conduct first reading of Ordinance No. 861, and direct staff to set the matter for public hearing, second reading and possible adoption.**

The motion passed unanimously. (5-0)

VIII. PETITIONS, APPEALS, AND COMMUNICATIONS (Cont.)

- A. Review, consideration, and possible approval of a request to reimburse brothel business license fees paid January 1, 2020 - June 30, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

Kathleen and Gabriel Ornelas, owners of Desert Rose Club, LLC have requested reimbursement of \$1,625.00 out of the \$3,250.00 paid for brothel license fees from 1/1/2020 – 6/20/2020. The brothels were ordered closed due to the Governor's Directives on March 17, 2020. The City Council passed an ordinance delaying fees to one quarter of what is due 30 days after opening. The brothels have paid the following:

1/1/2020 - 6/30/2020 - \$3,250 (asking \$1,625 of this reimbursed)

7/1/2020 - 12/30/2020 - \$0 (pursuant to City Ordinance 855)

1/1/2021 - 6/30/2021 - \$1,625 (pursuant to City Ordinance 856)

Kelly Wooldridge, City Clerk, explained Ms. Ornelas could not be here today. We didn't really know when we did ordinances 855 and 856, when the brothels would be able to open again. We did give them a break on their brothel license fees. They did pay \$1,625 in order to open up May 1st. They are asking for some reprieve of what have paid back in the beginning of 2020. They closed March 17, 2020 and had already paid for January, February, March, April, May and June.

Dave Stanton, City Attorney, said if council is inclined to do this, all of the brothel licensees should be treated the same.

Mayor Keener felt it was reasonable.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the request to reimburse all brothels half of their brothel license fee, paid January 1st through June 30, 2020.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible approval of a request from Elko High for a donation of \$500 to the graduation fireworks program, and matters related thereto.
FOR POSSIBLE ACTION

Elko High School would like to have a fireworks display following the graduation ceremony as a way to celebrate the ending of a difficult year for the graduating Seniors. The high school has \$2,000 for the display, a private donor has given \$500, and Principal Wickersham is request \$500 from the City. KW

Ms. Wooldridge explained Mr. Wickersham's letter was included in the packet. The seniors get to have a graduation but they have also had a very difficult senior year. He would like to do a fireworks display in their honor.

Mayor Keener asked if we had the money.

Mr. Calder said they could find it.

Councilman Stone disclosed he helps them with the graduation ceremony and would abstain from the vote.

**** A motion was made by Councilwoman Simons, seconded by Councilman Morris, to approve the request from Elko High School for a donation of \$500 for the graduation fireworks program.**

The motion passed. (4-0 Councilman Stone abstained.)

X. REPORTS

- A. Mayor and City Council

Mayor Keener got a not-so-friendly reminder that he was late with his Secretary of State CE filing. He reminded everyone on the board to file their CE. He met with President Sandoval when he was visiting GBC last week, and working with NGM on some partnerships as it relates to some of the vocational education. He thanked Councilwoman Simons for covering for him Thursday. He will be out for another surgery tomorrow and Thursday but available by phone.

B. City Manager – Nevada League of Cities Retreat – June 16-18

Curtis Calder spoke about the Nevada League of Cities retreat/congress. It is scheduled for June 16-18. He asked everyone to mark their calendars since we are the hosting city. Invites went out earlier this week. There will be a reception on the 16th in the evening. On the 17th there will be some golfing and a tour of Lamoille Canyon. On the 18th we will have Congressman Amodei at lunch as our keynote speaker. They hope to have some speakers lined up for breakfast as well. He is looking for volunteers for the picnic on the 17th.

Mayor Keener mentioned that we never got to have a party when Councilman Schmidlein left. We need to put together something after things open up.

Mr. Calder said right now a lot of the venues we thought were going to be open are not really open. There was all of this pent up demand for venues. We are trying to secure a place for a Christmas Party for the City. We would like to have one since we didn't have one last year. We can do something in the summer time and outdoors. That will be pretty easy to do.

C. Assistant City Manager

D. Utilities Director

Mayor Keener asked if the water running down the street in front of City Hall was from the water department.

Dale Johnson indicated it was from the pool. It was supposed to be going to the sewer system but somehow it was in the gutter. The alley water-line project started on Monday. The water tank project is underway. They just had a large change order for the project. The center rafters need to be replaced because they were all rusted and worn out. The shop project is about 3-weeks behind right now due to union deals, subcontractors, materials and COVID issues.

Mayor Keener asked about the annual water report. Was there anything in there that concerned him?

Mr. Johnson answered there was nothing out of the norm. It was all pretty standard with no deficiencies.

E. Public Works

Dennis Strickland said they are doing very extensive patching in the Ruby View Subdivision. They started last week. When they are finished there, they will move to other subdivisions as they are preparing for the Micro Slurry.

Mayor Keener stated he saw another payable for the scales. That isn't complete yet, is it?

Mr. Strickland answered they just started round 2 yesterday and today. Expect delays there for the next 2 weeks.

F. Airport Manager

Jim Foster reported SkyWest is back to full operational capacity. The numbers should improve. They just completed their final training on the new snow removal equipment. They will be starting the infrastructure for the new parking lot system.

G. City Attorney

Dave Stanton reported they lost an important part of the legal community. Judge Andy Mierins died unexpectedly last Friday. It hit the legal community pretty hard. He served as the Family Court Master for 8.5 years, and adjunct

professor at the college, a father and a husband. There will be a flag ceremony at the Juvenile Detention Center at 4:30 this Thursday. The celebration of his life will be held at the LDS Stake Center on N. 5th Street this Saturday at 11:00 am.

Mayor Keener asked him if had heard from the Elko Holding Group yet.

Mr. Stanton answered he had not but the letter went out just a few days ago. If we don't get a response, he will be coming back to Council to talk about how to handle that.

Mayor Keener asked about liability concerns regarding volunteers working at the golf course.

Mr. Calder answered volunteers are covered just like employees are. If someone out there cutting turf with a knife cuts their hand off, it is a worker's comp claim. We want to make sure they have worker's compensation coverage. All volunteers at the City fill out an application through HR and they are processed as an employee so they can be covered under that insurance.

Mr. Stanton said he has prepared releases for volunteers in various programs over the years. We will want to do that in the case of the golf course.

H. Fire Chief

Jack Snyder reported they received a brand new water tender through Elko County Fire District.

I. Police Chief

Chief Trouten thanked those that came over when NGM donated some money for the simulator. They are waiting on one more grant but they would be able to get that very soon. He loves the community support. The new officer starts next Monday and they hope to have another one by the end of the month.

J. City Clerk

Kelly Wooldridge let everyone know that our Title VI report was accepted. The legislative session is moving along slowly. Most of the remaining big bills are law enforcement related.

K. City Planner

L. Development Manager

M. Financial Services Director

Jan Baum mentioned the guidance for the ARPA money dropped yesterday. There are 5 categories where the money can be used. In the future we will have more guidance on this and we will have discussions about this.

N. Parks and Recreation Director

James Wiley reported the goat grazing has commenced for the season at the river. They will be there a few weeks and then later on they will move to the SnoBowl. The community loves the goats.

Mayor Keener said he received calls from concerned citizens about someone camping in the river corridor and it was the goat tenders.

Mr. Wiley said they have posted a sign saying he has permission to camp there and nobody else. There is about 215 head this year. It is very busy in all of the other departments. They are doing all that they can to keep up with the workload. He is looking forward to having more employees join us. Toast of Art this Friday is full.

Mayor Keener stated he heard that Mr. Wiley is having a hard time finding seasonal part-time employees.

Mr. Wiley answered they have a few but they are nowhere near where they would like to be. They are still working. The 5th Street Park Parking Lot is moving along but he has not been there. Bob Thibault and Joe Carr are watching that and it is progressing. It should be finished by the middle of July.

O. Civil Engineer

Bob Thibault said there is some engineering design completed for the Kump Field parking lot along Golf Course Road. Projects are moving along smoothly with few concerns.

P. Building Official

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

There were no public comments.

There being no further business, Mayor Reece Keener adjourned the meeting.

Mayor Reece Keener

Kelly Wooldridge, City Clerk



City of Elko

Technology Report Presented by the City of Elko IT Department and **Oasis Online**

May 2021

Dear Mayor Keener and Members of Council,

Below is a technology report which covers the past year's activities for the Technology Department.

- **Help Tickets**
 - Closed 1,131 help tickets
 - Currently have 13 open help tickets.
- **Customer Feedback scores**
 - Attitude – 95% Excellent to Outstanding
 - Response Time – 95% Excellent to Outstanding
 - Technical Knowledge – 89% Excellent to Outstanding
 - 94% of tickets were resolved on the first visit
- **Projects completed**
 - Completed
 - Animal Shelter Remodel
 - Golf Course Connectivity
 - Fire Department Cameras
 - E911 Implementation for Dispatch
 - Deployed 40+ Laptops and docking stations and implemented VPN tunnels for remote workers quarantined for Covid-19.
 - Migrate from Skype to Microsoft Teams for city communication (savings of \$6,448.50/yr)
 - Migrated all desktops (minus two at landfill) in the City to Windows 10
 - Installed a new network switch at the PD to accommodate all network drops in the building.
 - Moved Sportsman from on-premise server to the cloud
 - Completed major upgrade to New World Server
 - Transitioned from in-person to remote/online meetings to accommodate city council, and various commissions/committees throughout the City.

- In Progress
 - ArcGIS server upgrade
 - Replacing end of life wireless access points throughout City (14 WAPs remaining)
 - Whitecloud fiber install to move fiber cable off of the fence
 - Parking System @ Airport
 - Dispatch PC refresh
 - WRF Fiber Pulls
 - iWorQ/Vitals Valve Exerciser Integration
 - Camera Solution @ Airport
 - Fuel Master/iWorQ Integration
 - Web-Form for Gate Application @ Airport
 - New PD EOC Teleconferencing
 - FlowPoint Controller/Server
 - Rebuild the current network environment to create an efficient and reliable network.
 - Transfer VoIP service from Fusion to Lumen and porting city numbers to VoIP
 - Moving VM's to cluster to accommodate High Availability for mission-critical servers.
 - Migrate all domains to a single domain
 - Setup and assist with deployment of 12 Ipads for the city council and planning commission
 - Conversion from Application Extender to OnBase
 - Reviewing consolidation all network monitoring software (possible savings of \$13,915.00)
- Future
 - iWorQ/ArcGIS Rest Service Integration (waiting till full completion of ArcGIS upgrade)
 - GIS Integrations (Fleet, Utilities, Cemetery)
 - Wasteworks upgrade (new pcs needed on site)
 - Cemetery Software (Spatial Generations) Upgrade (June/July)
 - New Water Building Tech Installations (Researching needed equipment and acquiring quotes)
 - Upgrade phone system for City (SwitchVox system)
 - PD in-car/body cameras
 - State modernization CJIS project (Message Switching Server Upgrade and Cloud Capable)
 - Landfill Oil Shed (Cameras, Viewing Screen, PA System to prevent improper dumping)
 - Configure and implement new fiber runs from CCommunications to various City locations.
- **Improvements needed**
 - Short Term
 - None at this time.
 - Long Term

- Purchase new SAN for the City
- Upgrade Virtual Servers

We hope you find this information helpful. As always if you have questions or concerns please reach out to Dan Slentz at Oasis Online 775-423-6277 or email me at dslentz@elkocitynv.gov.



Ad Valorem (Property) Tax Rate Analysis

Alternatives and Key Considerations

Prepared for:

Elko County
71 Idaho Street
Elko, Nevada 89801

City of Elko
1751 College Avenue
Elko, Nevada 89801

March 5, 2021

PRELIMINARY DRAFT

**APPLIED
ANALYSIS**



March 5, 2021

Ms. Amanda Osborne, County Manager
Elko County
71 Idaho Street
Elko, Nevada 89801
and
Mr. Curtis Calder, Elko City Manager
City of Elko
1751 College Avenue
Elko, Nevada 89801

Sent via email (aosborne@elkocountynv.net and ccalder@elkocitynv.gov)

RE: Ad Valorem (Property) Tax Rate Analysis: Alternatives and Key Considerations

Dear Mr. Calder and Ms. Osborne:

In accordance with your request, Applied Analysis ("AA") is pleased to submit this report titled *Ad Valorem (Property) Tax Rate Analysis: Alternatives and Key Considerations*. AA was retained by Elko County and the City of Elko to review and analyze property tax alternatives and other factors related to the defeat of County Ballot Question No.1 of the 2020 General Election: *Elko County School District Capital Projects Tax Proposal*. This summary report outlines the salient findings and conclusions of our review and analysis as of the date of this report.

This report was designed by AA in response to your request. However, we make no representations as to the adequacy of these procedures for all your purposes. Generally speaking, our findings and estimates are as of the date of this letter and utilize the most recent data available. This report is dated as of the last day of our fieldwork. The information provided in this summary, and the conclusions reached herein, are based on the findings of our research and our knowledge of the market as of the date of this report. Our report contains real estate, tax and other predominant market data. This information was collected from our internal databases and various third parties. The data were assembled by AA. While we have no reason to doubt its accuracy, the information collected was not subjected to any auditing or review procedures by AA and; therefore, we can offer no representations or assurances as to its completeness.

This report is an executive summary. It is intended to provide an overview of the analyses conducted and a summary of our salient findings. AA will retain additional working papers relevant to this study. If you reproduce this report, it must be done so in its entirety. We welcome the opportunity to discuss this report with you at any time. Should you have any questions, please contact Jeremy Aguero or Brian Gordon at (702) 967-3333.

Sincerely,


Applied Analysis



TABLE OF CONTENTS

Project Overview and Background	1
Analysis of the Current Situation	1
Notable Factors and Considerations	3
Overlapping Property Tax Caps	3
Restrictions Relating to Establishment of Combined Tax Rate	3
Local Government Property Tax Revenue Limitation.....	3
Population	4
Gap Year	4
Unfunded Needs, Capital vs. Operations	7
Nevada’s Partial Property Tax Abatement (the Abatement Act of 2005).....	8
Will of the People	9
Procedure if Governing Bodies Cannot Agree as to Allocation of Increment	9
Discussion and Identification of Options	9
Scenario 1 County Imposes 100 Percent of the Available Rate	9
Scenario 2 Rate Increases are Split Between Local Governments	10
Scenario 3 Rates Are Partially Increased or Not at All	10
Scenario 4 Rates Are Increased Pursuant to a Specific Client Request #1	11
Scenario 5 Rates Are Increased Pursuant to a Specific Client Request #2	12
Closing	14



PROJECT OVERVIEW AND BACKGROUND

Applied Analysis (“AA”) was engaged by Elko County (the “County”) and the City of Elko (the “City”) to prepare an ad valorem (property) tax rate analysis and discussion relating to the decision events that are presented to Elko County residents and leadership after that defeat of County Ballot Question No.1 of the 2020 General Election: *Elko County School District Capital Projects Tax Proposal*. The City and the County have requested AA’s assistance in exploring and identifying alternatives and opportunities that may exist upon the expiration of the school district capital projects tax rate.

The Elko County School District (the “District”) currently levies a tax rate of \$1.50 per \$100 of assessed value in support of combined school district operating and capital expenses. A levy of \$0.75 supports District operations and the remaining \$0.75 supports the District’s pay-as-you-go capital projects program. The operating rate of \$0.75 is set forth in Nevada Revised Statutes and is identical to the operating rates charged in the 16 other Nevada counties. The capital projects pay-as-you-go rate (“pay-as-you-go”) is in place because of voter approval and is considered by the State of Nevada’s Department of Taxation as a voter-approved override to the otherwise maximum allowable combined tax rate in Elko County. The capital projects rate was initially approved in 1986 at a rate of \$0.25 and, over the years, was increased to the current level of \$0.75 per \$100 of assessed valuation. The voter authorization for this tax component is now set to expire on June 30, 2022.

ANALYSIS OF THE CURRENT SITUATION

There are several factors which must be taken into account as discussion of this issue progresses. With the pay-as-you-go tax rate expiring in 2022, there are opportunities for other entities within Elko County that overlap the District to consider increasing their respective property tax rates. Any such consideration is bounded by the maximum allowable tax rates that an entity may levy pursuant to Nevada law and the limitations upon maximum combined tax rates, also prescribed by law. The maximum allowable combined tax rate of \$3.66 per \$100 of assessed valuation sets the upper limit on the combination of tax rates of all overlapping districts. Thus, there exists a two-pronged test with respect to other entities increasing their tax rates. The first test is whether an increase in the entity tax rate is permissible under the maximum allowable tax rate threshold. The second test is whether the increased rate, combined with other overlapping tax rates would exceed the aggregate \$3.66 per \$100 of assessed valuation limit. The following table illustrates the maximum allowable tax rates and the imposed tax rates for the County and four cities in the County - Carlin, Elko, Wells and West Wendover.

Table 1: Maximum Allowable and Imposed Tax Rates in Elko County

Tax District	Maximum Rate	Elko County (Unincorporated)	Elko (City)	Carlin	Wells	West Wendover
State of Nevada	0.1700	0.1700	0.1700	0.1700	0.1700	0.1700
Elko County School District ¹	1.5000	1.5000	1.5000	1.5000	1.5000	1.5000
Elko County	2.8641	0.8386	0.8386	0.8386	0.8386	0.8386
N.E. Elko Fire District	0.2697	0.2600	--	--	--	--
Carlin	10.7304	--	--	1.1480	--	--
Elko (City)	3.3722	--	0.9200	--	--	--
Elko Convention & Visitors Authority	--	--	0.0392	--	--	--
Elko Television District	--	--	0.0145	--	--	--
Wells	4.7335	--	--	--	0.9605	--
West Wendover	2.8129	--	--	--	--	1.1514
Total Rate Levied:		2.7686	3.4823	3.6566	3.4691	3.6600

Source: Nevada Department of Taxation, Property Tax Rates for Nevada Local Government, Fiscal Year 2020-21.

¹Elko County School District tax rate includes the voter approved \$0.75 rate for capital projects, expiring June 2022.



Currently, there are at least two entities within the County that are at (or virtually at) the combined \$3.66 tax rate cap (Carlin and West Wendover). Two additional cities, Elko and Wells, are within \$0.19 of the maximum combined rate cap. After June 30, 2022, this will change as the \$0.75 pay-as-you-go school capital levy falls away.

Entities such as the City and the County (among others) may be able to increase their individual entity rates (up to a combined \$0.75 per \$100 of assessed valuation) without increasing the overall property tax burden to the taxpayers, assuming that such rate increases meet the two-pronged test outlined above. In essence, the expiration of the District's pay-as-you-go rate creates headway for the other entities within the County to consider rate modifications. Further, there may be ways that the County, the City and other entities within the County could increase property tax revenue for public services while still effecting a property tax decrease for taxpayers (should such a reduction be considered vis a vis other currently unfunded County or municipal needs).

As noted in the *Project Overview and Background* section, the expiration of the District's pay-as-you-go rate provides a relatively rare opportunity for the other municipal entities within Elko County to consider migrating their entity ad valorem rates to higher levels. As shown in Table 1, the County and the four cities have headway to levy up to the \$0.75 increment becoming available (on a combined aggregate basis). The following table illustrates the revenue that would be generated for the County and the four cities if the individual entity levies were increased by \$0.75, \$0.25, \$0.10 or \$0.01. The various rate levies and revenue generated in each jurisdiction is provided to aid discussion. The values shown do not include the impact of the effect of Nevada's partial property tax abatements discussed later in this report. In actuality, these values would be reduced by varying degrees depending upon the partial property tax abatements relevant to the mix of parcels within each entity.

Table 2: Assessed Value and Impact of Various Levy Increments

Jurisdiction	FY20-21 Assessed Value ¹	Levy Increments			
		\$0.75	\$0.25	\$0.10	\$0.01
Elko County	\$2,307,887,553	\$17,309,157	\$5,769,719	\$2,307,888	\$230,789
Carlin	\$40,120,924	\$300,907	\$100,302	\$40,121	\$4,012
Elko (City)	\$620,013,594	\$4,650,102	\$1,550,034	\$620,014	\$62,001
Wells	\$33,116,158	\$248,371	\$82,790	\$33,116	\$3,312
West Wendover	\$147,326,026	\$1,104,945	\$368,315	\$147,326	\$14,733

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-21.

On one end of the spectrum, Elko County could increase its ad valorem levy by the full \$0.75 per \$100 of assessed valuation. This would afford the full benefit of the revenue increase to Elko County. Alternatively, the \$0.75 rate increment could be apportioned among other entities within the County that receive ad valorem property tax revenue (within the constraints of respective maximum allowed rates). Alternative treatments and associated limitations are discussed in greater detail in the sections that follow.

The approach taken herein identifies various alternatives that the City of Elko, Elko County and other qualifying entities can consider. The intention is to describe various alternatives by which a mutually agreeable path forward as to the use of the \$0.75 increment might be achieved. The assembly of the alternatives for the County and the City to consider may assist the affected entities in optimizing the use of available ad valorem tax capacity.

Key to this will be the objectives of the governing bodies – including operating and capital needs (and the way that enhanced ad valorem revenues may help them achieve their goals) and the objectives related to overall management of combined tax rates.

NOTABLE FACTORS AND CONSIDERATIONS

OVERLAPPING PROPERTY TAX CAPS

Article X, Section 2, of the State Constitution limits the total ad valorem property taxes levied by all overlapping governmental units within the boundaries of any county (i.e., the State, and any county, city, town, school district or special district) to an amount not to exceed five cents per dollar of assessed valuation (i.e., \$5 per \$100 of assessed valuation) of the property being taxed. Further, the combined overlapping tax rate is limited by statute to \$3.64 per \$100 of assessed valuation in all counties of the State with certain exceptions that (a) permit a combined overlapping tax rate of up to \$4.50 per \$100 in assessed valuation in the case of certain entities that are in financial difficulties (or require a combined overlapping tax rate of \$5.00 per \$100 of assessed valuation in certain circumstances of severe financial emergency); and (b) require that \$0.02 of the statewide property tax rate of \$0.17 per \$100 assessed valuation is not included in computing compliance with this \$3.64 cap which works to raise the cap to \$3.66 as referenced earlier. This \$0.02 levy is, however, counted against the \$5.00 limit.

RESTRICTIONS RELATING TO ESTABLISHMENT OF COMBINED TAX RATE

The State has placed restrictions on how local governments can structure tax rates and how funds received from those rates can be distributed. Most notably, State statute prohibits local governmental bodies from “coordinating” their tax rate levies to maximize revenues without breaking the \$3.66 combined rate cap, specifically involving agreements to transfer funds from a larger governmental body, such as the County, to the smaller governmental body, such as the City. The relevant statute is included below.

NRS 361.457 Establishment of combined tax rate: Prohibited agreements between local governments.

The governing bodies of the local governments within a county shall not agree upon a combined tax rate that is achieved by a larger local government agreeing to transfer money to a smaller local government whose boundaries are located within the boundaries of the larger local government to enable the smaller local government to lower its tax rate to establish a combined tax rate for the county that complies with the limitation set forth in [NRS 361.453](#).

(Added to NRS by [1999, 945](#))

LOCAL GOVERNMENT PROPERTY TAX REVENUE LIMITATION

State statutes limit the revenues local governments, other than school districts, may receive from ad valorem property taxes by adjusting maximum allowable tax rates. This rate is generally limited as follows: the assessed value of property is first differentiated between that for property existing on the assessment rolls in the prior year (old property) and new property. Second, the property tax revenue derived in the prior year is increased by no more than six percent and the tax rate to generate the increase is determined against the current assessed value of the old property. Finally, this tax rate is applied against all taxable property to produce the allowable property tax revenues. This cap operates to limit property tax revenue dependent upon changes in the value of old property and the growth and value of new property. Elko County and the four cities currently



levy a rate that is substantially less than their maximum allowed rate constraints. The reality of this situation is that it bears little relevance to the final determination of the use of the \$0.75 rate.

A local government, other than a school district, may exceed the property tax revenue limitation if the proposal is approved by its electorate at a general or special election. In addition, the executive director of the Department of Taxation will add, to the allowed revenue from ad valorem property taxes, the amount approved by the Legislature for the costs to a local government of any substantial programs or expenses required by legislative enactment. In the event sales tax estimates from the Nevada Department of Taxation exceed actual revenues available to local governments, Nevada local governments receiving such sales tax may levy a property tax to make up the revenue shortfall.

The County and cities within the County levy various tax overrides as allowed or required by State statutes.

POPULATION

The following table illustrates the population changes for fiscal years 2016-17 through 2020-21, with projections through fiscal year 2025-26.

Table 3: Historical and Projected Population

Jurisdiction	Reported ¹					Projected ²				
	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26
Elko County	53,997	53,287	54,326	55,116	55,435	55,780	56,128	56,477	56,829	57,183
Carlin	2,684	2,617	2,613	2,663	2,674	2,706	2,739	2,773	2,806	2,840
Elko (City)	20,704	20,789	21,158	21,199	21,492	21,777	22,065	22,357	22,654	22,954
Wells	1,388	1,312	1,365	1,366	1,296	1,275	1,254	1,233	1,212	1,192
West Wendover	4,474	4,201	4,406	4,469	4,535	4,491	4,448	4,404	4,362	4,319

¹Reported data from Nevada State Demographer.

²Calculated using the average annual growth rate over the previous 10 fiscal years.

The table illustrates the demographic environment for Elko County. If population growth was aggressive, government would likely be required to make increased expenditures for infrastructure. The picture painted here does not raise any alarms as to burgeoning needs for additional major capital infrastructure. The table shows mixed growth rates for the various jurisdictions in Elko County. For the five-year period, fiscal years 2016-17 through 2020-21, Elko population grew 2.7 percent, a decrease of 0.4 percent in Carlin, 3.8 percent growth in the City of Elko, a decrease of 6.6 percent in Wells and a 1.4 percent increase in West Wendover. For the projection horizon fiscal years 2021-22 through 2025-26, Elko County is anticipated to grow 2.5 percent, with the City of Carlin growing by 4.9 percent and the City of Elko growing by 5.4 percent. The populations of Wells and West Wendover are projected to decline by 6.4 percent and 3.8 percent, respectively. Thus, the growth is concentrated in the cities of Carlin and Elko.

GAP YEAR

In determining a path forward, readers should be mindful that this tax rate situation was essentially “handed” to the governing bodies within Elko County. This discussion arises because of the failed ballot question in the 2020 election combined with the unique mechanics of Nevada property tax law, including the partial property tax abatements and the maximum allowable rates and revenue constraining local governments in their rate making activities.



Nevada’s partial property tax abatements are applied on a parcel-by-parcel basis and generally work to limit the increase of a taxpayer’s property tax bill to three percent for owner-occupied residential property and eight percent for all other property, with certain qualifications. When the partial abatements are applicable to any parcel in any tax year, the potential revenue -- that is the share of the revenue increase that exceeds the three percent or eight percent limit -- does not disappear entirely. Rather, these potential revenues are effectively “banked” and can be accessed to supplement property tax increases in subsequent years where the three percent or eight percent limit is not reached via the abatement formula. This can help average out property tax increases between high growth and low growth years, assuming the “banked” value is generated in the high-growth years and is absorbed during low-growth years. The property tax abatement process is more fully described later in the report.

The situation presented to local governments in Elko County is that if the \$0.75 rate is allowed to fall away beginning July 1, 2022, any future increases will be bound by the limitations created by Nevada’s partial property tax abatement. For example, if governing bodies that gain headroom in their entity rates because of the discontinuation of the pay-as-you-go tax rate do not increase their rates at the same time that the flexibility occurs, July 1, 2022, additional revenue that would be generated from future rate increases would be limited even though the increase is made within the authorized maximum allowed rates.

Members of governing bodies of units of local government likely can recall that property assessed valuations and tax revenues decreased substantially during the financial downturn that affected the state and national economies almost a decade ago. At that time, local governments experienced a loss in property tax revenue because of the lower assessed valuations. However, as the economy grew out of the crisis and assessed valuations also regained substantial increments of their value, the growth in assessed valuation did not translate into a similar increase in property tax revenue. The law creating Nevada’s partial tax abatements (i.e., the Abatement Act of 2005) capped the tax bill increases as discussed above. Still today, property tax revenues for some local governments have yet to recover to previous levels. A “gap year” situation could result in similar losses for participating entities if it is determined to phase in the allocation of the newly available rate over time. The following table is used to demonstrate this gap year limitation to revenue growth in a situation where a rate component was allowed to fall away. The example information was created by the Clark County Treasurer’s office and reflects a specific non-residential parcel located in Clark County. It was created and included here for demonstration purposes only.

Table 4: Depiction of Property Tax Implications in a Gap Year

	No Gap Year Scenario			Gap Year Scenario		
	FY20-21	FY21-22	FY22-23	FY20-21	FY21-22	FY22-23
Assessed Value	\$8,039,163	\$8,613,389	\$8,613,389	\$8,039,163	\$8,613,389	\$8,613,389
Tax Rate	<u>\$2.9328</u>	<u>\$2.9328</u>	<u>\$2.9328</u>	<u>\$2.9328</u>	<u>\$2.1828</u>	<u>\$2.9328</u>
Taxes as Assessed	\$235,773	\$252,613	\$252,613	\$235,773	\$188,013	\$252,613
Abatement	\$31,526	\$32,027	\$14,380	\$31,526	\$0	\$49,559
Tax Billed	\$204,247	\$220,586	\$238,233	\$204,247	\$188,013	\$203,054
Max Tax for Next Year	\$220,586	\$238,233	\$257,292	\$220,586	\$203,054	\$219,298

These scenarios depict the gap year effect using data from a real non-residential property in Clark County, Nevada.

The above table depicts the potential effects of a “gap year” on property tax revenues. In the left scenario, the tax rate is held constant, leading the property to generate a total of \$663,066 in property taxes over the displayed three-year window. In the right scenario, the property tax rate is reduced by \$0.75 for fiscal 2021-22 before being raised back up \$0.75 for fiscal year 2022-23. In this scenario, \$595,314 is generated over the three-year window. Overall, this represents a loss of \$67,752 in potential revenue – of this loss, \$32,573 is from the reduction in tax rate while \$35,179, accounting for 52.0 percent of the loss, is from the “gap year” limitation. Assuming the assessed value and property tax rate remain unchanged from fiscal year 2022-



23 onward, the effect of the “gap year” on the example property remains until fiscal year 2025-26 and results in \$84,265 of lost revenues. In the event that the property’s assessed valuation increases, the effects of the “gap year” persist even further into the future.

Beyond this, however, the anticipated effect on property tax revenues may not fully materialize until some point in the future as Elko County has abatement “banked” on residential parcels, which could cause property taxes to remain elevated despite the underlying rate disappearing. Reflecting upon recent trends relating to the residential and general cap, even though residential parcels reached the abatement threshold over at least the last five years, all other properties have not reached the upper limit to the general cap, implying non-residential properties would be impacted more immediately as they have less abatement “banked.” Table 5, presented below, illustrates the abatement amounts for the County and the cities of Carlin, Elko, Wells and West Wendover for fiscal year 2020-21.

Table 5: Abatement Amounts and Relative Value

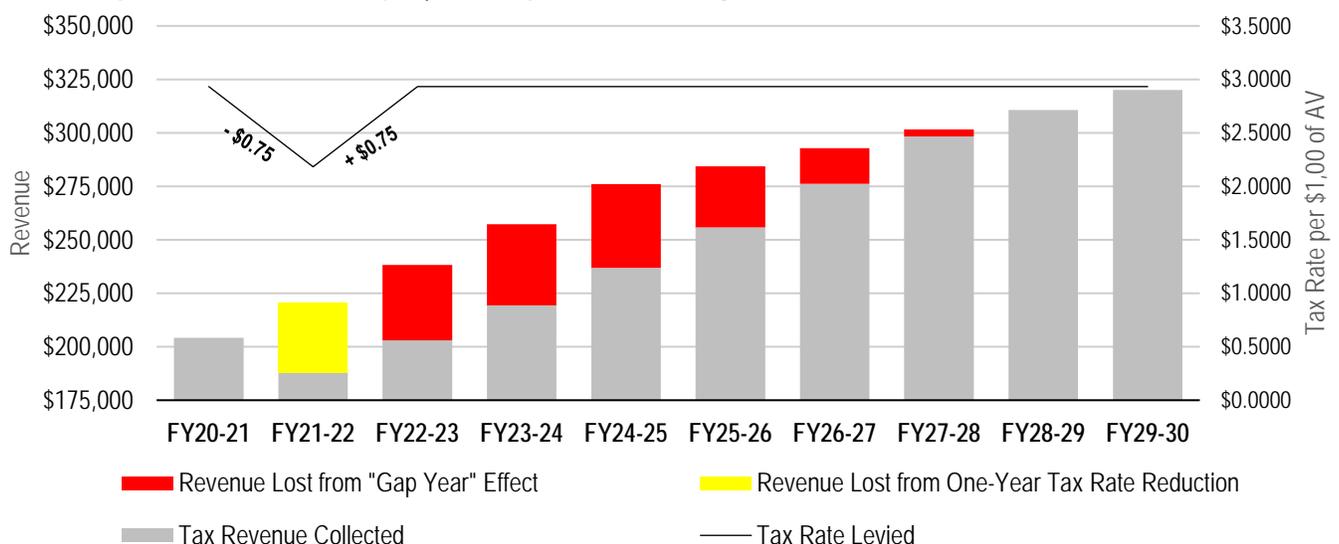
Jurisdiction	Total Pre-abatement Tax Amount	Abatement Amount	Relative Sizing (Percent)
Elko County	\$17,459,879	\$674,487	3.9%
Carlin	\$460,578	\$6,956	1.5%
Elko (City)	\$5,698,423	\$110,983	1.9%
Wells	\$318,140	\$16,810	5.3%
West Wendover	\$1,696,300	\$80,831	4.8%

Source: Nevada Department of Taxation, Local Government Finance Pro Forma Property Tax Projections, Fiscal Year 2020-21

¹Relative sizing represents the portion of the total pre-abated tax amount that is taken up by abatements.

The failure of the ballot question requires that Elko County governing bodies react to the discontinuation of the District’s pay-as-you-go tax rate effective June 30, 2022, in the fiscal year 2022-23 budget cycle or the revenue potential of the existing rate could be diminished. For discussion purposes, the below chart illustrates the effects of the “gap year” upon the previous example property with the added assumption that the assessed value increased by three percent per year from fiscal year 2022-23 onward.

Chart 1: Gap Year Limitation Example | Effect Upon Revenue Projection





In the chart, the assumption is made that the tax rate was reduced by \$0.75 for fiscal year 2021-22 and subsequently restored for fiscal year 2022-23 onward, effectively creating a “gap year.” The grey columns indicate the property tax revenues received from the example property. The yellow shading indicates revenues lost by the one-year tax rate reduction, which totaled to \$35,179. The red shading indicate the revenue lost from the impacts of the “gap year” due to property tax growth constraints instituted by the Abatement Act of 2005. In this example, where the assessed value of the non-residential property increased at a yearly rate of three percent, the “gap year” effectuated \$173,635 in lost revenue between fiscal years 2022-23 and 2027-28. Fiscal year 2028-29 was the first year in which the effect of the “gap year” had disappeared. Without the “gap year,” the example property would generate \$2,922,353 in property tax revenue between fiscal years 2020-21 and 2029-30 in this example. With the “gap year,” that value shrinks 7.1 percent to \$2,713,539. In the case that the assessed value increased by more than modeled average of three percent per year, the effects of the “gap year” would linger around longer. Simultaneously, if the assessed value increased at a lower rate, while not becoming negative, the recovery window and associated lost revenues would be smaller.

UNFUNDED NEEDS, CAPITAL VS. OPERATIONS

It is recognized that the discontinued rate provided funds for the District’s capital needs. An argument can be framed to use the funds provided by the offsetting increase in the tax rate to address capital needs throughout the County, especially since that was an argument made for defeating the initiative. While these revenues would be collected by the County, the funds need not be used solely on the County’s own projects. Rather, these funds could be made available for capital project or program support to other entities, such as municipal bodies or even the District, that rest within the County.

While NRS 361.457 places a prohibition on the transfer of funds from larger local governments to smaller governments, allocating funds toward capital project and program support is permissible as these projects can be viewed as expenditures that create direct access or benefit for County residents as a whole. A county can enter into an interlocal agreement with a qualifying entity and pay for services or a project as long as there is exchange. An exchange can be viewed as the expenditure creating access or benefit for County residents. In this particular situation, such a transaction should be scrutinized in context with the recent ballot question outcome.

A suggested starting point would be to accumulate the identified needs throughout the County and compare the needs to the funding that would be generated by continuation of the levy. To aid in this discussion a summary compilation of the five-year capital improvement plans of all relevant entities would be useful in quantifying a base of funding needs county-wide. Regarding this endeavor, considerations should be made regarding the availability of possible alternative funding options that can be allocated toward these projects as well as the actual necessity of these projects, especially within a given timeframe.

Similarly, funds generated from the available rate could be used to fund recurring expenses rather than just one-time capital projects and program support. Funds allocated toward recurring expenses have greater limitations on their use than funds put towards capital project and program support, namely that they cannot be shared with other jurisdictions. In this case, the County could choose to use the funds to hire more public safety personnel, for example, as the officers are County employees benefitting the County population as a whole, but they could not use these funds to hire more municipal police officers for a city police department, as those are another entity’s employees. The intended distinction will be the authority/ability to provide benefits or access to services for residents on a county-wide basis.



NEVADA’S PARTIAL PROPERTY TAX ABATEMENT (THE ABATEMENT ACT OF 2005)

In 2005, the Legislature approved the Abatement Act, which established formulas to determine whether tax abatements are required for property owners in each year. For owner-occupied residential properties, an abatement generally is required to reduce the amount of property taxes owed to not more than three percent more than the amount levied in the immediately preceding fiscal year. That same formula applies (as a charitable exemption) to other property that qualifies as low-income rental housing. The cap is eight percent for all other property, with certain qualifications.

There is also a secondary abatement calculation that is determined pursuant to a formula, which allows property taxes to fall below the primary three-percent and eight-percent caps where the greater of: (i) the average percentage change in the assessed valuation of all taxable property in the County as provided by the Department of Taxation over a rolling 10-year period, (ii) two times the increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year, or (iii) zero is less than three percent or eight percent, respectively. Simply put, the formula limits annual property tax increases to be no more than three percent for residential parcels and eight percent for non-residential properties; additionally, the rate can be lower than three percent for residential parcels and eight percent for all other parcels, given that the secondary formula allows for it. Importantly, neither the primary nor secondary abatement caps apply to newly constructed property in the year it is constructed, allowing those properties to come on to the tax roll at an unabated tax rate in the first year in which the tax would be applied and collected.

Table 6 summarizes the abatement formula calculation results for Elko County described above for the five-year horizon fiscal year 2017-18 through fiscal year 2021-22. In fiscal year 2021-22, the maximum percentage increase of tax liability for residential parcels will be three percent and 4.5 percent for all other parcels.

Table 6: Elko County Property Tax Abatement Metrics and Rates

	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22
Moving Average Growth Rate	5.6%	5.7%	5.2%	3.6%	4.5%
CPI Change	2.6%	4.2%	4.8%	3.6%	2.4%
Residential Cap	3.0%	3.0%	3.0%	3.0%	3.0%
General Cap	5.6%	5.7%	5.2%	3.6%	4.5%
Residential Cap Factor	1.030	1.030	1.030	1.030	1.030
General Cap Factor	1.056	1.057	1.052	1.036	1.045

Source: Nevada Department of Taxation, Local Government Finance Pro Forma Property Tax Projections

Notably, there are at least two bills pending at the Nevada Legislature that would make changes relating to the method by which property taxes are calculated. One proposal from the Nevada Association of Counties (SB 10) proposes to establish three percent as the floor for residential properties and other properties without the previously mentioned additional limitations. The Nevada League of Cities proposal (SB 64) eliminates the secondary cap calculation (i.e., establishing fixed tax caps of three percent on all owner-occupied residential and eight percent for most other property) and also proposes to reduce the depreciation rate used for determining assessed valuation from 1.5 percent to one percent.

WILL OF THE PEOPLE

Considerations should be made regarding voter expectations and desires when making this decision. There were a multitude of reasons that could be given as to why voters chose to defeat the ballot initiative; however, the two strongest rationale given against voting for the measure are (i) the perception that those funds could be better served funding other projects and (ii) the expectation of a lower tax bill. Any decisions made concerning the levying of the newly available rate should be made in light that some voters may have been swayed by the argument that funds should be reallocated from the District's capital program, which was argued as making "nice-to-have" expenditures with the revenues, toward general County projects, which were argued as allowing for an alternative funding source for necessary projects, but others were swayed entirely by the notion of lowering their property tax bill. In the case that they expected a property tax cut, there may be an expectation that some or all of the rate should be reduced.

PROCEDURE IF GOVERNING BODIES CANNOT AGREE AS TO ALLOCATION OF INCREMENT

Finally, it is imperative that local leaders representing the County and the cities address this issue among themselves. Disagreement or failure to address this opportunity could result in the Nevada Tax Commission having to arbitrate an outcome, which would remove local control over decision making and assign it to another body. The Nevada Tax Commission only enters the picture if agreement between and among local jurisdictions within Elko County cannot come to an accord following the filing of final budgets.

DISCUSSION AND IDENTIFICATION OF OPTIONS

This analysis offers a series of scenarios that frame potential outcomes of the forthcoming discussions in Elko County. Each of the scenarios are summarized briefly below. It is noted that while this writing includes five scenarios, there were additional alternatives examined and rejected because of obvious encroachment upon or outright violation of Nevada Revised Statutes (e.g., Elko County imposing the full \$0.75 rate and apportioning out taxes collected to the various jurisdictions within the County).

In reviewing the background and data presented, it is evident that there is no obvious single path forward for Elko County. However, the next five scenarios paint an adequate depiction of some available options as well as considerations relating to them.

SCENARIO 1 | COUNTY IMPOSES 100 PERCENT OF THE AVAILABLE RATE

Assuming Elko County determines to levy the entire \$0.75 rate increment that has become available, the full value of increment on a county-wide basis is estimated to generate \$16.7 million, which is approximately 96.5 percent of the pre-abatement amount of \$17.3 million referenced earlier in the Table 2. This levy implementation is considered a "revenue neutral" option because this same increment is currently levied by the District. This action does not result in a tax increase for Elko County residents and preserves a revenue stream that can be used to address unfunded needs, including capital and operational needs.

If the entire \$0.75 is levied, it does not change the current condition of there being virtually no headroom for voter approved ballot questions to increase rates in order to address unfunded needs that may arise in the future.



SCENARIO 2 | RATE INCREASES ARE SPLIT BETWEEN LOCAL GOVERNMENTS

In this scenario, Elko County would levy some portion of the available \$0.75 rate with each of the cities taking the remaining available rate. For example, the County could levy \$0.50 of the available \$0.75 rate. Each of the cities would individually levy a \$0.25 rate. Here, the combined rates of overlapping units would not exceed the \$3.66 cap. Each unit of government that levies an increment of the rate would have sole discretion as to the use of the funds.

Please note that the examples shown are used here for demonstration purposes only. It is not intended to imply a recommendation and should not be construed as such. In actuality, there are numerous criteria that can be employed to determine an appropriate splitting of the available rate, such as relative share of assessed value, current and/or future population sizes, current funding needs or projected future budgetary shortfalls. The following table illustrates the potential revenues that would be generated for the County and the four cities in this example scenario. The amounts shown do not reflect the impact of abatement. Please see Table 5 for approximate abatement discount factors.

Table 7: Hypothetical Impact of a Shared Rate Increase

Jurisdiction	FY20-21 Assessed Value ¹	Tax Rate Distribution (County/Municipal) ²			
		\$0.75/\$0.00	\$0.50/\$0.25	\$0.25/\$0.50	\$0.00/\$0.75
Elko County	\$2,307,887,553	\$17,309,157	\$11,539,438	\$5,769,719	\$0
Carlin	\$40,120,924	\$0	\$100,302	\$200,605	\$300,907
Elko (City)	\$620,013,594	\$0	\$1,550,034	\$3,100,068	\$4,650,102
Wells	\$33,116,158	\$0	\$82,790	\$165,581	\$248,371
West Wendover	\$147,326,026	\$0	\$368,315	\$736,630	\$1,104,945

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-2021.

²Revenue generated does not account for abatements.

The benefit of this scenario is that there is no encroachment on the spirit of the prohibition of transfers included in NRS 361.457. Again, however, if the entire \$0.75 is levied, it does not change the current condition of there being virtually no headroom for voter approved ballot questions to increase rates in order to address unfunded needs that may arise in the future.

SCENARIO 3 | RATES ARE PARTIALLY INCREASED OR NOT AT ALL

There exists the possibility that the governing bodies choose not to levy some or all of the \$0.75 increment that will become available. Under this scenario a flexible implementation horizon is anticipated – that is, a portion of the full \$0.75 increment would be taken in the short-term with the possibility of the remainder being phased in over time or not at all. The concern with exercising this option is that the gap year circumstance discussed previously in this analysis becomes reality.

If the rate is reduced going into fiscal year 2022-23 (or any year after that), the provisions of the Abatement Act are triggered in the calculation of the property tax revenue yield. Once the per parcel revenue is reduced, it can only increase by the amounts determined by application of the factors identified in the Abatement Act for existing properties. For existing property, it is very difficult to regain the full revenue lost by a previous rate reduction. This is less of a concern when “banked” abatements are high relative to tax amounts. Recalling Table 5, it is important to note relative sizing between abatements and pre-abated tax amounts are between 1.5 percent and 5.3 percent, depending upon the entity in question. These low values indicate that any moderate reduction in the property tax rate would result in property tax bills reducing in the short-term, as there is little buffer from the “banked” abatement and being incredibly difficult to recover in the long-term.



Importantly, this scenario illustrates the two perspectives that can be made involving not levying the full \$0.75 property tax rate. On the one hand, it would likely grant a reduction in the property tax bill to the voters, who may have voted for that very reason. On the other hand, it would likely lead to drastic reductions in revenues if more of the available increment were taken at a later time.

SCENARIO 4 | RATES ARE INCREASED PURSUANT TO A SPECIFIC CLIENT REQUEST #1

Following client feedback, an additional scenario was added for consideration using specific increment allocations for the County and the cities of Elko and Wells. In this scenario – which is actually a variation of Scenarios 2 and 3, above – Elko County levies a rate of \$0.3740, the City of Elko levies a rate of \$0.1770 and the City of Wells levies a rate of \$0.1990. The following table summarizes the property tax rate and property tax revenue implications of these suggested increments. As before, please note that the calculated revenue amounts shown below do not account for the effects of abatement as those would occur on a parcel-by-parcel basis. Please see Table 5 for approximate abatement discount factors.

Table 8: Implications of Proposed Increment Allocations

Jurisdiction	FY20-21 Assessed Value ¹	Proposed Rate Increment			Proposed Rate Revenue ²		
		County	Municipal	Combined	County	Municipal	Combined
Elko County (Unincorporated)	\$1,467,310,851	0.3740	-	0.3740	\$5,487,743	-	\$5,487,743
Carlin	\$40,120,924	0.3740	-	0.3740	\$150,052	-	\$150,052
Elko (City)	\$620,013,594	0.3740	0.1770	0.5510	\$2,318,851	\$1,097,424	\$3,416,275
Wells	\$33,116,158	0.3740	0.1990	0.5730	\$123,854	\$65,901	\$189,756
West Wendover	\$147,326,026	0.3740	-	0.3740	\$550,999	-	\$550,999

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-21.

²Revenue generated from Proposed Rate Increments do not account for abatements.

Observing the proposed rate increment portion of the table, it is important to note that, for these proposed increment allocations, the highest combined increment is \$0.5730 (Wells), which leaves \$0.1770 of the available \$0.75 increment unlevied. This happens because of the effects of jurisdictional boundaries on property taxation. While the sum of the proposed individual increment rates is \$0.75, these increments are not truly additive as municipal-level tax rates only apply to properties within their own jurisdiction. In regards to taxation, the only overlap that occurs is between county-level tax rates, which apply to every parcel within a county, and municipal-level tax rates, which only apply within their specific jurisdiction. Therefore, with the proposed increment allocations, taxpayers across the County would see a \$0.3760 reduction in their property tax rate, while residents of the cities of Elko and Wells would experience reductions of \$0.1990 and \$0.1770, respectively. It is also worth adding that in this approach – whether in the unincorporated county, Wells or the City of Elko – there would remain available rate levying opportunities that will go unused (as the proposed rates, individually in the case of the unincorporated county and combined in the case of either Wells or the City of Elko are less than could otherwise be levied in light of the \$0.75 headroom). Accordingly, the prior discussion regarding the creation of potential abatement-related revenue loss issues would apply.

The proposed rate revenue portion of the table illustrates the effects of the proposed increment allocations on property tax revenues. The proposed \$0.3740 increment for the County would be levied county-wide and thus would generate \$8,631,499 in property tax revenue across all jurisdictions. This value was created by summing the revenues generated by the County rate in each of the jurisdictions above. The City of Elko's rate of \$0.1770 would only apply within the City of Elko and would generate \$1,097,424 in property tax revenue. This is the value indicated for the City of Elko in the municipal column. Acting in the same manner as the City of Elko, the City of Wells would generate \$65,901 from its \$0.1990 rate.



SCENARIO 5 | RATES ARE INCREASED PURSUANT TO A SPECIFIC CLIENT REQUEST #2

Also pursuant to the clients’ request, a fifth scenario was prepared for consideration. In this scenario, Elko County increases its rate by \$0.75, the City of Elko increases its rate by \$0.1777 and the City of Wells increases its rate by \$0.1909. This scenario is essentially a variant of Scenario 1 in which the County increases its rate by the full \$0.75 and Scenario 4 in which both the County and selected cities within the County increase their respective rates. The result is a countywide increase inuring to the County as well as each municipal jurisdiction within the County being at (or nearly at) the legislative property rate cap.

Table 9 depicts each jurisdiction’s total tax rate at present, before the expiration of the Elko County School District’s increment, as well as the post-adjustment rates assuming the Scenario 5 increases were instituted for the County, City of Elko and City of Wells. In this scenario, the \$0.75 increment, scheduled to fall away effective June 30, 2022, would be offset by an increase in the County’s rate, resulting in no change to the aggregate tax rate imposed countywide. At the same time, the City of Elko would increase its rate by an additional \$0.1777, resulting in a total tax rate of \$3.66 – the maximum allowable property tax rate. Similarly, the City of Wells would increase its rate by an additional \$0.1909, also bringing its rate to the \$3.66 cap.

Table 9: Total Tax Rates in Elko County with Proposed Property Tax Rates

Tax District	Elko County				West
	(Unincorporated)	Elko (City)	Carlin	Wells	Wendover
Current Rate Levied	2.7686	3.4823	3.6566	3.4691	3.6600
Elko County School District Rate Expiration	-0.7500	-0.7500	-0.7500	-0.7500	-0.7500
Elko County Proposed Rate Increase	+0.7500	+0.7500	+0.7500	+0.7500	+0.7500
Elko (City) Proposed Rate Increase	--	+0.1777	--	--	--
Wells Rate Proposed Increase	--	--	--	+0.1909	--
Total Proposed Rate Levied	2.7686	3.6600	3.6566	3.6600	3.6600

Scenario 5 estimates the property tax revenues generated by the rate structure outlined above. Because Scenario 5 results in a net tax rate increase for the City of Elko and the City of Wells (i.e., an increase excess of the \$0.75 District rate recapture), the analysis becomes a bit more complicated and requires simulation of the relative abatement and the split between ad valorem (property) taxes imposed on real property and property taxes generated pursuant to Nevada’s net proceeds of mines levy.

Logic would suggest that increasing a property tax rate would lead to an increase in revenue. However, due to complications stemming from the Abatement Act, it is possible to increase property tax rates and effectuate no change, or a very limited change, in real property tax revenues. This analysis takes a conservative approach and assumes that all potential revenue generated in excess of \$15.0 million (which is what the \$0.75 increment currently generates in real property tax revenues) are subject to the Abatement Act and may not yield any additional revenue where the tax increase leads to a tax bill that is greater than the caps imposed by the Abatement Act. Stated otherwise, any tax rate increases above the \$0.75 District rate recapture would be expected to generate only *de minimis* incremental proceeds. That said, the \$15.0 million must then be appropriately spread across the three jurisdictions that are increasing their property tax rates. For this analysis, the distribution of the funds was weighted by the pre-abated total revenue generated by each jurisdiction’s proposed property tax rate. While not perfect given the parcel-by-parcel calculation required to determine each taxpayer’s annual liability (and abatement), this provides a reasonable approximation of what the various taxing entities in Elko County should anticipate in terms of their respective allocations. Table 10 depicts the abated real property tax revenue estimate generated by the proposed tax rates. Please note that the assessed value column reflects only the assessed value of real property (an analysis of the net proceeds allocation is discussed in the paragraphs that follow).



Table 10: Estimated Abated Real Property Tax Revenues for Proposed Property Tax Rates

Jurisdiction	FY20-21 Assessed Value of Real Property ¹	Proposed Rate Increment	Pre-Abated Real Property Revenue	Abated Real Property Revenue Estimate ²
Elko County	\$2,078,083,254	0.7500	\$15,585,624	\$13,941,492
Elko (City)	\$619,988,750	0.1777	\$1,101,720	\$985,499
Wells	\$33,116,158	0.1909	\$63,219	\$56,550
Total:			\$16,750,563	\$14,983,541

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-21.

²Revenue generated from proposed rate increments does account for abatements.

Using the previously described methodology, the Scenario 5 tax rates would be expected to generate \$13.9 million for Elko County, \$985,500 for the City of Elko and \$56,600 for the City of Wells in real property tax revenue. In total, the tax rates would generate \$15.0 million in real property tax revenue. As a product of the conservative approach, 10.5 percent of the pre-abated revenues are lost to the effects of the Abatement Act because the aggregate increase in the property tax rates is greater than the \$0.75 percent recapture and the balance of the increase would be abated because it is assumed to push most properties above the annual property tax bill caps. It is possible for the abatement effect to be lower, particularly if assessed value increases are well below the cap thresholds or if a significant amount of new construction comes online (recall that the provisions of the Abatement Act do not apply to new construction).

Unlike real property, net proceeds of mines are not subject to the Abatement Act, which allows for straightforward estimates to be calculated merely by applying the proposed tax rate on the assessed value of each jurisdiction's net proceeds of mines. Included below is a table depicting the assessed value of net proceeds of mines in each of the relevant jurisdictions for fiscal year 2020-21 as well as the estimated tax revenue that would be generated by the Scenario 5 tax rates.

Table 11: Estimated Net Proceeds of Mines Tax Revenues for Proposed Property Tax Rates

Jurisdiction	FY20-21 Assessed Value of Net Proceeds of Mines ¹	Proposed Rate Increment	Net Proceeds of Mines Revenue Estimate
Elko County	\$229,804,299	0.7500	\$1,723,532
Elko (City)	\$24,844	0.1777	\$44
Wells	\$0	0.1909	\$0
Total:	\$229,829,143		\$1,723,576

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-21.

In general, the assessed value of net proceeds of mines fluctuates a fair amount between years as commodity prices and mineral extraction rates are constantly evolving; therefore, this projected amount is likely to change from year-to-year. Expected variation notwithstanding, the County's prospective \$0.75 tax rate is expected to generate \$1.7 million in tax revenue if values stay approximately near levels from fiscal year 2020-21. The Cities of Elko and Wells have little, if any, mining activity taking place within their jurisdictions; therefore, their tax rates are not anticipated to generate a significant amount of tax revenue from net proceeds of mines.

Finally, the elements of the previous two tables must be joined together to generate the total tax revenue estimates for Scenario 5. The following estimates were created by adding the anticipated net proceeds of mines tax revenue (shown in Table 11) to the abated real property tax revenue estimates (shown in Table 10). The Scenario 5 tax rates are anticipated to generate \$16.7 million in total tax revenue. The County would be anticipated to receive just under \$15.7 million. The City of Elko's \$0.1777 tax



rate would generate \$985,500. Finally, the City of Wells would receive approximately \$56,600 from its \$0.1909 tax rate. These values are expressed in the table below.

Table 12: Estimated Abated Total Tax Revenues for Proposed Property Tax Rates

Jurisdiction	FY20-21 Total Assessed Value ¹	Abated Real Property Revenue Estimate	Net Proceeds of Mines Revenue Estimate	Abated Total Tax Revenue Estimate ²
Elko County	\$2,307,887,553	\$13,941,492	\$1,723,532	\$15,665,025
Elko (City)	\$620,013,594	\$985,499	\$44	\$985,543
Wells	\$33,116,158	\$56,550	\$0	\$56,550
Total:		\$14,983,541	\$1,723,576	\$16,707,118

¹Assessed Value from Nevada Department of Taxation, Property Tax Rates for Nevada Local Governments, Fiscal Year 2020-21.

²Revenue generated does account for abatements.

CLOSING

The preceding presentation provides information that will aid the governing bodies in establishing their plan of action regarding the choice(s) to be made. The final choice will come from this review and discussion process. It is suggested the group consider a series of questions that should be addressed as they work through the process. As the questions are addressed, a path forward will likely become more apparent.

Points that might be considered include the following:

1. Is there a taxpayer expectation that their tax bill will go down as a result of the failure of the ballot question?
2. Should the group establish guidelines as to one-time uses of the funds or will ongoing commitments be considered/allowed? On a related note, should there be a limit on the proportion of funds committed to recurring obligations?
3. Is a primary goal in reallocating the available property tax rate to maximize revenue, or is it to identify specific funding needs between and among the County and the other local governments within the County?
4. Should this group consider a use of funds that specifically benefits the County as a whole, including the School District that will inevitably have future capital needs? Given that this would likely focus upon capital projects, what criteria should be considered?
5. Should the full \$0.75 rate be reallocated, or should some increment be left unallocated allowing for future voter overrides? This considers the notion of offering a partial reduction in rate for the benefit of the taxpayers or leaving capacity to support new ballot initiatives that may arise in the future.
6. If the tax rate were to be allocated across multiple entities, what would the appropriate criteria be for splitting the available rate? Options for doing this have been identified in the *Discussion and Identification of Options* section, above.
7. Alternatives imposing new entity tax rates would result in a tax increase on new construction, as the abatement mechanics do not exempt new construction. Consequently, new construction does not benefit from any abatement in its first year. This is the case for all new construction, whether rates are reallocated or were to remain unchanged. This



is an additional point to consider in fashioning a final solution to the reapportionment of available ad valorem tax rates. This point is less about the allocation of the tax rate capacity among entities than it is correctly messaging the impacts.

It is important to add that the final best course to address this opportunity may be to use combinations or variations of the scenarios identified above. Undoubtedly, there are political and other factors that may bear upon the outcome that best suits the needs of the various local governments. It is recognized that these exist, and the depth and breadth of these factors is better assessed by local decision-makers.

END OF REPORT