

April 18, 2019

The special meeting of the Yerington City Council was held at the Fire Department, 11 Pacific Street at 10:00 a.m. with the following present:

Mayor George Dini  
Council Members John Garry, Larry Reynolds and Terceira Schunke (via phone)  
City Manager Switzer  
Chief of Police Darren Wagner  
Bookkeeper Pamela Argo

Absent: Councilwoman Selena Catalano, City Attorney Chuck Zumpft, Administrative Director/Interim City Clerk Sheema D. Shaw, Public Works Director Jay Flakus

Guests: Tim O'Conner of Taggart & Taggart, LTD

#### Agenda Approval

Councilman Garry made a motion to approve the agenda as presented, seconded by Councilwoman Schunke and passed unanimously.

Join Lyon County and Other Local Governments in the Water Rights Case, Mineral County VS Lyon County (75917), before the Nevada Supreme Court. Deadline to Submit as an Interested Party is April 19, 2019

Mayor Dini stated that this item came to his attention through a news article. Mayor Dini stated that what disturbs him is how late the City of Yerington was notified with any information on the lawsuit. Mr. Tim O'Conner of Taggart & Taggart, LTD stated that the lawsuit as a whole has been worked on for decades.

Mayor Dini asked when this current lawsuit was filed. Mr. O'Conner stated he believes it was done in January of this year. It has been sitting in front of the Nevada Supreme court for a few months and must be briefed by the different parties in the Nevada Supreme Court.

Mayor Dini asked if the City participated in the prior proceedings. Mr. O'Conner stated not to his knowledge. Mayor Dini stated that he believes the City showed their support in the past; however, he could be wrong.

City Manager Switzer stated that he was contacted by the City Attorney and was made aware of this pending case for the Nevada Supreme Court and that the city was being asked to lend its support to the overall issue, which has to do with prior authorized water rights that the city does have and does maintain. City Manager Switzer stated that the reason he asked for this special meeting was in speaking with Mr. O'Conner, in order for us to be added to the brief it would require us to give and send a \$5,000 retainer to Taggart & Taggart with the understanding that we do have the deadline of tomorrow.

City Manager Switzer stated that he did speak with City Attorney Zumpft and it is his understanding that there are two issues that may have bearing on this decision. The first is that the agreement does not cover representation upon appeal or in execution proceedings after judgement. Which means the city may be obligated to further legal cost down the road. There is a provision that the city could withdraw from the agreement upon notification.

Mr. O'Conner stated that what they are asking the City of Yerington to join is different from a typical case in that the city would not become a party to the case, it would not have any type of ongoing obligation unless the city chooses to become part of the action.

Mayor Dini asked why those two cities were involved as the case is Lyon County vs Mineral County. Mr. O'Conner stated that the reason other cities and municipalities were involved is because the question is much broader than just what is happening on Walker River. It is any decree, any type of water in Nevada.

Councilman Garry stated that water rights are vitally important to this community. Are our rights going to be asserted whether we participate or not, or is it vital for us to join this so that representations are made on our behalf? Mr. O'Conner stated that this is more of a question of whether or not issued water rights can be reallocated later down the road.

City Manager Switzer stated that he did speak with the City Attorney and in the City Attorney's assessment the main issue is that we could have ongoing legal costs.

Mayor Dini stated that he is under the opinion that it does not matter if the City of Yerington is involved or not, although he does agree with Councilman Garry that water rights are very important in Nevada. Mayor Dini stated that he finds it problematic that we were not asked to join until there were only 10 days remaining to make a decision and according to our attorney it does not make a difference if we join or not. We are a community that struggles very hard for every dime that they sum up. Mayor Dini stated that it is his opinion that due to the uncertainty of the document and the amount of funds we need to invest, he does not have an appetite to join at this time.

Mr. O'Conner stated that he is unsure why the City Attorney's comments have not appeared before the council before now. Mr. O'Conner stated that the Nevada Supreme Court will answer this question once and water rights in Nevada will be ruled under this question for the rest of our lives. Mayor Dini stated that he was not sure that is a true statement.

Mr. O'Conner stated that as far as the legal service agreement and type of cost or obligation moving forward: the six page agreement is fairly standard as far as the form that they use. The scope is solely for the drafting and filing of this agreement. It does not take it to another court or make Yerington a party when it moves back to the 9<sup>th</sup> circuit court. It is just to have a voice on this brief question moving forward.

Councilman Garry asked City Manager Switzer what the City Attorney's position was on joining this brief. City Manager Switzer stated that the other issue was the fact that this brief and the arguments contained therein are going before the Supreme Court whatever action the council decides to take.

Councilman Reynolds stated that if we had been notified sooner, however, it feels like we are being forced to make a decision right now.

Mayor Dini asked is there a motion; No motion was made and the agenda item dies for lack of motion.

#### Reconsider Bridge Financing for Pre-Construction Costs of the City-Wide Water/Sewer Project

City Manager Switzer stated that subsequent to the last council meeting where the council approved borrowing approximately \$1.3 million to \$1.5 million as a bridge to take care of pre-construction costs on the city-wide water/sewer project, he found out that in 2017 we had signed a retention agreement with bond counsel out of Reno. Counsel was retained specifically for the water/sewer project.

City Manager Switzer stated that he contacted Mr. Shaver who is our bond counsel representative, who stated that it would be better for the City of Yerington to use available funds that we do have to complete the pre-construction phase. We would need to take subsequent action to move money between one enterprise fund to another (funds from the water fund to the sewer fund). That would need to be done by motion action of the council.

City Manager Switzer stated that it is his opinion that council reconsider the bridge financing based on this information.

Councilman Garry made a motion to reconsider the bridge financing for Pre-Construction Costs of the City-wide water/sewer project and use available cash reserve funds for the interim invoices between now and our construction dates, seconded by Councilwoman Schunke. Mayor Dini asked for public comments, there were no comments and the motion carried unanimously.

There being no further business the meeting was adjourned.

---

Mayor of the City of Yerington

ATTEST:

---

Administrative Director/Interim City Clerk