WEST WENDOVER CITY COUNCIL, MINUTES OF THE REGULAR MEETING OF JUNE 19, 2018

1. CALL TO ORDER AND ROLL CALL

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
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<tbody>
<tr>
<td>Jerry Anderson</td>
<td>Councilman</td>
<td>Present</td>
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<td>Nick Flores</td>
<td>Councilman</td>
<td>Present</td>
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<tr>
<td>Izzy Gutierrez</td>
<td>Councilman</td>
<td>Present</td>
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<td>John B. Hanson</td>
<td>Councilman</td>
<td>Present</td>
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<tr>
<td>Jasie Holm</td>
<td>Councilwoman</td>
<td>Present</td>
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<tr>
<td>Daniel J. Corona</td>
<td>Mayor</td>
<td>Present</td>
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<tr>
<td>Bryce Kimber</td>
<td>Public Works Director</td>
<td>Absent</td>
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<tr>
<td>Burdel Welsh</td>
<td>Police Chief</td>
<td>Present</td>
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<tr>
<td>Chris Melville</td>
<td>City Manager</td>
<td>Present</td>
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<tr>
<td>Jeff Knudtson</td>
<td>Fire Chief</td>
<td>Present</td>
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<td>Michelle Giovo</td>
<td>Chief Financial Officer</td>
<td>Present</td>
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<tr>
<td>Anna Bartlome</td>
<td>City Clerk/Records Officer</td>
<td>Present</td>
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Others Present: Dain Uriarte, Mike Rebaleati, John Smales, Kathy Durham, Robert Eglet, Robert Adams, Corinne Copelan and Diane Arvizo

Mayor Corona called the meeting to order at 7:00 p.m. in the West Wendover City Hall, Council Chambers #137. All those present and excused are noted above.

2. PLEDGE OF ALLEGIANCE

Mayor Corona led those present in the Pledge of Allegiance.

3. COMMENTS FROM THE GENERAL PUBLIC

None offered or received.

4. APPROVAL OF THE MINUTES (For Possible Action)

a. City Council - Regular Meeting - May 15, 2018 7:00 PM Accepted
b. City Council - Regular Meeting - Jun 5, 2018 7:00 PM Accepted

Council Member Holm made the motion to approve the minutes of the regular meeting of May 15, 2018 and the minutes of the regular meeting of June 5, 2018. The motion was seconded by Council Member Anderson and passed unanimously.

5. CONSENT CALENDAR
a. Discussion and Decision to Adopt Resolution #2018-13; A Resolution of the City Council of West Wendover, Nevada Providing for the Transfer of the City’s 2018 Private Activity Bond Cap to the Nevada Rural Housing Authority; and Other Matters Appropriately Related Thereto (For Possible Action)

Report By Diane Arvizo, NRHA Director of Homeownership Program
Review/Comment/Action: City Council

Chris Melville stated that the resolution is similar to previous resolutions that have been done on an annual basis to provide the City's bond cap to Nevada Rural Housing Authority. Chris stated that Nevada Rural Housing is able to use the bond cap to conduct housing initiatives in rural Nevada.

Diane Arvizo stated that Nevada Rural Housing has helped about 20 families in West Wendover. Diane stated that West Wendover is a target community and they would like to increase the number of families they serve here. Diane stated that the private activity bond cap that is transferred to them help fund the single family housing programs. Diane stated that the transfers are pooled together so that collectively they can help along the rural areas. Diane stated that they have funded over $50 million in down payment assistance and helped almost 30 million in tax savings with the mortgage credit assistance program.

Mayor Corona asked if this was the same as has been done previously. It was stated that it is similar to what has been done over the last several years.

Diane stated that Gary Longaker is the one who came up with pooling the unused bond cap so that it could make an impact instead of reverting back to the treasury.

Council Member Hanson made a motion to adopt Resolution #2018-13; a resolution of the City Council of West Wendover, Nevada providing for the transfer of the City's 2018 Private Activity Bond Cap to the Nevada Rural Housing Authority. The motion was seconded by Council Member Gutierrez and passed unanimously.

6. NEW BUSINESS

a. Discussion and Decision Regarding Ratification of the Amendment to the Contract of Purchase and Sale for Land between the City of West Wendover and BRLS NV Properties V LLC and Other Matters Appropriately Related Thereto (For Possible Action)

Report By City Manager
Review/Comment/Action: City Council

Chris Melville stated that he had provided what was going to be the resolution but after discussion with Gary Di Grazia the City Attorney we would like no action on this item tonight. Chris stated that they are still going to work through who is going to be the title company. Mayor Corona asked if there were any title companies that dealt with marijuana transactions. Chris stated that BRLS stated that they believe there are some. Mayor Corona stated that maybe a direct sale is what needs to take place. Chris stated that BRLS is discussing how they want to proceed with the sale. Gary Di Grazia stated that BRLS is checking into a number of alternatives on how to proceed with the land sale.
b. Discussion and Decision Whether to Retain, Subject to Approval of the Retainer Agreement by the City Attorney, the Law Firm of Eglet Prince of Las Vegas, Nevada, as Previously Presented to the City of West Wendover, to File a Court Action for Damages on Behalf of the City Against Multiple Private Companies Who Sell and/or Cause the Distribution of Opioids and Matters Thereof Appropriately Related Thereto (For Possible Action)

Report By City Legal Counsel

Review/Comment/Action: City Council

Gary Di Grazia stated that they have provided a lot of information regarding this matter including whether to retain Eglet Prince in an opioid lawsuit, Eglet Prince advancing the cost and expenses of the lawsuit win or lose, potential counterclaim against the City, termination of agreement and potential penalties. Gary stated that the main concern with litigation is what happens if there is a counterclaim against the City, who would take care of that, would Eglet Prince defend the City and would the insurance company cover that cost. The insurance company has recommended that the City not engage in litigation as they feel it is not in the best interest and that potential for damages could exceed coverage.

Council Member Flores asked what the possibility for a counterclaim would be. Gary stated that is hard to say as they would have to determine what type of counterclaim would exist with one possibility being abuse of process. Council Member Anderson asked if this was a group lawsuit what portion the City would receive of anything won. Gary stated that it was an individual action and you would retain Eglet Prince to file an individual claim on the City's behalf.

Robert Eglet stated that Humboldt County needed to be added to those who have retained them to file a claim for them. Robert stated that in over 30 years of handling pharmaceutical lawsuits he has never seen a counterclaim filed. In over 500 cases there has not been one counterclaim. In order to file a counterclaim the pharmaceutical company would have to show overwhelming evidence that there is no basis for the lawsuit. Robert stated that abuse of process cases are usually brought by insurance companies. Robert stated that time and expenses are recoverable costs and Eglet Prince would front the costs. Robert stated that in the event of a counterclaim Eglet Prince would handle the defense.

Mayor Corona asked if the issue of a counterclaim has come up with other cities or counties. Robert Eglet stated that it has been raised with other cities or counties but not a concern about a potential for abuse of process.

Council Member Anderson asked if each city has a lawsuit who comes up with the figure to sue for. Robert stated that there are experts that figure out damages. Council Member Anderson asked if the City would need to figure out the amount. Robert stated that no they would hire someone to do that.

Robert Eglet stated that there is one case active now which is Clark County and Reno would be soon. Robert stated that most of the data they have is on county figures and he
did not know how many prescription for opioids were done here in West Wendover. Robert stated that rural counties have a worse issue and he is not sure how many people here are heroin addicts.

Council Member Holm asked who would be paying the damages if counter sued. Robert Eglet stated that they have an indemnification clause. Robert Adams stated that they could not indemnify the City on a counterclaim but they have never seen a counterclaim on any of the lawsuits pending. Robert Adams stated that in most cases the pharmaceutical companies file motions to dismiss and if they win those than they will seek attorney’s fees and costs. Robert Adams stated that they could certainly indemnify the City for those costs. Robert Adams stated that on all the motions to dismiss that have been filed the pharmaceutical companies have not prevailed on any of them. Robert Adams stated that they would fight for the City on any counterclaim.

Council Member Gutierrez asked if the City Attorneys agree with what has been said or if there were more questions. Gary Di Grazia agrees that there is an unlikelihood of a counterclaim but there could be. Gary stated that there needs to be a distinction between costs and damages. Gary stated that they cannot reimburse for damages only costs. Robert Adams stated that they could have a contingency retainer in which they would front the costs to defend the counterclaim. Gary asked if it could be taken out of the agreement if you are ethically able to pay the costs and expenses on a counterclaim. Robert Adams stated that they can change the retainer agreement but would have some type of provision for counterclaims. Robert Eglet stated that they cannot indemnify the City for damages.

Council Member Holm asked if damages would be covered by the insurance. Gary Di Grazia stated that the policy does not seem to have an exclusion for a counterclaim against the City.

Robert Eglet stated that a counterclaim has to be filed up front in response to the filing of the claim and they could put something in the retainer about the City changing their mind at that point. General discussion was had regarding whether to get out of lawsuit if counterclaim filed.

Council Member Gutierrez asked how long the lawsuit could last. Robert Eglet stated that is a good question but could be several years. Robert Adams stated that if the case is fast it could be 3 years or as long as 7 years.

Gary Di Grazia asked if the case would be filed in Elko County. It was stated that yes it would be filed in Elko County.

Mayor Corona thinks that the lawsuit is worthwhile to purse and if there is a counterclaim that Eglet Prince will negotiate any counterclaim. Mayor Corona stated that the opioid is a huge issue for our City and does not like to think that it is here. Mayor Corona stated
that there are needles found on the casino floors all the time and we need to take a stand that this is not in our community.

Council Member Holm made a motion to retain, subject to approval of the retainer agreement by the City Attorney, the law firm of Eglet Prince of Las Vegas, Nevada, as previously presented to the City of West Wendover, to file a court action for damages on behalf of the City against multiple private companies who sell and/or cause the distribution of opioids. The motion was seconded by Council Member Gutierrez and passed unanimously.

c. Discussion and Decision Regarding Acceptance of the Renewal Proposal from Nevada Public Agency Insurance Pool (POOL) and Approval for Payment from Fiscal Year 2018-2019 Funds (For Possible Action)

Report By City Manager & POOL Representative

Review/Comment/Action: City Council

Chris Melville stated that the cost is up 6% from last year and there is no way to specify why that is as we are part of the POOL and our increase was around $10,000.00. Dain Uriarte introduced himself as one of the City's insurance agents and then introduced Mike Rebaleati who would be making the presentation to the City.

Mike Rebaleati stated that he would be learning about the previous agenda item (potential opioid lawsuit). Mike stated that one of the increases is to the cyber liability coverage by a $1 million so that there is a $3 million coverage with a $500,000.00 privacy response coverage. Mike stated that target solutions available for fire and EMS for all our members. Mike stated that the City has participated in the risk management grant programs.

Mayor Corona stated that he sits on the POOL/PACT Board and is very excited about the cyber security. Mike stated that they are covering ransomware if a situation arises.

Council Member Holm made a motion to accept the renewal proposal from the Nevada Public Agency Insurance Pool (POOL) and approval for payment from fiscal year 2018-2019 funds. The motion was seconded by Council Member Hanson and passed unanimously.

d. Discussion and Decision to Approve and Ratify the July 1, 2018 Through June 30, 2019, Collective Bargaining Agreement Between the City of West Wendover and the American Federation of State County and Municipal Employees (AFSCME) Local 4041 with an Effective Date of July 1, 2018 and Other Matters Appropriately Related Thereto (For Possible Action)

Report By City Manager

Review/Comment/Action: City Council

Chris Melville explained that the change to the agreement is to the dates of the agreement. Chris stated that this will be a 1 year agreement with the Local 4041 coming back and negotiating a 2 year contract.
Council Member Gutierrez made a motion to approve and ratify the July 1, 2018 through June 30, 2019, Collective Bargaining Agreement between the City of West Wendover and the American Federation of State County and Municipal Employees (AFSCME) Local 4041 with an effective date of July 1, 2018. The motion was seconded by Council Member Flores and passed unanimously.

Agenda taken out of order, New Business item f heard next, see below.

e. Discussion and Decision to Propose a Bill Draft Request (BDR) Through the Nevada League of Cities Regarding Changes to State Statute and/or Administrative Code as it Relates to the Requirements for the Presence of Department of Motor Vehicles (DMV) Satellite Offices in Isolated Small Rural Communities in Order to Provide Appropriate Services to the Public and Other Matters Appropriately Related Thereto (For Possible Action)

Report By Councilwoman Holm/Mayor Corona
Review/Comment/Action: City Council

Council Member Holm stated that the DMV used to come to the City at least once a month and cannot get any response from the DMV about starting services here. Council Member Holm stated that going to legislation might give us a better chance of getting the DMV here. Mayor Corona stated that it was similar with the marriage license issue as it would start and stop. Mayor Corona stated there should be some type of language for population under 100,000 and how far from the DMV

Council Member Flores stated that he is frustrated with the DMV as there is a kiosk in Albertsons that they are not using why can we not have it here.

Council Member Holm stated it will be at least a year before we get a response from the DMV.

Chris Melville stated that the DMV work had started before even Council Member Holm got on the Council and he even tried to get the kiosk here at Smith’s who was willing to provide space.

Council Member Hanson made a motion to propose a Bill Draft Request (BDR) through the Nevada League of Cities regarding changes to State Statute and/or Administrative Code as it relates to the requirements for the presence of Department of Motor Vehicles (DMV) satellite offices in isolated small rural communities in order to provide appropriate services to the public. The motion was seconded by Council Member Anderson and passed unanimously.

f. Discussion and Decision to Approve the Conceptual Site Plan for the Wendover Dog Park and Other Matters Appropriately Related Thereto (For Possible Action)

Report By City Manager
Review/Comment/Action: City Council
Chris Melville stated that the conceptual approval is from the plan that had been presented before but now asking for formal action.

Council Member Hanson stated that he would not be voting on this issue as he is involved in it.

Council Member Holm made a motion to approve the conceptual site plan for the Wendover Dog Park. The motion was seconded by Council Member Gutierrez and passed; Council Member Hanson did not vote.

Agenda taken back in order, New Business item e heard next, see above.

7. DEPARTMENT REPORTS
1. Youth City Council
Mayor Corona stated that they are looking for students to take the spots for next year. Mayor Corona stated that there is a list of interested students which hopefully they can get to the Council before the end of summer.

2. Fire Chief
Jeff Knudtson stated that the painters have come back and painted the sign in front of the station.

3. Police Chief
Burdel Welsh had nothing to report.

4. City Clerk/Records Officer
Anna Bartlome had nothing to report.

5. Chief Financial Officer
Michelle Giovo stated that her last day has now changed to July 13th; she would help prepare for year end and the auditors. Michelle stated that she is trying to leave in a good position.

Mayor Corona stated that not many people would stay and help. Council Members Flores, Holm, Anderson, Gutierrez and Hanson thanked Michelle for helping us out and extending her services.

Chris Melville stated that they are working on a professional services contract with Michelle for after her last day of employment with the City in order for her to help the City out in certain circumstances.

6. Public Works Director
Chris Melville stated that Bryce Kimber had a medical appointment and was not present at the meeting.

7. **City Manager**

Chris Melville just reminded the Mayor and Council to sign the Local 4041 contract.

8. **COMMUNICATIONS**

**Reports by Elected Officials**

Council Member Holm thanked Chris Melville for his work on the CFO issue.

Council Member Anderson thanked all the Department Heads for the work they do at keeping the City going.

Council Member Flores thanked the Department Heads for the work they do. Council Member Flores congratulated Council Member Hanson for the Dog Park. Council Member Flores stated that he hopes the potential BDR regarding DMV services moves the issue forward and something can happen here.

Council Member Gutierrez thanked the administration team for the work they do. Council Member Gutierrez stated that moving forward the City is taking the lead on some of the issues in the State.

Council Member Hanson thanked the Council for approval regarding the Dog Park. Council Member Hanson stated that they have formed a committee for the Dog Park and had the first meeting regarding the design and build of the park. Those on the committee include: John Hanson, Shellie Christensen, Kathy Gutierrez, Sandy Gorum and Dennis Sullivan.

Mayor Corona stated that the 4th of July is coming fast with the committee working hard but they can always use volunteers. Mayor Corona stated that in the next week he would be attending the aging commission meeting. Mayor Corona stated that at the Parents Empowered meeting earlier today Allison Whitworth is taking another job so will no longer be a part of the Parents Empowered group. Mayor Corona stated that through the Parents Empowered there is an opioid grant that we have received and used for trainings on how to recognize an overdose. Mayor Corona stated that Nevada Health Centers is still looking into the dialysis machines. Mayor Corona stated that there is a meeting at the JAS Foundation regarding medical transportation on June 20th. Mayor Corona stated that Kathy Durham is looking at starting a mentoring program for the 2018-2019 school year. Mayor Corona stated that John Ellison won reelection. Mayor Corona explained that he has been in contact with the Nevada Arts Council about a traveling art exhibit that we could have located in West Wendover for a couple of months.

9. **APPROVAL OF THE CLAIMS**

a. **Claims for June 19, 2018 (For Possible Action)**

b. **May 2018 Hand Checks/EFT (For Possible Action)**
c.  **May 2018 Insurance (For Possible Action)**

Council Member Gutierrez made a motion to approve the claims for June 19, 2018, May hand checks/EFT and May insurance. The motion was seconded by Council Member Holm and passed unanimously.

10. **COMMENTS FROM THE GENERAL PUBLIC**

None offered or received.

11. **NEXT MEETING DATE AND ADJOURNMENT**

a.  Motion to: **Adjournment (For Possible Action)** Adopted

The next meeting date is a regular meeting on July 3, 2018 at 7:00 p.m. in the West Wendover City Hall, Council Chambers #137. Council Member Gutierrez made the motion to adjourn at 8:15 p.m. The motion was seconded by Council Member Anderson and passed unanimously.

ATTEST:

Anna E. Bartlome
City Clerk/Records Officer