Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Thursday, April 14, 2016 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:  T. Paul Davids III, Mayor
Tamara Davids, Councilperson
Brian Hinz, Councilperson
George Linford, Councilperson
Jon Thomson, Councilperson
Canda Dimick, City Clerk
Dennis Callahan, City Code Enforcement Officer
Clyde G. Nelson, City Attorney (participating by phone)

Excused:

Guests:  Matthew Hill, Kathleen Lewis, Kirby & Clinton Pagnotto, Shannon & Dylan Kay Ireland, Mark Lowe, Amantha Sierra, Liz Tuttle, Michael Vice, Andrea Tillotson, Sherril Tillotson, Vicky & Craig Lyon, George Katsilometes, Steve & Lisa Toly

Mayor Davids welcomed everyone.

Mayor Davids called the meeting to order at 5:30 p.m.

Amend Agenda:  Jim Butterfield’s building permit for a change of use from residential to vacation rental and Precision Glass’s business license were presented to mayor and city council for agenda amendment consideration. City Clerk brought it to Mayor and Council’s attention that the matter of amending the agenda had been skipped. Motion was made by Councilperson Davids and seconded by Councilperson Hinz amending the agenda under building permits to include Jim Butterfield’s building permit for installation of a pony wall in the basement of his vacation rental. All voted aye, unanimous. Motion was made by Councilperson Davids and seconded by Councilperson Hinz to amend the agenda under business licenses to include Precision Glass’s application. All vote aye, unanimous. Mayor Davids reported that the minutes and bills would be considered as an agenda item later in the meeting.
Approval of Minutes: Council agreed to table the minutes.

Review & Approve Bills:
Councilperson Linford made a motion to approve bills. Councilperson Davids seconded the motion. All voted aye, unanimous.


A) South 4th & West Fife Street Tree Trimming Update – Dennis Callahan, Code Enforcement Officer: Dennis Callahan, City Code Enforcement Officer reported that the trees along south 4th Street have been trimmed down to bush size. They are no longer impeding intersecting traffic vision. They look very nice and the property owner is pleased with the outcome. Mayor Davids asked Dennis to send a thank you note to the owner. Mayor and council would like to sign it.

B) Ordinance Issues – Dennis Callahan, Code Enforcement Officer: Dennis Callahan, City Code Enforcement Officer reported that Evelee Hill has removed the pile of dirt stored on the vacant lot next to the river at the end of North 3rd East and it looks very nice and has resolved the floodplain issue. Mayor Davids asked Dennis to send a thank you note to Evelee.

Dennis Callahan, City Code Enforcement Officer reported that LawnTech has started trimming the trees in Buddy Campbell Park but, the rainy weather has delayed getting their progress. LawnTech has taken care most of the initial contract City Park, Veterans Park, City Hall and the stump at the end of North 1st East by the river. The trees at the end of East Elm Street and East & West of the East Main Portneuf Bridge still need to be done. Dennis is going to work with City’s Arborist to trim the trees in the brick paver area along East Main Street. There is one tree at Buddy Campbell Park along the other side of the fence, located on the property that the city recently purchased that needs to be removed at some point. It should be considered for removal next year.

C) Miscellaneous: Nothing.

Building Permit(s) & Site Plan(s):
A) Edge Water KOA (Site Plan): KOA/Edge Water site plan was reviewed. Plan shows new curbing, new sign, jumping pillow, play ground and family bathrooms. Floodplain regulations & compliance concerns were expressed and discussed. Dennis has sent all the information submitted with the permit to FEMA and they have not gotten back to him. Dennis reported that most of plan would not be an issue as long as the developer removes all the dirt. If they grade the dirt out, that will be an entire different situation. Dennis reported that he is waiting for curbing and needs to get more information regarding the electrical work order. I need more information on the electrical, are they going to trench for new pedestal or pull the old wire through the old conduit, how high the pedestal needs to be so they’re out of the floodplain. The council agreed to table making a decision until the City has heard back from FEMA. Dennis will call FEMA tomorrow and see what is going on. Mayor Davids commented that it looks like a lot of neat family fun oriented improvements. Mayor Davids addressed drainage issue concerns from N. 1st W. Street running into tent and camp sites. Mayor Davids comments that one of things the city is trying to do is improve the roads and drainage situations. Tony Hobson, City Maintenance Supervisor and Mayor Davids have taken a look at the situation. Tillotson wants to do the work but Mayor Davids has told him it’s not a good idea to have people in the community pay for work done on City property. The City is responsible for the curbing. Mayor Davids explained that Tillotson is willing to pay for the improvement but the city can’t allow people to do that. The City already has similar issues in the community right now where there are existing encroachments onto City property. The issue needs to be addressed because of flooding problems. Mayor Davids has obtained a bid for the high back curbing and concrete work that needs to be done and presented to Council for consideration. The council reviewed and discussed the bid and the area flooding. Council agreed that the issue is the City responsibility. Councilperson Hinz suggested coordinating deliver of the concrete with anything else we have going on in the city to save costs. Council agreed to wait on making any decision until the city hears back from FEMA and plan to combine it all in one package.

B) Blue Moon Bar (Freestanding deck and outdoor bar serving stations): Clinton Pagnotto addressed the council with plans to put an awning off the back of the building to keep customer cool and out of the sun and put a deck that would come 12 foot off the building underneath the awning with a plumbed bar up to code. Customers would enter through the back door of the Blue Moon. The deck will be approximately eight inches off the ground. The area will include some patio stuff on the deck; chairs, tables and maybe umbrellas. The bottom lot would
be two sets of horse shoe pits. Mayor Davids asked council if they had any concerns. Councilperson Thomson questioned off-street parking. Discussion followed about prior approval on outside deck and what was approved. Additional parking was required from prior approval. Clinton explained that he still needs to remove the existing curb, asphalt and paint the lines when the construction is completed. It was questioned if the planned off-street parking plan included the number of spaces required for the additional deck area. Mayor Davids asked Pagnotto’s if they had read the ordinance on parking so they know how many parking spots are required. Kerby commented that when they had previously discussed the garden with the Council in December, the horse shoe pits and the outdoor area being added were approved. Mayor Davids explained that according to the ordinance the gross floor area has been increased. Mayor Davids read the off-street parking ordinance provision. The ordinance says that for floor space used by the public or by members in social halls, dance halls, night halls, night clubs, pool halls, which would be an addition there, restaurants or other things a number of parking space equal to 10% of the capacity and person; for purposes of this section the equation for capacity and person shall mean the gross floor area divide by 15 square feet. The council is going to need the gross floor area available to the public to determine the off street parking. Kerby Pagnotto explained that they are already catering to their customers and that they are going to close the garden at 10:00 p.m. it’s not going to be open until 2:00 p.m. Mayor commented that parking is an issue in the City. Clinton Pagnotto commented that they have already talked to the council before they started the beer garden and feels everything was already approved. Mayor Davids read the November 12, 2015 minutes regarding the beer garden. The mayor and city council wants to do things right and do not want to set a precedence. Councilperson Thomson commented that he sees the city dealing with two different things; 1) The expansion of the garden i.e., the horse shoe pits and the neighboring property, and 2) The adding of an outdoor deck and awning which is considered to be additional floor space. Clinton feels he previously talked about the horse shoe pits and mentioned the deck and how he wanted to make a patio type area out back and spoke of the bar. Councilperson Thomson feels the horseshoe pits is an entertainment service for the customers. Councilperson Thomson feels that original additional parking off Elm Street was required by prior owners, now that the property has been expanded it
was questioned if the additional parking was for the horseshoe pits or under development when the fence was installed and the property restructured. The size of the deck with an outdoor bar on it was questioned. The deck is 52’ X 12’.

Councilperson Davids or Linford does not remember any talk of a deck or bar from previous meetings. Council Linford feels that the Council needs to find out how much square footage he is going to increase his floor space. Councilperson Thomson feels it’s the awning that is considered additional space. He understands that when the Wagon Wheel enclosed their outdoor awning recently that the floor space had already been taken into consideration as floor space when it was built.

Clinton was asked to figure out the whole floor space area of his business including garden. Clinton feels he has done everything correctly before investing money for his business improvement. Clinton reported that the business doesn’t have any other room for off-street parking spaces and seven is what was previously agreed upon. Clinton will get the square footing for the council and provide calculations. Mayor Davids mentioned all the places in Lava that people can go to purchase alcohol beverages. Mayor Davids expressed that one of the issues in Lava is the loss of family atmosphere and residents. Mayor Davids expressed that he doesn’t personally feel that any more alcohol establishments are needed in Lava. He feels Lava needs to do things that will attract family; families who will want to move to Lava because of what Lava has to offer. The need to attract more families to live in Lava was an issue that was brought up at the candidate form and the amount of alcohol on the street. Kerby Pagnotto expressed that the Blue Moon Bar customers are already drinking, adding the outside bar is strictly for service for the guests enjoying the garden area. Councilperson Thomson expressed that he does not think that the city can construe the number of beer spigots in a business establishment to establish the number of bars. It has to be established by the number of licenses issued. Councilperson Thomson agreed that there is a sufficient number alcohol licenses. Clinton expressed that he wants to work with the city and that he feels that they have added tons of security. Clinton is on premises every weekend to make sure they take care of their business and everything is safe. Clinton has talked with the liquor commission to make sure everything regarding the development of the garden is in compliance, he has fenced in the yard, agreed to develop the number of parking that the city has required. Clinton feels that he has done his best to comply with everything but he
feels it is unfair that after the fact for the city to say he can’t do something. Clinton asked if he could continue on with the project. Clyde Nelson, City Attorney participating by phone, asked if a building permit was obtained for a patio, deck and awning. The building permit has been submitted. Clyde explained that the building permit is subject for consideration by the council after it has been submitted and part of the application would list out the number of off-street parking spaces based on the square footage. The City Council has the application in front of them. Councilperson Thomson expressed concerns regarding the ordinance, he feels the ordinance clearly addresses inside floor space but does not properly address temporary outside floor space and feels the ordinance needs to be revisited. Councilperson Thomson feels that the awning and deck area is definitely considered floor space but he questions the additional outdoor area. Councilperson Linford doesn’t think the grass area is considered floor space either, but he agrees that the deck and awning qualify as floor space. No one denies that Lava has a parking problem but no one has a solution. Councilperson Thomson restated that the ordinance needs to be reviewed by Planning and Zoning regarding the definition of floor space, amended and more realistic. Clinton mentioned that if the Council has an issue with the deck he does not necessarily have to do the deck. Clinton asked if he can have the issue addressed sooner than the next meeting. The council is expecting to schedule a special meeting before the next regular meeting and can address the matter at that time. A decision will be made at the special meeting. Mayor Davids expressed that he is not against expansion. Mayor Davids wants to make sure that the city sets a precedent for the future, parking has to be addressed and everything needs to be in writing. City Clerk will review minutes from prior meetings regarding the garden and provide copies to Mayor and Council members. Councilperson Hinz made a motion to research September, October and December minutes, Clinton will provide square footage and meet with Mayor and Council at a special meeting to make decision. Councilperson Linford seconded the motion. All voted aye, unanimous.

C) Jim Butterfield (Pony Wall in basement): Amantha Sierra explained that on the original permit the change of use from residential to vacation rental was not addressed. A new permit is required to address the change of use and to install a pony wall in the basement to reinforce the floor as required by the Bannock County Building inspector. Councilperson Hinz made a motion to approve the
building permit. Councilperson Linford seconded the motion. All voted aye, unanimous.

**D) Hide & Sleep Sign – 84 West Elm Street:** Sherril Tillotson, representing RST, owner of Hide & Sleep was in attendance. The sign application is for two signs, photos of sign supplied. One sign is attached to the building on north side, between the two carport areas. The other sign is a 24” deep x 36” wide freestanding, 6 feet above ground on the South West corner of the property. Dennis explained that he had contacted Sherril regarding the position of the freestanding sign. The sign needs to be moved further north on the property and the heights needs to be 3 feet higher than planned to comply with regulations. Nothing can obstruct vision of intersecting traffic between 3–10 feet. Councilperson Thomson made a motion to approve the signs if they meet all codes. Councilperson Hinz seconded the motion. All voted aye, unanimous.

**Business License(s), Alcohol License(s), Coin-Op License(s) & Non-Property Tax Permit(s):** Mayor Davids read list for consideration.

A) ABC Seamless of Eastern Idaho
B) B & T Lawn Care (Renewal)
C) Big Dawg Plumbing – Casey Monson, Owner/Applicant
D) David Boyack Window Cleaning (Renewal)
E) Irish Inn – 222 East Main Street – Shannon D. Ireland, Owner/Applicant
F) Lott Building & Glass (Renewal)
G) Merlin’s Insulation (Renewal)
H) Purdy In Pink – 64 East Main (Renewal)
I) Precision Glass

List of licenses was read. It was questioned if Precision Glass’s license was a renewal. City Clerk reported that Precision Glass is the contractor that will be doing the door sealing project at the Fire Station. Councilperson Davids questioned the Irish Inn’s application. Shannon D. Ireland, Irish Inn Owner/Applicant, explained plans to operate a two unit vacation rental, off-street parking next to the alley, not sure with what to do with the old Arcade, intent may be to demolish down the road. Shannon mentioned that they are looking at possibly sub-leasing the arcade for the summer. Councilperson Thomson verified the business license application is just for the vacation/nightly rental and any additional business with the old arcade will be on a separate request.
Councilperson Hinz made a motion to approve all business licenses. Councilperson Davids seconded the motion. All voted aye, unanimous.

Lava Hot Springs Main Street Downtown Organization – George Katsilometes and Liz Tuttle, Representatives:

1) Idaho Rural Partnership Community Review Application: Michael Vice introduced himself and reported that he would be representing and making the presentation. Michael explained that as the chair of the Prosperity Foundation he is working with Lava Main Street Association. The association is applying for a community review application through the Idaho Rural Partnership. There are a lot of great ideas that many groups have worked on and the association is trying to build upon those ideas. The association has reviewed the comprehensive plan and taking the comprehensive plan into consideration, the association is trying to work with the Idaho Rural Partnership to do a community review to develop a focused road map to accomplish the ideas. There are three main focus areas in the application. The focus areas are: 1) the economic development, 2) downtown beautification, which includes parking, and 3) recreation wellness spa nature resources. Mayor Davids questioned how the community review is different than the Comprehensive Plan. Michael explained that the Comprehensive Plan brings together the hopes, dreams and desires of the community. Michael thinks the community review will address how to accomplish those dreams. The application has to be signed by the Mayor. The Idaho Rural Partnership wants to make sure the Mayor and City Council is in support of the review. Mayor Davids questioned why the State Foundation is not part of the review. Mike commented that the association would like to have the State Foundation involved. Mayor David questioned if the review is going to be a partnership why is every business in Lava not represented. Mike commented that anyone can be involved if they want. Vicky Lyon explained that she understands that association is only for businesses on the south side of the river and the association does not want any government agencies involved. Mark Lowe explained that the Main Street Association specifically geographically excludes the Lava Foundation. Liz Tuttle explained the history behind the development of the organization and application. Liz compared the association to the Old town Pocatello. The organization is not against anything or trying to do anything by themselves. The Idaho Rural Partnership assists with completing the community assessment, providing guides and also helps with getting grants. Several Southeast Idaho communities have done a community review. Michael Vice does not want the State Foundation left out and he wants the citizens to participate also. The assessment will not cost the city funds. The cost of the community review is $3,000 to $24,000. It was questioned who would be

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funding the assessment. Mayor Davids questioned what the Prosperity Foundation does for the community. Michael Vice explained that the Prosperity Foundation has organized the annual Community Service Day held in September but was not held last year, they developed the community garden if the city is willing to continue to allow them to use the area on the West side of city limits for citizens needing garden space, they want to do more outreach as far as providing scholarships for secondary education. The Prosperity Foundation started with the Horizon 2 program and received a $10,000 grant was received for community service projects. The Prosperity Foundation still has $6,000 left from the grant and plan is to use some of the grant money to fund the assessment. There was no firm plan on funding the review. The list of committee members and their positions was reviewed and some of them were not aware of their position. Mayor Davids explained that as the assessment process is organized that equal representation is important because it affects the city. The Main Street Association is formed. Councilperson Thomson questioned the Chambers involvement. The application was put together in a hurry because of a deadline. Application is due tomorrow. The Main Street Organization works parallel with the Chamber. Vicky Lyon reported that there have been several studies done, the assessment seems redundant. Mayor Davids mentioned that the City is working on some of the ideas listed, specifically lights for the City. Mayor Davids mentioned that he had just seen the application today and he likes the vision but, questions the need for more organization. Mayor Davids questioned if there is a better way to use funds. Michael mentioned that the Association will start today working on next year’s application.

2) Folk Festival – April 22 and 23, 2016: Michael Vice reported that the festival is scheduled for next weekend. The festival is being run under the 501 C3 umbrella and liability insurance of the Prosperity Foundation. All donations will be tax deductible. All proceeds will benefit the Lava Elementary School music program. Students will be at each venue raffling off the tickets. Everyone was asked to spread the word.

Katsilometes Quiet Title Action (Memorandum of Understanding, Proposed Temporary Utility Easement, Quitclaim Deed and Verification of Indemnification) – George Katsilometes and Marty Anderson and Clyde Nelson (City Attorney) is on the phone: The exchange agreement prepared by Clyde Nelson, City Attorney and the memorandum of understanding prepared by Marty Anderson, Katsilometes Attorney, were reviewed. Mayor Davids addressed the plan to develop an agreement for the road and the 4inch main line within the roadway, which is the City’s. The City would like an agreement where George can
pursue what he needs to with the property but the City doesn’t want to be liable for any damages if the City has to fix the four inch main line. The plan is to install a new water line in the alley south of George’s property and vacate the property where the old line is after the new water system is completed. The agreement needs to satisfy both the City of Lava Hot Springs and George Katsilometes.

Marty Anderson, George Katsilometes Attorney, commented that when they came before the council last month it was talked about an agreement where George would ask the City to convey the property now in exchange for an indemnification agreement and a temporary utility easement back so the City could continue to use it until the water project is completed. Marty stated that he had prepared a draft of the documents and provided them to the City and Mr. Nelson for review. Marty reported that George has to file a quiet title action regardless because they were unaware that anyone else had a claim to the road until the City did the survey recorded in 2014. Marty thinks that it first came to light in late 2013 and he feels that is when the City first became aware that the City had an ownership interest. Marty is aware that at the February council meeting that the city had testimony that it was a historical roadway. Marty expressed that he feels it is George’s property, he has used it for the last 27 years and it is integral to his business. Marty thinks there are some vagaries in the title that are going to require George to file a quiet title regardless. The memorandum of understanding would resolve the City interest in the road. Marty reported that he had drafted the quiet title complaint but have not filed it pending the City’s discussion. Marty reported that he had told the City Clerk that they were going to file the quiet title and that he wants the city to understand that they are filing it not as a threat; it’s something they have to do regardless of the resolution. Marty explained that he had prepared an agreement and if there are any revisions that need to be made they would welcome and discuss them. Marty also explained that the legal description provided in the draft deed and the agreement is being verified by Alliance Title because it has a description and then there is an exception there from the strip of land in the body of the deed. The legal looks like it is excepting the very piece George wants out of the proposed deed. Marty intends on finalizing the documents. Clyde Nelson, City Attorney, had previously expressed some reservations pursuant to Title 50 of Idaho Code about what kind of notice the City would need to give in order to sell or convey the property. Marty researched the code and he personally feels that the City has some language in the statue under Idaho Code 50 1401 where it can convey property without a sale owned by the City which is underutilized or which is not used for public purposes. Marty feels that despite historical use there may have been, for 27 years there has been no difference. Marty reported that he had walked the property today and he can’t see any public use that has been documented. Marty thinks that the piece of property fits well within the statue and
that if the City and George cooperate and work through the matter the only one the strip means anything to is George. I understand that the City needs to have a temporary utility easement. George proposed that the City moves to accept the exchange. The City Clerk has to publish the notice at least 14 days in advance of the May meeting and at that time George would provide final documents with any revision Mr. Nelson has then sign and complete the exchange. Mayor Davids asked Clyde if he had any comments. Clyde Nelson, City Attorney, reported that he’s not convinced that the city can convey just because it’s not used for public purpose at the present time, if that were the case then the city would have to auction it. It is clear in Idaho law, that the city doesn’t have the right to convey land to just anybody they want to unless it’s an exchange. Marty commented that the land is being exchanged for an easement. Clyde questioned what the city is exchanging. The City has owned the property since 1924. The City owns the strip of land which is George’s concern. The City owns the land that George wants the City to deed the land over to George and in return George is going to give the City an easement to the very same ground. The statute requires that the property be exchanged for property of equal value or equivalent value. Clyde questioned what the City is doing is deeding property to George in exchange for what? Marty doesn’t think the City’s claim under the 1924 deed is clear. Clyde reported that the City has a prescriptive easement if it isn’t and Marty agreed. Marty feels that the City didn’t even know about the water line and Clyde disagreed. Marty explained why he thinks the City has a doubtful claim in his book to the title of the land. Marty stated that he didn’t doubt that the City most likely has a prescriptive easement for the water line which, he understands the city intends to abandon in a couple of years. Clyde explained that the line may not be abandoned. The design on the new line has not been done. The City thinks that moving the line is going to work but it is not absolutely sure until the engineer’s complete the design and the new line is constructed and working, until that time the city can’t abandon the line and the city can’t accept a temporary easement. Clyde asked the City Clerk to provide Marty Anderson with a copy of the exchange agreement he prepared. The exchange agreement provides for a permanent easement for that water line and then if and when the new water line is constructed and it’s useable and it provides water to the City for its residence then the City will abandon the water line located on the strip of property. The strip of property is not George’s property. The property is in a deed that was accepted out when it was conveyed to George’s predecessor. The reason the strip was accepted out is and I believe the Mayor can attest that there used to be an alley way or a street there and that is where the water line ran and that is why the strip of land is owned by the city. Marty feels that the roadway has been abandoned according to Idaho Code 40-204. The City agrees that there is no roadway but there is a water line that is still being used and it
provides water to George’s property. The exchange agreement Clyde prepared conveys the strip of land to George and George conveys back to the city a permanent easement until the city gets the new water line constructed; then the city agrees to abandon the old water line once it is constructed and the easement for the water line. The City can’t accept a temporary easement. Clyde addressed concerns with giving George a quick claim deed and the possibility of it abandoning the city’s sewer line that runs through George’s property. The City needs an easement for the sewer line and would like to take care of the sewer line easement with the exchange agreement process. Clyde reported that he has been advised by City staff that the sewer line probably runs approximately the same area as the water line on the west side of the hotel then it crosses to the north and runs on the north side of the hotel. The City needs to survey and get a legal description for that sewer line so, that George can grant an easement for the sewer line. Marty expressed that if the city would like to have the sewer line survey done that he didn’t see any problem with that. The City will still need access rights to George’s property to maintain the city’s lines. The proposal is George will get ownership of the strip the city is entitled to subject to the easements. Clyde questioned why George has to quite title action against the city and asked Marty to explain. Marty explained action is being taken because the city started to lay claim to a strip of property three years ago that goes through his existing business and pools. The City has owned the property by deed since 1924. Marty disagreed. The City has affidavits that say that the city maintained it. Marty argued that the City hasn’t maintained the strip for over thirty years. Clyde asked Marty how do you adversely possess the City anyway. Marty replied that the abandonment statute provides five years under Idaho Code 40-204. Clyde replied that Idaho Code 40-204 is for a street not for an easement or right-of-way for a water line. Clyde informed Marty that he is going to have to show some how that the city is not using the strip of land for public use otherwise he can’t adversely possess the city. You can’t get ownership of the property if the City doesn’t give it up. The City is willing to give up ownership if the city gets the proper easements. The city is using the strip of land for public use. Clyde reported that there is no reason to go to court over the matter nor file a quite title action. The City is willing to exchange the strip of land for easements. Mayor Davids asked what the city needs to do to resolve easement issues. The City needs to have the sewer line located and a survey of the sewer line done. The easement needs to be at least 20 feet wide to properly maintain the line. Clyde will draft up a refined exchange agreement with a quick claim deed to Georges for the strip with a permanent easement for the sewer line and an easement for the water line with intention to abandon the water line easement as soon as the new line is built. Discussion about where the water and sewer lines are located on property followed. Clyde asked Marty if he is going
to still file the quiet title action regardless. Marty responded that he had it drafted and intends to file it tomorrow. Clyde replied that he is not sure he understands why, and asked Marty that if he is filing it not to serve it on the city. The city will try to get everything done by the May 20th deadline. Clyde advised the city to survey the sewer line immediately, authorize the expenditure and hire surveyor, Wade Olerenshaw and get a legal description with a centerline for the sewer line with a ten foot easement on each side of the existing sewer line. George was made aware that other utility companies may have lines through the property. George was advised to contact Dig line before doing any digs in the future. Marty agreed not to serve the city with the summons or complaint or pursue the action against the city pending further negotiations and the anticipated agreement. Marty reported that he is going to proceed with publication so they can quite title to other potential heirs. Marty assured that the publication will not work against the City. Keller Associates representative was in the audience and they said that they could do the survey. Marty verified that Clyde will be responsible for the sewer easement, he will follow up with Alliance Title and draft the water line easement and deed for the disputed strip, he will review Clyde’s agreement and email Clyde with any changes that he may have and Clyde can circulate them to the council prior to the May meeting. City Clerk will provide Marty with Clyde’s updated email address. Councilperson Hinz made a motion to have Keller do survey for the sewer line from Center all the way to 1st East. Councilperson Thomson seconded the motion. All voted aye, unanimous. Clyde will send a draft to Marty, without the highlights soon. City Clerk will forward the legal description of the easement for the sewer line to Clyde as soon as Keller’s have it done. Clyde Nelson was dismissed and excused from the meeting and congratulated the newly elected officials.

**Engineering Contract(s):** Mayor Davids changed the order of considering the contracts and asked Keller Associates to make their presentation

**B) Water Improvement Project Contract – Bryan Phinney, Keller Associates (Review, Change, Approve):** Matthew Hill reported that Keller reps had met with the mayor and city clerk several times to negotiate the contract and address legal concerns. Council had a copy of the final contract draft. Matthew was in attendance to address any questions mayor and city council may have. Council reviewed the contract and all agreed that the contract looks good. Councilperson Thomson made a motion to approve the contract with Keller. Councilperson Davids seconded the motion. All voted aye, unanimous. Matthew reported that Sundance Consulting has completed the archeology field survey and is compiling the report. Nothing was found. Sundance has asked for an extension until May 1st.
When Keller receives Sundance’s report, they will incorporate any recommendations they have and submit the environmental documentation to DEQ for approval. As soon as DEQ approves the environmental documentation, DEQ will be able to sign the loan application and then design can begin. Design will be done all at once. Engineers want to see the well designed, constructed and on line before they tear into the transmission line. The council and Matthew discussed well locations, water rights, annexation project and estimated production capacities. City Clerk reported that she had asked Kathleen Lewis to attend the meeting. Kathleen has been assisting the City Clerk with the loan application for DEQ funding. She works with SICOG (Southeast Idaho Council of Government) and the City does have a contract with them for administering the water improvement funding. Kathleen introduced herself and talked about the services SICOG provides. SICOG provides grant writing, comprehensive planning and a number of other things. SICOG is an organization that works with small rural communities. SICOG can provide information and educate mayor and council on the Idaho Rural Partnership program if it is of interest. SICOG assisted Lava with the Main Street Revitalization project years ago. Kathleen invited the city to attend SICOG’s board meetings. City Clerk asked that board meeting notices be sent out earlier. They have been received the day of the meeting. Kathleen will put the City down to receive notices by email.

A) East Main Street Pedestrian Bridge Engineering Contract – Aaron Swenson, Forsgren Associates (Review, Change, Approve): City Clerk reported that the revisions mayor and council negotiated have been done. Revisions mainly dealt with costs for additional services. Council reviewed and agreed to changes. The city wants to be highly involved in the railing, possibly tying it into the type of railing along the Foundation’s walkway. Moving railing to widen the bridge was discussed. Mayor Davids reported that he has tried to contact the Victor Brothers, owners of the Lava Spa Motel, about installing a bridge on the South side. He left a message but has not received a return call. Councilperson Thomson made a motion to approve the pedestrian bridge engineering contract as written with Forsgren. Councilperson Hinz seconded the motion. All voted aye, unanimous. Trees will be removed soon.

Street Improvements/Repairs:
A) Direct Communication trench restoration – Mayor Davids: Mayor Davids and Billy inspected the road surface that was disturbed when they installed the cable to Health West. The trench is not holding up to traffic. Direct Communication is going to make repairs by compacting it and put more gravel on it. They have removed all the branches and will be cleaning everything up.
B) East Elm Street bank restoration and concrete gutter neighboring Alpaca Inn – Mayor Davids: Mayor went around with Tony and tried to identify a couple of areas. The City has a Transportation study that’s been done by engineers of all the city streets and roads. Mayor would like to see gutters along all our roads, they look nice and the help with drainage. Installing gutters along West Portneuf Street and along East Elm by The Alpaca extending around by the Blue Moon have been identified as priority areas. Aaron Swenson, Forsgren Engineer, has looked at the areas and reported that there are two options, a retaining wall or asphalt curb. Mayor asked Tony to ask the contractor who disturbed the bank area by The Alpaca to restore back the fence, trees and vegetation that were there at the beginning of the construction.

C) Edge Water KOA concrete gutter – Mayor Davids: Councilperson Hinz made a motion to accept the Rock Hard Concrete bid and line item out the nine hundred ($900.00) of digging and prepping and have the City maintenance crew dig and prep. Councilperson Thomson seconded the motion. All voted aye, unanimous.

D) LHTAC Grant award for FY2017 funding: City has received a one hundred thousand dollar ($100,000.00) grant for chip & seal. The funds will be available in 2017. Mayor talked with Tony and he really likes the slurry seal coat and it’s a little expensive than going with the chip on it. The mayor mentioned that the grant is great to have and we can get some of these other roads fixed. It’s the City responsibility to put in and maintain the curb and gutter. Residents and/or businesses are responsibility for the sidewalk. The City amended the ordinance last year, fall 2015. As a City we need to be proactive at getting the pitted sidewalks and gutters fixed.

Franchise Agreements:
A) Rocky Mountain Power: Canda mentioned that Rocky Mountain Power is working on making the changes that Clyde asked them to. Rocky Mountain has never paid a franchise fee. I know Intermountain Gas and Independence pays a franchise fee. The reason these companies pay a franchise fee is because they are using your roadways to transport their services. Rocky Mountain is overheard so it’s not as disruptive as the others that are digging. Is that something the council wants worked into the agreement? Mayor asked Canda to check with other City if they are getting a franchise fee from Rocky Mountain. If they are then the council will look at adding it to the agreement. The franchise fee is passed onto their customers.
B) Direct Communications: Canda mentioned that Tony wants trench repairs stipulated in the agreement and possibly no winter construction.

Buddy Campbell Memorial Park Usage for Highland Games July 2nd, 2016: Council agreed that it’s okay for them to use the park. Designate new area for competitions and be respectful to other users. They have to repair any damage, if any, caused from the games. Councilperson Davids will notify them.

Ordinances (Introduction & Adoption): Councilperson Hinz made a motion to table ordinances adoptions until next month. Councilperson Davids seconded the motion. All voted aye, unanimous.

A) Ordinance 2016-1 Subdivision Ordinance:

B) Ordinance 2016-2 Building Code Ordinance:

A) Review & Discuss Map Designating Sidewalk Construction Areas: Dennis has worked with Jon and Canda on preparing a map showing where areas are required to have sidewalks, curb & gutters. Dennis reviewed the map with Council. Dennis has compiled a list of sidewalks that need to be repaired. While dealing with this tort claim we need to be proactive at fixing our sidewalks and then asking property owners to follow suit. Dennis reported that the brick pavers should be repaired first. The bricks in front of the Royal need fixed and as I understand these bricks are historical. The owners of the Royal have asked to keep them and they should be responsible for maintaining them. Mayor Davids commented we need to fix our first then asked property owners to fix there’s. Dennis commented, the arborist will be there when we do the pavers around the trees and he will tell us what roots to cut so, we don’t destroy the tree. There is discussion about relaying the bricks or putting cement down. What he would like to do is a keep a line of bricks so we can lift up the bricks and perform maintenance to irrigation line if needed. That way we won’t need to remove cement. Mayor Davids asked Dennis to add to the agenda for next month, review everything and write down what he feels needs to be repaired. A design and plan needs to be in done in order to get quotes. Billy mentioned that about 10 to 12 inches under the tree’s and sidewalks is an old sidewalk that’s all solid concrete. When they raised the streets back in the 60’s they buried it. There is nowhere for the roots to go down. The reason grates are raising and the curbs are being pushed out is because the tree roots are looking for more.
water. The street use to be a lot lower they came in with about 12-14 inches of fill and raised it up. They went over the old streets and sidewalks with the fill. That’s where all the red bricks are at, Tony and I have dug in it and its deep. Its old hand mixed concrete. It’s been in there forever, old & hard. When we put the bike sign in they had problems because of the old concrete. When they put the trees in they were supposed to be dwarf trees but, most of them are not. The trees and limbs are just too big. Councilperson Thomson commented maybe we should consider taking the trees out and put in decorative concrete in place of the trees. Mayor Davids suggested taking the Trees out and replacing them with another Tree. Canda mentioned that the arborist suggested a vault type that you plant the Tree in it and it contains the roots within it but, you would have to dig it all up. Mayor Davids and Council both agree something needs to be done. Mayor mentioned everyone needs to go out and look at the tree and think about what can be done. Canda mentioned the Council needs to take their maps and take them under consideration because if we do anything a resolution is required.

B) Garbage Policy Change: Canda is working on the garbage policy resolution with Clyde.

C) Destruction of Public Records: Canda & Dennis are still working on resolution for destruction of public records.

Planning & Zoning Commission Nomination & Appointment – Councilman Linford: George has two candidates Ricky Frandsen, works for the State Foundation & Stewart Hall. George recommended Ricky Frandsen. Councilperson Hinz made a motion to appoint Ricky Frandsen to Planning & Zoning Commission. Councilperson Thomson seconded the motion. All voted aye, unanimous.

City Maintenance Dress Code – Billy Thompson: Billy asked if he could be granted permission to wear shorts to work during the summer. He carries pants or overalls bids with him if he needs them. Councilperson Thomson spoke up and he does not see a problem with a summer dress code. Councilperson Hinz agreed with Councilperson Thomson but, he is concerned with safety. The council and Billy discussed safety issues and concerns. The city employees always wear their safety equipment when the job requires it. If the job requires safety glasses, boots or what not they always wear what is required for the safety of the job. Councilperson Thomson made a motion that city employees are allowed to wear proper shorts during warm weather months when it is appropriate and when safety
is not a concern. Councilperson Linford seconded the motion. All voted aye, unanimous.

Meetings/Announcements/Miscellaneous:
A) 100th Birthday Celebration Wrap Up Plans: Council approved discounting Centennial product. T-shirt, sweatshirt and beanies discount to cost plus taxes. Banners twenty five ($25.00) and brooms five dollars ($5.00). If we don’t sell everything the council suggested giving away at other events. The color run shirts will be used at the Zombie run.

B) 2nd Kids Tri Lava event – May 21st: Approved last month

C) Wellness Festival – May 21st: Scheduled with the Tri Lava event.

D) Tour de Lava Bike Race – June 6th, 2016: Darla Workman is the organizer for this event and they’ve been doing it every year. They have never brought anything in about the event but, they take off at the Community Building and ride to Chesterfield.

E) Fire & Ice Festival Report – Amantha Sierra, Event Coordinator: Amantha Sierra thanked everyone that helped. Chili cook-off needs some more organization done for next year. Amantha gave the council the finical report on Fire & Ice. All venues had a great turn-out. Running of the bulls had a lower turn out than last year.

F) For Cause Personnel Policy Draft: Councilperson Linford made a motion to go with At-Will policy. Motion died for lack of a 2nd. Canda will get a copy of the At-Will draft to council members.

G) Lava Rural Fire Department Contract: Councilperson Hinz made a motion to accept original contract. Councilperson Thomson seconded the motion. All voted aye, unanimous.

H) Holiday Decorations (Incentive & Funding Options): Incentive application has been submitted. Mayor Davids explained what we are trying to do. Get some money, trying to convert 480 down to 120 on 42 street lights to LED and then have the receptacles we can plug into. Canda commented that the incentive is for the bulbs. The City will have to pay for the plug-ins. She sent an email to Vaughan asking if Rocky Mountain would cover the three thousand dollars ($3,000.00) for the transfer change. He answered back by saying that it’s existing and they normal
don’t pay for it. She is waiting to hear back from him. They have the bid from Marsh Valley electric. Canda questioned the original architect about why they choose the system they did. He suggested we contact an Electrical engineer to make sure the 120 is the correct system to install. Councilperson Hinz will check with an Electrical engineer. Mayor Davids commented that in a long run this will save as money by using the LED lighting. The hope is to complete the project this summer.

I) Buddy Campbell Memorial Park Public Restroom (Opening): Opens tomorrow.

J) 2015 Street Finance Report – Mayor Davids: work in progress

K) Topaz Canal Irrigation Meeting Report – Mayor Davids: Mayor Davids attended the meeting. There are 24 share holders, 8 share holders attended. Topaz irrigation is what we irrigate by the waste water before we turn on the waste water. We have 71 shares. Mayor Davids went to the meeting to represent the City.

L) 2016 Arbor Day Grant Award – May 5th: Mayor Davids reported that we got the grant it’s for three hundred dollars ($300.00). Canda suggested Syringe seedlings for the school program this year. The cost would be two hundred ($220.00) for 75 seedlings. The City matches the grant. We will have a program with the school and serve treats.

M) State Tax Commission Budget Levy Work Session – May 11, 2016: Canda will attend.

N) Schedule FY2017 Budget Hearing: Need to send notice to the county. Budget Hearing scheduled for September 1st, 2016, 5:30 p.m.

O) Library pod on East Main Street – July/August: Mayor Davids reported that they are going to paint and redo their carpet. They would like part of the parking lot to store a pod during their clean-up. Tony and the Mayor went and found a space for the pod. He will get back with Debbie and let her know where they can place the pod. They are going to need space in for the pod sometime in July/August time frame for about 2 weeks.

P) May 30th Motorcycle Flag Ceremony: Mayor Davids reported he has talked with Mr. Christensen. Councilperson Linford will meet Mayor Davids in the
morning on May 30th to block off the road for ceremony. Mr. Christensen would like the Mayor or Councilperson to speak at the Ceremony. Mayor Davids will do a welcome speech.

Q) Bannock County Zoning Ordinance Text Amendments Public Hearing – April 20, 2016: Information provided to council.

R) FY2017 EMS Grant Application Endorsement Request: Canda will send support letter for EMS grant.


T) Miscellaneous:

Projects:

A) Wastewater System:
1) Status on Transfer Switch: Tony is working on getting someone out here.

2) Net Metering Agreement: Letter was sent yesterday.

3) Solar Banks: Big Dog looked at it and they will fix it under warranty.

B) East Main Pedestrian Bridge:
1) Revised State/Local Agreement: already talked about

2) Tree Trimming - Scheduled

C) Buddy Campbell Park - almost completed:
1) Tree trimming: Scheduled and almost completed. Councilperson Thomson suggested that Tony or Billy need to check sprinkler heads damages. The tree trimmers had their bucket trucks and big truck on the lawn area.

2) Architect Request for Proposals – Restroom Structure & Parking Area: City Clerk Dimick reported notice released and it will be published in the paper. Proposal are to be submitted to council by May 9th, 12:00 p.m.
D) Fire Station Sewer Line Extension/Fire Hydrant Installation:
1) KT Excavation, LLC Contract: The phone company will move there’s at no cost. Direct Communication has asked Kit to lay new cable down while he is digging. The four thousand dollars ($4,000.00) is for the survey. Councilperson Linford made a motion to award bid to KT Excavation, authorize Mayor to sign and approve contract and asked the City to release 4K. Councilperson Hinz seconded the motion. All voted aye, unanimous.

2) DEQ Extension Letter: Request for extension sent.

E) Fire Station Insulation & Door Sealing Project:
1) Construction Contracts with Merlin’s Insulation, Precision Glass & Aluminum. Merlin contract will need to be amended. Merlin lost their public works license and is in the process of re-applying for it. The contract will need to be signed when they receive it. Precision can comply with their contract. Canda will contact Merlin tomorrow. Councilperson Hinz made a motion to authorize Mayor Davids renegotiate and sign Merlin’s agreement when it comes in. Councilperson Davids seconded the motion. Roll call. All voted aye, unanimous.

2) State Energy Program Government Amendment to Contract for Extension

F) Water Improvement Project Funding Options/Status Report:
1) Archeology Study: Done, they’ve asked for extension to have time to get their stuff together.

2) DEQ Loan Application: Application submitted

G) Black Mountain Software Status Report: Still a few bugs to work out.

H) Removal of dead tree stump in alley at South 4th West and alley interesting between West Booth and West Fife Street: Stump removed.

I) East Main brick pavers and sidewalk: Already talked about.

J) East Main garbage cans painting and bench staining: Mayor Davids reported that the cans are almost completed; the city maintenance crew is taking the dents out and painting. Mayor Davids comments he is still working on getting a youth group to stain benches.
K) Miscellaneous – Kofoed 20 Year Agreement: Kofoed 20 year agreement expired. They are getting ready to sell the place should a letter be sent to them so that they are disclosing to the new owners that that the City will want a new agreement. Councilperson Hinz made a motion to renegotiate January 30, 1991 agreement. Councilperson Davids seconded the motion. Roll call. All voted aye, unanimous.

Royal Hotel Brick Pavers: Lisa Toly asked about the East Main Brick Pavers. Mayor Davids reported on the Tort Claim filed because of the brick pavers. The City is working on fixing the pavers, get them level with sidewalks, and be proactive. Denise has identified areas of concerns and the Council is hoping that others will address and follow the city actions. Lisa asked if the City was done putting in meters. The Royal’s bricks have not been fixed because they were told that the city needs to put in another meter. Mayor Davids will check with Tony.

Adjourn into executive session: Councilperson Davids made a motion to adjourn into executive session to discuss litigation matters as provided by Idaho Code 67-2345 (f). Councilperson Hinz seconded the motion. All voted aye, unanimous. Roll call. Thomson-Aye, Davids-Aye, Linford-Aye, Hinz-Aye, unanimous.


Cleaning position City Hall and Public restroom: Received two applications, Rebecca Delong and Britney Potter. Councilperson Hinz made a motion to hire both applicants with a letter stating the wages and hours promised. Councilperson Davids seconded the motion. All voted aye, unanimous.

Claim for Medical Expenses – Fall on Brick Pavers – East Main Street: Councilperson Linford made a motion to turn claim over to insurance company. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Adjournment: Councilperson Hinz made a motion to adjourn. Councilperson Linford seconded the motion. All voted aye, unanimous.

Meeting adjourned at 9:40 pm.