

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Thursday, July 12, 2018 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

**Present:** T. Paul Davids III, Mayor  
Rickey Frandsen, Councilperson  
Lisa Guthrie, Councilperson  
Brian Hinz, Councilperson  
Jon Thomson, Councilperson  
Dennis Callahan, Code Enforcement Officer  
Canda Dimick, City Clerk  
Amantha Sierra, Office Assistance

**Excused:**

**Guests:** Craig Lyon, Victor Lyon, Callie Lyon, Chris Lyon, Kelly Myers, Officer Nickell, Callie Nielsen, Lisa & Ron Hunt, Craig Knutson, Mathew Hill, Bryan Phinney.

Mayor Davids welcome and thanks everyone for coming. He announces this is the City's regular scheduled council meeting. The Pledge of Allegiance is led by Councilperson Thomson. He announced May agenda deadline for Council meeting on August 9, is August 2, 2018.

**Amend Agenda:** Mayor Davids asked council to amend agenda to make July 21<sup>st</sup> parade an action item. Councilperson Hinz made a motion to approve amending the agenda. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**Approval of Minutes** (June 1, 2018 & June 14, 2018) - **ACTION ITEM:** Mayor Davids asked council to be better at taking turns talking and asked the audience to identify themselves. Councilperson Thomson made a motion to approve the minutes. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**Review & Approve Bills - ACTION ITEM:** City Clerk Dimick reviewed list of bills with council. Lions Club has paid their half of the firework bill from Big Sky Fire Works to the City. The City will issue payment to Big Sky Fire Works for the full amount billed. Councilperson Hinz asked Callie Nielsen if they can receive a billing in advance. Callie explained the process and whose signature is required on the bill before she can make payment. Callie will email invoice in advance to the council members for review before council meeting. Councilperson Hinz reviewed the Knife River bill extensively and he found no errors in billing. Councilperson Hinz reviewed the bill with Mayor and Council. Councilperson Hinz made a motion to pay bills. Councilperson Thomson seconded the motion. All voted aye, unanimous. Status of access road questioned. Need to check with project manager.

**Lava Chamber of Commerce Reports - Kelly Myers, Event Coordinator:** Kelly Myers reported the chamber did not meet this month nothing to report.

**A) July 21st Parade – ACTION ITEM:** Kelly Myers reported on parade schedule. Councilperson Guthrie questioned the judging process and what time Kelly wants the judges at the parade to judge the floats. Councilperson Hinz questioned if it would be easier to put the ribbons on the float at the beginning of the parade during the line-up process. Mayor David suggested in the future having a loud speaker set up in the middle of Main Street announcing each float, float sponsorship and if a ribbon was awarded to the float. Councilperson Hinz made a motion to approve special event application. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Kelly presented hand out on the parade to council. Mayor Davids announced the Grand Marshals for the parade are Bob & Cookie (Irene) Bergendorf.

**B) Lava Annual Community Day Event, July 24 - ACTION ITEM:** Kelly Myers handed out proposed events and schedule to council and Mayor. Kelly reviewed document with Mayor and Council. Kelly reported that Mike's Market can get the corn for us, two (2) for \$1.00. Need to let Mike's Market know by 10:00 a.m. tomorrow. Discussion on the how much corn to purchase, two hundred (200) ears decided on. Suggestion was made to check with Swore Farms in Pocatello for price, also check price with other local farms. Kelly wants eight to ten (8 to 10) stations on the venue. Kelly suggested movie in the Park would be fun but, not sure she can do it this year probably next year. Ken Fagnant is arranging the foam slip and slide. Councilperson Hinz verified the slip & Slide activity and the fire station is looking at putting visqueen (plastic sheeting) down for the slide. Horseshoes, Councilperson Thomson will put backs on the horse

shoe pits and cultivate the dirt. He will use the scrap lumber from the dugout for the backs on the pits. Kelly Meyers and Dennis Callahan will provide horseshoes. Kelly priced burlap sack for the burlap sack race at Cal Ranch and they are one dollar and twenty cents (\$1.20) each. Kelly will bring a kiddy pool for the kiddy pool with ducks and candy. City Clerk Dimick suggested instead of candy see if a business would donate some of the little toys from the coin op machine. Face painting rate one hundred and ninety five dollars (\$195.00) or she will trade for gift certificate at businesses in Lava examples, hot pool passes, Zipline and so on. Kelly will work with businesses to get the gift certificates in exchange of payment. Bannock County Sherriff will do a bicycle course. City Clerk Dimick suggested car seat clinic. Officer Nickell verified the bicycle course is scheduled and he will check on the infant car seat inspection. Kelly asks Councilperson Guthrie to check with the school to see if we can use their basketballs, probably four (4). City Clerk Dimick is working on Air Helicopter landing. City Clerk Dimick announced the Ambulance crew will do teddy bear clinic. Kelly announced Bryce at Ace is looking at donating side walk chalk. Kelly mentioned tattoos but, if she can get the Face painting lined up she will cancel the tattoos and add it for next year. Coloring contest, the Foundation will provide picture, judges, donated swim passes for the prize and display the winning picture at the pool. Kite flying, Kelly will check if the dollar store has kites. Dave Grosso, Recycled Rocks live music is scheduled and Kelly is asking the Chamber of Commerce to fund. Kelly announced the volunteers she has so far, Ireland Bank and Community Church. She will need more volunteers. Mayor Davids announced the LDS Church will take care of the corn-on-the-cob. Setup starts at 3:00 p.m. Councilperson Guthrie will contact Marion to see if the Young Women group will help husk corn. Councilperson Hinz made a motion to approve special event application. Councilperson Thomson seconded the motion. All voted aye, unanimous.

**C) Miscellaneous Activities Report:** Nothing reported on.

## **Law Enforcement/Code Enforcement:**

### **A) Encroachment Issues:**

#### **1) Fence/Gate, South 2nd West, Installed on City Right-of-Way - ACTION**

**ITEM:** Dennis Callahan, Code Enforcement Officer reported that Tony has talked with the property owner about the fence and the sheep. Tony gave them until Sunday to get the fence and sheep out of the area. A live stock permit is required for the sheep. The certified letter gave him thirty (30) days to get the fence removed and that date is today. Mayor Davids confirmed with attorney it's time to take legal action. Gary Cooper, City Attorney explained that a law suit will need to be filed against the property owner, to get an order to remove the fence and

charge property owner for the removal. City Attorney will draft a letter. The letter and a copy of complaint to be filed with the courts will be sent by certified mail to property owner. If the fence is not removed the attorney will file the complaint. They will be required to respond to complaint, if they don't respond the City will get a default. The default is an order to remove fence and assess the cost to the property owner. Councilperson Hinz made a motion to have legal send a letter concerning the fence encroachment on S 2nd W to property owner. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Councilperson Hinz asked Dennis in the future to provide council with copies of certified letters sent to property owners so, they know what was sent to property owners when they are discussing the issue in the council meeting.

## **2) Residential Steps, 183 West Booth, Installed on City Right-of-Way -**

**ACTION ITEM:** Dennis Callahan, Code Enforcement Officer reported that he had sent a certified letter twice to the wrong address and both were returned. Dennis got the addresses off the tax roll report and the addresses on the tax roll were incorrect. The third certified he sent to the address on the property owner water account. The third letter has an extension until the 24<sup>th</sup> of this month to remove the encroachment. Councilperson Hinz made a motion to have Dennis contact legal if the encroachment is not cleared by the date referenced on the 3<sup>rd</sup> certified letter sent to property owner for the residential steps at 183 West Booth. Councilperson Thomson seconded the motion. All voted aye, unanimous.

Mayor Davids commented on Doug Morrell encroachment with the bricks. The City is waiting for the asphalt company they hired to fan out the asphalt and then that issue will be cleared.

## **B) Ordinance Regulating Discharge of Firearms within City Limits -**

**ACTION ITEM:** City Clerk Dimick comments that she is still working on ordinance to regulate discharge of fire arms within city limits.

## **C) Public Nuisances:**

**1) Annual Weed/Fire Hazard Abatement Notices - ACTION ITEM:** Dennis Callahan, Code Enforcement Officer reported that he has sent all the letters for the vacant lots. Three (3) or four (4) of the certified letters we sent last month the City has not received acknowledgements that they were delivered. Dennis is not sure why. Dennis questioned if the City has to receive the acknowledgement back before the City authorize a company to mow down the weeds and bill the property owner for it. Gary Cooper, City Attorney comments that acknowledgement must be received that the property owner received the certified letter before the City can

legally enforce the cleanup. Gary comments that their offices is seeing the same issue and are unsure why the acknowledgements are not being sent back. Dennis Callahan, Code Enforcement Officer reported the acknowledgement he has received the property owners have mowed their lots or called and reported that they are working on them or provided dates they will be in town to take care of them. Councilperson Hinz suggested that when they call in to get a contact number for them. Councilperson Frandsen made a motion if the City received an acknowledgement (green card) back from the certified letter and the property owner has not mowed the lot Dennis is authorized to hire a company to mow the lot and charge the property owner for the cost. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**2) Unlicensed vehicles on private property - ACTION ITEM:** Dennis Callahan, Code Enforcement Officer reported Dawn Hamilton's property is being cleaned up. Mayor Davids reported that the property is being sold. Cathy Sher is getting their cars registered. Dennis questioned if he needs to start working on other property owners that have cars, campers and trailer parked on their property that are not licensed per city ordinance. Councilperson Hinz made a motion to continue moving forward on vehicles and trailers not registered. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Mayor Davids asked Dennis to make a personal visit or call for the first contact notice.

**3) Tree Trimming Notices - ACTION ITEM:** Dennis Callahan, Code Enforcement Officer reported he is working on them. He has been talking with people no notices sent out. Mayor Davids asked Dennis to make his first attempt notice face to face or phone calls. Notices are sent out certified. Councilperson Thomson made a motion to continue moving forward on tree trimming or vision impairment notices. Councilperson Hinz seconded the motion.

**4) Intersecting Traffic Vision Impairments - ACTION ITEM:** Mayor Davids reported on locations that have been taken care of. Motion already made under tree trimming notices section.

**D) Vehicle for Hire and/or Transportation Insurance Certificates – ACTION ITEM:** Mayor Davids turned time over to Gary Cooper, City Attorney on the Side by Sides, electric scooters and recreational vehicles. Gary Cooper, City Attorney reported that vehicle for hire is kind of a word of art and it's a little antiquated at this point. It's general always been applied to Taxi services, where you are transporting people. A recreational vehicle for rent is a stretch to say they're a vehicle for hire according to attorney. The City ordinance probably prohibited this

type of business but, that has not been the direction the City has taken. Gary explained it would be very difficult to reverse course this year and just prohibit this all together. He would suggest if the City wants some regulation on this the City will need to enact a provision that specifically addresses recreational vehicle for rent business. At that time we need to address the insurance requirement and naming the City as an additional insured. Attorney suggestion for now is to leave as is. Mayor Davids asked about the Tube Shuttles. Gary Cooper comments that tube shuttles are a vehicle for hire. They're charging a fee to transport and are regulated by your City ordinance. Mayor Davids asked Dennis Callahan, Code Enforcement Officer if all Tube Shuttles have provided insurance coverage to the City. Dennis will review his files and make sure that all insurance coverage documents are received for any business in Lava that is charging a fee to transport people.

**E) Livestock Permit(s) - ACTION ITEM:** Sheep are to be moved today from the property.

**F) Vacation Rentals - ACTION ITEM:** Gary Cooper, City Attorney reported on the conversation he has had with two (2) home owners in Lava that are located in the R2 zone areas, where vacation rentals are not allowed. He has communicated to them that it is not allowed. The sense he gets is they are *not* going to do nightly rentals. Mayor Davids senses that they are going to go with the thirty (30) days rentals per City ordinance. Councilperson Hinz reported that they are going to continue to advertise online. A nightly rental in zone R2 areas is a violation of City ordinance and they can be charged if they rent nightly. City Clerk Dimick questioned Gary Cooper about the rentals online advertise thirty (30) days rental but, when you click on the booking tab they give you a nightly rental price and it blocks out the thirty (30) day rental on the calendar however you get a huge discount. This is questionable. Gary Cooper comments we cannot prevent people from advertising but, if somebody is renting their property and that is considered being a business and they will need a business license, comply with the building code regulations and the City current ordinance and statute. Councilperson Thomson made a motion to continue to investigate, move forward and possibly amend ordinance. Councilperson Hinz seconded the motion. All voted aye, unanimous.

**G) Monthly Law Enforcement/Code Enforcement Miscellaneous Reports:** Officer Nickell reported they are patrolling for open containers every weekend and will work on getting the citation report to Mayor Davids and council. Officer Nickell is not sure how many are cited or receives a written warning but, they

stopped a lot of people for having an open container. Mayor Davids reported he has been working with officers to move overnight campers from city streets, alleys and public parking lots. Officer Nickell reported that the Tri-County DUI task force will be saturating Bannock County on July 21<sup>st</sup>.

**Business License(s) - ALL ACTION ITEMS:**

**A) Thanks A Brunch, LLC – Locally owned food truck serving breakfast & lunch, 15 North 3rd East, Nathan Slagowski, Owner/Applicant:** Councilperson Hinz made a motion to approve. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**B) Rife's Works, Whalan Rife, Owner/Applicant:** Councilperson Hinz made a motion to approve. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**Non-Property Tax Permit(s) - ALL ACTION ITEMS**

**A) Thanks A Brunch, LLC:** Councilperson Hinz made a motion to approve. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**Building Permit(s)/Demo Permit(s) - ALL ACTION ITEMS**

**A) Plan Review Fees, August 9, 2018 Public Hearing:** Mayor Davids read Notice.

*PUBLIC HEARING*

*NOTICE ON INCREASED BUILDING PERMIT PLAN REVIEW FEE*

*The City of Lava Hot Springs proposes to restructure how plan review fees are calculated which will increase the building permit plan review fee of the city by an amount exceeding one hundred five percent (105%) of the current respective fee.*

*The fee increase is to cover charges billed to the City of Lava Hot Springs by the Idaho Division of Building Safety. The plan review fee is in addition to the building permit fee. All building permits will be billed and additional forty (40) percent of the permit fee for plan review.*

*All citizens are invited to attend the hearing on the proposed fee increase on Thursday, August 9, 2018 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.*

*Lava City Hall is accessible to persons with disabilities. Special accommodations and alternative formats for non-English speaking persons or persons with disabilities will be available upon request with a minimum of 5 days notice prior to the hearing. Contact Canda Dimick, City Clerk at (208)776-5820 during the hours of 9 a.m. to 2 p.m., Monday through Friday for accommodations and other information.*

Councilperson Hinz made a motion to hold a public hearing. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**B) Building Permit Report, Dennis Callahan, City Code Enforcement Office:** Dennis Callahan, Code Enforcement Officer presented an updated report. List reviewed and status of each reported on.

**C) Extend existing deck and add railing, 61 South Center, Vicky Lyon Owner, Whalan Rife Contractor:** Craig Lyon in representing Vicky Lyon. Mayor Davids reported he reviewed the deck and plans with Tony today. Tony is fine with the deck plans however they need to know how high the railing will be. Craig comments he is not sure what ordinance is on the height. City Clerk Dimick comments ordinance is a maximum of three (3) feet from the ground. Council discussed ordinance and options. Councilperson Frandsen question the reason for the height. City Clerk Dimick comments the reason for the height restriction is for clear vision coming out of the driveways. Councilperson Thomson explains the reason for a railing and the normal height for railings is a minimum of forty (40) inches. Craig has concerns about hand railing being considered a fence. The railing will not be solid like a fence. Safety is a concern with the Lyon family. Property is in commercial zone and the deck can be built to the sidewalk. Discussion about ordinance, building plans and options to make changes to plan followed. Councilperson Frandsen made a motion to approve permit as submitted with a three (3) foot railing from deck. Motion died lack of a second. Craig suggested building the deck without a hand rail for the time being and when the updated ordinance is approved build the railing per the ordinance. Councilperson Thomson made a motion to approve permit with the top railing no higher than the ordinance allows. Councilperson Hinz seconded the motion. All voted aye, unanimous.

### **Meetings/Announcements/Miscellaneous**

**A) Monsanto's Caldwell Canyon Mine Report – Mayor Davids:** Mayor Davids called and talked with them. They wanted the Mayor signature on a letter addressing the city supporting the mine. He didn't feel like he could write a letter of support if he didn't know anything about it. He won't consider signing a letter until environmental impact study is completed.

**B) Report on Demolition Bid for Accessory Structure - City Clerk:** Bidder misunderstanding. The Bidder thought he was bidding on a job that the city was paying someone to tear building down rather than him bidding for the salvage value. City Clerk stopped work when they found out the confusion on the bid.



Discussion followed about rebidding the building for the salvage value. Mayor and Council agreed to tear structure down and salvage wood to use in park improvement project.

**C) Edge Water Resort, LLC/City Exchange Agreement, Public Hearing**

**ACTION ITEM:** Councilperson Thomson made a motion to declare intent to exchange property with Edge Water. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Attorney will prepare legal notice.

**D) Resolution # 2018-5 adopting the Lava Hot Springs Fire Department Policy and Procedures Manual - ACTION ITEM:** Councilperson Thomson made a motion to adopt resolution 2018-5. Councilperson Hinz seconded the motion. All voted aye, unanimous. Attorney will prepare legal notice.

**E) Miscellaneous:**

**Projects:**

**A) Water Improvement Project:**

**1) City/Knife River Staging Area Agreement - ACTION ITEM:** Status of agreement unknown. Need to follow up on it.

**2) Bannock County Excavation/Grading Permit:** Mayor Davids reported Knife River was shut down because the City didn't have a grading permit. Mathew Hill and Bryan Phinney addressed status of permit. Mathew and Bryan are waiting for Bannock County to get back to them. Mathew explained he talked with the contractor about starting at a different location while they work out the permit issues. There was a discussion that the contractor may ask for a change because of the delay. Direction of pipe velocity loss was briefly discussed. Discussion about turning the pipe considered, estimated time frame is a week worth of work.

**3) City/Lava Hot Springs Foundation Water Service Agreement - ACTION ITEM:** Attorney will work on agreement. No action taken.

**4) New Well Site – Mayor Davids:** Mayor Davids reported there are two quotes for the cost to get electricity to the well site, nineteen thousand five hundred and ninety two dollars (\$19,592.00) with a service agreement or twenty three thousand six hundred and eighty five dollars (\$23,685.00) paid up front. Bryan Phinney

explained city attorney needs to review the agreement since we don't know where the well location is for sure. Bryan mentioned he asked the power company to evaluate the cost to do overhead verses underground. Both costs are almost identical. Bryan suggested going underground. Bryan explained the hydrologist identified two (2) locations. The City needs to move forward with the agreement and to include authorization to them to perform a test well. Mayor Davids commented they would like to have the purchase price agreement completed before a test well is done. Attorney will work on Clinton Poll purchase price agreement. Bryan comments they will survey.

**5) Fish Creek Spring Land Purchase from Doug Potter – Mayor Davids:**

Mayor Davids asked if the variance form from DEQ has been received. City Clerk Dimick will forward engineer waiver form to Keller's to look at. Bryan Phinney will provide cost estimate to complete work.

**6) Fish Creek Culvert – Mayor Davids – ACTION ITEM:** Mayor Davids recommended installing a culvert for a creek crossing on the city property as part of the project. City will need to send Bryan Phinney an email that outlines the change order and they will start the process. Councilperson Frandsen made a motion to proceed with installing the forty eight foot (48') culvert in fish creek length twenty foot (20') for city access. Councilperson Hinz seconded the motion. All voted aye, unanimous.

**B) Buddy Campbell Park Improvement Project/Maintenance:** Nothing new. Mayor asked to keep on agenda.

**C) Tennis/Pickle Ball Courts:**

**1) Resurfacing Proposal – Ron Hunt - ACTION ITEM:** Ron Hunt reported that they would like to paint lines on one of the tennis courts to make three pickle ball courts. Councilperson Frandsen reported that on You Tube he found a video that showed how to resurface courts. It looked like something a group of people could do to repair the surface with minimal effort and not hire the job out which would save on money. Ron Hunt gave a brief explanation of court surfaces and how the wrong product/material causes the ball to not balance properly. Council and audience discussed having city staff or volunteers resurface courts. Craig Knutson reported that a lot of the new surfaces is a cushion surface. Samples provided to council. Ron requested locking up the new portable pickle ball net because it got bent. He would hang a sign up with his cell phone number on it explaining to call him for the combination to unlock the net. Ron will keep a log of all users. Next year the council will look at resurfacing the courts. It was suggested that Ron will

need to research resurfacing ourselves and the optimal time of year to do it. Keep court on left for tennis and the right tennis court for pickle ball with three courts painted on it. Councilperson Guthrie made a motion to purchase lock, paint lines for the three pickle ball courts on one of the tennis court and seal cracks not to exceed five hundred dollars (\$500.00), make the courts playable for this year and next spring revisit with council for additional improvements. Councilperson Thomson seconded the motion. All voted aye, unanimous. Suggestion made when researching cost to include the Tennis court in the cost to resurface.

**D) ADA Curb Ramp Project: Waiting on proposed Forsgren Contract**

**1) Forsgren Engineering Contract:** Waiting on Forsgren to prepare the contract.

**F) Miscellaneous:** City Clerk Dimick informed Mayor and Council about a Utah concealed weapon course scheduled on August 23<sup>rd</sup> at the Blue Moon Bar, 6:00 p.m. to 10:00 p.m. Need a business license they are charging one hundred and twenty five dollars (\$125.00).

City Clerk Dimick gave FY2019 budget list to Mayor and Council to prioritize. She would like it returned next week. City Clerk Dimick gave priority list from Tony to Mayor and Council to consider.

Gary Cooper, City Attorney has given notice now to every property owners that didn't provide easement definition that the pipeline is going to go through their property with the exception of the Robert Merrill Trustee and his office sent the notice certified mail and they refused it. We've made every attempt to notify them. We have an easement and we have the right to improve the pipeline.

Gary Cooper, City Attorney reported he is in contact with Century Link. Carie Barnhisel will work on rectifying building code violation. Mayor asked City Clerk Dimick to contact Lisa Toley and let her know the status.

Councilperson Thomson made a motion to adjourn into executive session. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Roll call. Frandsen -Aye, Guthrie -Aye, Hinz-Aye, Thomson-Aye, unanimous.

Motion to reconvene:

Councilperson Thomson made a motion to reconvene. Councilperson Guthrie seconded the motion. All voted aye, unanimous. Roll call. Frandsen -Aye, Guthrie -Aye, Hinz-Aye, Thomson-Aye, unanimous.

Councilperson Thomson made a motion authorizing attorney to survey land and legal to pursue quiet title. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Councilperson Thomson made a motion to have Canda run copies of application, draft ranking and meet on July 25<sup>th</sup> at 6:00 p.m. with top four (4) candidates from each council member. Councilperson Frandsen seconded the motion. All voted aye, unanimous.

**Discussion:**

**Adjourn:** Councilperson Guthrie made a motion to adjourn. Councilperson Frandsen seconded the motion. All voted aye, unanimous.

Meeting adjourned at 9:00 p.m.

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Amantha Sierra, Transcriber

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T. Paul Davids III, Mayor

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Canda L. Dimick, City Clerk