

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Thursday, July 13, 2017 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, Code Enforcement Officer
Gary Cooper – City Attorney

Excused:

Guests: Ken Fagnet, Evellee Hill, Pamela & James Slaughter, Wayne Gunter, Dan Osborn, William Perkins, Clinton & Kerby Pagnotto, Lisa Toly, Sgt. J. Young, Deputy R. Jenkins, Randy Benglan, Tara J. Kulve, Joan & Les Bocek, Annaleigh Petrun

Mayor Davids welcomes 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. August agenda deadline for Council meeting on August 10th is August 3rd.

Amend Agenda: Mayor Davids announces one change to the agenda. Document received before time period ended. City missed putting it on the agenda. Dick Guthrie Cabin under building permits section C. Councilperson Davids made a motion to amend agenda. Councilperson Linford seconded the motion. All voted aye, unanimous.

Approval of Minutes: Councilperson Thomson and Hinz gave corrections to Amantha. Councilperson Hinz made a motion to approve minutes June 27th 2016 special meeting and June 8th 2017 regular meeting minutes. Councilperson Davids seconded the motion. All voted aye, unanimous.

Review & Approve Bills: City Clerk Dimick reviewed bills with Mayor & Council. Councilperson Linford made a motion to pay bills except for Liddell Paving. Councilperson Hinz seconded the motion. All voted aye, unanimous.

South 2nd East Alley Complaint – Wayne Gunter: Mayor Davids and Council have a copy of the complaint. Mayor Davids paraphrased what happens there. We have an Alley way that is being blocked. The complaint is the neighboring property owner needs access. Wayne Gunter reported that he bought the property 15 years ago and his only access to his house is the alley. He mentioned every five years he appears before the council and previous years he has been told he is grandfather in per the City Attorney. He has the right to park in the alley. He received a letter from the City requesting that he move all his property over, out of the alley way and he has done that. Property use to be surrounded by State land. The City does not maintain the alley way he maintains it. He pays for the maintenance of plowing and weed control. Mayor read ordinance.

6-4-2: OBSTRUCTION AND PARKING PROHIBITED:

No vehicle shall at any time be parked upon any public thoroughfare, including any street, alley, highway, vehicularway, pedestrianway, or other thoroughfare, in such a manner as to prevent the free and uninterrupted use of the thoroughfare by other vehicles and pedestrians, or of any driveway belonging to or rightfully used by any person other than the person to whom the vehicle belongs. Further, no vehicle shall be parked on any public thoroughfare, as defined herein, within the city for a period of time exceeding twenty four (24) hours. (Ord. 2015-9, 11-12-2015)

Councilperson Thomson made a motion that it is a designated public alley and needs kept open per the ordinance. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Chicken Soup Spring Development – Evelee Hill: Evelee provided old deeds to the Council and presented a history on the water right and easement. Flow used to serve several businesses along Main Street. 1962 flood damaged the delivery system. Army Corp of Engineers lowered the river which impacted the flow of the spring. Evelee would like to co-develop with the city on a development project. The City has to use it as a public use not private. Evelee would prefer to divert pipe down fifty foot easement. City Attorney Gary Cooper read the Idaho law on water rights. If it falls within changing the point of division, place of use, period of use or nature of use of a water right is going to be changed then an application has to be made to the Idaho Department of Water Resources. They do there due diligence to make sure whatever is being done isn't going to affect other water

rights and consistence with Idaho law. Evelee is currently using her water right. Evelee comments the point of division is not changing. The point of division is equal on both water rights. The method of delivery is going back to what was original there. Mayor Davids believes we need to setup a meeting and decide who we want to work with and how we want to work together. Evelee questioned where the original pipe went. Evelee will see if she can get some information on the old pipeline. Mayor Davids asked Evelee what her thoughts are on how we move forward. Evelee believes first we need to determine how we are going to capture the water that's there. We will need a Hydrological Engineer to look at the spring to see if there is more capacity to up water right and maybe do more development. Need an agreement on the co-op effort. City Attorney Gary Cooper suggested that a city representative and representative for Evelee meet to develop a memorandum of understanding. Councilperson Thomson made a motion to proceed with joint venture with Evelee Hill to develop legal documents. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Access from Alley – 250 East Elm - Dan Osborne: Dan addressed his plan to do Airbnb out of his basement and he would like to develop parking for business. He would like to dig out from the berm that goes into his back yard, fill his back yard with the dirt and level it out for a parking lot. Dan will need to call dig line before he does any excavation. They will stake out the property for utilities, sewage, fiber optic, phone line, gas line. Check with Tony Hobson, City Maintenance about City Utilities. The plan is to dig in ten feet to park five vehicles at an angle. Mayor Davids informed Dan the alley is not on the City snow removal scheduled. A retaining wall well need t be installed. Dan will cover retaining wall and excavation cost. City would like to see plans for the wall before approving anything.

City/Potter Land Purchase Agreement – Gary Cooper, City Attorney: Gary prepared real estate purchase and sale agreement for city to use. Need legal for land.

Century Link Encroachment Letter – Gary Cooper, City Attorney: Gary sent a letter. They accepted the letter on June 19th and I they have not responded back. Next step, advise them that city will take legal on a civil action. Reimbursement of

legal services questioned. There is a provision that they can be cited for infraction under the building code and business licenses section. Councilperson Thomson made a motion to authorize city attorney to take next step and inform them what are next step is with a civil enforcement. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Lisa Toly doesn't want the city to go in debt. She wants to talk with her family about what they would like the city to do.

Discussion possibilities for East Main South side Pedestrian Bridge – Gary Cooper, City Attorney: Mayor Davids reported that he has called property owners several times. Mayor Davids has made some offers and no response back. Mayor Davids commented on the north side bridge and why the width is smaller than the City would like. They could not build it wider due to the states historical rock wall. He also explained the south side bridge would be wider if they could acquire the land and build a new bridge. Land is definitely not owned by the City. City Attorney Gary Cooper explained eminent domain statue with the council. Options to proceed with six foot land acquisition were discussed. Councilperson Thomson questioned if the City has any ability to push an eminent domain based on safety. The area meets the criteria for eminent domain by law. Need to make written cash offer. Need to come up with a fair market value. Get appraised value. Councilperson Thomson made a motion to direct City Clerk Dimick to contact appraiser to get a fair market value and present written offer to the Victor Brothers. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Law Enforcement/Code Enforcement:

A) Open Container Signs & Posters Update: Open container signs and posters are up. Law enforcement is enforcing the law.

Jeff Young reported that the no-trespassing signs are not working along the tubing trail that was posted due to engineering issues.

B) Public Nuisance Notices Report: Code Enforcement Officer Callahan reported that there is only one property owner that is not taking action on the notices. Code Enforcement Officer Callahan is drafting a letter requesting the vehicles to be removed or licensed and if the nuisance is not addressed the only

recourse the City will have is to tow the vehicles. Mayor Davids reported he talked with the property owner and she is as frustrated as the City is. Mayor Davids asked Dennis to send a reminder letter.

C) Sidewalk Resolution for Snow Removal: City Attorney Gary Cooper will prepare an amendment for August meeting. Three readings will be waived.

D) Burlesque Show Regulations – Gary Cooper, City Attorney: City Attorney Gary Cooper reported that a lot of Cities are facing the same problems. It's been handled as a first amendment issue. Idaho State police, the authority that regulates liquor, has tried to close the burlesque shows and ran into a lot of legal difficulties and has accrued a lot of liability in doing so. It's pretty touchy in how to regulate. The regulation probably has to be more along the line of public safety. Fire codes and occupancy limits are possible solutions. The State of Idaho has been sued several times. Five or six cases are on record in Idaho. Clinton Pagnotto reported he talked with his attorney in the beginning to make sure he was within the law to have the shows. Kerby Pagnotto commented the shows are professional. They are artistic performers. The shows are similar to a band, comedians or similar shows typically for entertainment and there is no nudity.

E) Vacation Rental Regulations – Gary Cooper, City Attorney: January 1, 2018 new law. The law will allow anybody in the county or state to rent their home as an overnight rental. Mayor Davids addressed his concerns for the City. If everything became a vacation rental the City would lose their identity. Mayor Davids read the law. Planning and Zoning Commission is aware of the new law and is working on zoning changes based on the law provisions.

F) Code Enforcement Officer – Authority to issue Uniform Citations: City Attorney Gary Cooper explained the law. Dennis could have the authority to issue citations if the City council authorizes him. City Attorney feels like he should not be put into that type of situation. The Council agreed with the City Attorney. City Council agreed to leave policy as is. Dennis needs to get an officer to issue citations.

G) Sky Lanterns – Ken Fagnant, Fire Chief: Ken Fagnant reported on the new administrative rule change. The ruling gives the jurisdiction the authority to

regulate and control them. County has the authority to pass a burn ban and The Fire District adopts the counties burn ban. There has never been any provision for enforcing. We've had a few calls in the past but and we've had no legal provision for controlling them. We've also informed them that if a fire is started because of them they are responsible for the cost of putting out the fire. Now with the new ruling the City needs to decide if we band them, decide if we want to allow them. If we allow them we need to modify or create a new permit. It has to be a different permit than our current burn permit. According to the new ruling if you allow launching permits will be enforced by the jurisdiction. Mayor and Council discussed options. Ken brought this in front of the council to start discussion. He doesn't expect decision tonight. Ken plan is when the district makes a decision it will be presented to the Council. Councilperson Hinz made a motion if the district imposes burn ban city will follow suit. Councilperson Thomson seconded the motion. All voted aye, unanimous.

H) Dogs Running at Large Citation Appeal – Collin Petrun: Code

Enforcement Officer Callahan explained he received a call on two loose dogs running at large. They attacked a person and the person that was attacked did not want to go any farther other than issuing a loose dog citation. Dennis issued two loose dog citations, one to each dog owner. Mayor Davids asked where the dogs were. Dennis explained they where loose in the road. The road is owned by the Petrun and the property has a prescriptive easement. The prescriptive easement is entrance to the Campground. Annaleigh Petrun agreed with the prescriptive easement. Annaleigh explained the situation and the care of her dog. The dogs were on her property, the road. The second dog was visiting and no longer there. Councilperson Thomson explained the city has a leash law and you are responsible for adhering to it. The leash law says your dog will be under your control with a leash on it at all times. Councilperson Thomson made a motion to waive citation for dog that has moved, no longer there and collect citation fee from owner for the dog that is still there. Councilperson Linford seconded the motion. All voted aye, unanimous.

I) Insurance Rating Classification Survey – August 2, 2017: Survey will be done August 2, 2017.

J) Portneuf Veterans Pig Roast Special Event Permit: At the Lava Lion pavilion. Set up and take down times not listed, July 22nd serving 11:00 am to 5:00 pm. Councilperson Hinz made a motion to approve special event permit. Councilperson Thomson seconded the motion. All voted aye, unanimous.

K) Monthly Law Enforcement/Code Enforcement Miscellaneous Reports: Nothing to report.

Code Enforcement Officer Callahan reported on Lava Spa Motel sidewalk replacement. Owners want to coordinate with the City when the City does the curb and gutter, after Labor Day weekend.

Annual Fireworks Appropriation – Joan Bocek: Joan Bocek thanked the City for their support with the helping with the fireworks. Joan recommended the City consider sharing equally up to four thousand dollars on next year firework display. Council will consider budgeting for increase. Add to discussion for budget meeting. City will let Joan know.

City Attorney Gary Cooper reported on the storage shed, Katsilometes. When the building permit was approved it included the water and sewer. Katsilometes needs to pay for the sewer hookup fees. City Clerk Dimick will bill him for the fees. Attorney excused from the meeting.

Street Improvement/Drainage Improvements/Repairs/Snow Removal Equipment:

A) LHTAC Grant – Consider Extension: Mayor Davids announced the City has a grant for hundred thousand dollars to chip and seal coat the city streets. City Clerk Dimick told Mayor that we can get an extension on the grant until the following year due to the water project and streets that required being dig up during the project. Councilperson Linford made a motion to apply for grant extension. Councilperson Hinz seconded the motion. All voted aye, unanimous.

B) Paving and curb/gutter projects – Mayor Davids: Mayor Davids reported curb and gutter along 1st West completed. Carry funds over to do curb and gutter along west side of South 1st West. There will be some added to costs for drainage issues. Mayor and Council discussed other areas that will need curb and gutter work. The Council will focus next year working East and West of Center Streets.

C) Alley snow removal equipment – Mayor Davids: Bid as needed for snow removal snow. Billy suggested getting a snow bucket with wings, five to six thousand. Councilperson Thomson made a motion to investigate and put together a set of guidelines and release for bidding. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Review and Select pickup purchase from Idaho Division of Purchasing Bid

List: Mayor Davids asked the City Maintenance crew to look at a truck they want. They found one in Pocatello at P & R Auto sales Inc, 2012 ford F250 truck and utility bed, twenty four thousand five hundred and fifty dollars. Mayor and council discussed purchasing another utility vehicle was discussed. Councilperson Hinz made a motion to purchase truck. Councilperson Thomson seconded the motion. All voted aye, unanimous. Old white truck needs a new seat and cleaned up. This truck will be fixed up for animal control. Dennis was asked to find out how much a cover for the Ranger would be. Councilperson Hinz wants to see a wrap around the truck. Yellow lights on top for both work trucks. Dennis was asked to see if he can get the kennel in the truck that is at the springs. Councilperson Thomson volunteered to help Dennis get the kennel and put it together. A decision needs to be made were to put up the kennel. Councilperson Thomson mentioned the same insignia for both trucks.

Building Permit(s):

A) Car Port Addition on House – 372 West Booth – Whalan Rife, Contractor; Julie Patterson Owner:

B) New Restroom in Lava Mobile Estates Lower Park – 8416 E. Hwy 30 – Richard & Barbara Guthrie, Owners/Applicants

C) Move cabin Richard & Barbara Guthrie, Owners/Applicants

Councilperson Linford made a motion to approve all three building permits. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Sign Permit(s):

A) Ace Hardware – Corporate temporary changing signs – Vacant lot between 123 and 155 East Main: Code Enforcement Officer Callahan reported Ace is not sure what the sign size is because they are promotional signs from corporate, usually three feet by two. They will be placed on the vacant lot where the Ace greenhouse is. Councilperson Hinz made a motion to approve as long as it complies with code. Councilperson Davids seconded the motion. All voted aye, unanimous.

B) Eyecandy – A Frame Sidewalk Board – Nicole Insley, Applicant:

Mayor Davids reported a sign cannot be put on a sidewalk according to ordinance and asked Code Enforcement Officer Callahan if it's against ordinance explain that it's not allowed and not put it on the Council agenda. Councilperson Thomson asked Dennis to follow up on the Coffee Shop sign. She needs to comply with City ordinance. Code Enforcement Officer Callahan talked with her and she is to put the sign up on the door. He will follow up on it. Councilperson Linford made a motion to deny, sign not allowed on sidewalk per City ordinance. Councilperson Hinz seconded the motion. All voted aye, unanimous.

Business License(s), Alcohol License(s), Coin-Op License(s) & Non-Property Tax Permit(s):

A) Boyack Window Cleaning – David Boyack, Owner/Applicant:

Councilperson Davids made a motion to approve business license. Councilperson Hinz seconded the motion. All voted aye, unanimous.

B) Eyecandy Lash & Beauty Lounge (license modification) – Nicole Insley, Owner/Applicant: Councilperson Hinz made a motion to approve business license based on no sidewalk sign listed on her business license. Councilperson Linford seconded the motion. All voted aye, unanimous.

C) Farratech, Inc. (Non-Property Tax Permit): Councilperson Thomson made a motion to approve business license. Councilperson Davids seconded the motion. All voted aye, unanimous.

D) K.C. Labor – Christopher Lewis, Owner/Applicant: Councilperson Hinz made a motion to approve business license. Councilperson Thomson seconded the motion. All voted aye, unanimous.

E) Rudy's Quality Roofing, LLC – Reynaldo Rueda, Owner/Applicant: Councilperson Davids made a motion to approve business license. Councilperson Hinz seconded the motion. All voted aye, unanimous.

F) Sprint Spectrum, LP (Non-Property Tax Permit): Councilperson Davids made a motion to approve business license. Councilperson Thomson seconded the motion. All voted aye, unanimous.

G) Steamco Ventilation & Exhaust Systems, Inc. – Glen R. Wallace, Owner/Applicant: Councilperson Davids made a motion to approve business license. Councilperson Hinz seconded the motion. All voted aye, unanimous.

H) Superior Asphalt Inc. – Keith Ankrum, Owner/Applicant: Councilperson Hinz made a motion to approve business license. Councilperson Davids seconded the motion. All voted aye, unanimous.

City Park Rental Proposal – Jon Thomson, City Councilperson:

Councilperson Thomson presented a proposal renting park. The City is missing out on a revenue opportunity. Need to consider taking reservation and renting pavilion. The City Park has room for additional pavilions and he would like to get quotes on building more pavilions. Need to re-roof existing pavilion. States parks are rented almost every weekend. The City should work in conjunction with the State. The revenue would go to help with the park project. Mayor Davids feels the road needs to be cut in with the parking lot and graveled. Councilperson Thomson feels the parking lot would be a great place for the City to dump snow in the winter time. Public hearing is required when a fee is to be imposed or when a fee increase is more than five percent. Suggested amount for the fee is fifty dollars for a half day and one hundred dollars for a full day. Calendar year is January through December and reservation can only be made during the calendar year. Councilperson Linford made a motion to hold a public hearing. Councilperson Thomson seconded the motion. All voted aye, unanimous.

Meetings/Announcements/Miscellaneous:

A) July 24th Parade – 6 PM: Parade July 22nd. Lola Potter will be the Grand Marshall. Councilperson Thomson will find a vehicle for the Grand Marshall to ride in. Amantha will take care of getting Lola to the parade. Purchase candy, same as the prior year.

B) Lava Historical Sign Relocation (Hwy 30 to South Bannock County Historical Center): No need to relocate old sign. The State put a new sign up on their property. It's exactly like the old sign.

C) Fire Station Roof Damage, Insurance Claim, proposal to repair: Insurance will not pay for claim. The reason they denied the claim is due to normal wear and tear. Hire contractor to fix repairs October 1st.

D) Motion to Change October 12th Regular Meeting to October 5th: Councilperson Thomson made a motion to re-schedule meeting for October 5th. Councilperson Hinz seconded the motion. All voted aye, unanimous. Council requested multiple reminders for this meeting.

E) Strategic Floodplain Development Workshop – July 21, 2017, Idaho Falls: Remind Code Enforcement Officer Callahan about workshop.

F) Schedule FY2018 Budget Work Session: Meeting schedule for July 20th at 6:00 p.m.

G) Miscellaneous: Mayor Davids read Mosquito declaration.

Projects:

A) East Main Pedestrian Bridge(s)

1) North Bridge Completion - Schedule Ribbon Cutting Ceremony: Consider scheduling after Labor Day weekend.

B) East Main Traffic Bridge Pillar Construction & Rock Installation Bids: Bonner is schedule to put pillar in. Need bids to complete.

C) North 1st West Drainage Project – Mayor Davids: Contract signed and ready to start engineering design.

D) Buddy Campbell Park Improvement Project:

1) Prioritize Cost Estimate List:

Cut in road up to Lion Park & parking lot. It will be a perfect place to dump the City snow this winter. Need to do a lot of cleanup in order to cut in road. Need to put out to bid for road and parking lot, separate bid for each item. Don't take fence down until developed. Need master plan hung up on wall. Councilperson Hinz made a motion to talk with Booth/RMS about bid specs separated as two line items. Councilperson Thomson seconded the motion. All voted aye, unanimous.

E) Water Improvement Project:

1) Well Location & Access Report – Mayor Davids: Mayor Davids delivered legal document to the Etcheverry. He expressed a trade rather than money. Mayor Davids talked to the Bergendorf about purchasing his land. Mayor talked with Leslie Mulhalland and Mark Cece about easements. Councilperson Hinz left a message for Earl Smith. No response back. The ball is rolling.

2) Easement Clarification: City Clerk Dimick comments easements are on the deeds but they don't address any width. I've received all the easements and we are working on letters to be sent to all property owners. Expressing to them that the City has an easement and we think it's to their benefit and to the city to document the width of the easement. Working to get all them in place and recorded with width. We've got all the legal. Need to get with the attorney and put them in an easement form then the Mayor and Tony can hand deliver.

3) Postponed Construction – March, 2018: Postponed construction. Hoping to bid this winter and starting construction this spring 2018.

F) East Main Street Additional Benches – Mayor Davids: Councilperson Thomson question if all other improvements were in. Mayor Davids responded yes, bill was paid. Councilperson Thomson made a motion to accept bid from Lish, six benches at one thousand dollars each. Councilperson Hinz seconded the motion. All voted aye, unanimous

G) Relocate Street Light Conductor around Property Work Agreement (East Elm Street): They need to pay for the relocation of the line and the work order. Discussion followed regarding the well they are drilling. Property owners have a permit from water resources.

H) North 1st West Street Light Replacement Status: Councilperson Thomson made a motion to accept agreement, city will pay bill and bill Kody for it. Councilperson Hinz seconded the motion. All voted aye, unanimous.

I) Miscellaneous:

Discussion: Bill Perkins is concerned with on 1st Alley South 2nd East. Need a sign saying warning narrow alley with a drop-off. Motor Homes and 5th Wheel trailers getting hung up and in some instance had to get a toll truck to get them out of there. Council agreed a sign is a great ideal. Council needs to decide what to put on it and where to put the sign. Councilperson Hinz made a motion to add a sign to the intersection/alley. Councilperson Thomson seconded the motion. All voted aye, unanimous. It was suggested to have Dennis look around the town and see if any other signs are needed.

Adjourn into executive session: Councilperson Hinz made a motion to adjourn into executive session. Councilperson Thomson seconded the motion. All voted aye, unanimous. Roll call. Thomson-Aye, Linford-Aye, Hinz-Aye, Davids-Aye, unanimous.

Motion to reconvene: Councilperson Linford made a motion to reconvene. Councilperson Hinz seconded the motion. All voted aye, unanimous. Thomson-Aye, Linford-Aye, Hinz-Aye, Davids-Aye, unanimous.

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

Meeting adjourned at 9:38 p.m.

Canda L. Dimick, City Clerk