

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, August 13, 2009 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:

Marshall N. Burgin, Mayor  
 Michael Vice, Councilman  
 Newton J. Lowe, Councilman  
 Phillip Beeson, Councilman  
 Katherine Smith, Council member

Canda L. Dimick, City Clerk

Guests: Roger Chermine (Chat TV), Milan Zabka, Kathryn DeMott, Scott Hange, Jackie Hange, Jill Davis, Ken Davis.

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

**Open Copier Bids:**

Valley Office Systems	Sharp ARM-317	Black & White	\$4,740
	Sharp MX-3100N	Color	\$6,532
Yost Business Systems	Kyocera Taskalfa	Color	\$6,197
	(State Contract)Lanier	Color	\$4,941
	Kyocera 3060	Black & White	\$5,699
Ikon	Ricoh MP 3350	Black & White	\$6,000
		Trade in.....	\$ 625
	Ricoh MP C2800	Color	\$7,555
		Trade in.....	\$ 625
	Ricoh 3228 C (used)	Color	\$5,200
		Trade in.....	\$ 625
Idaho Business Systems	Toshiba 355	Black & White	\$6,195
		Trade in.....	\$1,000
	Toshiba 2830C	Color	\$9,495
		Trade in .....	\$1,500

Council compared bids and decided to have the city clerk prepare a spread sheet with all feature and bid requirement information. It was suggested that it may be helpful to get a copy sample for each machine.

**Minutes:** A motion was made by Councilman Lowe and seconded by Councilman Beeson approving the July 9, 2009 minutes. All vote aye, unanimous.

**Bills:** The city clerk mentioned that there was an adjustment on the MR&E bill. The amount owed is \$6,829.84. Councilman Beeson questioned the L.N. Cutis bill for fire department equipment for \$365. Last month's bill was \$322 for water back packs. The bill was pulled and reviewed. A pair of wild land turnout pants need to be returned and have not been credited on the statement but was not included in the amount to be approved. The increasing cost for legal services was discussed. It was noted that the bill covered legal services for the flood plain ordinance and the Keller contract.

A motion was made by Councilman Vice and seconded by Council member Smith to pay the bills with the edit of MR&E, Inc. to \$6,829.84. All voted aye, unanimous.

**Law Enforcement:**

A) Monthly Report: No one present. Nothing discussed.

B) Lava Palooza: According to the report and letter, the event will be similar to last year, but expect a larger attendance. They will do their own policing, etc. There were no problems last year. Bands will shut down at 8:30 p.m. No one is lined up to do the liquor catering yet. The cater will have to have an Idaho alcohol license. Organizers are aware that they need to contact the garbage contractor to make arrangement for receptacles.

A motion was made by Councilman Beeson and seconded by Councilman Vice to accept the special event license application for the Lava Palooza event on September 12, 2009. All voted aye, unanimous.

**Power Easement – Milan Zabka:**

Milan Zabka asked permission to put permanent power to his vacant lot for backhoe security lights. When he contacted Rocky Mountain Power he was told that the cheapest way to do this is to get an easement from the city to put the power through the alley. Another way to get power to this lot is to put in a power service line which will have installation costs as well as monthly charges. The mayor told Mr. Zabka that the city ordinance states that you cannot have a meter on a lot without a structure and that he would need to apply for a building permit. Mr. Zabka was asked if the power was strictly for his sprinkler systems or was he going to put power to the yurt and bathroom. Mr. Zabka stated that he needs the power to preheat the backhoe engine because all of his machinery is in

the back. He has a concrete platform on the vacant lot. He has to run an extension cord across the alley to do projects on this concrete platform. He would like permanent power to this lot. In the winter it is difficult to run the extension cords to plug in the equipment. Mr. Zabka stated that he has disconnected the water and sewer lines to the accessory building. The shower and bathroom does not function. Councilman Vice said that he was confused, that last month the council was shown that the power cord was dug up out of the alley and questioned why the easement wasn't addressed before it was put in? Mr. Zabka explained that seven (7) years ago he had installed the water, sewer and power line to the vacant lot. Two (2) years ago Mr. Zabka was instructed to disconnect the water and sewer lines, which he did. Later he was told to disconnect the power, which he did; however he didn't dig it up, he just disconnected it. The power line was a dead wire. He was told at that time that the only way he could have water and power to this vacant lot was to run a hose and cord on the surface across the alley.

R.B. Scott, city code enforcement officer, reported that on July 7, 2009, a letter was sent to Mr. Zabka informing him of the discovery of the power line in the alley. This is the power line which he showed the council last month. Mr. Zabka told Mr. Scott that this was a dead line. He stated that Mr. Zabka is claiming that an extension cord feeds the yurt. Mr. Scott said that he has not yet seen an extension cord to the yurt. This power line has not been an issue until the power line was dug up in the alley. Two (2) days later Mr. Zabka came to city hall and asked if he could have an easement for the power line. Mr. Scott said that Mr. Zabka is always changing his story. First he wants power for the sprinkler system and now he wants power for the backhoe.

Mr. Zabka said that when he disconnected the water and sewer line; the city crew came and inspected the job to see that it was done. He asked if the city crew checked to see if the wire was dead before digging it up. Councilman Beeson asked Mr. Zabka, "Did you illegally hook up the sewer?" Mr. Zabka said; "Seven years ago when I was doing that, honestly, I didn't have a clue." Councilman Beeson asked again if the hook up were done illegally. Mr. Zabka said that all three (3) connections were done at the same time and that now he knows that they were done illegally. He stated that because he was new to town and he owned the property on both sides of the alley, he thought that doing this connection was fine. Mr. Zabka stated; "Yes, you are right it was done illegally, yes". The mayor asked Mr. Zabka if he had gotten a building permit to put the yurt and other building on the vacant lots. Mr. Zabka said that when he came to the planning and zoning meeting, he was told that a building less than 200 square feet didn't require a building permit. The mayor told Mr. Zabka that this is only if the building is an accessory building that is not used for human occupancy. Councilman Beeson stated that he had a hard time believing that Mr. Zabka didn't know that he was making an illegal connection. The laws are the same law in every town you go to, you can't have an illegal connection. Mr. Zabka said that he just wanted an outside restroom to clean up when he is outside working. The mayor stated that

Mr. Zabka has the complete use of the alley; he can park the machinery in the alley and plug it in. Some of the council felt that the neighbors may have a problem with Mr. Zabka parking equipment in the alley. Mr. Zabka said that he had applied to abandon the alley which was denied. He was willing to give everyone access. He is just trying different angles. Councilman Beeson stated that all the city wants Mr. Zabka to do is to conform to the city ordinances and do things the right way. Mr. Zabka said that he is not trying to go against the rules.

A motion was made Councilman Beeson and seconded by Councilman Vice denying Mr. Zabka's request for an easement for a power line across the alley. All voted aye, unanimous.

Mr. Zabka said that if they are not going to let him have the easement, will he be allowed to bring new power service line to his property. Mr. Zabka was advised that he can drop a power service to the lots if Rocky Mountain Power will permit it and that it is on record that the power line is not to service the yurt or restroom.

**Local Option Tax Advisory Committee:**

Council member Smith said that she had not had a chance to contact the attorney or McCall about the local option tax advisory committee. It is her understanding that it could still be set up similar to what we proposed, but the city would have to hire and pay for the products and services. The city would be contracting with the business that is providing the service or product. The city clerk asked if the council wanted to pursue getting an attorney general's opinion. The council reviewed the attorney's comments. The city clerk stated that the check would have to be cut directly to the company; it can not be cut to the Chamber, Loin's Club, etc. All products become the city's property. All contracts would have to be with the city. A letter will be sent to the attorney general to get more information.

**Pioneer Travel Council Representation – Evelee Hill Rush:**

Evelee Hill was not in attendance so the agenda item was tabled.

**Resolution 2009-6:**

Resolution 2009-6 was read.

**City of Lava Hot Springs, State of Idaho**

**Resolution No. 2009-6**

**Resolution recognizing the economic and environmental significance; both locally and nationally, of the proposed Blackfoot Bridge Mine.**

*Whereas*, mining and processing phosphate ore into elemental phosphorus supports a significant portion of the Lava Hot Springs community, with as many as 22 households employed by Monsanto Company and 27 others employed as contractors in different aspects of the mining and manufacturing process;

*Whereas*, this elemental phosphorus is a building block for many vital products used in society, including water treatments, fire retardants, and in particular, Roundup® brand herbicides;

*Whereas*, 6% of the workforce employed at Monsanto's elemental phosphorus facilities call Lava Hot Springs home;

*Whereas*, large acreages of wildlife habitats have benefited from restoration and enhancement conducted by Monsanto in partnership with the Rocky Mountain Elk Foundation, Southeast Idaho Mule Deer Foundation, North American Moose Foundation, Idaho Fish and Wildlife Foundation and Pheasants Forever;

*Whereas*, federal and state agencies, non-governmental organizations and conservation groups have honored Monsanto for high standards of ecological restoration at past mines;

*Whereas*, Monsanto has made and continues to make significant investments to advance scientific understanding and practice in mining while protecting water quality and the health of ecosystems; and

*Whereas*, a range of federal and state agencies have worked with Monsanto over the past four years to evaluate technologies, gather and understand environmental data, and thoroughly review potential impacts, resulting in a proposed Blackfoot Bridge Mine that will support ongoing elemental phosphorus production while preserving Blackfoot River water quality, wildlife habitat, and ecological diversity.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and the City Council of the City of Lava Hot Springs, a political subdivision of the State of Idaho, that opening of the Blackfoot Bridge Mine be supported, consistent with environmental safeguards provided in the preferred alternative of its Environmental Impact Statement, after a thorough and open process for public comment and such modifications as necessary to address legitimate concerns raised; and

**BE IT FURTHER RESOLVED**, that the citizens of Lava Hot Springs are encouraged to participate in this public comment process, and the City reserves its right to protect the interests of the community and its citizens in the face of legal challenges to the process; and **BE IT FURTHER RESOLVED**; that this position be made known to the Governor of Idaho, and the Delegation representing Idaho in the United States Senate and House of Representatives.

**PASSED AND APPROVED** by the Mayor and the City Council of the City of Lava Hot Springs, Bannock County, Idaho, this 13th day of August, 2009.

---

Marshall N. Burgin, Mayor

ATTEST

---

Canda L. Dimick, City Clerk

A motion was made by Councilman Lowe and seconded by Council member Smith to accept Resolution 2009-6 as read. Beeson - aye, Lowe - aye, Smith - aye, Vice - abstain because he is an employee of Monsanto.

**Building Permits:**

A) David Grosso – patio roof at 286 West Portneuf.

A motion was made by Councilman Beeson and seconded by Councilman Vice accepting David Grosso's building permit for a porch addition. All voted aye, unanimous.

**Business License(s) & Non-Property Tax Permit(s):**

A) Golden Spike Harley Davidson Dealership – Temporary Vendor

B) Mark Flick

C) Utah Food Services – Temporary Vendor

A motion by was made by Councilman Lowe and seconded by Council member Smith granting business licenses A, B, & C. all voted aye, unanimous.

**Meeting Announcement:**

A) Community Clean up August 22, 2009. The mayor reported that there had been clean ups in June and July and that all went well. The city furnishes garbage bags, brooms, rakes, shovels, etc.

B) 2009 ICCTFOA Institute – September 23 – 25<sup>th</sup>, 2009, Boise  
The city clerk will decide before the special council meeting if she would like to attend the city clerk institute or not.

C) 2009 Mini IRWA Conference – September 16-18, 2009, Worley  
No one was interested in attending.

D) Storm Water Management – September 15, 2009, Pocatello  
No one was interested in attending.

E) Idaho Dept. of Commerce CDBG Application Workshop – September 17, 2009, Idaho Falls  
The workshop is for entities who want to get certified to administer their own block grants. Lava always contracts with SICOG for grant administration. No one will be attending.

F) Reschedule FY2010 Budget Hearing  
The city is waiting for health insurance premium renewal information which is expected next week. It is required that the notice for the budget hearing be published twice, seven days apart, therefore the earliest the hearing could be held is August 28 or 31<sup>st</sup>. Council member Smith reported that the city's contribution to the employees insurance range between 61 to 73 percent. The city is obligated to pay 50%. The city may want to bring the one that is 61 % up to meet the others.

The city clerk said that she had talked to the city clerk at Downey. Their rate with Blue Cross when up 29%, they have went with Blue Shield which came in lower. Council member Smith said that this is a good insurance package. The city may need to look at other plans. Councilman Beeson mentioned approaching the legislature about including the city and county governments with the state insurance package. It was decided to hold the budget hearing on August 31, 2009.

G) Miscellaneous

Ken & Jill Davis and Scotty & Jackie Hange said that they are getting a lot of traffic past their homes in the alley South of the Chuckwagon and Wagon Wheel. They asked council to consider paving the alley to the top of the hill when the budget will allow for it. The water meters at the bottom of the alley are low and the gravel keeps washes away and into the storm drain. If the city would put an extension on the water meters to raise them up; the Davis's agreed to install a wall around the meters to protect them. A speed bump or "One Way" sign were suggested. Discussion followed. The council said that they would get some signs put up and would look into paving the alley.

**Projects:**

A) Comprehensive Plan Final Vision Statement  
No action taken.

B) Main Street Resurfacing Project – Title VI Civil Rights Non-Discrimination Policy Statement & Procedure  
A motion was made by Councilman Vice and seconded by Councilman Lowe adopting the Non-Discrimination Policy Statement as written. All voted aye, unanimous.

C) Wastewater Improvement Project – Army Corp of Engineers Funding Agreement and Scope of Work.  
The revised agreement and scope of work for the additional funds the city was awarded was reviewed.  
A motion was made by Councilman Vice and seconded by Councilman Beeson authorizing the mayor to execute that agreement. All voted aye, unanimous.

D) Wastewater Improvement Project – Status of Keller Associates contract.  
The USDA has offered to help with contract negotiations. The city clerk has faxed a copy of the proposed contract along with the city attorney's opinion to USDA. There have been some issues with the funding agencies concerning the changes that the attorney is recommending.

E) Inflow/ Infiltration Project – Camera/Video Bid Proposal  
Council approved the bid proposal to be sent out. Bids must be submitted And will be opened on August 19, 2009.

F) Street Improvement – Chip & Seal Bid Proposal

Council approved the proposal to be sent out. Bids must be submitted and will be opened on August 19, 2009.

G) Fish Creek Irrigation Water Right Claims – Status

The mayor reported that IDWR has changed the priority date on the city's water right from 1921 to 1889.

H) Fire Station Solar Project Bids – Review & Award

The low bidder was Aurora Power and Design - \$31,759.

A motion was made by Councilman Beeson and seconded by Councilman Lowe accepting Aurora Power and Design's bid for the solar project at the fire station with the understanding that the award will be made when the bid bond and a copy of the public works license are received. All voted aye, unanimous.

I) Miscellaneous

1) Council member Smith reported that the city was awarded \$2,000 from Rocky Mountain Power for park improvements for the playground Fibar surface. Council member Smith is going to write something for the newspaper, thanking Rocky Mountain Power and letting citizens know what the city plans to do with the grant money, provided that enough funding is received.

2) R.B. Scott stated that he has scheduled the Prison Skill Crew to work on projects in Lava on August 29, 2009. He will order supplies for the park and "L". The city clerk reported that Tony Hobson has found a basketball court stencil and is waiting for a price quote. The salesman can also give a quote on the Fibar for the playground.

3) R.B. Scott reported that a court date has been set for August 24, 2009 for the citation issued to Milan Zabka for the illegal connections. He reported that Mr. Zabka plead not guilty and had told the prosecutor that R.B. was going to dismiss the citation. The citation is not dismissed.

4) The mayor reported that the city clerk is putting in some very long hours, often until 9 o'clock at night. He suggested that assistant city clerk, Trish Avery, use the tapes and transcribe the minutes and the city clerk, Canda Dimick, will proof read them. Councilman Beeson suggested that possibly Canda needed to not take ambulance shifts during the hours from 9 a.m. to 2 p.m. Councilman Vice stated that we need to support the volunteers on the ambulance. Canda told the council that there are only 4 individuals that will take day shifts. Canda told the council that Trish also struggles to stay within her 25 hours per week time allotment, and occasionally goes over an hour or 2 per pay period. The council decided to try having Trish transcribe the minutes and see how it works out.

**Adjournment:** A motion was made by Councilman Beeson and seconded by Councilman Lowe to adjourn. All voted aye, unanimous.

Meeting adjourned at 7:03 p.m.

---

Patricia Avery, Transcriber

---

Marshall N. Burgin, Mayor

---

Canda L. Dimick, City Clerk (Proof Read)

Approved 9/10/2009