

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, April 11, 2013 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Marshall Burgin, Mayor  
Newt Lowe, Councilperson  
Carl Brown, Councilperson  
Rita Anderson, Councilperson  
Cathy Sher, Councilperson  
Canda Dimick, City Clerk

Guests: Ted Booth, Booth Architects and JoCarol Losee.

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

Councilperson Sher made a motion to amend the agenda to include additional business license renewals for Frankie from Philly, Hot Springs Village, Boyack Window Cleaning, and Archibald Apartments and the building permit for JoCarol Losee. Councilperson Brown seconded the motion. All voted aye, unanimous.

#### **Approval of Minutes**

Councilperson Sher made a motion to approve the minutes of the March 14, 2013 and March 21, 2013 meetings.

Councilperson Brown asked if adding the Event Coordinator, Allison, to the medical benefits is consistent with the other employees.

Mayor Burgin stated that the additional work will increase her hours and make her eligible for benefits.

The City Clerk stated that the City will pay  $\frac{3}{4}$  of her benefits and the Tourism Development/Promotion Tax will pay  $\frac{1}{4}$  of her benefits.

Council referred to the minutes of the Special Meeting from March 21, 2013.

Councilperson Anderson seconded the motion to approve the minutes. All voted aye, unanimous.

#### **Reviewing and Approval of Bills**

Council discussed submitting the Hall's Excavation and Rotor Rooter bills to fix and unfreeze the main line under the East Main Street Bridge and private service line to the Tumbling Water's Motel as a claim to the city's insurance company. Mayor Burgin talked to Tony and he is going to see if Sam Netuschil wants to pay any of it.

Councilperson Anderson made a motion to approve the bills, with the exception of the two bills to be submitted to the insurance company. Councilperson Sher seconded the motion. All voted aye, unanimous.

### **Law Enforcement Monthly Report**

No law enforcement present.

### **Approve Fair Housing Resolution**

Mayor Burgin read the Fair Housing Resolution in full.

Councilperson Anderson made a motion to approve the Fair Housing Resolution. Councilperson Brown seconded the motion. All voted aye, unanimous.

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

- A) Allegiant Partner's, Inc.**
- B) J & L England Masonry**
- C) Frankie from Philly - Renewal**
- D) Hot Springs Village - Renewal**
- E) Boyack Window Cleaning - Renewal**
- F) Archibald Apartments - Renewal**
- G) Ed Quinn Construction – Added by Councilperson Sher**

Mayor Burgin read the list of applicants aloud.

Councilperson Sher made a motion to approve the non-property tax permit and the business licenses for all seven applicants. Councilperson Brown seconded the motion. All voted aye, unanimous.

### **Building Permit(s)**

#### **A) East Main Public Restroom Remodel**

Councilperson Brown made a motion to approve the permit for the East Main Public Restroom Remodel Project. Councilperson Sher seconded the motion. All voted aye, unanimous.

#### **B) Hot Springs Hide Away – JoCarol Losee, Owner/Applicant**

Plan is to move the front door to the side and change the appearance of the entryway.

Councilperson Brown questioned if the awning met clearance requirements.

JoCarol Losee explained that they are moving the door and changing the appearance so it doesn't look like an office building. They are only changing the one door. The entrance to the other room is back further. JoCarol assured council that they would install the awning to meet the clearance requirement.

Councilperson Anderson made a motion to approve the building permit for JoCarol Losee. Councilperson Sher seconded the motion. All voted aye, unanimous.

## **Sign Permit**

### **A) Lava Arcade/Motel – JoCarol Losee**

Council reviewed the request for a sign permit.

Councilperson Sher stated that she feels that the sign looks good when it constantly reads “Motel” only. The signage for the arcade looks excellent and where they really need the sign is for the motel. Flashing lights do affect her, the sign was not flashing when she saw it and it looked good.

JoCarol Losee stated that the sign does not flash. It is designed to display one word and then intermittently changes every 15 seconds.

Councilperson Sher agrees that it doesn’t flash but feels that it falls into that category by blinking and alternating light. It goes against the ordinance which prohibits it from changing.

Councilperson Anderson asked what the ordinance says.

Mayor Burgin asked if the sign can be changed to be on for two minutes at a time.

JoCarol Losee stated that she thinks that the longest it can be delayed is thirty seconds. When it changes words it goes slowly, it is an intermittent change and it does not flash.

Councilperson Sher read a letter from Mark Patterson aloud which stated that he feels the sign is very low impact, it does not flash, it simply changes from one name to the other occasionally. He says that it is small and not at eye level so it isn’t irritating to the eye. The sign does not bother him at all. She then read a letter from Jared Wiberg aloud which stated that he doesn’t feel that the sign conflicts with his understanding of the ordinances and seems like a great idea to solve the problem of advertising for two businesses. He thinks that what the Losee’s have done to the arcade is a great improvement and that whoever reported them is just nitpicking.

The City Clerk reminded council that in the past the city had denied the Riverside Inn’s sign permit for a similar sign.

Mayor Burgin read the ordinance provision regarding illumination aloud. It states that no flashing, blinking or moving signs are permitted.

Councilperson Sher stated that she thinks that the Council needs to adhere to the ordinance. She suggested alternating the message as needed, in the morning or in the evening, to suit their needs.

Councilperson Brown asked if they could alternate the sign on a daily basis.

Council discussed and feels that they need to follow the ordinance.

Councilperson Sher made a motion to approve the sign to change wording every (1) hour. Councilperson Anderson seconded the motion. All voted aye, unanimous.

**Consider Century Link’s application for a permit to install and maintain a buried fiber optic cable along North Center Street, going East in the alley between Main Street and Elm Street, turning North on 3<sup>rd</sup> Ave. and continuing East on Main Street within the road right-of-way leaving Lava city limits.**

Council reviewed the map and discussed the permit.

Councilperson Sher stated that she would hate to see CenturyLink dig up Center Street and asked if they could go up Main Street.

Mayor Burgin stated that it needs to run to their office off of Center Street.

Councilperson Brown questioned if they could do something above ground.

Mayor Burgin stated that they cannot do that with fiber optic cable.

Councilperson Anderson stated that she doesn’t think they have much of a choice in the matter.

Council discussed previous problems with Century Link not following through with settling trenches after a project is done.

Councilperson Brown and Councilperson Sher want to make CenturyLink fix the drainage issue that they created by pitching the roof on their office building. The roof is draining onto the Toly’s property and causing damages.

Mayor Burgin stated they would have to check with the City’s attorney on that. City Clerk will check with the city attorney when he gets back from vacation to see if the city can hold the permit until the drainage issue is resolved.

Councilperson Anderson made a motion to approve the application for Century Link to install and maintain the fiber optic cable.

Councilperson Sher questioned if there was anything in writing stating that they would repair the road when they were done, she would feel better if there was something in place.

Councilperson Brown agreed and stated that they would like to know it will be taken care of in a timely matter.

The City Clerk referred to the part of the agreement where it states that they “agree to replace said premises satisfactorily to the City at their expense.”

Councilperson Lowe seconded the motion. Councilperson Lowe and Councilperson Anderson voted aye. Councilperson Brown and Councilperson Sher abstained. Mayor Burgin voted aye. Motion carried.

### **ICRMP (Insurance Coverage) – Appraisal on Water Tanks**

Councilperson Brown questioned why the appraisal doesn't reflect the replacement value.

The City Clerk suggested having the agent attend a Special Meeting to clarify concerns. She reported that she had called to see if Mr. Nield could attend tonight, but he was out of town.

Council discussed and would like to have someone meet with them to explain the appraisal and coverage.

### **East Main Street Tree Maintenance Responsibilities – Councilperson Sher**

Councilperson Sher feels that the trees along Main Street that are in the brick pavers need to be trimmed. The branches are hanging over the curb and are limiting the parking spaces.

Councilperson Brown suggested hiring Patrick Mixdorf to trim the trees.

Mayor Burgin stated that he will talk to the maintenance personnel about trimming them.

### **Explanation on moving garbage cans off city streets – Councilperson Sher**

Councilperson Sher asked for clarification on the notice sent out last month in the water bills asking that the garbage cans be moved off of the city right-of-ways within 24 hours after pickup so when they are approached by people, they know what the problem is.

Mayor Burgin suggested that the notice say that the garbage cans need to be pulled off the street once the garbage is picked up.

Councilperson Anderson stated that she took it that way when she read it.

The City Clerk stated that it said garbage cans need to be moved off the street within 24 hours of being picked up.

Councilperson Sher stated that she did not understand it correctly and would like the next notice to be more explicit.

Council discussed the problem.

Councilperson Sher suggested providing a service to take cans off the street for those who need it.

Councilperson Anderson suggested letting it go for now unless they get complaints. She feels that most people are pretty good about it and that this was just a friendly reminder for people.

The City Clerk stated that part of the problem is cans are being left out and getting tipped over. Garbage is then all over the streets. She has approached the maintenance personnel about moving some cans on special occasions in the past and they do not want to start doing that because then it

will set a precedent and they will be expected to provide the service for everyone. She does not think it is a good idea to provide that service. She has referred citizens needing that service to contact the local churches for help. The notice was just an annual reminder. The notice can be more explicit if Council would like it to be.

Councilperson Anderson stated that she doesn't think there is a need for it now and they can address issues as they come up. If it becomes a big problem, then they can address it at that time.

### **Announcements/Meetings & Miscellaneous New Business**

#### **A) Schedule FY2014 Budget Hearing**

The City Clerk stated that the city needs to schedule the FY2014 Budget Hearing and notify the Bannock County Clerk of the date set by April 30<sup>th</sup>. Normally it is scheduled for the August regular council meeting.

Councilperson Brown made a motion to schedule the FY2014 Budget Hearing for August 8, 2013. Councilperson Sher seconded the motion. All voted aye, unanimous.

#### **B) Schedule Special Meeting for Steve Jones to present Lava Planning & Zoning Commission's recommendation regarding his plan to construct six nightly rental cottages at 38 East Elm**

The City Clerk stated that Steve Jones sent her an email requesting a Special Meeting to present his plans the Planning & Zoning recommended to Council.

Ted Booth stated that Mr. Jones had requested he be at the meeting tonight since Mr. Jones is out of town.

Council gave Mr. Booth five minutes to present the plans so that they know what they will be meeting about later.

Mr. Booth presented the preliminary plans for Mr. Jones. He stated that he is planning on building six individually owned, nightly rental units, not to exceed 30 days at stay any time.

Councilperson Sher asked what the distance was between units.

Mr. Booth stated just over five feet and they are one hour rated on the exterior to protect the buildings in case of fire.

Councilperson Anderson questioned if the development project would be considered a Planned Unit Development or a Subdivision.

The City Clerk reported that Mr. Jones claims that this development is not a Subdivision or Planned Unit Development and that he has been asked to provide a proposed sales agreement.

Mr. Booth stated that he thinks it would have to be treated like a condominium where it would have to be subdivided in the legal description since he would have six separate plots of ground.

Council questioned management and if covenants would be established.

Mr. Booth stated that Mr. Jones is looking for approval or denial so that he can move forward with design and construction plans. He doesn't want to pay for full bid documents if it is not going to be approved.

Councilperson Brown questioned if the development plans had been considered by Planning & Zoning.

The City Clerk stated that it had been considered by Planning & Zoning and they recommended approval. She talked to the City's attorney and he suggests that the council obtain more information before making any decisions.

Council asked for clarification on dimensions.

Mr. Booth stated that the parking is 9 feet by 18 feet, the buildings are 16 feet by 22 feet, two stories and approximately 5 feet between them. He talked about establishing covenants like they do with condominiums.

Council is concerned about controlling residency issues. They scheduled a Special Meeting with Planning & Zoning for April 25, 2013 at 6:30 p.m. The City Clerk will see if the City's attorney can attend.

**C) Arbor Day Celebration – May 2<sup>nd</sup>**

Councilperson Anderson does not know if planting a Syringa is a good idea. She feels that they do not know enough about them.

Councilperson Brown suggested planting a tree at the sewer lagoons.

Councilperson Anderson suggested putting a tree in the park.

Councilperson Sher stated that she would like to see a shade tree planted near the playground area at the Buddy Campbell Memorial Park.

Councilperson Anderson will look at putting a shade tree by the playground area at the park. She reported that Vicky Lyon is willing to furnish free ice cream cones for the students. She just needs to know what they use for coupons. She questioned what the budget was for a tree.

The City Clerk stated that the budget is \$150. The city did get a \$300 Arbor Day Grant and since the city won't have to pay for ice cream cones, the tree could possibly cost a little more.

Councilperson Anderson will go to Town & Country Gardens and see what she can find.

**D) Tree Committee Position Vacancy**

The City Clerk reported that city staff is still working on trying to fill the position.

Councilperson Sher suggested seeing if Cathy Cook or Mary Avery would be interested.

**E) Miscellaneous**

Councilperson Sher announced there will be a Youth Theater production at the museum April 13<sup>th</sup> at 7:00 p.m.

**Projects**

**A) Wastewater Improvement Project**

Mayor Burgin reported Keller's status on the following projects:

**1) Wind Turbine**

The City Clerk reported that the specifications are going to take longer because they need to start from scratch. It will take 150 days to complete and they are supposed to be done in June. They are meeting with DEQ and Keller's Thursday at 3:00 p.m. to see if the city can get an extension.

Mayor Burgin reported that the plans are 90% complete for the project and the front end bid documents have been assembled. The engineers are working on technical specifications for the wind turbine and then the project design plans will be ready to submit to DEQ for review. The City is also working on a development permit from Bannock County and a net metering agreement with Rocky Mountain Power.

**2) Land Application Site Seeding**

The contract for the project was awarded to Dan Dimick with Crop Production Services as a subcontractor. Notice of Award and contracts have been signed. The seeding will be completed this spring. Once the weeds on the site start to green up and grow, the site will be sprayed with weed killer and then the site can be tilled and planted.

The City Clerk reported that they plan to do a field burn which they filed for with DEQ. It may need to be filed in the property owner's name. She asked if it was ok to apply for the permit in the City's name.

It was ok with the Mayor and Council.

The City Clerk also stated that they may have the fire department help and will dig barriers around the property to help contain the burn.

**3) Rate Allocation Study**

Mayor Burgin read the letter from Keller's regarding the proposed approach to assess wastewater rates. The estimate to complete the draft tasks is \$9,817.00.

Mayor Burgin stated that the City's attorney was in favor of the City hiring Keller's to do the study.

Councilperson Brown made a motion to contract with Keller's to do the study.

Councilperson Lowe seconded the motion. All voted aye, unanimous.

#### **4) Old Land Application Closure Plan**

Mayor Burgin read the letter from Keller's proposing a time and materials contract not to exceed \$2,986.00. He stated that Canda and Tony are going to try to complete the closure plan in-house to save money.

Councilperson Sher made a motion to complete the Land Application Site Closure Plan in-house. Councilperson Anderson seconded the motion. All voted aye, unanimous.

#### **5) Lagoon Fence**

The City Clerk reported that the engineers emailed her pictures of other fences. Some of the slots look a little bigger but you can see through all of them. The fence they have has about 1 inch slats and it covers 70%. The engineers want to know if City Council wants them to do anything more on the matter.

Council discussed the situation with Lester Betty and his complaint and they decided to table the matter for now. The engineers do not need to do any more research at this time.

#### **6) Phase I Warranty Expiration and Operation & Maintenance Manual**

The 11-month warranty for the Phase I project has expired. The O & M manual for the project will be completed in conjunction with the Phase II project so there is just one manual for both projects.

The City Clerk reported that according to SICO, DEQ will not allow them to do only one manual for both projects. Matter will be addressed at a meeting with Kellers, SICO and DEQ on Thursday.

#### **7) Miscellaneous**

Phase II – The project site has been on winter shut down over the last few months. The aerators have been placed into Cell 2 and are operating. Once the weather is conducive, the seepage test for Cell 1 will be completed so the cell can be put back into service. The slide gates will all be replaced this spring. The contractor is working on prices to slip line the pipes between the lagoons which would be accomplished at the same time the slide gates are being replaced if approved. No pay applications will be submitted this month for approval for the Phase II project.

**B) East Main Street Pedestrian Bridge Project Funding Status Report**

The City Clerk reported that the mayor, Tony and her will be meeting with Aaron Swenson, Forsgren Associates, on Wednesday morning at 10:00 a.m. to review funding options, The City should know is the Gem Community Grant application was awarded around April 22<sup>nd</sup>.

**C) East Main Street Public Restroom Remodel Project Status Report/Change Orders**

Mayor Burgin reported that the project is coming along and that there are going to be several change orders since there were a lot of unknowns. The window on the North end had to be blocked in. They had planned on two floor drains, but they will need three. The Mayor will stay on top of things.

**D) Fish Creek Spring Fence Project Update**

Mayor Burgin reported that he has called Fawn Potter twice and went to his house once. He hasn't made contact with him but he will keep trying. He suggested having the City's attorney write a letter to Fawn to let him know what they are going to do as they get closer to the bid date. The letter will be sent registered so that the city knows the Mr. Potter received it.

**E) Waterline Modification Project to Community Building**

The plans have been completed and approved by DEQ. Upon request of the City, the engineers have added front end documents so that quotes can be requested by contractors for the project. Keller's anticipate requesting quotes from contractors by April 24<sup>th</sup> and being able to start construction by May 8<sup>th</sup>.

**F) Water Facility Plan Study & Construction Grant**

The City Clerk reported that they city's letter of interest for a water facility plan study and construction grant were rated high enough that they are eligible for funding in FY2014. The priority lists are open for public comments now but DEQ does not expect any changes.

**G) Miscellaneous  
Memorial Day**

Councilperson Brown offered to help barricade Main Street for the Veteran Memorial Day celebration. He asked if the local Veteran's group could be included in the event.

The local veteran group is usually involved. The bikers are at the Veteran's Park for about 15 minutes for the celebration.

Councilperson Sher stated that it is a powerful moment.

**Engineer**

The City Clerk reported that the Keller's Associates had exceeded their project representative contract for the wastewater project and that they have decided and notified the city that they are waiving the \$11,000.00 overage. Invoices have been revised.

**Cattle Guard**

Mayor Burgin reported that he had talked to Tony about the old cattle guard that was removed on from the access road going to the city’s sewer lagoons and the city has not use for the cattle guard. The mayor expressed an interest in buying the surplus property from the city.

Councilperson Brown made a motion to sell the cattle guard to Mayor Burgin for \$100.00. Councilperson Sher seconded the motion. All voted aye, unanimous.

**Parking Ordinance**

Councilperson Sher asked for clarification on the parking ordinance. The Code Enforcement Officer has talked to some people about parking and would she would like to be able to answer their questions.

The City Clerk stated that she knows that the officer has been working on vehicles that are not registered and that he informed her that when he approached Jerod Weiburg about the unregistered vehicle that he has stored in his businesses off-street parking area that Mr. Weiburg became upset.

Councilperson Sher questioned the situation with Mark Patterson.

The City Clerk stated that the only one she knows about was at Positive Space where the owners need to keep the alley clean. Code Enforcement was out delivering open container signs today and that’s probably what he was doing at the Chuckwagon.

Councilperson Sher feels that business owners all over town are very negligent about keeping the alleys clean.

**Free Training**

Councilperson Brown stated that he heard several good comments on the free training that the City provided in March.

**Adjournment**

Councilperson Lowe made a motion to adjourn. Councilperson Sher seconded the motion. All voted aye, unanimous. The meeting adjourned at 7:25 p.m.

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Allison Hinz – Transcriber

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Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk

