Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Thursday, December 10, 2015 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Marshall Burgin, Mayor
George Linford, Councilperson
Newt Lowe, Councilperson
Tamara Davids, Councilperson
Carl Brown, Councilperson
Canda Dimick, City Clerk

Excused:

Guests: Kevin Koester – Portneuf Soil & Water Conservation District, Clinton & Kerby Pagnotto, Cale Johnson – Portneuf Soil & Water Conservation District, Christopher Banks – Portneuf Soil & Water Conservation District, Michael Vice, Randy Benglan, Kari Snedaker, Jon D. Thomson, Mark Lowe, T. Paul Davids and Alice Jean Avery.

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

Amend Agenda:
Pocatello Regional Transportation (PRT) and Portneuf Soil Conservation along with concerns about the trees impeding vision at the intersection of West Fife and South 4th and the proposed subdivision ordinance were added to the agenda by a motion made by Councilperson Linford to amend the agenda and seconded by Councilperson Davids. All voted aye, unanimous.

Approval of Minutes/Review and Approve Bills:
Councilperson Linford made a motion to table the minutes & bills. Councilperson Davids seconded the motion. All voted aye, unanimous.

Law Enforcement/Code Enforcement Monthly Reports:
Law Enforcement: None
**Portneuf River Access Improvement Project:**
Kevin Koester – Portneuf Soil & Water Conservation District Representative, presented a draft engineering plan form, subject to change. Portneuf Soil & Water Conservation District is currently trying to apply for a grant through the Idaho Parks and Recreation Department to fund the Portneuf River access improvements. Proposed project will be completed in three phases. Trail will be fenced with hardened access points into river. Portneuf Soil & Water Conservation District representatives have met with Mark Lowe, Director of the Lava Hot Springs Foundation and he supports the project. Representatives have met with Parks and Recreation about a month ago about the proposed project and application. The project requires local grant match and contributions. A meeting with the tubing business owners is scheduled for January 18\(^{th}\). The intention is to hopefully get a commitment from them. Parks and Recreation needs a signed commitment letter. The City committed $10,000 to the last application. The application has to be submitted on January 29\(^{th}\), 2016. If the grant is awarded, construction may happen as soon as May, 2016. Proposed plans include a floating dock anchored to the bank, synthetic material, and lifetime warranty. Portneuf Soil & Water Conservation District is just going to be administrator of the grant. Council agreed to update letter of commitment and increase the committed cash to $20,000 as budgeted.

**Law Enforcement/Code Enforcement Monthly Reports:**
Dennis Callahan, City Code Enforcement Officer, reported on a problem with trees impeding traffic vision at the intersection of South 4\(^{th}\) and West Fife. Dennis talked with the City’s contracted arborist about the situation and the Junipers are planted to close together and to close to the road. They will only grow about 18 feet tall. The owners wanted to let them grow and trim from the bottom up 10 feet but the tree will never grow tall enough to trim this way. Moving the Junipers has been discussed with them, but Patrick Mixdorf, a local tree trimmer, has recommended that they don’t do it in the winter if they want to save the tree. The city’s arborist supports a spring transplant also. Home owners would like an extension to transplant the Junipers. Councilperson Brown made a motion to extend transplant until May 15th. Councilperson Linford seconded the motion. Davids Naye, all others voted aye, motion passed.
**Subdivision Proposal – Mark Lowe:**
Mark Lowe presented information supporting development of a parcel of ground he owns west of city limits with plans to subdivide with a deed restriction requiring permanent residency. Part of the City’s Comprehensive Plan is to look at annexation for future growth and development in Lava. The prime spot for growth is to the west of city limits. It is economically feasible to connect the proposed subdivision to city water & sewer. Mark requested access to city sewer & water for the proposed development. The subdivision will be developed in three phases with a total of 50 homes. Contractors are interested in building and selling the homes. Mark’s questions to the mayor and council were: 1) Where does the city want to be in 20 years? 2) Does the City have any interest in allowing outside city limit hookups? And 3) Does the subdivision have to be annexed in order to connect to city water and sewer? The size of lot will depend on the city’s subdivision ordinance and city water & sewer supply. Mark suggested that the City Council consider appointing a committee to research the options. City Council discussed letting the next administration that will be sworn into office in January, 2016 decide. Jeanie Avery & Randy Benglan offered serve on the committee. The suggestion was made the Committee should be 5 people. T Paul Davids recommended that a P&Z member should be on the committee. The council will schedule a special meeting to assign three more people to the committee. Councilperson Brown made a motion to form a committee to investigate and work with legal counsel. Councilperson Linford seconded the motion. All voted aye, unanimous.

**East Portneuf Street Vacate Request:**
Councilperson Brown made a motion to draft a letter to George Katsilometes offering a trade (he fund the total cost of moving the waterline through the alley for the vacated area, with the city attorney’s approval. Councilperson Davids seconded the motion. All voted aye, unanimous.

**78 Main Street Request to serve customers food and drinks on city Property:**
Clinton & Kerby Pagnotto and Gavin Gunter expressed that they would like the whole entire brick paver area granted to the adjoining businesses. Clinton & Kerby presented pictures and info from other communities doing similar leases. Councilperson Brown made a motion to try a lease arrangement for a couple of months. Motion died for lack of a second. City Clerk asked about how to handle
Ordinance 2015-10

“Tree Ordinance” establishing trees as a valuable asset to the community of Lava Hot Springs; providing for definitions; establishing a lava hot springs tree committee, providing for the term of office, operations, duties and responsibilities of the committee; designating the species of trees permitted; prohibiting the planting of trees in specified areas; providing for property owner’s responsibilities for public and private trees; providing licensing requirement of private tree service companies; providing for notification & permits, regulating the planting of street trees and trees and shrubs overhanging public property; prohibiting the abuse of public trees and shrubs, providing for street tree care, providing regulation for tree topping; providing for abatement of nuisances; providing for compensatory payments, prohibiting interferences, providing for the adoption of ANSI A300 and ANSI Z133.1; providing an appeal process and review by city council, repealing all ordinances or parts of ordinances in conflict herewith; waiving the rule requiring the reading of this ordinance on three separate occasions; establishing an effective date and approval of the city attorney’s summary of Ordinance 2015-10 for publication according to law was introduced.

Councilperson Davids made a motion to dispense with the three separate readings. Councilperson Linford seconded the motion. All voted aye, unanimous.

Ordinance 2015-10 was read.

ORDINANCE NO. 2015-10

AN ORDINANCE OF THE CITY OF LAVA HOT SPRINGS, IDAHO ESTABLISHING TREES AS A VALUABLE ASSET TO THE COMMUNITY OF LAVA HOT SPRINGS; PROVIDING FOR DEFINITIONS; ESTABLISHING A LAVA HOT SPRINGS TREE COMMITTEE, PROVIDING FOR THE TERM OF OFFICE, OPERATIONS, DUTIES AND RESPONSIBILITIES OF THE COMMITTEE; DESIGNATING THE SPECIES OF TREES PERMITTED; PROHIBITING THE PLANTING OF TREES IN SPECIFIED AREAS; PROVIDING FOR PROPERTY OWNER’S RESPONSIBILITIES FOR PUBLIC AND PRIVATE TREES; PROVIDING LICENSING REQUIREMENT OF PRIVATE TREE SERVICE COMPANIES; PROVIDING FOR NOTIFICATION & PERMITS, REGULATING THE PLANTING OF STREET TREES AND TREES AND SHRUBS OVERHANGING PUBLIC PROPERTY; PROHIBITING THE ABUSE OF PUBLIC TREES AND SHRUBS, PROVIDING FOR STREET TREE CARE, PROVIDING REGULATION FOR TREE TOPPING; PROVIDING FOR ABATEMENT OF NUISANCES; PROVIDING FOR COMPENSATORY PAYMENTS, PROHIBITING INTERFERENCES, PROVIDING FOR THE
ADOPTION OF ANSI A300 AND ANSI Z133.1; PROVIDING AN APPEAL PROCESS AND REVIEW BY CITY COUNCIL, PROVIDING FOR PENALTIES; REPEALING ORDINANCE 2000-1 AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; WAIVING THE RULE REQUIRING THE READING OF THIS ORDINANCE ON THREE SEPARATE OCCASIONS; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Lava Hot Springs has designated established trees as a valuable asset to the community of Lava Hot Springs.

WHEREAS, in the ecosystem typical of the Lava Hot Springs area, trees are uncommon and dependent on human care to survive.

WHEREAS, healthy, strategically placed trees beautify, increase property values and make the community a more pleasant place to live.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO AS FOLLOWS:

SECTION 1 - TITLE:

The title shall be cited as the “Tree Ordinance of the City of Lava Hot Springs, Idaho”.

SECTION 2 – PURPOSE:

This ordinance is intended to establish a Lava Hot Springs Tree Committee and provide direction in planting and caring for trees. The major objective is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, preservation, protection and proper maintenance of trees within city limits.

SECTION 3 – DEFINITIONS:

As used in this ordinance, the following words and terms shall have the meanings ascribed to them in this section:

1. ADJACENT PROPERTY OWNER – any person(s) owning property adjacent to public rights-of-way.


4. ARBORICULTURE – The management of trees; including planting, pruning, watering, fertilizing, removal or any other action which affects the healthy growth and maintenance of trees.

5. CITY FORESTRY ADVISOR – A professional enlisted by the City to provide support, training, education and administrative assistance with tree maintenance, insect and disease control, public tree inventory, master plan management needs and all other services based on terms and conditions of an agreement.

6. COMMUNITY FOREST – The sum of all trees and shrubs within the City.

7. CRITICAL ROOT ZONE – The area under a tree extending from the base of a tree in all directions to a line 10 feet outside of the drip-line.

8. DISEASE – A process that causes anatomical disruptions, physiological dysfunctions, and energy disruptions that lead to decline and/or death of an organism or any of its parts.

9. HAZARDOUS TREES – Public or private trees that create any unsafe situation for persons using adjacent public property.

10. HEDGE – A row of shrubs or small trees that are planted close to each other in order to form a boundary.

11. LICENSE – An annually issued license issued by the city which allows the city to determine adequate liability insurance coverage and proper knowledge of ANSI standards by any contractor doing tree contracting within the city limits.

12. OBSTRUCTIVE TREES, SHRUBS OR HEDGES – Public or private trees that prevent appropriate passage or safe vision on any public right-of-way.

13. PARK TREES – Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all area owned by the city.

14. PERMIT – Written approval issued by the city and required for any activity above or below ground that may impact the canopy or the critical root zone of any public tree.

15. PERSON – Any individual, firm, partnership, corporation, association, company, or other governmental entity or organization of any kind.

16. PEST – Any insect, disease, animal or other organism that causes harm or damage to trees.

17. PRIVATE TREES – Any trees other than public trees.

18. PROPERTY OWNER – The recorded owner or contract purchaser of any parcel of land.
19. PRUNING – The practice of managing tree health according to the national standards set forth in the ANSI A300.

20. PUBLIC NUISANCE – See Abatement of Nuisances Section

21. PUBLIC PROPERTY – Real property owned, managed, or leased to the city and dedicated to the public for present or future use.

22. PUBLIC RIGHT-OF-WAY – Improved or unimproved public property owned by, dedicated to, or deeded to the public for pedestrians, vehicular or other public use. It includes, but is not limited to, streets, alleys, sidewalks, access routes for public utilities and open public spaces.

23. PUBLIC SAFETY – The condition of being safe from bodily harm or injury and/or property damage resulting from tree conditions and/or failures while using public property.

24. PUBLIC TREES – Trees located upon public property owned by the City, including street trees.

25. SHRUB – A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15) feet in height.

26. STREET TREES – Trees, shrubs, bushes and all other woody vegetation located on public property adjacent to streets, avenues, alleys or other public ways within the city.

27. TOPPING – The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree’s crown or the removal of the top part (trunk and limbs) of a coniferous tree, thereby removing the normal canopy and disfiguring the tree.

28. TREE – A woody perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen (15) feet in height and two (2) inches in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree.

SECTION 4 – ESTABLISHMENT OF A TREE COMMITTEE:

The Lava Hot Springs City Council shall appoint a permanent tree committee to serve and assist with issues involving public trees. This includes issues involving planting, maintenance, preservation and removing of trees and shrubs within city limits. All decision and plans of the Tree Committee are subject to approval by the Lava Hot Springs City Council.

Membership: Three (3) members will be appointed to the tree committee by the city council. Membership shall consist of citizens and/or city staff and one member of the city council or of the City Planning and Zoning Commission with interest in and knowledge of issues involving trees and urban horticulture.

SECTION 5 – TERM OF OFFICE:
The term of the three persons appointed by the Mayor shall be four years, except that the term of two of the members appointed to the first committee shall be only one year and term of the other one members of the first committee shall be for two years. In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

SECTION 6 – OPERATION:

The committee shall choose its own officers, draft its own rules and regulations and have them approved by the city council and keep a journal of its proceedings. A majority of the members shall constitute a quorum for the transaction of business. Committee members will maintain a 75% attendance rate at meetings and work sessions, or will be removed from the committee and his or her successor shall be appointed for the unexpired portion of the term. All committee meetings shall be open to the public and follow all provisions of the open meeting law.

SECTION 7 – DUTIES AND RESPONSIBILITIES:

The Lava Hot Springs Tree Committee shall provide advice to the Mayor and City Council as to the preservation, protection and management of the community forest of Lava Hot Springs, in accordance with the intent and purpose of this ordinance. The committee shall have the following duties and responsibilities:

(A) Assist the City in encouraging landscaping installation and maintenance on private property by providing information on the value of landscaping and the proper planting and care of trees and other vegetation;
(B) Recommend policies and procedures to identify, mark, publicize and preserve historic and notable trees on both public and private property;
(C) Assist the City in promoting appreciation of trees and the Community Forest through annual Arbor Day observances and other activities.
(D) Encourage improvement of the Community Forest through planning and policy development;
(E) Assist City departments in every way possible to enhance the Community Forest in the City;
(F) Enhance opportunities for obtaining monetary funds for tree purchases, related supplies and community forestry activities through local and federal assistantship grants and donations.
(G) Serve as an advocate of the City’s Community Forest.
(H) Meetings: This committee will meet when needed at least twice annually.
(I) Advisors: Advisors may also be called to serve under a nonvoting status.
(J) Compensation: Members and advisors of the committee shall serve without compensation.
(K) Quorum: A majority of the members shall be present for the transaction of business.
(L) Journal: The committee shall keep a journal of its proceedings. The City will provide an assistant to record notes and prepare minutes of each meeting.

SECTION 8 – SPECIES OF TREES PERMITTED:

The “Master List of Public Trees” shall be the official guideline for the selection and planting of trees on public property. It shall include tree species recommended and species prohibited for planting on public property and tree spacing suggestions.
The Tree Committee and City Forestry Advisor shall maintain and periodically update the “Master List of Public Trees.” The Master List of Public Trees is available at the Lava Hot Springs City Hall and on the City of Lava Hot Springs website.

It shall be unlawful to plant any tree within any public right-of-way or planting median or immediately adjacent to a public street except those trees identified in the Master List of Public Trees unless advance, written permission is granted by the City of Lava Hot Springs.

SECTION 9 – UTILITIES:

(A) It shall be unlawful for any person to plant any public or private tree under or within twenty (20) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, electric transmission or distribution line or other utility except the species of trees identified in the Master List of Public Trees for Utility Planting.

(B) It shall be unlawful to plant any public or private tree at any location in any manner which does not comply with the safety standards for planting and maintenance of trees in proximity to public utilities, as set forth in ANSI Z133.1.

(C) The City of Lava Hot Springs will not be responsible for damage to any tree or shrub located within a utility easement as a result of the operation or maintenance of City utility lines. Damage to any public utility system caused by trees improperly located within the public-right-of-way or easement will be repaired at the owner’s expense.

SECTION 10 – ADJACENT PROPERTY OWNER’S RESPONSIBILITIES FOR PUBLIC TREES:

(A) Permits: Adjacent property owners shall:
   1. Adjacent property owners are not permitted to plant trees on city property.
   2. Established trees that are encroaching city property and are being maintained by adjacent property owners at the time when this ordinance was adopted may continue to be so maintained. If determined hazardous adjacent owner must remove the same immediately. Contractors hired to remove the tree must be licensed and provide the City of Lava Hot Springs with a liability insurance certificate naming the city as an additional insured prior to removal of the tree. Once a street tree being maintained by an adjacent property owner is removed it can’t be replaced on city property.
   3. Meet all requirements for work done (including but not limited to, pruning and removal) on any public trees that they are responsible for.
   4. Meet all requirements necessary prior to commencing repair of damage done to public streets or sidewalk adjacent to any public trees that they are responsible for.

(B) Routine Public Tree Maintenance for Trees:
   1. Adjacent property owners shall:
      a. Prune and maintain trees planted according to ANSI A300, a copy of which is available on the City of Lava Hot Springs website.
      b. Topping, heading, shearing or rounding over are not acceptable forms of tree pruning and are not allowed on public trees.
c. Except as otherwise determined by the Public Works Department, branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel.

d. Trees shall be pruned to remove dead limbs or other limbs that are considered a public nuisance.

(C) Protection/Preservation

1. Obtain a permit from the City before performing any activity, which may harm any part of a public tree (inclusive of the critical root zone).
2. Notify the City when any part of a public tree is damaged or destroyed.

SECTION 11 – PROPERTY OWNER’S RESPONSIBILITIES FOR PRIVATE TREES:

RESPONSIBILITIES FOR PRIVATE TREES:

Routine Tree Maintenance

1. Removal or pruning of trees located on the owner’s private real property that are considered a public nuisance.
2. Pruning of trees located on the owner’s private real property that are considered a public nuisance. Branches that overhang sidewalks, streets or alleys shall be pruned to provide sufficient vertical clearance over the sidewalk, street or alley so as not to interfere with public travel in accordance with Section 16 of this ordinance.
3. Control of pests on trees located on the owner’s private real property that may pose a threat to public trees upon determination by the Tree Committee or City Forestry Advisor.
4. Remove or barricade all debris (wood, branches & leaves) on public property the end of the working day on which any tree work is done.

SECTION 12 - LICENSING OF PRIVATE TREE SERVICE COMPANIES:

Tree Service companies performing work on public trees are required to apply for a license through the Lava Hot Springs City Hall. Applications are then reviewed by designated members of the Lava Hot Springs Tree Committee and the City Council. Upon approval, licenses shall be issued by the Lava Hot Springs City Hall valid for the calendar year that the license is issued in for a fee of forty-five ($45) dollars, and will include identification stickers for service trucks that shall be updated annually.

(A) Licensing Requirements

1. International Society of Arboriculture (ISA) Certified Arborist on staff.
2. An ISA Certified Arborist to be on site while work is being performed.
3. Liability Insurance in the amount of $1,000,000.
4. Knowledge and compliance of OSHA regulations.
5. Knowledge and compliance of ANSI A300 standards, a copy of which will be on the City of Lava Hot Springs website.

(B) Revocation of License
The Lava Hot Springs City Council with the recommendation of the Lava Hot Springs Tree Committee may revoke a license for violation of any section of this Code.

**SECTION 13 - NOTIFICATION & PERMITS:**

(A) No person may perform any of the following acts without first notifying the Lava Hot Springs Public Works Department and shall contact the Lava Hot Springs Public Works Department via, mail, phone, fax, or e-mail at a minimum of two (2) business days prior to commencement of the proposed work. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as required by law:

1. Prune, cut, remove or otherwise disturb any public tree. This provision shall not be construed to prohibit owners of property adjacent to public rights-of-way from watering or fertilizing such trees;
2. Attach any object to public tree(s);
3. Dig, trench, excavate or pile soil or any other materials within the critical root zone of any public tree(s);

(B) Permit Application Procedures and Requirements for Public Tree(s) Removal

1. This is in no way intended to interfere with the immediate removal of a tree that presents a hazardous or emergency situation;
2. Upon inspection, the Lava Hot Springs Tree Committee may issue a permit through the Lava Hot Springs City Hall. Permits are available at the Lava Hot Springs City Hall between the hours of 9am – 2pm, Monday through Friday;
3. The Lava Hot Springs City Hall may condition the approval of any permit;
4. Prior to the removal of any public, street, or alley tree, the property owner or private tree service company intending to perform the work, which is currently licensed by the City of Lava Hot Springs, must make a request for permit. All work must be completed within 30 days of issuance of said permit;
5. Whenever a public or street tree that is being maintained by the city is removed, the stump of said tree shall also be removed. The City shall then replace the removed tree. If the tree had to be removed because of damage caused by an adjacent property owner or another individual, the cost of removal and replanting will be assessed to the adjacent property owner or the individual who damaged the tree. Tree replacement shall be a condition of issuance of a permit for removal, unless the Lava Hot Springs Tree Committee for good cause shown waives such requirement. Tree replacement is the responsibility of the permit holder.

**SECTION 14 - REGULATIONS FOR PLANTING STREET TREES:**

Street trees shall be classified in accordance with the three species size classes listed in the Lava Hot Springs approved tree list. Street trees shall not be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; large trees, 40 feet. No trees may be
planted closer to the backside of any curb or the nearest edge of any sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet. All distances shall be measured from the center of the tree trunk at ground level.

SECTION 15 – TREES, HEDGES AND SHRUBS OVERHANGING PUBLIC PROPERTY:

All owners, or persons in control of private real property upon which a street tree, hedge or shrub is growing, shall remove or trim, at his or her expense, all limbs or foliage which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the clear view requirements of the Zoning Ordinance of the City. Street trees, hedge and shrubs shall be trimmed from the ground level to at least twelve feet (12') above any public street, public easement or alley, except truck thoroughfares which shall require a clearance of sixteen feet (16'), and to at least ten feet (10') above the curb and sidewalk. Hedges are permitted in any side or back yard to the height of six (6) feet, provided on a corner lot nothing shall be planted or allowed to grow in any such manner as to materially impede vision between a height of three (3) feet and ten (10) feet above the center line grades of the intersecting streets bounded by the property lines of the intersecting street of such corner lots on a line joining points along said property lines for a distance of thirty (30) feet. No hedge along the front edge of any front yard shall be over three (3) feet in height. All owners, or persons in control of real property within the City of Lava Hot Springs, Idaho, shall remove or trim, at his or her expense, all trees, bushes and shrubs or other ornamental foliage on such property which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the clear view requirements of the Zoning Ordinance “Clear View of Intersecting Streets and Ways” of the City. Any such person who fails to comply with the provisions of this section within ten (10) days after receiving written notice from the Lava Hot Springs City Hall to do so shall be guilty of a misdemeanor, and any trees, hedge and shrubs not trimmed in accordance with this section may then be trimmed by the City and the expenses therefore may be charged to the persons or property owners who fail to comply with the provisions of this ordinance. If a person fails to reimburse the city for the cost incurred within 30 days after notice, the cost incurred by the city shall become an obligation owing the City as against the property of the owner and assessed against the property in accordance with Sec. 50-344 and Sec. 50-1008, Idaho Code.

SECTION 16 - ABUSE OF PUBLIC TREES AND SHRUBS:

(A) Unless authorized by an appropriate public officer, it shall be unlawful for any person to:

(1) injure, deface, disfigure or destroy any public tree;

(2) permit any animal under his control to injure any public tree or shrub;
(3) permit any fire to injure any portion of any public tree or shrub;

(4) cause any toxic chemical to be applied to, seep, drain or be emptied on or about any public tree or shrub;

(5) attach any device or structure to or on public trees, in a manner which harms or which may potentially harm a public tree;

(6) injure, destroy, cut or pick any flower or ornamental plant growing, standing or being on public property;

(7) make or cause excavations in the soil near roots of public trees unless appropriate measures are taken to prevent exposed soil from drying out;

(8) damage the roots of a public tree by compacting or filling on or around the base of the tree;

(9) to top, prune or trim any public tree, except in accordance with the provisions of ANSI A300.

(10) Remove any public or street tree and fail to plant a replacement tree. The replacement tree shall be an approved variety from the City of Lava Hot Springs Master List of Public Trees and shall be a minimum of a ten (10) gallon size specimen. Where utility lines are present, a Class I type tree (mature height not greater than twenty (20) feet), shall be required. Replacement tree shall be planted within thirty (30) days of removal of said tree, or as soon as weather conditions allow.

(B) Nothing herein shall prevent or prohibit the pruning, removal, treatment, care or maintenance of any public tree or shrub, provided such work complies with the provisions of ANSI A300.

SECTION 17 - STREET TREE CARE:

The City of Lava Hot Springs shall have the right to remove, trim, destroy and control all street trees which are planted, grown or maintained in violation of the provisions of this Ordinance. The City of Lava Hot Springs shall have the right to plant, prune, maintain and remove street trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

SECTION 18 - TREE TOPPING:
It shall be unlawful for any person to prune or top any public tree, except in accordance with ANSI A300.

SECTION 19 - ABATEMENT OF NUISANCES:

(A) The City hereby declares the following actions, practices or objects to be a public nuisance:

1. Any living or standing private or public elm tree or part thereof infected with the Dutch elm disease fungus Ceratocystis ulmi (Buisman) or which harbors any of the elm bark beetles Scolytus multistriatus (Marsham) or Hylurgopinus rufipes (Eichhoff).

2. Any public or private dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not buried, burned, sprayed with an effective elm bark beetle-destroying insecticide, or from which the bark has not been removed.

3. The cultivation, maintenance or allowing to grow of any private or public tree which harbors any insect, disease or infestation by any living creature which poses a threat to the health or safety of any other public or private tree within the City or which poses a health or safety threat to any person or property.

4. Any public or private tree infested by any insect, pest or disease which is determined by the City Forester to pose a threat to the health of any other public or private tree.

5. Any public or private tree, the roots of which are growing beneath a public sidewalk and which cause a public hazard to the safe and efficient pedestrian travel upon such sidewalk.

6. Any public tree planted, growing or maintained in violation of the provisions of this ordinance.

(B) Any person who fails to commence the abatement of any nuisance within ten (10) days after receiving written notice from the City, or who fails to diligently prosecute and complete the abatement of such nuisance within a reasonable time after the delivery of such notice, shall be guilty of a misdemeanor. Such notice shall be delivered to the owner or person in control of any property upon which such nuisance shall exist. Notice shall be deemed complete upon its deposit in the United States mail, postage prepaid, certified mail, return receipt request, addressed to the last known address of such owner or person.

(C) In the event any owner or person in control of private real property fails to abate such
nuisance in accordance with the time frame set forth above, then the City may prevent, remove or abate such nuisance at the expense of such owner or person and may levy a special assessment against the property upon which such nuisance is located, in accordance with the provisions of Idaho Code § 50-334.

SECTION 20 - COMPENSATORY PAYMENTS

In the event any person removes, destroys or damages any public tree except as otherwise required by law, that person shall be required to replace such tree with a tree(s) of equivalent dollar value on public property, unless otherwise determined by the Tree Committee. The value of a tree shall be determined by the City Forestry Advisor in accordance with accepted plant appraisal methods set forth in the 9th edition of The Guide for Plant Appraisal published by the International Society of Arboriculture or the same as amended from time to time. If no suitable location exists in the vicinity of the tree removed or if the replacement tree(s) is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City of Lava Hot Springs equal to the difference in value between the tree removed and any replacement tree(s). Any public tree that is determined by the City Forestry Advisor to be damaged, but not sufficiently to justify its removal, shall be considered to be devalued. The amount of devaluation shall be paid to the City by the person causing the damage. Compensatory payments shall be paid into a fund established for that purpose and restricted to use for community forestry programs. Nothing in this Ordinance shall prohibit the City of Lava Hot Springs from negotiating agreements with other governmental entities regarding penalties and compensatory payment for removal, damage or destruction of public trees.

SECTION 21 - INTERFERENCE WITH CITY TREE COMMITTEE:

It shall be unlawful for any person to prevent, delay or interfere with the City Forester, or his or her agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on public property, as authorized in this ordinance.

SECTION 22 - ADOPTION OF ANSI A300 AND ANSI Z133.1:

There is hereby adopted as an official code for the maintenance of trees, shrubs and other woody plants that certain standard maintenance practice as published in ANSI Standard A300 (Part I)—2001, as published by the American National Standards Institute, Inc. and approved on May 22, 2001, as amended. There is also hereby adopted as an official code, that certain safety standard for planting and maintenance of trees in proximity to utility lines, known as ANSI Z133.1 as published by the American National Standards Institute, Inc., May 22, 2001 Edition, as amended. One copy of such codes shall be filed with and maintained in the office of the City Clerk, for use and examination by the public. Amendments to said codes shall be automatically adopted by the City and shall be in effect on January 1 of the year following adoption.

SECTION 23 - APPEAL PROCESS:
All actions taken by the city to which a person affected by the action disagrees are appealable to the mayor and city council, provided the applicant, or their representative, exercises that right with a written appeal filed with the City Clerk within fifteen (15) days after the action is taken by the City. Failure to file an appeal within the prescribed time limit shall terminate the right to appeal any action taken by the City.

SECTION 24 - REVIEW BY CITY COUNCIL:

The city council shall consider input from the citizens as well as the tree committee and make the final decision.

SECTION 25 – PENALTY:

Any person or entity violating any provision of this ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or by confinement in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Said penalty or penalties shall be in addition to any special assessment levied pursuant to this ordinance.

SECTION 26 – SEVERABILITY:

It is hereby declared to be the legislative intent that the provisions, and parts thereof, of this ordinance shall be severable. Should any section, subsection, paragraph, clause or phrase of this ordinance, or any particular application thereof, be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, such decision shall not affect the remaining portion of said section, subsection, paragraph clause or phrase of this ordinance.

SECTION 27 – REPEAL OF CONFLICTING PROVISIONS:

All provisions of the current City of Lava Hot Springs Municipal Code, Ordinance 2000-1, or any other ordinance of the City of Lava Hot Springs, Idaho which conflict with the provisions of this ordinance, are hereby repealed.

SECTION 28 – WAIVING THE THREE SEPARATE READINGS

The rule requiring that this Ordinance be read on three separate occasions is hereby waived.

SECTION 29- EFFECTIVE DATE:

This Ordinance shall be in full force and effective upon its passage, approval, and publication according to law.

PASSED and APPROVED by the Mayor and City Council of the City of Lava Hot Springs, Idaho, this 10th day of December, 2015.
Councilperson Davids made a motion to adopt Ordinance 2015-10. Councilperson Linford seconded the motion. Roll call taken, All voted aye, unanimous.

Councilperson Davids made a motion to approve the city attorney’s summary of Ordinance 2015-10 for publication. Councilperson Brown seconded the motion. All voted aye, unanimous.

**Ordinance 2015-12**
Amending the “Flood Control Ordinance” to provide that the City Code Enforcement Officer shall have concurrent authority with the City Clerk-Treasurer to administer the provision of the ordinance was introduced.

Councilperson Brown made a motion to waive with the three separate readings. Councilperson Lowe seconded the motion. All voted aye, unanimous.

Ordinance 2015-12 was read.

**ORDINANCE NO. 2015-12**

*AN ORDINANCE OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AMENDING TITLE 12 OF THE LAVA HOT SPRINGS, IDAHO CITY CODE TO PROVIDE THAT THE CITY CODE ENFORCEMENT OFFICER SHALL HAVE CONCURRENT AUTHORITY WITH THE CITY CLERK-TREASURER TO ADMINISTER THE PROVISIONS OF THE FLOOD CONTROL ORDINANCE; REPEALING ORDINANCES IN CONFLICT HEREWITH; WAIVING THE REQUIREMENT OF THREE READINGS OF THIS ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.*

*BE IT HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AS FOLLOWS;*

**SECTION 1.** Title 12 of the Lava Hot Springs, Idaho, City Code, Flood Control, is hereby amended to provide that the City Code Enforcement Officer of the City of Lava Hot Springs, Idaho shall have concurrent authority with the City Clerk-Treasurer to administer, provide permitting and to enforce the provisions of said Title. Any conflict between decisions of the City Clerk-Treasurer and the Code Enforcement Officer shall be resolved by the City Council whose decision shall be final.

**SECTION 2.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 3.** The rule requiring the reading of this ordinance on three separate occasions is hereby repealed.
SECTION 4. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF LAVA HOT SPRINGS, IDAHO, THIS 10th DAY OF DECEMBER, 2015.

Councilperson Davids made a motion to adopt. Councilperson Linford seconded the motion. Roll call taken, All voted aye, unanimous.

Ordinance 2015-13
Amending the “Building Permit Ordinance”. Current working draft was presented. Ordinance will be adopted at a later date.

Business License(s), Alcohol License(s), Coin-Op License(s) & Non-Property Tax Permit(s):
A) Country Store/Gator Tubes – Transportation Service Addition
B) QLT Consumer Lease Services, Inc. – Tax Permit

Councilperson Brown made a motion to approve Country Store/Gator Tubes business license addition to include a transportation service. Councilperson Linford seconded the motion. All voted aye, unanimous. Insurance certificate will have to be received before the transportation service operates next year.

Councilperson Brown made a motion to approve QLT Consumer Lease Services, Inc. Non-Property Tax Permit. Councilperson Linford seconded the motion. All voted aye, unanimous.

Certify November 3, 2015 Election Results:
Councilperson Brown made a motion to certify the November 3, 2015 election results as canvassed by Bannock County. Councilperson Davids seconded the motion. All voted aye, unanimous.

Meetings/Announcements/Miscellaneous:
100th Birthday Celebration: Still working on wrapping up plans.

For Cause Personnel Policy: Still working on draft. Councilperson Linford does not support a PTO (paid time off) policy.

Record Retention Schedule
Resolution 2015-6 adopting the schedule was read.

RESOLUTION NO. 2015-6

A RESOLUTION OF THE CITY OF LAVA HOT SPRINGS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE CLASSIFICATION AND RETENTION OF CERTAIN PUBLIC RECORDS PURSUANT TO IDAHO CODE; PROVIDING THIS RESOLUTION TO BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

WHEREAS, the Idaho Code allows for the classification, retention, preservation, and destruction of certain records as “permanent”, “semi-permanent” and “temporary” records; and

WHEREAS, Idaho Code requires the City Council to adopt by Resolution a records retention schedule listing the various types of City records and the retention period for each type of records; and

WHEREAS, the City has made a survey of all its records and has reviewed current Idaho Code 50-907 regarding classification of records; and

WHEREAS, the City has prepared a records retention schedule with the classifications as required;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lava Hot Springs as follows:

1. That the Record Retention Schedule dated December 10, 2015 is hereby adopted as required by Idaho Code 50-907.

2. This Resolution shall become effective as of the date of its passage.

PASSED by the City Council and APPROVED by the Mayor of the City of Lava Hot Springs, Idaho this 10th day of December, 2015.
Councilperson Brown made a motion to adopt Resolution 2015-6. Councilperson Linford seconded the motion. All voted aye, unanimous.

**Solar System net Metering Agreement:** No update.

**Lava Rural Fire District Contract/Training Coordinator Position & RB Scott’s Resignation:**
Mayor Burgin reported that the Appreciation Dinner was nice and that the Training Coordinator position is no longer funded by the Lava Rural Fire District so RB Scott will no longer be the Training Coordinator. The contract with the Lava Rural Fire District expired years ago. The City Clerk reported that the district is working on a contract and will be providing it for consideration in the near future.

**Schedule Meeting to Consider 1% Proposals:**
December 17th tentative at 5:30 pm

**Lava Chamber of Commerce Ballot:**
City has never taken a position to vote and since the ballot was due before the Council Meeting no ballot was cast this year.

**Reinstate Ken Fagnant as Lava Fire Chief:**
Mayor Burgin appointed Ken Fagnant as Lava Fire Chief. Councilperson Linford made a motion confirming the mayor’s appointment. Councilperson Brown seconded the motion. All voted aye, unanimous.

**Pocatello Regional Transit System:**
A concerned citizen has contacted City Hall expressing frustrations regarding the Pocatello Regional Transit System service in the Lava area. She feels like the city is not getting the service the City is paying for. The City contributes $700 annually to the PRT. Mayor Burgin will call and talk with PRT to see if anything can be done to accommodate the concerned citizen needs.

**Miscellaneous – Proposed Subdivision Ordinance:**
Proposed Ordinance page 14, line 7 should state “front upon”. Councilperson Linford made a motion to send the Ordinance back to P & Z with correction and instructions to proceed with the public hearing process. Councilperson Davids seconded the motion. All voted aye, unanimous.
Projects:

**Wastewater System:**
Generator Electronic System – Mayor Burgin talked about the repairs and explained that the transfer switch was not compatible with the new generator. A new transfer switch is required to complete the repair. The new transfer switch will cost $3,486.00, includes installation and everything to get it up and working correctly. Councilperson Brown made a motion to approve the purchase. Councilperson Lowe seconded the motion. All voted aye, unanimous.

**Pedestrian Bridge Project:**
1) Environmental Document: Won’t need to hire another contractor to do EID. The tree, light, fence and sign removals will be bid as alternates. They are not included in the scope of the project and will be an additional expense to the City. Engineer contract is being worked out with Idaho Transportation Department.

**Buddy Campbell Park:**
Tree trimming – Open & Awards for bid request notices were sent out to Intermountain Tree Care, Top Notch Tree Services, Lawn Tech & Advantage Tree Care. Two sealed bids were received, Top Notch Tree Care and Lawn Tech. One company came and looked at the project but expressed that they were too busy and declined to bid. One of the bid request notices was returned invalid mailing address. Dennis tried calling the company but could not make contact with them. Mayor Burgin opened the sealed envelope and announced the bids to the Council. Top Notch Tree Services - $5,965.00 and Lawn Tech - $3,700.00 Councilperson Brown made a motion to take off the infected tree application and to ask Lawn Tech if they will do the rest of the work for the $3,000.00 budgeted. Councilperson Davids seconded the motion. All voted aye, unanimous.

**Fire Station Sewer Line Extension:**
Need to prepare bid documents. Plan is to schedule construction for next spring.

**Water Improvement Project Funding Options/Status Report:**
Keller is still working on the Engineering Contract. Archeological study proposed contract terms from Sundance Consultants has been received. Sundance’s contract is with Keller Associates. They will be asked to revise it with the City of Lava.

**Easement Report:**
Canda has talked with Bryan Phinney, Keller Associates and they will start working with the Title Company to make sure all easements are in place for the water line and start the process for obtaining a Bannock County easement for the relocation of the water line within the Fish Creek Road.

**Black Mountain Software Status Report:**
Staff is still working on getting data into the system and getting programs up and running.

**Removal of dead tree in alley at South 4th West and alley intercepting between West Booth and West Fife Street:**
Mayor Burgin reported that the tree has been cut down and that there is still a pretty high stump left and a big bush in the middle of the alley that needs removed. Tony plans on getting the stump and bush removed this spring.

**Miscellaneous - City Computer and Dennis personal laptop:**
Mayor Burgin reported that Dennis Callahan, City Code Enforcement Officer, has been using his personal lap top while working at the City office and the hard drive has went out of it. Dennis has purchased another personal lap top and has asked to be partially reimbursed for the cost. City Clerk reported that the city has budgeted a desk top for Dennis’s work station. Costs were reviewed. Councilperson Brown made a motion to purchase a tower and software for $850.00 and compensate Dennis $50.00 to compensate for diagnoses on his old lap top & the flash drive. Councilperson Davids seconded the motion. All voted aye, unanimous.

**Miscellaneous – Delinquent Option Taxes**
Councilperson Brown made a motion to assess penalties for delinquent unreported option taxes, on accounts 2 months behind, equal to double the prior year and if they do not report within 3 months then the arbitrary assessment becomes permanent. Councilperson Davids seconded the motion. All voted aye, unanimous.

**Discussion – East Portneuf Street Vacate Request**
Jon Thomson wanted clarification on the location of East Portneuf.

**Adjourn into executive session:**
Councilperson Brown made a motion to go into executive session to discuss personnel evaluations as permitted by Idaho Code 67-2345 (b). Councilperson Lowe seconded the motion. Roll call taken. All voted aye, unanimous.
Motion to reconvene:
Councilperson Davids made a motion to reconvene. Councilperson Linford seconded the motion. All voted aye, unanimous.

Wage Increases:
Councilperson Brown made a motion to increase wages .50 per hour with exception of Canda 1.00 per hour. Councilperson Linford seconded the motion. All voted aye, unanimous.

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

Meeting adjourned at 9:04 pm.

__________________________________________
Amantha Sierra, Transcriber

__________________________________________
Marshall N. Burgin, Mayor

__________________________________________
Canda L. Dimick, City Clerk