Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, January 9, 2014 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
Cathy Sher, Councilperson
Tamara Davids, Councilperson
George Linford, Councilperson
Canda Dimick, City Clerk

Guests: T. Paul Davids, Abby Davids, Steve Jones, Pamela Slaughter, Mike Vice, Jane Linford, Randy Benglan and Randall Brown

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

The City Clerk stated that they need to amend the agenda so that Ace Hardware is under “Building Permit(s)” and “Review & Discuss Proposed Noise Control Ordinance” will be right after that. Also, under “Business License(s)”, the Red Brick Cottage, LLC application, Launa Byington, Owner/Applicant needs to be added.

Councilperson Brown made a motion to accept the agenda as amended. Councilperson Sher seconded the motion. All voted aye, unanimous.

Approval of Minutes
Councilperson Sher recommended changing “overlooks” to “over sights” on the first page.

Councilperson Brown made a motion to approve the minutes of December 12, 2013 with the recommended change. Councilperson Sher seconded the motion. All voted aye, unanimous.

Reviewing of Bills
A) Discuss status of Whitaker Constructions final pay request and additional fees for rock excavation
Mayor Burgin reported that he spoke to Keller’s, and they agreed to split the cost. Between SICOG, Keller’s, Whitaker and the City, each entity will cover a quarter of the final change order cost.

B) Discuss Bannock County Planning & Development Services bill for additional fees relating to the enforcement of George Katsilometes Pool Violation
Mayor Burgin reported that the City got a letter from the county inviting the city to attend a meeting at the county commissioner’s office to discuss the agreement. He suggested tabling the bill for additional fees until the city talks with the county.
Councilperson Brown made a motion to table the Bannock County Planning & Development Services bill for additional fees. Councilperson Lowe seconded the motion. All voted aye, unanimous.

C) Status of FY2012 Audit and bill for services
The audit is completed but copies have not been received. Bill was tabled.

D) Motion to approve bills
Councilperson Brown made a motion to approve the bills except for the additional fees for Bannock County Planning & Development and Ware Associates for FY2012 audit. Councilperson Sher seconded the motion. All voted aye, unanimous.

Oath of Office – New Elected Officials
The City Clerk administered the Oath of Office to the newly elected officials: Tamara Davids and George Linford, City Council.

Mayor Burgin thanked Cathy Sher for her service.

Law Enforcement/Code Enforcement Monthly Report

Business License(s), Alcohol License(s) & Non-Property Tax Permit(s)
A) Miss Ali’s Place – Allison Hinz, Owner/Applicant
B) Moldenhauer, Inc., DBA Mike’s Market – Daniel Moldenhauer, Owner/Applicant
C) 78 Main Street Eatery – Wine On Premises Only
D) Summers Group, Inc., (Non-Property Tax Permit)
E) Red Brick Cottage, LLC – Launa Byington, Owner/Applicant
Mayor Burgin read the list to be considered.

Councilperson Brown made a motion to approve Red Brick Cottage, LLC’s license subject to the building inspector’s approval for the change of use. Councilperson Linford seconded the motion. All voted aye, unanimous.

Councilperson Davids questioned the alcohol license for 78 Main Street Eatery. Mayor Burgin stated that they have a beer license but they are going to serve wine now too.

Councilperson Linford made a motion to approve licenses for A-D as listed. Councilperson Brown seconded the motion. All voted aye, unanimous.

Building Permit(s)
A) Moldenhauer, Inc., DBA Ace Hardware – sign permit
Councilperson Brown made a motion to approve the sign permit for Ace Hardware. Councilperson Linford seconded the motion. All voted aye, unanimous.
Review & Discuss Proposed Noise Control Ordinance
Councilperson Brown made a motion to table the proposed noise control ordinance for further review. Councilperson Davids seconded the motion. All voted aye, unanimous.

Consider Lava Hot Springs Planning & Zoning Commission’s Facts, Findings and Recommendation in the matter of the subdivision application for Elm Street Nightly Rental Cottages, Steve Jones, Owner/Applicant
Mayor Burgin reported that he would not be entertaining any public discussion on the matter.

Councilperson Linford asked if it would be advisable for him to abstain and remove himself from the table while council considers the matter since he was the Chairman of the Planning & Zoning Commission when the recommendation was made. Mayor Burgin stated that he could do that. Councilperson Linford excused himself from the table while the matter was considered.

Mayor Burgin read the Statement of Facts, Finding and Recommendation from the Planning & Zoning Commission.

STATEMENT OF FACTS

1. The applicant is Steve Jones, P.O. Box 2044, Orem, UT 84059.

2. Applicant owns real property described as 28 and 38 East Elm Street, Lava Hot Springs, Idaho, more explicitly described as: Lot 13 & 14, Block 9, Townsite of Hall City, as the same appears on the official plat thereof, filed in the office of the County Recorder of Bannock County, Idaho. The two lots have a combined total area of approximately 6,600 square feet.

3. The property is located in the C1 & C2 Commercial Zone as established by Ordinance 1982-2 and in accordance with the zoning map of the City.

4. The applicant seeks subdivision of the two (2) lots noted above into six (6) individual lots, each lot being approximately 1,100 square feet in size, with one (1) single family dwelling unit being constructed on each lot, to be used as a nightly rental cottage (vacation rental). Each unit will have separate utility hook-ups and will be sold individually. A copy of the concept plan together with a copy of the community impact analysis is attached hereto as Exhibit 1.

5. The Planning and Zoning Commission held a pre-development conference for subdivision application on August 22, 2013, September 26, 2013, October 24, 2013, November 21, 2013 and December 19, 2013. A quorum of the Planning and Zoning Commission and guests present are noted in the minutes. A copy of the minutes of each meeting is attached hereto as Exhibit 2. Copies of correspondence between the applicant, his attorney and the City’s attorney are attached hereto as Exhibit 3.
6. The commission has taken into consideration in making its findings and recommendations the following:

   A. Ordinance 1982-2, Zoning Ordinance and Zoning Map.
   B. Ordinance 2006-2, Subdivision Ordinance.
   C. All Exhibits attached hereto and the information submitted at the pre-development conferences.

**FINDINGS**

1. The applicant is Steve Jones, P.O. Box 2044, Orem, UT 84059.

2. Applicant owns real property described as 28 and 38 East Elm Street, Lava Hot Springs, Idaho, more explicitly described as: Lot 13 & 14, Block 9, Townsite of Hall City, as the same appears on the official plat thereof, filed in the office of the County Recorder of Bannock County, Idaho. The combined property area of the two lots is approximately 6,600 square feet. The applicant seeks to subdivide the property into six (6) individual lots, each with an area of approximately 1,100 square feet, with one (1) single family dwelling unit to be located on each resulting lot to be used as a nightly rental cottage (vacation rental). Each lot and unit located thereon will have separate utility hook-ups and will be sold individually.

3. The property is located in the C1 & C2 Commercial Zone as established by Ordinance 1982-2 and in accordance with the zoning map of the City. “Vacation Rentals” are permitted uses within the Commercial Zone.

4. Ordinance No. 2006-2, Section 6 states that the Concept Plan submitted by the applicant must meet certain criteria including (f)(4) “The proposed property is to be physically suitable for the type and proposed density of development and conforms to existing zone standards”.

5. A “Dwelling” is defined within Ordinance No. 1982-2 as “Any building...designed or used as the principal residence or sleeping place of one or more persons or families...” A “Single Family Dwelling” is defined in said ordinance as “A building containing only one (1) dwelling unit.” Said ordinance defines “Residential Use” as “A building...designed exclusively for residential occupancy including one family, two family...and multiple family dwellings...” It further defines “Vacation Rental” as “A single family dwelling unit...built or converted, where, for compensation, lodging facilities are provided for a duration for less than thirty (30) days...”

6. Ordinance No. 1982-2, Chapter 4, Section 3 states that there shall be no minimum lot area requirement within a Commercial Zone except that lots within a Commercial Zone
used for residential purposes shall have the same area requirements as set forth in the R-3 Zone.

7. Ordinance No. 1982-2, Chapter 4, Section 2, addressing the minimum lot area requirements in the R-3 Zone, states that the minimum lot area for single family dwellings is Five Thousand Five Hundred (5,500) Sq. Ft. and that not more than forty-five (45) percent of the lot area may be covered by building or structures.

8. Each of the units proposed by the applicant is a single family dwelling unit used for residential occupancy as a vacation rental to be located on a lot of a size of approximately 1,100 square feet. The subdivision of the property must comply with the area requirements of Ordinance No. 1982-2. Those area requirements mandate a minimum lot size for each of the subdivided lots of 5,500 square feet. The proposed development is not physically suitable for the type and proposed density of development and does not meet or conform to existing zoning standards. The application and Concept Plan of the applicant should be denied.

RECOMMENDATIONS

The Planning and Zoning Commission of Lava Hot Springs, Idaho, recommends that the application and Concept Plan of the applicant be denied for the reasons as more fully set forth in the Statement of Facts and Findings set forth above.

PASSED AND APPROVED this 6th day of January 2014, by the Planning and Zoning Commission of the City of Lava Hot Springs, Idaho.

Councilperson Brown made a motion to adopt the recommendation of the Planning & Zoning Commission and deny the approval of the application. Councilperson Lowe seconded the motion. Councilperson Linford abstained. All voted aye, unanimous.

Status of FY2014 Building Inspection Renewal Agreement
Mayor Burgin stated that he had signed an extension on the agreement until February 28, 2014 and that there is going to be a meeting with the county commissioners. The City Clerk asked who from the city would be attending the meeting. Mayor Burgin asked if anyone else would like to attend. Councilperson Brown stated that he would like to attend. Councilperson Linford might attend.

Councilperson Linford made a motion to table the agreement. Councilperson Brown seconded the motion. All voted aye, unanimous.

Announcements/Meetings & Miscellaneous New Business

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A) Discuss hooking up street light at North 5th West and West Spring Street
Mayor Burgin reported that there is a light at North 5th West and West Spring Street but it has not been hooked up. The City Clerk is checking into costs to run power to it. The City Clerk reported that she is still trying to make contact with the representative. Mayor Burgin stated that it will be discussed when more information is available.

Miscellaneous – Veteran’s Park Flag Pole
Councilperson Brown asked about the flag pole that needs to be fixed. The City Clerk will ask Kirk Irick about using his bucket truck.

B) 2014 City Council & Planning & Zoning Commission Meeting Schedule
Council reviewed the meeting schedule.

C) Miscellaneous
Councilperson Brown asked about installing benches in the East Main Street public restrooms. He would like to see something wall to wall that is free standing and chair height. Mayor Burgin stated that he will have the city maintenance crew work on it.

C) Miscellaneous
Councilperson Brown asked about the FY2012 financial audit. The City Clerk reported that she has talked to them and resent information that they were waiting for. Councilperson Brown stated that they are behind and he would like to change auditors. He thinks it is important to give the City this information in a timely manner. The main purpose is to give the City Council and the Mayor an idea of where things stand financially. Mayor Burgin asked what the rest of the City Council thinks of this. Overall the auditor has been good. Councilperson Brown mentioned that Morgan Hatt did work for Grace. The City Clerk will check with other cities and will call Hatt & Erickson. Councilperson Brown would like to talk about it next month to give the rest of council time to think about it. The City Clerk reported that there are only a few firms that do municipal audits.

Projects
A) Wastewater Improvement Project
   1) Aerator Warranty
      The City Clerk reported that an aerator has broken and needs to be repaired or replaced. It is frozen in the ice, under warranty and will be taken care of in the spring.

   2) Monitoring Well Pump
      The City Clerk reported that Tony is working with the engineers on getting a cost estimate.

B) East Main Street Pedestrian Bridge Project
   1) Easements
      The City Clerk reported that an easement is in place with the State Foundation. The City is working on an easement on the south side of the bridge with the Victor brother’s who
requested an architectural rendering of the bridge. The engineers are working on the rendering. The City has been awarded a Gem Community Grant, plus money from the State Foundation and the City has been budgeted for the project. The City has applied for a Choice Community Grant. The first application was denied but the city was invited to strengthen it and resubmit. A project cost summary was in the council’s packets. Plans are to use the hot water from Chicken Soup Springs to heat the bridge to keep it free from snow.

C) Water Improvement Project

1) Southeast Idaho Council of Governments Administrative Contract
The City Clerk recommended that City Council look it over and table it until next month. The city attorney has cautioned the city about the cost for services. Councilperson Brown asked if that is a set cost. The City Clerk reported that she thinks it is negotiable.

2) FY2015 DEQ Letter of Interest – Submitted December 20, 2013
The City Clerk reported that they are working on a project to replace the water line coming from the springs and to drill a new well. It will also include some compliance issues such as upgrading line size and security fence around the reservoir. Green energy is being added to the project such as generating electricity and solar panels. Proposed project also includes a telemetry system to monitor the pumps and a radio reader so that meters could be read year round. Mayor Burgin does not think that a telemetry system or radio reader is necessary. Councilperson Davids asked about winter water charges. The City Clerk stated that the city bills the minimum rate during the winter and when the meters are read in the spring, the city bills for any overage. Councilperson Davids asked how the overage is monitored. The City Clerk explained that it is based on the meter readings in the spring. She explained how the City was approved for a low interest DEQ loan for the project but because it won’t be under construction by July, 2014 the City needs to resubmit the letter of interest to maintain on the funding list.

3) Facility Plan Study Progress Report
The City Clerk stated that the City is working with Keller Associates and most of the information has been submitted to them that they requested. They are hoping to have the study done in the next couple of months.

D) Water Line Replacement to Community Building

1) Final Change Order
Mayor Burgin stated that he, Canda and Tony met with the engineers to go over each item because the change order costs were more then what was expected. The engineers are going to go talk to the contractor about the city’s concerns with the additional fees.

E) Sign Project
The City Clerk reported that the City received a $16,000.00 grant to replace all of the signs so that they could comply with the new reflective laws. All of the traffic signs and poles have been
purchased and Tony is in the process of ordering the street signs. The signs will be put up in the spring.

**F) Fish Creek Spring Fence Project**
Mayor Burgin reported that the City has received a grant to do Phase I of the project. The City Clerk has submitted an application for a grant to cover Phase II. Plan is to install the fence in the spring. He explained where the springs are and that the City has to comply with DEQ standards as far as the type of fence installed.

**G) Miscellaneous**
None.

**Discussion**
Randy Benglan came forward and welcomed the new members of City Council.

**Adjournment**
Councilperson Lowe made a motion to adjourn. Councilperson Linford seconded the motion. All voted aye, unanimous. Meeting adjourned at 6:32 p.m.