Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, March 10, 2011 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Marshall Burgin, Mayor
Rita Anderson, Councilperson
Phil Beeson, Councilperson
Newt Lowe, Councilperson
Cathy Sher, Councilperson
Canda Dimick, City Clerk
Trish Avery - Assistant City Clerk

Guests: Carl Toupin (M.R.&E., Inc.), Susan Lorenz (SICOG), Lisa Toly, Megan Toly, Stoney Tucker (PSI), Roger Chermine (CHAT TV), Cindy Wilson, Chris Wilson, Paul Fagnant, Charlotte Grunig, Mark Lowe, Carl Brown

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

Approval of Minutes
Councilperson Anderson mentioned two typographical errors on page 4. The city clerk noted the corrections.

A motion was made by Councilperson Sher approving the minutes of the February 10, 2011 meeting. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

Reviewing of Bills
The mayor reported that M.R.&E., Inc.,’s bill in the amount of $4,728.29 needed to be written into the list of bills to be paid.

A motion was made by Councilperson Anderson approving the payment of the bills as listed with the addition of the amount of $4,728.29 to M.R. & E., Inc.. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Law Enforcement Monthly Report
No officer was in attendance. There was no discussion.

Business License(s) & Non-Property Tax Permit(s)
A) B & L Vacation Rental – Linda Kowaliw Nelson Owner/Applicant
B) Bitton Electrical LLC – Louis D. Bitton, Owner/Applicant
C) Dish Network LLC – Non-Property Tax Permit
D) EZ Livin Inn – Dennis Ekstrom, Owner/Applicant
E) Lava Hot Springs Inn & Spa General Contractor – George W. Katsilometes, Owner/Applicant
F) Mary’s Place – Bannock County Deputies Sheriff Association, Owner/Applicant
G) Sweet Stuff (Renewal)

The mayor read the list of business licenses being considered. It was clarified that Mary’s Place is the former Mountain View Trailer Court and Campground. Lisa Toly questioned...
the status of the bridge to the campground and weight limits. It was stated that the fire department at one time would not go across the bridge until it was upgraded. Councilperson Beeson stated that the bridge has been re-decked.

A motion was made by Councilperson Beeson accepting the business licenses as read. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

**Review and Consider Garbage Service Proposals and Select Contractor**

The mayor opened the proposals, read the following rates:

<table>
<thead>
<tr>
<th></th>
<th>PSI</th>
<th>MR &amp; E, Inc.</th>
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<tbody>
<tr>
<td>95 gal. Residential</td>
<td>$11.41</td>
<td>$12.50</td>
</tr>
<tr>
<td>95 commercial</td>
<td>$13.00</td>
<td>$16.00</td>
</tr>
<tr>
<td>2 yd.</td>
<td>$48.00</td>
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<tr>
<td>3 yd.</td>
<td>$64.00</td>
<td></td>
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<tr>
<td>4 yd.</td>
<td>$81.00</td>
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<tr>
<td>6 yd.</td>
<td>$118.00</td>
<td></td>
</tr>
<tr>
<td>8 yd.</td>
<td>$149.00</td>
<td></td>
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</tbody>
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Add $4.04 per yard per month for twice a week pickup.
No delivery and pick up charge.

Twice weekly service available from May 1st to September 30th.
Container may be changed at the beginning and the end of the twice weekly service at no charge. Also included was a chart of the commercial rates for 300, 350 & 420 gallon cans.

The mayor recommended that the council take some time to review the proposals and schedule a special meeting to award the contract.

The council wanted to take time to go over the bids. Councilperson Beeson requested that Mr. Toupin provide the city with the 2008, 2009 and 2010 Bannock County Landfill billings. Discussion followed regarding how the contractor tracks the city garbage and the county garbage for landfill charges. The cost per ton to dump at the landfill is $28 per ton.

Both contractors agreed to guarantee their rate for one year.

**Law Enforcement**

Deputy Paul Fagnant reported that he had nothing to report. The Mayor asked that the reader board be posted on Main Street for speeders.

**Wastewater Improvement Project Funding (Federal Appropriation) – Susan Lorenz, Southeast Idaho Council of Governments.**

Susan Lorenz presented information on funding sources and options for the federal appropriation of $243,000. This grant has to be matched with 45% non-ARRA money. The Block grant is $500,000 which is not ARRA money. The block grant could be used
as match to the STAGG grant. Ms. Lorenz showed the council four (4) scenarios of how the STAGG grant could be used. She explained that each of the scenarios would cost another prime. The council discussed the scenarios. Keller Associates had given Ms. Lorenz the costs for the four (4) scenarios. Keller Associates has an idea of what could be carved out of the project to fund with the STAGG monies to suit any of the four (4) scenarios.

The city clerk questioned if the engineering fees for the design of Phase III could be paid with the Army Corp grant. This was discussed. Ms. Lorenz felt that it would be possible to use Army Corp funds to pay for the design of the third phase.

A motion was made by Councilperson Sher to utilize the $243,000 of the STAGG grant to be matched with $200,000 from the Block grant as proposed in scenario 1. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

**RV Ordinance – Councilperson Sher**

Councilperson Sher reported on legal counsel’s opinion on the RV ordinance. The Councilperson’s expressed differences of opinions. The mayor suggested a limit of a seven (7) day stay. Councilperson Beeson said he could possibly go for a three (3) day stay. RV’s are not allowed at a vacation rental home. Councilperson Beeson has concerns that the city would be opening up the residential zones to become a vacation park.

Councilperson Sher stated that she would like to preserve the residents right to have family and friends who are traveling in RV’s to visit them stay on their property. She asked Charlotte Grunig to make some comments on the issue. Ms. Grunig voiced supporting comments on allowing RV’s to park in the residential zone. The council expressed concerns on how the ordinance would be enforced. Noise problems would need to be addressed by law enforcement.

The mayor suggested reducing the term of the stay to three (3) days and no more than once a year, no sewer hookup would be allowed, and the property owner would be required to be present.

The city clerk questioned when the council was going to send the ordinance to the Planning and Zoning Commission. The ordinance amendment is a zoning issue and should go through the Planning and Zoning Commission. Councilperson Sher will draft up provisions and meet with the Planning and Zoning Commission and go over the ordinance.

**Status of the adoption of 2009 International Building and Residential Codes with exceptions.**

The city clerk reported that the county is close to finishing their exceptions and adoption of the 2009 International Building and Residential Codes. When the county is finished it will be forwarded to the city for adoption, hopefully next month.
Rocky Mountain Power Load Control Programs
The council discussed the Rocky Mountain Power Load Control Programs. Councilperson Beeson suggested contacting Glen Pond, Rocky Mountain Power, to see if the sewer lagoon aerators are eligible. Councilperson Beeson will make contacts and report back at the next meeting.

Meetings/Announcements

A) Tourism Development/Marketing Work Session with Idaho Travel Council – March 15th at Riverside Inn
This meeting will be posted as a work session. All council members are encouraged to attend. The city clerk will be there to take notes.

B) Schedule FY2012 Budget Hearing
The FY2012 Budget Hearing was scheduled for August 30th, 2011 at 5:30 p.m. at City Hall.

C) Idaho Rural Water Association, Inc., Annual Conference – March 16th – 18th, 2011, Idaho Falls
No one was interested in attending.

D) Impacts of the Built Environment on Public Health Workshop – March 14th, 2011, Idaho Falls
No one was interested in attending.

No one was interested in attending.

F) Miscellaneous
1) Arbor Day
The proclamation was read by the mayor proclaiming May 5, 2011 as Arbor Day.

2) Marsh Valley High School Senior Party
The council unanimously agreed to contribute $50 as a raffle item/item for the senior graduation party.

Projects

A) Sewer Rate Study Progress Report
The city clerk reported that the consultant has asked for the 2009 and 2010 water meter readings. The water readings could take a while to get put together. It was suggested that they could use the sewer water usage reading since they are recorded daily.

B) Wastewater Improvement Project
1) Transmission & Trunk Line Easements
The city clerk reported that the city will have to redo the USDA right-of
-way certificate once the city gets the additional easement from the Dean Day Estate property signed and recorded.

2) Phase II Design
   The mayor stated that he had not met with the engineers recently and had nothing new to report.

3) Formally Authorize Mayor to execute Rocky Mountain Environmental Associate, Inc., Agreement to prepare Corps of Engineers permit application.
   A motion was made by Councilperson Beeson authorizing the mayor to execute the Rocky Mountain Environmental Associate Inc.’s, agreement to prepare the Army Corps of Engineers permit application. The motion was seconded by Councilperson Anderson. All voted aye, unanimous.

4) Department of the Army’s Permit Authorization Letter
   This agenda item was included in the previous motion.

5) Grinder or Screen
   The mayor reported that he met with the engineers and that the city is going with the grinder because it is less expensive and simpler to maintain. The engineers are going to design the project with the grinder. The council agreed.

6) Miscellaneous
   The mayor reported that he would like to send a letter to DEQ to utilize the $225,000 to install a windmill on the land application site. DEQ would like the city to find a way to use this money in Phase I of the wastewater project.

C) Park Playground Surface Project
   Councilperson Sher reported that the project needs to get rolling. She questioned the need for the border and felt liner. She stated that if a portion of the sand was left in place it can act as a weed barrier which could eliminate the need for the weed barrier felt. She also suggested eliminating the expense of the plastic edging by digging out a pond type shape to contain the Fibar. The cost of the Fibar is $10,435.00 for 360 cubic yards. She is hoping that the snow will melt off the area within the next week. If weather doesn’t cooperate the city may need to ask for an extension.

   The mayor reported that Eleanor Campbell had spoke to him regarding the Buddy Campbell Memorial Park sign. She would like to replace the park sign at her expense. The council had no objections.

D) Miscellaneous
   Councilperson Sher commented on two authority letters. She stated that she had concerns and felt that on a first time communication letter that city staff needed to
avoid an accusatory tone. She used an example in a letter to Cindy Michaels and stated that she felt that the “if you are the owner” should be used in place of “as an owner”. The mayor asked why the “if” needed to be put into the letter. The assistant city clerk addressed the question. She stated that it was her that had written the letter and that Ms. Michaels had called City Hall and questioned if she was required to have a business license along with some other things. She reported that she was renting a room to an individual that was living in her home on a long term basis. The assistant city clerk had not dealt with the issue before; therefore she told Ms. Michaels that she would check into the situation and get back with her on the requirements. The letter was written to explain the ordinance requirements. Councilperson Sher suggested that the question be restated in the letter.

The next letter of concern was to the Knutson’s. The mayor stated that the letter was written totally on the information that Councilperson Sher had presented in a council meeting. Councilperson Sher stated that she thought that maybe the word “might” ought to have been used instead of being accusatory. The assistant city clerk stated that she felt that if the city council was not sure of the information given that they should not instruct the clerks to write a letter in the first place. Councilperson Beeson stated that he agreed that we should not be sending the letter if we need to say might.

The assistant city clerk stated that the letter was not accusatory, it stated that “it was brought to our attention” which is what the minutes and the recording of the council meeting reflex. She stated that if a councilperson wants to use the word “might” in letters; she would like that councilperson to dictate and sign the letter. The mayor stated that he did not feel that the letter was accusing and that the word “might” was not in the minutes. Councilperson Anderson and Beeson stated that they saw nothing wrong with the letters which were presented.

Councilperson Sher acknowledged that the mistake was hers; she should have said “might have been”. The assistant city clerk stated that she felt that the letter was professional and informative; “it was brought to our attention”, these are the rules if you are going to operate a bed and breakfast.

The city clerk stated that she agreed with the assistant city clerk and that if letters are going to be dictated then whoever dictates them needs to sign them. The city clerk does not want to be answering for something that she did not write.

The mayor said he will take the letters to Councilperson Sher to proofread before he signs them.

**Discussion – Items from the audience.**
Lisa Toly commented on the vacation rental ordinance. She questioned if the day use occupancy limit was the same as the night occupancy limit. She stated that the day use occupancy limit needs to be addressed. She questioned if renters had the right to use a vacation rental as a gathering and meeting place. She suggested that quite quiet hours
may need to be established. It was stated that owner’s of the vacation rental properties need to be responsible. The council suggested that Mrs. Toly sign a complaint and bring it to the city. The council understood the problem but felt that there were no easy answers.

There was some discussion on establishing occupancy limits for those vacation rentals that were in place before the vacation rental ordinance was adopted. The city clerk stated that when the ordinance was adopted it was decided not to require a change of use permit nor establish an occupancy limit on those vacation rentals who were already operating.

**Adjournment**

A motion was made by Councilperson Lowe to adjourn. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

The meeting adjourned at 7:55 p.m.

____________________________________
Trish Avery, Transcriber

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Canda L. Dimick, City Clerk (proof read)

Approved April 14, 2011