Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, March 14, 2013 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

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

Guests: Matthew Hill – Keller Associates, Paul Fagnant - Bannock County Sheriff’s Department, Andrea Tillotson, Lester Betty, Jerry Johnson and Marie Johnson

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

Approval of Minutes
Councilperson Sher made a motion to approve the minutes of the February 14, 2013 Regular Council meeting and the March 7, 2013 Special Council meeting. Councilperson Anderson seconded the motion. All voted aye, unanimous.

Reviewing and Approval of Bills
Mayor Burgin stated that there were additional bills to be added to the list of bills. They were Forthgear $750.00 for marketing study consultant services, Intermountain Sweeper $316.00 for street sweeper brooms and M.R.&E., Inc. $10,332.26 estimate for November and December, 2012 garbage collection and landfill fees.

Councilperson Anderson asked how often the city has an audit. The City Clerk reported that audits are conducted annually. Last year’s audit was delayed but it has been completed and the auditor has all the information to complete the report. The report had not been finished yet.

Councilperson Anderson made a motion to approve the bills to be paid for March. Councilperson Sher seconded the motion. All voted aye, unanimous.

Law Enforcement Monthly Report
Officer Paul Fagnant stated that he had nothing to report.

Councilperson Sher mentioned that the City is hosting a free training on March 27th, 2013 and has invited Alcohol Beverage Control and State Tax Commission agencies to participate in the presentations.

The City Clerk stated that the training starts at 8:30 a.m. and will conclude at 4:00 p.m. The Alcohol Beverage Control presentation will be presented in the morning. The State Tax Commission and City Ordinances will be presented in the afternoon.

Mr. Fagnant stated that he will pass it on to the Sergeants and try to get a representative from the Sheriff’s Office to attend.

Mayor Burgin stated that things have been running pretty good.

Approve Resolution 2013-1 establishing a water, sewer and garbage deposit fee
Mayor Burgin read Resolution 2013-1 in its entirety.
Councilperson Anderson made a motion to approve Resolution 2013-1. Councilperson Lowe seconded the motion. All voted aye, unanimous.

**2013 Arbor Day Proclamation**
Councilperson Anderson read the 2013 Arbor Day Proclamation which proclaims May 2, 2013 as Lava’s Arbor Day this year.

Councilperson Brown made a motion to proclaim May 2, 2013 as Lava’s Arbor Day. Councilperson Sher seconded the motion. All voted aye, unanimous.

The City Clerk stated that the Arbor Day Grant Application has been submitted and she encourages Council to attend the kick-off at the Lava Elementary School.

**City/County Prosecuting Service Contract – Steve Herzog, Bannock County Prosecuting Attorney**
Steve Herzog presented a proposed contract for consideration. He reported that he had based it off the county’s contract with Inkom. He offered to give Council time to review it and attend another meeting if necessary.

Councilperson Brown asked if Mr. Herzog anticipates any conflicts of interest cases. Mr. Herzog stated that he did not and that he isn’t aware of any past issues. The language of the contract allows for him to back out of representing Lava Hot Springs in case of conflict with the County, but he does not see it happening, although there is always a possibility.

The City Clerk questioned what happens in a case where both the City and the County are involved such as a building inspection matter. Mr. Herzog stated that the contract is strictly for criminal cases. In civil cases where there are conflicting claims between the City and the County, the city’s and county’s insurance company, ICRMP, would handle the conflict. The situation would not impact the contract. He also stated that part of the contract is that he will attend a Lava City Council meeting twice a year to talk to the City Council and address any concerns. He reported that he knows that there was a case that went to trial a few years ago involving the City and the City got a large bill for it. He will make sure that if that happens again, that the City will know in advance so that the City can plan accordingly.

Councilperson Brown asked for clarification on where the contract states that it covers criminal cases. Mr. Herzog stated that misdemeanors and infractions are two of three types of criminal actions that they cover. Felony charges are the third, which they already cover free of charge to the city.

The City Clerk questioned the status of the quarterly billings. The city has not received one for a while. Mr. Herzog stated that he is still figuring out how everything works and that he will look into it.

Councilperson Brown made a motion to accept the agreement. Councilperson Anderson seconded the motion. All voted aye, unanimous.

Mr. Herzog requested that a copy of the original agreement be mailed to him. The agreement was signed and given back to Mr. Herzog.
City/Council Building Inspection Agreement Renewal
Councilperson Anderson made a motion to renew the agreement. Councilperson Brown seconded the motion. All voted aye, unanimous.

Wastewater Lagoon Odor – Lester Betty
Lester Betty commended the City for the wastewater improvement project. He feels that the city wasted a lot of tax payer dollars and questioned if anyone had been out to the lagoons within the last three months. Mayor Burgin stated that he had been on site today.

Mr. Betty complained about the odor and stated that it has been so bad for the last two and a half months that they can’t stand to be outside of their house. He also stated that the screen fence is no more than a screen door on an outhouse.

Mayor Burgin introduced Matthew Hill, Keller Associates Project Engineer, and asked him to address Mr. Betty’s concerns.

Mr. Betty stated that he has hired an attorney because he is fed up with the situation.

Matthew Hill reported that naturally every spring when the ice on the ponds starts to thaw that there is a smell for a couple of days. The aerators were running in the fall, but due to the Whitaker construction accident they had to be removed and the lagoon drained. The liner had to be repaired and the lagoon refilled. Ice started accumulating on the ponds so the aerators could not be reinstalled until the ice was off the ponds this spring.

Mr. Betty stated that it thawed in January and questioned why the aerators weren’t put in then.

Jerry Johnson stated that they have been down at the motel since 1999 and they have never noticed an odor like this years.

Mr. Hill stated that unfortunately it settled without the aerator in it. Tony called him Monday of last week to let him know that the ice was gone.

Mr. Betty questioned if he hadn’t called to complain if anything would’ve been done.

Mayor Burgin stated that the City was on top of it and was waiting for a chance to get them in.

The City Clerk stated that she told Mr. Betty when he came in that they had notified the engineers about it before he even came in the door. The City was not waiting for Mr. Betty to complain.

Mr. Betty asked why it took so long. He stated that the lagoons were not frozen over.

The City Clerk stated that the contractor had to mobilize the equipment to reinstall the aerators and that it was not just the ice being gone. They had to take safety precautions to get the equipment down there so there wasn’t another accident.

Mr. Betty asked about the fence. He can see people walking on the other side of it and it is not a very good barrier. The trees are not being kept up and he wants to know if this is going to continue or if something is going to be done.

The fence and trees were discussed.
Mr. Hill stated that the city wanted to do something different since the trees are hard to maintain. The manufacturer claims to have 30% clear opening, 70% screened.

Mayor Burgin stated that the City is mandated by EPA and DEQ and that the City is doing what they are told to do.

Mr. Betty wants a guarantee that the odor is not going to happen every year.

Council discussed the situation with Mr. Betty. The City has done everything they can to make Mr. Betty happy. The fence cannot be solid, it has to allow the wind to pass through it. Maintaining the trees has been a problem. The City wanted to go in a different direction and was hoping the fence would fix it. The City will check into a conditional use permit change with the county. Mr. Hill is going to check into the 30% opening in the fence. Mr. Betty wants the trees and weeds maintained.

**Building Permit(s)**

A) 10255 E. Old Oregon Trail Road – Mobile Home Installation – Richard Guthrie, Owner/Applicant
   Councilperson Anderson made a motion to approve Richard Guthrie’s permit. Councilperson Brown seconded the motion. All voted aye, unanimous.
B) 202 East Main – Outdoor Beer & Wine Garden – The Whitestone, LLC, Eric Hill, Julie Hill & Keith Sheridan, Owners/Applicants
   Postponed at applicant’s request.

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

A) Aura Soma Lava, Renewal
B) C & J Cottages – Renewal
C) Castle Signs – Renewal
D) Chuckwagon – Renewal
E) Country Store – Renewal
F) Country Store/Four Falls – Renewal
G) Country Store/Lava River Rat – Renewal
H) Four Trax Excavation – Renewal
I) Home Hotel & Motel – Renewal
J) K & A Camping – Kody & Andrea Tillotson, Owners/Applicants
K) K & L Kem Brite, LLC – Kelly Walrath, Owner/Applicant
L) Lava Mobile Estates – Renewal
M) Marsh Valley Electric – Renewal
N) Quality Home Improvement, LLC – Kirk Valentine, Owner/Applicant
O) River Bridge Inn – Renewal
P) Scentsy – Renewal
Q) The Whitestone, LLC – Julie Hill, Eric Hill & Keith Sheridan, Owners/Applicants
R) Wayfarer’s Rest – Renewal

The City Clerk stated that “Q”, The Whitestone, LLC, business license/non-property tax permit will not be considered. Applicants have withdrew their applications at this time.

Mayor Burgin read the list of licenses to be considered.

Councilperson Lowe made a motion to accept the business licenses. Councilperson Anderson seconded the motion. All voted aye, unanimous.
Announcements/Meetings & Miscellaneous New Business

A) FY2011 Audit
The City Clerk reported that the auditor is working on the report.

B) Tree Committee Position Vacancy
The City Clerk stated that Allison would like a recommendation from the Council to fill the position. Councilperson Anderson asked if there was anyone in mind. The City Clerk stated that Patrick Mixdorf, Don or Patty Kruse, and Montelle or Amy Pike’s names had been mentioned.

Councilperson Brown stated that he thinks Patrick would do a good job. Councilperson Sher stated that she thinks there might be a conflict of interest.

Councilperson Anderson stated that if Allison has someone in mind that would be willing to be on the committee, she would be comfortable going with whoever she wants to work with. Council agreed.

C) Schedule Special Meeting to review 1% Proposal
Scheduled for March 21, 2013 at 5:30 p.m. There are three proposals. Council will look at the applications and there is no need for presentations.

D) Idaho PRIMA 2013 Spring Training – May 1, 2013 – Pocatello, Idaho
No one will be attending.

E) 2013 Eastern Idaho Residential Water and Sewer User Rates and Connection Fees Survey
Survey was presented to Council for informational purposes. Councilperson Brown asked if this can be used to justify Lava’s rates. Mayor Burgin stated that it can be used as a comparison. Rates for Inkom and McCammon were reviewed. If Lava increases the sewer rate to $31.00, it is still less than neighboring communities.

F) Alcohol Beverage Control/State Tax Commission/City Ordinance Free Training Seminar – March 27, 2013 Lava City Hall
Council is invited. The City will be hosting a light lunch. Councilperson Anderson will help plan and prepare for the luncheon.

G) Miscellaneous
Councilperson Sher announced that there will be a youth play at the museum April 13th at 7:00 p.m.

The City Clerk reported that Bunnyland will be March 30th at Lava Elementary School.

Projects

A) Wastewater Improvement Project
The City Clerk reported that the 504 ADA Committee met and completed the inventory list as required for ICDBG. Mayor Burgin suggested sending a thank you to the committee members for their participation.

B) East Main Street Pedestrian Bridge Project Funding Status Report
It has been suggested that the City does a study of the pedestrian traffic. It Counts is offering a program to do a one month study in May. The city is looking into the program to see if the study
can be done any other time. City Council was interested in applying for a study grant if it could be done in July or August.

The City Clerk reported that the $50,000.00 Gem Community grant application had been submitted.

C) East Main Street Public Restroom Remodel Project
   1) Contracts
      Mayor Burgin reported that he contacted the contractor about the bid break down, payments and performance bond. The City is waiting to hear back from the contractor on the contract terms.

D) Fish Creek Spring Fence Project Update
   Mayor Burgin has not met with the property owner yet but will do so soon.

E) Waterline Modification Project to Community Building
   1) Contract Amendment
      The City Clerk stated that the $700.00 engineer contract amendment is to assist the city with the bidding process and documents. Mayor Burgin explained what the engineers would be doing.

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

F) L Hill Centennial Project Update – Mayor Burgin
   Mayor Burgin and the City Clerk came up with the idea to purchase the L Mountain for a centennial project. They are trying to contact the land owners.

   The City Clerk reported that a conservation easement may be an enticing approach if the owners are not interested in selling the land.

   The Mayor and Council were interested in a conservation easement as an alternative approach. It would benefit the land owners with a tax break.

   There is a grant to form an organization and cover some of the organization’s costs to draw up a plan for the project. Council was not interested in forming an organization. Forming a committee to plan the project was discussed.

G) Miscellaneous
   The City Clerk reported that the ICRMP attorney representing the city on George Katsilometes claim has replied to the complaint. The Mayor and City Council were given copies for review.

Discussion
   None
Adjournment
Councilperson Lowe made a motion to adjourn. Councilperson Anderson seconded the motion. All voted aye, unanimous. Meeting adjourned at 7:10 p.m.

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Allison Hinz – Transcriber                       Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk