Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, May 9, 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  
Dennis Callahan, Animal Control/Code Enforcement Officer


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

Councilperson Sher made a motion to amend the agenda to include the business licenses/tax permits for Sprint Spectrum, LP and Allegiant Partners, and the building permit for Don Kruse to construct an attached deck to his home. Councilperson Anderson seconded the motion. All voted aye, unanimous.

Approval of Minutes

Councilperson Anderson made a motion to approve the minutes of the April 11, 2013 Regular Council Meeting and the April 25, 2013 Special Council Meeting. Councilperson Brown seconded the motion. All voted aye, unanimous.

Bills

A) Review & Approve Bills
Councilperson Anderson made a motion to approve the bills to be paid for May 2013. Councilperson Sher seconded the motion. All voted aye, unanimous.

B) Status of bills and insurance claim regarding Tumbling Water’s frozen sewer line.
Councilperson Lowe questioned the status of the insurance claim. Mayor Burgin stated that the city has been notified that the city’s insurance company is denying the claim and referred to the City Clerk for the status. The City Clerk stated that the repair bills have been given to Sam Netuschil and that he will submit a claim to the City’s insurance company. She does not have all of the bills for the repairs at this time. They will be turned in with the claim.

C) Resolution 2013-2 authorizing the City Clerk to pay certain vendors prior to submitting the bills to Council.
Mayor Burgin read Resolution 2013-2 in its entirety.

RESOLUTION 2013-2

A RESOLUTION AUTHORIZING THE CITY CLERK/TREASURER TO PAY CERTAIN VENDORS PRIOR TO SUBMITTING THE BILLS TO COUNCIL.

WHEREAS, certain vendors that provide services or goods to the City on a regular basis have a billing cycle that requires the bill to be paid prior to the first council meeting or a late fee is charged; and

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WHEREAS, it is the desire of the city council to avoid payment of late fees.

NOW THEREFORE, BE IT RESOLVED by the mayor and city council of the City of Lava Hot Springs, Idaho that the following pre-authorization for payment of certain bills be adopted.

1. The City Clerk/Treasurer is authorized to pay the following vendors for the listed purposes by the due date on the bill and prior to submitting the bill to the city council for approval:

Verizon Wireless                                      cell phones
Idaho Central Credit Union                           blank check orders
III-A                                               health insurance premiums
Intermountain Gas Company                            utilities
Internal Revenue Service                             payroll tax withholdings/liabilities
Ireland Bank                                         blank check orders
Micro-Office Plus                                     fees associated with city website and email licenses
NCPERS Group Life Insurance                         life insurance premiums
Public Employee Retirement System                    retirement withholdings/liabilities
Century Link                                         city hall & fire station phone systems
Rocky Mountain Power                                 utilities
State Insurance Fund                                  workmen’s compensation

2. The City Clerk/Treasurer shall include the above bills in the bills submitted to council for ratification at the first council meeting following the payment of the bill.

PASSED by the City Council and approved by the Mayor this 9th day of May, 2013.

____________________________________
Marshall N. Burgin, Mayor

ATTEST:

____________________________________
Canda L. Dimick, City Clerk

Councilperson Brown made a motion to adopt Resolution 2013-2. Councilperson Sher seconded the motion. All voted aye, unanimous.

Law Enforcement/Code Enforcement
A) Law Enforcement Monthly Report
No law enforcement officer in attendance. No report.

B) Code Enforcement Issues – Dennis Callahan, Code Enforcement Officer
1) Abandoned Vehicles
Mr. Callahan reported on the status of unregistered vehicles located on several private properties. He stated that he has heard back from everyone except for Dawn Hamilton. Dennis would like direction from the Council if he should send another follow-up letter or if there is a different action that they want him to take.
Mr. Callahan stated that Tyrell Symons send him a letter stating that his vehicles are up to code and that he has posted “No Trespassing” signs. He sent Mr. Symons another letter stating that the vehicles are not registered and gave him until February 15th to get them registered. He has not heard anything else from Mr. Symons and the vehicles are still not registered. He would like to send a follow-up letter to him as well.

Mr. Callahan would like to send a follow-up letter to everyone on the list reminding them what they agreed to, what the City’s expectations are and if there are any issues to let him know.

Councilperson Sher stated that she has her letter and that she did not commit to having anything taken care of in May.

Mr. Callahan clarified that Ms. Sher had not reported that she could take care of them by May, but others had.

Councilperson Anderson made a motion to follow Dennis Callahan’s recommendation to send follow up letters to those residents that have unregistered vehicles on their property. Councilperson Brown seconded the motion. All voted aye, unanimous.

2) Tyler Brown’s Animal Running-At-Large Citation
Mr. Callahan stated that Tyler Brown was issued a citation and that he made a payment agreement. The fee was to be cut in half if he came in and paid it by a certain date. Mr. Brown did make a payment but then he moved out of town and has not made any more payments. Mr. Callahan feels that if he is going to issue a citation that he needs to follow through with it. He would like to turn the citation over to a collection agency.

Mayor Burgin asked when the citation was first issued.

Mr. Callahan stated that he issued it back in November and Mr. Brown moved three or four months ago.

Councilperson Brown made a motion to turn the citation over to collections. Councilperson Anderson seconded the motion. All voted aye, unanimous.

3) Miscellaneous Issues - Signs
Mr. Callahan discussed the ordinance which prohibits signs on the sidewalks. He stated that they are a tripping hazard for people texting while they are walking and tubers going down the sidewalk. He wants to make sure that Council wants him to enforce the sign ordinance as written.

Councilperson Sher stated that some of them are on the sidewalk but others are on brick pavers. She could not remember which ones specifically.

Councilperson Anderson stated that part of the problem is that the sidewalks are not very wide. Mr. Callahan stated that his experience is that if something happened and the insurance company did not think that the city was enforcing the ordinances, that the incident would not be covered.
Councilperson Anderson suggested sending a friendly reminder to the business owners notifying them of the ordinance provisions and the City’s concerns.

Councilperson Sher stated that the letter should be sent with a date to respond to him by.

Mr. Callahan will send out letters.

**Animals Running-At-Large**
Mr. Callahan stated that there is an issue with enforcing the ordinance when Fred is running-at-large. The Council felt that they already had made an exception for Fred in the past.

Councilperson Sher stated that she has talked to the City Clerk about this and that she feels that size is a factor. Larger dogs are more intimidating.

Councilperson Anderson feels that the city needs to be consistent with enforcing the laws.

Mr. Callahan stated that when you look at the law, they aren’t going to make exceptions for a dog based on its size.

Councilperson Sher stated that he should work on the big dogs first.

Councilperson Brown suggested making a motion to exclude Fred from the ordinance and if anyone else wants to be excluded that they would have to petition their reason to be considered. Mayor Burgin stated that the City cannot do that.

Mr. Callahan stated that he sent Fred’s owner a letter about different options she could use to keep him in the yard. Councilperson Sher recommends that Mr. Callahan contact Faye Jones’ daughter about it. Council agreed.

Councilperson Sher also requested that Mr. Callahan make his rounds at different times and watch for the boxers that have been loose on her street.

Mr. Callahan stated that he does that already and that if she knows where the boxers live, that he would go and address the situation. He does the same thing for everyone. He starts with a warning and if it continues to be a problem, he issues a citation. He will contact Faye’s daughter. He has already talked to Faye about it and he stated that she understands where the City is coming from with the legal issue.

**Vacation Rental Signs**
Mr. Callahan questioned the placement of vacation rental signs. There is nothing in the ordinance about where they need to be and he would like clarification.

Council agreed that as long as the sign is visible and there are not any problems to leave matters alone.

**Trailers**
Mr. Callahan stated that there aren’t any limitations regarding parking utility trailers on the street. He asked if the City Council would like to enact regulations on them.
Council felt that if there aren’t any complaints and it isn’t causing any problems, let it be for now.

**Licenses**

Mr. Callahan stated that there is a discount for buying your dog tag and business license ahead of time, but there is no penalty if you do not pay on time. He suggested adding penalties for those who do not buy dog tags and business licenses on time or issuing citations as penalties.

Councilperson Sher stated that she thinks they have to be careful about this. She asked if Mr. Callahan is talking about dog tags or business licenses.

Mr. Callahan stated that he is talking about both. He follows up on both issues.

Councilperson Sher questioned the amount of people who do not pay on time.

Mr. Callahan stated that it is about ten percent.

Councilperson Anderson stated that business licenses are required and she feels that there should be a penalty if they do not pay for them by the end of the first calendar year quarter.

The City Clerk stated that the penalty for not paying for a dog tag or business license on time is a citation.

Mr. Callahan stated that the only people that he doesn’t really go after are the construction companies because they might not even be doing business in town every year. A lot of them get their business licenses when they have business lined up to do every year.

Councilperson Brown made a motion to give citations for business licenses and dog tags purchased after March 31st. Councilperson Sher seconded the motion. All voted aye, unanimous.

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

Bradley Fairchild from Century Link came forward to answer any questions that the City Council had about the permit they are requesting.

Mayor Burgin stated that the main concern is that the City just finished fixing up Center Street and it looks really nice.

Bradley stated that they have a federally funded project to upgrade their fiber optic cable to schools. While they are doing that they want to bring it into Lava so that they can offer customers the service as well.

Councilperson Sher asked what kind of services they will be able to provide that they do not offer now.
Bradley stated this will allow them to offer more high speed internet services.

Councilperson Brown asked the City Clerk if the City’s attorney had reviewed the revised permit application.

The City Clerk reported that he reviewed it and referred them to the email from the attorney.

Councilperson Brown stated that the City’s attorney has concerns about the application.

Bradley stated that he has tried to contact the City’s attorney to find out what needs to be done. He has not heard back from him yet. He stated that the City’s concerns about the streets are valid. Another option would be a directional drill where they drill a small hole to install the cable. Councilperson Sher asked if they would have to go down the same streets with directional drill option. Bradley stated that they would be down the same streets because that’s where they have to run them to get to their central office.

Councilperson Sher asked how long it would take them to start the new service.

Bradley stated that comes from corporate and they won’t know that answer until fall when they forecast for the following year and know what the budget allows. This will also allow them to offer video services such as television. He stated that whoever does that contracting is required to carry a performance bond and their work is under warranty.

Councilperson Brown stated that he supports the city attorney’s concerns and that he wants more time to thoroughly review the application.

Bradley reassured Council that the he holds his contractors accountable.

Councilperson Anderson stated that everything sounds good but there are some things that will need to be clarified.

Bradley stated that he was hoping the attorney would be at the meeting so that he could address his concerns. He has tried to contact him but has not heard back from him.

Councilperson Brown made a motion to have Century Link contact the City’s attorney to work out concerns. Councilperson Sher seconded the motion. All voted aye, unanimous.

**Street Improvements**

**A) North 1st East Street Improvement/Parking Plan – George Katsilometes**

George Katsilometes came forward to address the drainage concerns off the hill down North 1st East. He stated that it has flooded his buildings at least four times and he has contacted the City about flushing the storm drain out or putting a curb and gutter in to redirect the water and nothing has happened. He stated that people are using the area as parking now and it is unorganized. There aren’t any markings on the street. He had an engineer design a plan for diagonal parking a few years ago. The parking plan would provide extra parking spaces and the street is deteriorating. He reviewed the plan with Council.

Mayor Burgin stated that neighboring properties would have to each grant a five foot easement to design the parking plan as engineered.
Mr. Katsilometes stated that neighboring property owners, Evelee Hill and Mark Morgan are both in favor of the plan and advised City Council to contact them.

Council discussed and agreed that the City needs more parking and that they will take a look at it.

Mayor Burgin reported that the City did run a rod down the drainage pipe last fall and they did not hit anything. The City will repair the drain.

**B) 2013 Improvement/Maintenance Plan**

Mayor Burgin reported that there is $20,000 in the budget for street improvements for 2013.

Council discussed Mr. Katsilometes plan further.

The City Clerk suggested staking the property so that the business owners can see what would have to be done.

Council agrees that everyone should go down and look at it in person to get a better idea.

Mayor Burgin reported that they will be working on a maintenance plan. They may do some crack sealing and patching this year and they will fix the drain on North 1st East.

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

A) Greystone Silver Grille
B) Troy Young Plumbing & Heating
C) Sprint Spectrum
D) Allegiant Partners

Mayor Burgin read the list and went over each one.

Councilperson Anderson made a motion to approve the business licenses for items A-D. Councilperson Brown seconded the motion. All voted aye, unanimous.

**Building Permit(s)**

A) KOA Camping, Inc. – Remodel of KOA, replace south deck, build new porch on north side of store, remodel lots #1-53; add 3 additional sites, new power to lots #75-92; remodel kitchen.

Councilperson Anderson made a motion to approve the building permit subject to the building inspector’s approval and flood plain compliance. Councilperson Brown seconded the motion. All vote aye, unanimous.

**B) Discuss enacting landscaping requirements.**

Mayor Burgin reported that people have been building houses but have not done anything with the landscaping. He questioned how the city should handle it.

Bryan Phinney reported that other cities usually give a period of time before landscaping has to be in place, usually one year. Upon completion and approval from the building official and in order to receive a certificate of occupancy the property must be complete.

Mayor Burgin questioned how to enforce it.
Councilperson Lowe asked what the definition of landscape is.

The City Clerk stated that there all kinds of landscaping.

Mr. Phinney stated that it would be considered dust and weed control. Some subdivisions define landscaping where they might require them to have trees or other landscaping in place. He stated that you would have to put an ordinance in place and you would have to enforce it.

Councilperson Sher asked if erosion control would be a consideration when it comes to landscaping.

Mr. Phinney stated that when there are bare lots with slopes like Lava has, you will see erosion and it will end up in the storm sewer and gutters in the streets.

Council discussed and decided to look into it more.

Councilperson Brown suggested sending letters to those who have not done any landscaping yet.

Council stated that they have to be careful about that since there isn’t an ordinance in place yet.

The City Clerk suggested sending letters stating what the city’s concerns are and asking for their participation in drafting an ordinance.

C) Proposed sign/zoning ordinance amendment to permit electronic signs – City Clerk

The City Clerk reported that they would not need a public hearing to amend the sign ordinance, but the zoning ordinance specifically states that animated signs are prohibited, which would require a public hearing to amend it. A hearing would be done through Planning & Zoning and they would make a recommendation to City Council. City Council can initiate the hearing without a petition. If they want to do that, they would have to pass direction onto Planning & Zoning to come up with specifics for the hearing such as size and color.

Councilperson Brown mentioned that many businesses in town have flashing signs in their windows.

The City Clerk stated that the ordinance refers to outdoor signs.

Councilperson Sher stated that she feels that it is a matter of parallel vs. perpendicular to Main Street. Other considerations need to be made regarding historic buildings. She feels that it would be a distraction to public safety on Main Street.

Councilperson Anderson stated that the signs in the windows that flash open and closed are distracting to her.

Council discussed and decided to table the issue for now.

D) Building Permit – Donald Kruse – Replace Deck

Councilperson Sher made a motion to approve the building permit for Donald Kruse’s deck. Councilperson Brown seconded the motion. All voted aye, unanimous.

Idaho Bureau of Federal Surplus Property Re-documentation of Eligibility
Councilperson Brown made a motion to authorize Mayor Burgin to complete the forms. Councilperson Lowe seconded the motion. All voted aye, unanimous.

Thomas Misko Delinquent Water Bill – City Clerk
Mayor Burgin reported that Mr. Misko passed away in 2009 and there is no estate to pay the bill.

Councilperson Anderson made a motion to write off the water bill for Thomas Frank Misko. Councilperson Brown seconded the motion. All voted aye, unanimous.

ICRMP (Insurance Coverage) – Appraisal on Water Tanks Clarification
The City Clerk explained that the insurance company can only appraise what is above ground so that is why the amount is so low. The tanks are fully insured. The City has the explanation from the insurance company on file.

Announcements/Meetings & Miscellaneous New Business
A) State Tax Commission Budget Levy Workshop – May 15, 2013, Pocatello
Councilperson Sher made a motion to allow the City Clerk to attend the State Tax Commission Budget Levy Workshop on May 15, 2013. Councilperson Anderson seconded the motion. All voted aye, unanimous.

B) 2013 Association of Idaho Cities Annual Conference – June 19-21, 2013, Boise
Council discussed and no one was interested in attending this year.

C) Bannock County Ambulance – Letter of support for grant to purchase new ambulance with self-loading stretcher.
Councilperson Brown made a motion to have Mayor Burgin sign the letter of support. Councilperson Lowe seconded the motion. All voted aye, unanimous.

D) Schedule meeting to interview Public Restroom Custodian applicants.
Council discussed and would like to wait to schedule interviews. If the City doesn’t get any more applicants they will extend the deadline for applications for two more weeks.

E) Miscellaneous
Councilperson Sher announced that there will be a program at the museum on May 15th at 7:00 p.m. by a state historian on the history of Idaho during the transitional time.

The City Clerk provided a link to council so that they could review the entire outcome of this year’s legislative session.

Councilperson Brown mentioned that the last youth program at the museum was super.

Projects
A) Wastewater Improvement Project
1) Change Orders
   a) Exterior Lighting
   b) Replacement of equipment damaged from power surge
   c) Slip lining pipe
Bryan Phinney presented information on proposed change orders. There is a need for exterior lighting down at the lagoons. He reviewed the cost estimates from Whitaker’s. When he talked to the Mayor and City Clerk initially, they chose the $1,550.00 option.
After reviewing financial information with SICOG, they would like to go with the $5,200.00 light because the SAAP grant has to be used on electrical and there is enough left in that grant to cover half and the price has to be matched, which they would use a grant from the Idaho Department of Commerce as match. This would allow for a switch control light that covers all three of the locations that the city crew would like to light.

Councilperson Brown made a motion to use the grant money to go with the $5,200.00 light. Councilperson Sher seconded the motion. All voted aye, unanimous.

Mr. Phinney reported that the City has a meeting with Rocky Mountain Power tomorrow morning. The plan is to ask them to do a monitoring study to see where the liability of the power surges is. Where the surges are coming from will determine who is responsible for providing surge protection.

Mr. Phinney also reported that the seepage testing shows that some of the piping is leaking. They got a reasonable quote from Whitaker’s to slip line the pipe for $122,891.60. The alternative is to dig the lines up which would cost $250,000. The reason this wasn’t in the project originally is because the City was being financially responsible. He stated that there is plenty of grant money to cover the project and he recommends a $20,000 contingency. He recommended slip lining the pipes.

The City Clerk asked about additional engineering fees for the slip lining.

Mr. Phinney stated that they will have to contact the Army Corp of Engineers, he is guessing that the engineering that they will need won’t be any more than $10,000.00 and he suggests doing it on a time and materials basis.

Councilperson Sher made a motion to slip line the pipes. Councilperson Brown seconded the motion. All voted aye, unanimous.

2) Plan to change alternative energy source from wind turbine to solar panels.
Mayor Burgin has notified Council of the economical benefit of changing alternative energy plan from wind turbine to solar.

Mr. Phinney explained the benefits of solar panels. They can install about 30% more solar than they can wind. They checked with the County and they can put the solar panels in the lagoon area where it is fenced in. They don’t have any glare or reflections, they absorb the energy and there is no additional engineering cost.

Council is in favor of the plan.
Mr. Phinney stated that their goal is to submit everything to DEQ by May 24th.

3) Land Application Site Seeding
The City Clerk reported that it is 50% dug. They did not burn; they cleaned it up with equipment instead. They are planning on spraying and then they will plant.

4) Rate Allocation Study Contract
The City Clerk reported that she sent it to the City’s attorney. She has not heard back yet.

Councilperson Brown made a motion to sign the contract pending the attorney’s approval. Councilperson Anderson seconded the motion. All voted aye, unanimous.
5) Silt Fence
Councilperson Brown asked about the plastic film around the North side of the ponds.

Mr. Phinney stated that the silt fence has to stay in place until the end of the project and until the grass is established then it will be removed.

B) 504 ADA Transition Plan
The City Clerk reported that the inventory is complete and the Council has a copy of the plan. She suggested looking at doing some of the improvements in the next budget.

C) East Main Street Pedestrian Bridge Project
1) Revised Forsgren Contract
The City Clerk reported that they are still working on the contract.

2) Gem Community Grant
The City Clerk reported that the City was awarded the Gem Community Grant in the amount of $50,000.

D) East Main Street Public Restroom Remodel Project – Change Orders
Mayor Burgin reported that the City needs to purchase a partition for the women’s restroom and that the restrooms have to have tempered water. The restrooms will not be ready by May 15th but should be ready by Memorial Day.

E) Fish Creek Spring Fence Project – Revised City/Potter Agreement
Mayor Burgin reported that he showed the Potter’s the new agreement. They are happy with it and will sign the agreement tomorrow.

F) Waterline Modification Project to Community Building
Bryan Phinney reported that they expect to receive two quotes for the project. Quotes are due by May 14th. One contractor is ready to go immediately; the other contractor is interested in bidding but wants to do it in September. They will not be doing any work during tourist season but they do want to get it done before it gets cold. The project requires a Public Contractors license.

G) Drinking Water Facility Plan Study & Construction Request for Engineering Services
Bryan Phinney, Keller Associates, asked to be excused from the meeting as their firm will be submitting a proposal for the water improvements. Bryan was excused. The City Clerk reviewed the request for engineering services with City Council. She asked if Council wants to do interviews or not. Council discussed and they do not want to do interviews.

The City Clerk asked how City Council feels about the point system. Council discussed and they approved the point system as proposed.

Council reviewed the scope. The City Clerk will add surveying of easements. She will send out the Request for Engineering Services tomorrow to be published. Proposals will be due by May 30th.

H) Miscellaneous
Councilperson Brown asked about the audit report. The City Clerk stated that she called about it today and left a message. They told her she would have it last week and she has not received anything yet.

Councilperson Brown asked if any of the trees have been trimmed on Main Street. Mayor Burgin stated that he will put a list together for the maintenance crew of things that need to be done. The City Clerk reported that they had talked about it but she is not sure if anything has been done.

Councilperson Brown questioned the city’s authority to hold Century Links permit until they fix their central office roof drain situation. The City Clerk reported that they are threatening legal action if the City holds them up. Mayor Burgin reported that Century Link contacted Lisa Toly and offered to pay her to remove all of the snow and take care of the run off on her side of the building. The Mayor suggested that she call them and work out an annual deal if she is willing to do that. The City Clerk stated that they did get their attention and they are hoping that this will get resolved.

Discussion – Items from the audience
None.

Adjournment
Councilperson Lowe made a motion to adjourn. Councilperson Sher seconded the motion. All voted aye, unanimous. The meeting adjourned at 8:10 p.m.