

Minutes of the Special Meeting of the City Council of the City of Lava Hot Springs held Thursday, October 28, 2010 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, ID.

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

Guests: None

The mayor called the meeting to order at 5:30 p.m.

**Dispersal of poles from city wastewater land application site - Mayor Burgin**

The mayor reported that Leon Gates wants the poles on the farm to cut up for firewood for a widow. He proposed having the city crew stock pile the poles. Dean Bytendorp has also expressed an interest in the poles. Mr. Gates must understand that he can't leave a mess and that the city is not liable for any injuries, etc.

A motion was made by Councilperson Sher to allow Leon Gates to cut up the poles after they are pushed over by the city crew. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

**1% Tourism/Development/Promotion Funds**

**A) Proposal Form Changes – Councilperson Sher**

Councilperson Sher reported that the form has no major changes. The clerks are just straightening out the format.

Councilperson Sher explained that the two proposals from the Lion's Club were presented in the last quarter, for the August 16<sup>th</sup> deadline, and should be considered now. The deadline for the next proposals is December 16<sup>th</sup>. The council will review the proposals on a quarterly basis. She explained that the proposal application states that the City Council reserves the right to approve a portion of the funding requests or may recommend the proposal for funding in a future quarter.

The council discussed the legality of acting on the two Lion's Club proposals at this time. Councilperson Anderson stated that the Lion's Club proposals were tabled because the Chamber committee thought they would have their proposals ready by the August 16<sup>th</sup> deadline. However, they have not brought in a proposal yet. It was acknowledged that the city had received letters requesting that the Lion's Club projects not be funded out of the 1% tourism promotion funds. The council agreed that it was appropriate to act on the Lion's proposals at this time.

## **B) 1% Tourism Promotion/Development Project Requests**

### **1) July 4th Fireworks**

### **2) Outdoor Billboard by Tremonton, Utah**

The council discussed the Lion's Club proposals. The mayor stated that there had been concerns that the billboard does no good. He said that other businesses would not be using billboards if they didn't work. Councilperson Beeson stated that the billboard is not effective where it is located because people are already headed to Lava when they see the sign. Councilperson Sher stated that the billboard is generic in promoting Lava Hot Springs.

Councilperson Anderson stated that in a lot of other cities the city takes a more active role in promoting events than the City of Lava does. She said that Lava has organizations that organize and promote events which take a load off of the city.

Councilperson Sher stated that the money that the Lion's Club has is irrelevant. Councilperson Beeson stated that the Lion's Club is a non-profit organization. Their job is to generate and disburse the money they generate. There was discussion of where the Lion's Club funds are used. Councilperson Beeson stated that the Lion's Club makes ninety thousand dollars (\$90,000) a year. He does not see why after all these years of having the fireworks and the billboard in their budget; they are now coming to the city for tax money for these projects.

The council discussed funding a portion of the projects as good will. Councilperson Beeson questioned if the council had put any fireworks funds into the city's budget. The city clerk reported that the Lion's Club is buying the fireworks in the city's name. This is done because only cities can purchase the fireworks and the city does not have to pay sales tax but the Lion's Club pays for the expenditure.

Councilperson Sher stated that both the proposals meet the application criteria and that a partial funding of these projects would benefit the city in that the Lion's Club would then be able to use their funds on other community projects.

Councilperson Beeson stated that the council may want to consider funding proposals out of all the option tax funds not just those collected by the lodgers. Some discussion followed.

The mayor asked the city clerk what was left in the budget out of the \$61,204 which has been collected. The city clerk reported that about \$15,000 has been spent which leaves about \$46,000 in the fund. The biggest amounts paid out were for the WIFI and the Chamber website.

The Lion's Club is asking for five thousand seven hundred dollars (\$5,700) for the sign and seven thousand dollars (\$7,000) for the fireworks. The council discussed what portion of these projects they could fund. It was stated that these projects would be reviewed on a quarterly basis and not guaranteed annually. Councilperson Anderson brought out that the lodgers are not paying the 1% tax, they are collecting the tax.

A motion was made by Councilperson Sher to pay \$1,000 to the sign and \$3,000 to the fireworks. The motion was seconded by Councilperson Anderson. All voted aye, unanimous.

**Adopt Ordinance 2010-5 restricting equine transportation on city rights-of-ways.**

The city clerk reported that the attorney had not reviewed Ordinance 2010-5 yet. The mayor tabled the discussion on adopting Ordinance 2010-5 restricting equine transportation on city rights-of ways until the attorney has reviewed it.

**Review bids for gravel on 1st West Street & Alley**

Bids for graveling 1<sup>st</sup> West Street & alley were reviewed. Bids were received from Hall Excavation, KT Excavation, L.L.C., and Four Trax Excavation, L.L.C. The bids had several variables and were not easy to compare. It was noted that Four Trax bid was considerably less than the others.

The mayor stated that he had not been able to contact Four Trax and it appeared that he didn't understand that the city is going to gravel the whole alley. Councilperson Beeson stated that he had contacted Four Trax but Councilperson Beeson didn't understand that the city was graveling the whole alley.

The council compared the price per load.

Hall Excavation	\$150 per load
KT Excavation	\$160 per load
Four Trax Excavation	\$140 per load

It was noted that Four Trax Excavation was the low bid, even if they have to add additional gravel to the bid to gravel the whole alley. The mayor tried to contact Four Trax Excavation to clarify the bid; he was not able to contact Mr. Burmester. The mayor will contact Four Trax Excavation then he will poll the council to award the bid.

**Wastewater project funding and easements**

The council reviewed the wastewater project change order #2.

Ninety five thousand dollar (\$95,000) is for water hauled from off site, based on 2.5 thousand gallons. The mayor reported that this should be less.

The city is required to fence the whole property. The fence has to be 5 strands to meet DEQ requirements.

The CO<sub>2</sub> monitoring wells are required by DEQ. Bryan is trying to get with DEQ to eliminate the monitoring wells. Councilperson Beeson reported that McCammon was not required to put in monitoring wells.

The mayor stated that the gravel over the ditch pipe is going to be taken out.

The irrigation diversion box was reduced to \$3,900.

The extension of the ditch pipe is required by the ditch company.

The winter shut down and remobilization fee was discussed. Kilroy has reported that if they could have started in April, they would have been done before winter. They were not able to start until late August because of the environmental impact study.

Unclassified excavation is required by DEQ to build two settling ponds to control runoff. This was required by DEQ after the bid was awarded.

The city clerk reported that Bryan Phinney's theory is to focus on what needs to be done on Phase I and to spend the funds that have been awarded. The city clerk stated that her feeling is; why spend the funds on something that they can do cheaper and to use the funds on something more valuable to the project.

The city clerk reported that the city attorney feels that the city is not obligated to pay for any extra water hauling that it should have been covered under the contract. There was discussion on how much rock was hit. The mayor and Councilperson Beeson reported that Bryan Phinney told them that the city would be getting a credit because the contractor did not hit much rock. The city clerk said that the change orders are not showing any credits.

The city clerk stated that on other projects the city had required that all expenditures were preapproved. She suggested the water hauling or winterization money being exchanged for the rock excavation.

The city clerk reported that the Army Corp grant is for engineering services for design only. There will be construction engineering fees that will need to be paid for from the DEQ funds.

The city clerk reported that there was discussion earlier of buying the pipe for Phase 2 out of the Phase 1 funds and stock piling it. Bryan Phinney is claiming that the pipe for Phase 2 is not within the scope of the Phase 1 project.

The city clerk reported that the attorney is questioning if the city could force the neighboring property owner to put in a new fence. The city will need to consult with the city attorney.

The mayor suggested that the city approve the fencing, diversion box, the extension of the ditch pipe, and unclassified excavation for the settling ponds. He suggested holding off on the water hauling, the monitoring wells, and winter shut down. They city will consider trading the rock excavation for the winter shut down and pull out the gravel. Council voiced no objections.

The mayor reported that the city is offering four dollars (\$4) per lineal foot for the easements and may deliver a couple loads of gravel to property owners granting the easements during construction. The city clerk reported that she had received the easement agreements from the attorney and they are ready to sign. She would prefer that the property owners go to another notary to sign because she is affiliated with the city. The county is willing to draft the easement in the county right-of way.

The city clerk reported that the engineers told her that they couldn't find the easements for the trunk line for Phase 2. She reported that when the title research work was done that the title company found recording easements on three of the properties. Councilperson Beeson will contact Mr. Kofoed regarding his easement. The city clerk reported that the truck line through the River's Edge property may need to be moved which would require a new easement.

**Adjournment:**

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

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Trish Avery, Transcriber

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Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk (proof read)

Amended and Approved November 11, 2010