

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, January 14, 2010 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:

Marshall N. Burgin, Mayor  
Phillip Beeson, Councilman  
Newton J. Lowe, Councilman  
Katie Smith, Council member  
Mike Vice, Councilman

Canda L. Dimick, City Clerk  
R.B. Scott, Code Enforcement/Animal Control

Guests: Cathy Sher Rita Anderson, Rob Anderson, Susan Thomas, John Fleming, Iva E. Michael, Patty Healy, Camille Vice, Brett Casperson, Paul Swanson (Lava Mobile Estates), Sheldon Jones, Tom Furman (Green Team)

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

**Approval of December 10, 2009 Minutes & Correct October 8, 2009 minutes:**

The mayor stated that the October minutes stated that the Shoshone Bannock Tribe sewer connection was done. This needs to be corrected. The water line was done but not the sewer line. It is the tribe's responsibility to put in the sewer line.

The city clerk said that it had been brought to her attention that at the December 10, 2009 meeting stated that the bill from Western States was for two (2) cutting edges for backhoe blades, but they were for the grader.

A motion was made by Councilman Vice and seconded by Councilman Beeson accepting the December 10, 2009 minutes with the correction as well as the correction in the October 8, 2009 minutes. All voted aye, unanimous.

**Reviewing of Bills**

Councilman Beeson reported on the East Main public restrooms power bill. He stated that after the December 10<sup>th</sup> council meeting Tony and him looked at the restrooms and found a way to drain the water. The electricity was then shut off.

The mayor said that the power bill at the sewer ponds has increased since installing the surface aerators. Mayor and council will have to discuss concerns with the engineers.

Councilman Beeson asked if the city is getting any money back from the prosecuting attorney. The city clerk reported that the city is receiving a little here and there.

The cost for the fire department pagers was questioned. The city clerk reported that the new pagers are rechargeable so that the batteries do not need to be replaced. When the old pagers need repaired they are being replaced with the rechargeable type.

A motion was made by Councilman Beeson and seconded by Councilman Vice to pay the bills as stated. All voted aye, unanimous.

#### **Administer Oath of Office to Elected Officials**

Mayor and council thanked Council members Smith and Vice for their service and presented each of them with certificates of appreciation.

The city clerk administered the Oath of Office to Rita Anderson and Cathy Sher as new City Council Members elected at the November, 2009 General Election. The Mayor and Council welcomed Rita and Cathy to the council.

#### **Elect Council President**

The mayor called for nominations for Council President. Council Lowe nominated Councilman Phil Beeson as Council President. The motion/nomination was seconded by Rita Anderson. There were no other nominations. All voted aye, unanimous.

#### **Public hearing on proposed Ordinance 2010-1 establishing regulations for the permitting and construction of recreational vehicle parks and manufactured home parks.**

The mayor opened the public hearing for proposed Ordinance 2010-1. No guests registered wished to speak.

A motion was made by Council member Sher and seconded by Councilman Lowe to close the public hearing on Ordinance 2010-1. All voted aye, unanimous.

#### **Adoption of Ordinance 2010-1 and approval of attorney's summary for publication.**

A motion was made by Councilman Beeson and seconded by Council member Anderson to dispense with the three (3) separate readings of the ordinance. All voted aye, unanimous.

Ordinance 2010-1 was read as follows:

#### ORDINANCE NO. 2010- 1

AN ORDINANCE OF THE CITY OF LAVA HOT SPRINGS, IDAHO  
ESTABLISHING REGULATIONS FOR THE PERMITTING AND CONSTRUCTION OF  
RECREATIONAL VEHICLE PARKS AND MANUFACTURED HOME PARKS;  
DECLARING THE PURPOSES FOR ENACTMENT OF THE ORDINANCE; PROVIDING  
FOR THE APPLICATION TO EXISTING PARKS; PROVIDING FOR DEFINITIONS;  
PROVIDING FOR PERMITS AND FEES; PROVIDING FOR CONSTRUCTION PERMIT  
FEES AND INSPECTIONS; PROVIDING FOR UTILITIES WITHIN PARKS; PROVIDING  
FOR FIRE PROTECTION, PROVIDING FOR ALTERATIONS AND RESTRICTIONS,  
PROVIDING FOR REGISTRATION OF OCCUPANTS, PROVIDING FOR RIGHT OF  
ENTRY, PROVIDING FOR UNSAFE CONDITIONS, INCLUDING NOTICE TO OWNER  
AND POSTING OF SIGNS, PROVIDING FOR APPEALS, PROVIDING OF  
ORGANIZATION AND ENFORCEMENT, REPEALING ALL ORDINANCES OR PARTS  
OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR AN

EFFECTIVE DATE OF THIS ORDINANCE AND PROVIDING THAT THE READING OF THE ORDINANCE ON THREE SEPARATE OCCASIONS BE WAIVED.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO AS FOLLOWS:

**SECTION 1. Rules and Regulation.**

(A) Short Title. This ordinance shall be known as the City of Lava Hot Springs Recreational Vehicle and Manufactured Home Park Ordinance and may be cited as such and will be referred to in this Ordinance as the Recreational Vehicle and Manufactured Home Park Ordinance.

(B) Purpose. The purpose of this Ordinance is to provide minimum standards to safeguard, protect and promote health, moral, convenience, safety and welfare; to preserve the appropriate use and character of each area within the sound principles of the existing laws of the City and to provide for regulations, permits and fees for the location, operation and use of recreational vehicle parks and manufactured home parks within the City.

(C) Scope. The provisions of this Ordinance shall apply to the layout, construction and location of recreational vehicle parks and manufactured home parks and the use and location of all recreational vehicles no matter where located and any main or necessary building existing or proposed to be built, which will be located within the area for which a permit is required.

**SECTION 2. Application to existing recreational vehicles and manufactured home parks.**

A recreational vehicle or manufactured home park lawfully existing and in use at the time of the passage of this Ordinance may be continued although such recreational vehicle or manufactured home park does not comply with the terms and conditions of this ordinance. Additions hereafter must conform to the provisions of this Ordinance as herein set forth.

Exception: When conditions exist that affect the health, morals, safety and public welfare, the Building Official or his duly appointed representative shall cause such condition or conditions to be abated as provided in this Ordinance.

**SECTION 3. Definitions.**

(A) "Approved" means approval by the Building Official as the result of investigation for compliance with the provisions of this Ordinance.

(B) "Barrier" means any street, river or canal, railroad, embankment or screening by appropriate fence or hedge of seven feet (7') minimum height with not more than fifty percent (50%) open area.

(C) "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

(D) "Grade" means the average of the finished ground level of the premises.

(E) "Inspector" means the Building Official or any legally designated representative of the City.

(F) "Manufactured home" means a structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include a structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. section 5401 et seq.

(G) "Manufactured Home or Recreational Vehicle Space" means a plot of ground within a manufactured home or recreational vehicle park, or any plot of ground which is designed for or designated as the location for one unit and not used for any other purpose whatsoever other than the customary accessory uses thereof.

(H) "Manufactured Home Park" means any area, tract, plot, or site of land whereupon two (2) or more manufactured homes, as defined in this Ordinance, are placed, located and maintained for dwelling purposes only, either on a permanent or semi-permanent basis and for which a fee, rental or contract for payment for such use is collected or collectible to the person holding the land.

(I) "Manufactured Structures" means all vehicles designed for human habitation other than as defined in this Section, when such manufactured structures are not provided with either living or sleeping and cooking facilities, such as field office, sales office, display, etc.

(J) "Mobile Home" means a factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

(K) "Official" means a person who has either been duly elected or appointed to a public office and who represents the City government for a prescribed duty or capacity.

(L) "Permittee" means one who has received a permit as set forth in this Ordinance.

(M) "Person" means any individual, firm, trust, partnership, association or corporation; whether tenant, owner, lessee, licensee, permittee, agency, heirs or assigns.

(N) "Recreation Vehicle" means motor home, travel trailer, truck-and-camper or camping trailer, with or without motive power, designed for human habitation for recreational occupancy. It does not include pickup trucks, shells, or canopies designed, created or modified for occupational usage. School buses or oversized van-type vehicles which are converted to recreational use are defined as recreational vehicles.

(O) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined in some definite manner.

(P) "Trailer" See Recreational Vehicle.

(Q) "Yard" means an open space within a lot unoccupied and unobstructed from the ground upward.

#### SECTION 4. Permit Required For Recreational Vehicle Park.

It is unlawful for any person to build, establish, maintain, operate or permit to be built, established, maintained, or operated, any recreational vehicle or manufactured home park within the boundaries of the City without first having secured a permit therefor.

#### SECTION 5. Application for permit for Recreational Vehicle Park.

(A) To obtain a permit for the construction or alteration of a recreational vehicle park the applicant shall:

(1) Identify and describe the work to be covered by the permit for which the application is made;

(2) Describe the land on which the proposed work is to be done by legal description and street address;

(3) Show the use and occupancy for such lot, block and tract;

(4) Be accompanied by such plans and specifications as required in Section 7 of this Ordinance;

(5) State the true valuation of the proposed improvements;

(6) Give such other information as may reasonably be required by the

Building Official.

SECTION 6. Issuance of permit.

The application with two (2) sets of plans and specifications filed by the applicant for a permit shall be checked by the Building Official. The application shall include the plot plan and building plans and specifications for all buildings, improvements and facilities such as public and private utilities constructed or to be constructed within the recreational vehicle park. Such plans may be reviewed by other City departments to check compliance with laws or ordinances under their jurisdiction. If the Building Official is satisfied that the proposal, as submitted, subject to corrections, meets the requirements as set forth in this Ordinance, he shall then issue the permit therefore to the applicant.

SECTION 7. Retention of plans.

One set of approved plans, specifications and computations shall be retained by the City for a period of not less than ninety (90) days from date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept at the work site during the time the work authorized thereby is in progress.

SECTION 8. Validity of permit.

The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of any violation of any of the provisions of this Ordinance.

SECTION 9. Expiration of permit.

Every permit issued by the Building Official under the provisions of this Ordinance shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within sixty (60) days from the date of such permit. Also such permit shall become null and void if the building or work authorized by such permit is suspended or abandoned for a period of one hundred twenty (120) days any time after the work is commenced. Before such work can be recommenced a new permit shall be first obtained to do so and the fee therefore shall be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and, provided further, that such suspension or abandonment has not exceeded one year. The City may grant extensions of time to comply with this section upon written application from the developer stating the reason for such an extension, and the date that the work will recommence. The developer shall have a maximum period of one year to complete the development in accordance with the permit granted.

SECTION 10. Suspension or revocation of permit.

The Building Official may, in writing, suspend or revoke a permit issued under provisions of this Ordinance whenever the permit is issued on the basis of incorrect information

supplied, or in violation of any ordinance or regulations or any of the provisions of this Ordinance.

#### SECTION 11. Construction permit fees.

The permit fee for each recreation vehicle park and manufactured home park shall be on the true value of construction, as set forth in the current edition of the International Building Code.

#### SECTION 12. Inspections.

(A) General. All construction or work for which a permit is required shall be subject to inspection by the Building Official.

(B) Inspection record card. Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted an inspection record card in a conspicuous place on the front premises and in such position as to allow the inspector conveniently to make the required entries thereon regarding inspection of the work. This inspection record card must be submitted to the Building Official before the certificate of occupancy will be issued.

#### SECTION 13. Manufactured home parks.

(A) Manufactured home parks and developments are permitted only in those zones and areas allowing the same or conditionally allowing the same as set forth in the zoning ordinance of the City following the notice, hearing and review procedures set forth therein.

(B) Every manufactured/mobile home park existing before this ordinance that conforms to any of the standards of this ordinance shall not be required to be abandoned. All future additions shall comply with this ordinance.

(C) Storage area. There shall be provided a storage area sufficient in size to provide for storage of boats, campers, trucks, or any equipment that would tend to crowd or detract from any trailer space. This area shall be graveled or paved, fenced, isolated and screened from trailer spaces. The minimum size shall be not less than one hundred (100) square feet for each trailer space.

(D) Central facilities. Central facilities such as toilets, baths or laundry rooms are not required.

(E) Recreational area. There shall be an area or areas provided for recreation of not less than three thousand (3,000) square feet and not less than forty (40) feet in width. It shall be maintained with a well kept lawn and shade trees. Parks with more than twenty (20) spaces shall increase the minimum area at a rate of one hundred (100) square feet for each space in excess of twenty (20).

(F) Permitted improvements by occupant. The space occupancy may erect or install accessory structures such as patio covers, storage buildings or cabanas provided any such accessory structure shall be incombustible, portable or prefabricated and the design and arrangement shall be in harmony with the manufactured home. Permanent structures or foundations shall not be permitted.

(G) Streets and roads. All spaces shall abut upon a roadway not less than forty (40) feet in width which shall have unobstructed access to a public street or highway. Dead-end roadways shall provide adequate vehicle turning space or cul-de-sac with not less than a forty (40) foot radius exclusive of parking. Roads to service areas or storage yards shall be not less than twenty (20) feet wide. Directory and regulation signs shall be provided as required to assure maximum safety and convenience to occupants and visitors, consistent with accepted safety standards.

(H) Utilities to be underground. All utility lines shall be underground including power and light, telephone, T.V. cable, water and sewer. Installation and inspection must comply with the provisions of Section 16 of this Ordinance. However, when due to subsurface soil conditions, or other special conditions it is determined by the Building Official or his other duly authorized representative that it is impractical to construct facilities underground, and when approved by Planning and Zoning Commission, such installations may be overhead.

(I) Minimum requirements. Minimum requirements for each manufactured home space:

(1) Each space shall be not less than forty (40) feet wide and seventy (70) feet long and contain a minimum of two thousand eight hundred (2,800) square feet. This space will accommodate a 25' x 52'6" manufactured home. Manufactured homes exceeding 25' x 52'6" will require additional space to comply with minimum yard requirements as provided in Section 13 (I) (3).

(2) A paved parking space not less than ten feet (10') by twenty feet (20') and located in such a manner to provide one off-street parking space.

(3) Minimum yard requirements. Manufactured homes or accessory structures shall be located to provide a minimum front yard of ten feet (10') measured from the edge or curb of road to wall line of structure or trailer. At all times, a distance of fifteen feet (15') shall be maintained between all manufactured homes. Also, a rear yard of seven feet six inches (7'6") shall be maintained (commonly referred to as the off side from the trailer entrance) between the lot line and the nearest structure.

(4) A concrete or masonry patio of not less than one hundred fifty (150) square feet must be provided.

(5) One frost proof exterior culinary water supply hydrant shall be provided for each space.

(J) Any item not restricted or specified in this ordinance shall be at the discretion of the City Council.

## SECTION 14. Recreational vehicle parks.

(A) A recreational vehicle park is permitted for use only in those zones and areas allowing the same or conditionally allowing the same as set forth in the zoning ordinance of the City following the notice, hearing and review procedures set forth therein.

(B) Landscaping and screening. The park boundaries shall be reasonably screened whether by barriers of ornamental fences, walls, trees, shrubs, or open spaces, to assure reasonable integration with adjoining land usages and to assure the health, safety, and quiet enjoyment of the area.

(C) Storage area is not required.

(D) Recreation and children's play area shall be provided in a ratio of two hundred (200) square feet per trailer space and shall consist of a well kept lawn with shade trees.

(E) Occupant improvements. The space occupant shall not be permitted to erect, install, or place any structure or facility upon the space.

(F) Waste disposal facilities for recreational vehicles shall be provided in an isolated screened service area in a manner and method acceptable to the Health Officer and Building Official.

(G) All spaces shall abut upon a roadway not less than thirty feet (30') in width which shall have unobstructed access to a public street or highway. Dead-end roadways shall provide adequate vehicle turning space or cul-de-sac with not less than a forty feet (40') radius exclusive of parking. Roads to service areas shall be no less than twenty feet (20') wide.

(H) All utilities shall be underground.

(I) Minimum requirements for each recreational vehicle space:

(1) Each space shall be not less than twenty-five feet (25') wide and fifty feet (50') long. This space will accommodate a 15' x 35' recreational vehicle. Recreational vehicles exceeding this size will require additional space to comply with minimum yard requirements as provided in Section 14 (I) (3).

(2) There shall be provided one off-street, paved, parking area not less than nine feet by twenty feet (9' x 20'), except that in lieu of off-street parking the front street must be at least thirty five feet (35') wide.

(3) Minimum yard required. Recreational vehicle shall be so located as to provide a minimum front yard of ten feet (10'), side yards and rear yard of five feet (5') measured to space boundary for side and rear yards and to the curb line or edge of road for front yard.

(4) All spaces shall be provided with a masonry or concrete patio of not less than one hundred (100) square feet and one frost proof exterior culinary water supply hydrant.

(J) Central facilities required for recreational vehicle parks:

(1) Adequate space and sufficient hot water shall be provided for laundry/clothes drying facilities.

(2) The water supply and all toilet and shower facilities shall be installed and maintained in accordance with regulations set forth in Appendix E of the Uniform Plumbing Code, as adopted elsewhere in the Code.

(K) Any item not restricted or specified in this Ordinance shall be at the discretion of the City Council.

#### SECTION 15 Location

(A) A recreational vehicle park shall be located only within the areas as provided by this Ordinance.

(B) Each boundary of any recreational vehicle park must be at least eighty feet (80') from any permanent residential building located outside the trailer park unless separated therefrom by a natural or artificial barrier.

#### SECTION 16 Manufactured home and recreational vehicle parks

All such parks shall conform to the following requirements:

(A) Shall be located on a well-drained site with all roadways and spaces properly graded to insure rapid drainage and freedom from stagnant pools of water;

(B) Roads, Bridges and Streets - Design Standards: Roads, bridges and streets, curbs, gutters, sidewalks and fire hydrants shall be designed and constructed in accordance with State of Idaho Transportation Department "Manual of Street Design Standards", current edition.

(1) The Standards contained therein are considered minimum and may be exceeded where the City deems necessary. A written discussion of these areas shall be included in the concept approval process.

(2) Cul-de-sacs may not exceed 1,320 feet in length and shall provide a 45' radius turnaround or equivalent back-up area, and are considered fire apparatus access roads, requiring review by fire chief.

(3) All weather surface: Where driveway meets a paved road, driveways must be paved with concrete or asphalt to the right-of-way line of the public road.

(4) No ditch sections shall exceed 300 feet on grades of 3% or greater without a cross-drain or other approved structure to provide water run-off management.

(5) Prior to commencement of construction, driveways shall be either paved or graveled to prevent the tracking of soil off the site. It is the responsibility of the building permit holder to pave or gravel the driveway adequately prior to grading the building site.

(6) A developer of a subdivision is responsible for construction.

(7) Driveways serving more than two residences or other use, without regard to length must be built to standards required for Roads, Bridges and Streets above.

(C) Existing facilities for maintaining service to standards set forth by the City-County Health Department. Service building shall be required as provided in this Ordinance for recreational vehicle parks.

(D) Service facilities for manufactured home and recreational vehicle parks shall be maintained in accordance with applicable City-County regulations. No service building shall be required, unless the park is designed to provide parking space for recreational vehicles.

#### SECTION 17 Water supply

(A) The water supply shall be easily accessible to reach recreational vehicle and manufactured home space, and shall provide not less than twenty five (25) pounds pressure at all times and not less than one hundred twenty five (125) gallons per unit per day. All water supplies must be approved by the City-County Health Department, and if other than a public supply, shall conform with the Idaho State standards.

(B) A separate water service line shall be required to each manufactured home park space which shall conform to the Idaho State standards.

#### SECTION 18 Plumbing

All plumbing within the recreational vehicle or manufactured home park shall conform to the standards set forth in the State of Idaho Plumbing Code and shall be subject to inspection and approval by the designated officials.

#### SECTION 19 Sewage disposal

(A) All sewage shall be collected and disposed of in a sanitary manner, either in a public sewage system or in conformance with standards set forth in the State of Idaho Plumbing Code.

(B) Each manufactured home space in a manufactured home park shall be provided with not less than one three inch (3") sewer connection. The sewer connection shall be provided with the connections so that a water-tight union may be made between the manufactured home

drain and the sewer connection. Such manufactured home space connection shall be provided with an air-tight closure when not linked to a manufactured home and so trapped to maintain an odor-free condition.

#### SECTION 20. Electricity.

(A) All installations of electrical wiring and equipment in recreational vehicle and manufactured home parks shall conform to the minimum requirements of the current edition of the National Electrical Code. Such installations shall be subject to inspection and approval by the designated official.

(B) (1) An individual circuit shall be provided for each recreational vehicle unit and this circuit shall supply no other load. The current carrying capacity of such circuits shall be not less than thirty (30) amperes and not less than the load to be served. All electrical pedestals shall be of sufficient amperes for the recreational vehicle it services.

(2) A weather proof receptacle outlet shall be provided for connection of each recreational unit. The outlet shall be so located that it will not be more than fifteen feet (15') from the rear one-third (1/3) of the left (road) side of the unit which it supplies. Such receptacles shall be of the grounding type and shall provide one non-current carrying contact for grounding of the recreational vehicle and equipment in the unit.

(3) Portable cords supplying recreational vehicle units shall be without splice and shall be Type S, So, St, or equal.

(4) Receptacle outlets, portable cords, connectors, attachment plug caps and other current-carrying equipment used for the purpose of delivering energy from the supply system to the recreational vehicle unit shall have a current-carrying capacity of not less than the load to be served and not less than the rating of the over-current devices in series with each ungrounded conductor.

(5) It is unlawful for any person to bridge, bypass or alter any over current device in any manner which will prevent such device for serving the function for which it is intended.

(C) A separate electrical service line shall be provided for each manufactured home space which conforms to the current edition of the National Electrical Code. Such electrical service line shall be subject to inspection and approval by the designated official.

#### SECTION 21. Fire Protection.

When not in conflict with more specific regulations, the recreational vehicle and manufactured home park area shall conform to the requirements of the fire regulations of the International Fire Code.

#### SECTION 22. Alterations and restrictions.

In recreational and manufactured home parks no permanent additions of any kind shall be built onto, nor become a part of a recreational vehicle or manufactured home. Skirting of manufactured homes is permissible, but such skirting shall not permanently attach such manufactured home to the ground, provided a harborage for rodents or create a fire hazard. Unless parked in a manufactured home park, the wheels of the manufactured home shall not be removed unless temporarily for repairs. Jacks or stabilizers may be placed under the frame of the recreational vehicle or manufactured home.

#### SECTION 23. Registration of occupants.

(A) Every owner or operator of a recreational vehicle park shall maintain a register containing a record of all recreational vehicles and occupants. Such register shall be available to authorized persons inspecting the court and shall be preserved for a period of five (5) years. Such register shall contain:

- (1) Names and addresses of recreational vehicles occupants stopping at the court;
- (2) The make and license number of motor vehicles;
- (3) The date of arrival and departure of each recreational vehicle.

#### SECTION 24. Right of entry.

Upon presentation of proper credentials, authorized officials may enter at reasonable times any building, trailer, structure or premises in the City to perform any duty imposed upon him by this Ordinance.

#### SECTION 25. Unsafe conditions.

All recreational vehicles, recreational vehicle and manufactured home parks, building or premises, which constitutes a hazard to health, morals, safety, or fire, by reason of inadequate maintenance, insanitation, dilapidation, obsolescence or abandonment are nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the current edition of the Uniform Abatement of Dangerous Buildings Code.

#### SECTION 26. Notice to owner.

The Building Official or his duly authorized representative shall examine or cause to be examined every recreational vehicle, recreational vehicle and manufactured home park, building or premises reported as a public nuisance as defined in Section 27 and if found to be such a public nuisance shall give to the owner written notice, stating the defects thereof. The notice shall require the owner or person in charge of the recreational vehicle, recreational vehicle and manufactured home park, building or premises, within forty-eighty (48) hours, to commence corrective measures, such as improvements, repairs, demolition or removal and all work shall be

completed within ninety (90) days from the date of notice, unless otherwise stipulated by the official. Proper service of such notice shall be by personal service upon the owner of record, or by certified mail with return receipt, addressed to the owner at the location of the nuisance, or at his last known address.

SECTION 27. Posting of signs.

(A) The Building Official may cause to be posted on each recreation vehicle, recreational vehicle and manufactured home parks, building or premises, a notice to read:

DO NOT ENTER, UNSAFE TO OCCUPY, Building Department Lava Hot Springs, Idaho.

(B) Such notice shall remain posted until the corrections, as noted are completed.

SECTION 28. Appeals.

Any person whose application has been denied or any person whose permit has been revoked or who feels he has been grieved by the Building Official's decision, may request and shall be granted a hearing of the matter before the hearing examiner, and final decision by the City Council, as provided by the Zoning Ordinance. However, where the official's action is based upon the existence of a public nuisance above, appeal shall be to the Council only.

SECTION 29. Organization and enforcement.

The Building Official of the City or his duly authorized representative shall be charged with the enforcement of this Ordinance and shall keep a permanent, accurate account of all fees and other moneys collected, the amount, purpose and person from whom it was received, together with the location of the premises to which they relate.

SECTION 30. Severability.

Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Should any section, subsection, paragraph, clause or phrase of this ordinance, or any particular application therefore, be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, such decision shall not affect the remaining portions of said section, subsection, paragraph clause or phrase of this ordinance.

SECTION 31. Effective date.

This Ordinance shall be in full force and effect immediately upon its passage and publication according to law, the Council dispensing with the rule that ordinances must be read on three different days, all provided by law.

SECTION 32. Penalty.

Any person or entity violating any provision of this ordinance should be deemed to have committed a misdemeanor, punishable in accordance with Title 1, Chapter 4, City Code of Lava Hot Springs, Idaho.

PASSED AND APPROVED this 14th day of January, 2010, by the Mayor and City Council of the City of Lava Hot Springs, Idaho.

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MARSHALL N. BURGIN, Mayor

ATTEST:

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CANDA L. DIMICK, City Clerk

Council member Anderson mentioned two(2) minor typographical errors; one on page 10, section 17 Water Supply, third line should be “pressure at” instead of “pressure al”, page 11, under Electricity B, #3, “portable” instead of “potable”. Council member Sher also mentioned one error: page 1, section 1 C Scope, second line “construction and location of recreational parks...” should be “construction and location of recreational vehicle parks...”.

A motion was made by Councilman Beeson to adopt Ordinance 2010-1 with the corrections as stated. The motion was seconded by Council member Sher. Lowe – aye, Sher – aye, Anderson – aye, Beeson – aye.

A motion was made by Council member Sher and seconded by Council Lowe to publish the attorney summary of Ordinance 2010-1 as printed. All voted aye, unanimous.

#### **Wastewater Project - Brett Casperson**

Brett Casperson asked the council to explain the city’s plans for the farm land that the city is purchasing for a wastewater land application site neighboring his property. Marshall explained that the city is mandated by DEQ and can no longer discharge waste water into the river. Treated water will be stored on the site. The City plans to farm the land just like it has been done. The land will be irrigated with the treated water. No access will be changed. The ditch will be piped. The pond will be fenced with a chain link fence and lined with an 80 mil liner so that there will be no leakage.

Mr. Casperson asked if the city would consider a tree buffer around the pond. He owns the property to the east of the ponds. He would like to install building sites eventually along Maughan Road. There was a question on aeration for odor. The aeration system will be kept at the existing treatment lagoons closer to town. The City has worked on the project for years. The farm was the best option. The water will be piped out hopefully in the county right-a-way.

## **Planning & Zoning Commission**

Council member Anderson disclosed that since she was on the Planning and Zoning Commission when these issues were addressed by the commission, she would not be participating in the discussion or voting on them.

### **A) Commission's statement of facts and findings in the matter of the application for a variance for encroaching deck, steps and front porch at 89 East Elm, Earl & Annastasia Swanson's owners.**

The mayor read the Statement of Fact, Findings and Recommendation for the variance application by Earl & Annastasia Swanson.

A motion was made by councilman Beeson and seconded by Councilman Lowe accepting the Planning and Zoning Commission's recommendation granting Earl & Annastasia Swanson variance for an encroaching deck, steps and front porch. Beeson, Lowe and Sher voted aye. Anderson abstained.

### **B) Commission's recommendation on installation of a wind turbine - vacant lots west of 244 West Fife - Susan Thomas & John Flemings, Owners; Tom Furman, Green Team Direct, Installer**

Tom Furman was in attendance to address questions. Mr. Furman presented wind study data for a site close to Lava at the 9,100 foot level, an Idaho Resource map and a specific location model for the installation address which showed a 12.5 average wind speed at 66 feet hub height. No wind study has been done for the installation site. A proper study would take 3 to 5 years to complete.

Council member Sher stated that the hub height is 60 feet and the blade length is 12 feet. It is positioned on the property so that if the wind turbine was to fall north or south it would be 15 feet into the alley or roadway. Councilman Lowe asked how long it would take for the wind turbine to become profitable. Mr. Furman stated that it would take 8 to 12 years.

Councilman Beeson stated that his concern is that granting the privilege could snowball and the city could have a wind turbine on every other lot. Mr. Furman stated that the wind turbine is on a monopole and will be much like a flag pole. He said that it would require large lots such as the proposed site; therefore he would not anticipate wind turbines going up all over town. Councilman Beeson said that the power line poles are 65 foot poles which are buried 9 feet so 56 feet is exposed and that the wind turbine would be 5 feet taller than the power poles in perspective. He expressed concerns about the aesthetics impacts.

It was stated the there are several wind turbines in the Pocatello area. The property owners stated that they had spoken to some of the neighboring property owners about the wind turbine and everyone they have talked to about it are favorable.

The proposed wind turbine is under 60 decibels which is less noise than an office setting and quieter than the inside of an automobile going 60 mph. It is only a few decibels above back ground noise in comparison.

Mr. Furman stated that the foundation has 17 yards of concrete and that If Lava has winds hard enough to blow the turbine over, the city would be flattened. He reviewed the dimensions of the wind turbine, bolts, pole, etc.

The city clerk informed the council that wind turbines are not listed as a permitted use and will require a text change of the zoning ordinance before they can be permitted. In Pocatello, wind turbines are a conditional use. The process will take at least a couple of months. The city clerk reviewed the process for a zoning ordinance text change and a conditional use permit. The applicants questioned why they would need to go back to planning and zoning before it could be permitted. The city clerk stated that because a wind turbine is not listed as a permitted use or as a conditional use, the first step is to do an ordinance text change before anything else can be done. It was suggested to table the matter to research further and report findings to the property owner within a couple of weeks.

A motion was made by Councilman Beeson and seconded by Council member Sher tabling the issue of the wind turbine. Beeson, Lowe, & Sher voted aye, Anderson – abstained.

**C) Commission's recommendation for vacant commissioner seat.**

The Planning and Zoning Commission had recommended Cory Unsworth, Kathryn DeMott, and Katie Smith to fill the vacant commissioner seat left by Council member Rita Anderson. Cathy Sher recommended Cheryl Hanson and Sydney Hansen for consideration. Council member Anderson gave back ground information on Cory Unsworth.

A motion was made by Council member Beeson and seconded by Councilman Lowe appointing Cory Unsworth to the Planning and Zoning Commissione. All voted aye, unanimous. Council member Anderson will inform Mr. Unsworth of the appointment.

**Proposed Tourism Advisory Committee Program Revisions**

A copy of the attorney's letter pertaining to the proposed tourism advisory committee was given to the council and time was given to read. Tax funds must be used for public use and cannot be used for private benefit. The city must maintain ownership of items that are purchased with tax funds. The attorney felt that the word "grant" should be changed to "co-sponsor", grant indicates that the city no longer maintains control. The council reviewed items that could be considered as "tourism promotion".

A motion was made by Council member Sher to table the Tourism Advisory Committee Program Revisions and revisit it at the next meeting. The motion was seconded by Councilman Lowe. All voted aye, unanimous.

## **Law Enforcement**

### **A) Monthly Report**

No county officers present.

### **B) 2009 Inmate Labor Detail Program**

R.B. Scott, Code Enforcement Officer, reported that he needs 30 days advanced notice to make schedule the skill crew for help. The mayor asked Officer Scott to pass on to the county offices that the city would like to see speeding enforced within city limits.

## **DOE Energy Efficiency and Conservation Block Grant Opportunity**

City has received information for a grant opportunity for a green energy project for public buildings only. Mayor and council decided to pass on the opportunity because of the number of projects that the city already going.

## **Business Licenses & Non-Property Tax Permits**

- A) Greystone Manor - Conestoga Leisure, LLC, Owner/Applicant**
- B) Positive Space - Katherine (Beth) Adams, Owner/Applicant**
- C) Quality Tile DBA Modern Roofing - Pat Large, Owner/Applicant**
- D) River Bridge Inn (Renewal)**
- E) Sylvania Lighting Services Corp**

The mayor read the list of Business Licenses and Non-property Tax Permits.

A motion was made by Councilman Beeson and seconded by Council member Anderson accepting business licenses and non-property tax permit applications A – E. All voted aye, unanimous.

## **Annual Fire Fighter Gratuities**

Options for fire fighter gratuities were discussed. The city clerk explained that the budget for gratuities is normally divided according to the number of fire calls and number of training hours. Because there were only a few fire calls this year, the gratuity to those who took advantage of the training was much larger than those who did not attend the training.

The city clerk suggested some options for dividing the gratuities. One option would be to divide the gratuity into two categories; half for training and half for fire calls. Then divide each category by number of hours/calls. A second option would be \$150 per volunteer that would be a cap. \$75 for training which would require a minimum of 8 hours training. \$75 for fire calls based on a percentage of calls they respond to.

Councilman Beeson asked if there is a requirement for the number of training hours per year. The city clerk said that there are training hours for each level of certification and continuing education hours to maintain the certification. She said the city does have a budget for training and should push for local training. R.B. Scott stated that even though

he has had the fire fighter 1 and the wild land training, he has not been trained to operate the fire trucks. He said that it would be good to have local training. No decision was made. Mayor Burgin will meet with Rural Fire District Commissioner's to discuss options and report back at the next meeting.

## **Meetings/Announcements**

**A) AIC City Officials Day at the Capitol - January 28, 2010 Boise**  
No one will attend.

**B) Miscellaneous - None**

## **Projects**

**A) Fire Station Solar Project**

The city clerk reported that Rocky Mountain Power has notified the city that the solar project is complete and the city can flip the switch. A ribbon cutting will need to be scheduled. The city will need to advertise the ribbon cutting through newspaper articles and let ISU know about the project. No action was taken.

**B) Inflow/Infiltration Study**

The mayor reported that the engineers finally received a good disc of the inflow/infiltration study so that they can review data and complete the study.

**C) Wastewater Improvement Project**

**1) Administrative Contract Addendum**

The council reviewed the Administrative contract Addendum. SEICOG agreed to accept 7% Federal Appropriation, 5% Rural Development grant and 5% on DEQ funds. The city will be administering the Army Corp of Engineer grant.

A motion was made by Council member Anderson and seconded by Councilman Beeson authorizing the mayor to sign the addendum to the professional services contract for the wastewater project. All voted aye, unanimous.

**2) Revised Engineering Contract**

Keller Associates is still working on the revisions to the engineering contract. USDA will not approve the initial contract. The initial contract will satisfy DEQ for the February 17, 2010 deadline. The city will sign a revised contract to satisfy USDA later.

**3) Tentative Timeline for Phase I**

The council reviewed the Phase I timeline. The appraisal should be complete by Monday. The mayor reviewed with the new council members the timeline for the contract to be awarded and signed.

#### **4) Rate Study**

A rate study is to be done to determine the charges to the users for sewer services. Councilman Beeson suggested that ISU may be a resource for the study. The city clerk reported that Keller Associates and Forsgren Associates are to be sending the city cost estimates for a study also.

### **D Miscellaneous**

**1- Backhoe:** The mayor reported that the backhoe is due for its 1,000 hour oil and filter change. To have CAT do it the price will be \$500 and it will not void the warranty. The mayor stated that it costs about \$300 for the filters and oil. The council agreed to have CAT do the work if it does not exceed \$500.

**2- Copier:** The city clerk reported that the warranty of the copier expires the end of January. The maintenance contact would be \$777.40 per year which includes the toner. The copier has black and colored toner. The council reviewed the contract. Council member Sher stated that the copier maintenance contract at the museum is around \$400. The city clerk reported that with the last copier the city choose to not have the service contract. Service calls had cost up to \$100, we have not had to replace the toner yet in the new copier. Toner cost is; black \$62.22 and color \$163 per color; there are four (4) color cartages. The sales representative is predicting 7500 copies per year. Council member Sher asked if we don't get the service contract now can we get it later. The city clerk said that she thought the city could get the service contract at any time. The council decided to forgo the service contract.

#### **3- Pioneer Travel Council**

Council member Anderson reported that Mark Lowe had contacted her regarding city representation on the Pioneer Travel Council. Mark feels that it is in the city's best interest to have a representative on the board. Council member Anderson said that she is on the Chamber Board and they have asked if she would be the chamber representative. Council member Sher offered and all agreed to allow her to be the city's representative. The city clerk informed the council that they had allowed Evelee Hill to be the city's representative in the past and that they should notify her of the change.

#### **4- Off Street Parking**

The mayor requested that each of the council take a look at the parking area at Evelee Hill's art gallery. Council member Anderson stated that the comprehensive plan committee has discussed the possibility of waving the off street parking requirement on the existing commercial buildings so that restrictions do not stymie the growth and development of the city. Parking

requirements is something that the city needs to look at in the future and may need to be addressed on an individual basis.

**Discussion - Items from the audience.** None

**Adjournment**

A motion was made by Councilman Lowe and seconded by Council member Sher to adjourn. All voted aye, unanimous.

The meeting adjourned at 8:30 p.m.

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Patricia Avery, Transcriber

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Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk (proof read)

Approved Feb. 11, 2010