

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, March 12, 2009 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:

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

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

Guests: Irene Bergendorf, Gail Anderson, Brooke West, Patrick Mixdorf, Nancy Turecek, Michael Woodby, Frankie Woodby, Monte Steele - Bannock County Sheriff's Department, Dr. Robert Rush, Julie Hill, David Grosso and Sherril Tillotson.

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

Minutes

City Clerk is working on the January 8, 2009 Regular Meeting minutes. The status of the computer purchase was questioned. Council member Smith has provided information on the state's pricing. The city clerk has checked with Computer Warehouse and it would cost \$39.00 to double memory. Staff prefers to purchase the computer from Computer Warehouse for local maintenance and technical assistance reasons. Motion was made by Councilman Vice and seconded by Councilman Lowe approving the December 22, 2008, February 12, 2009 and February 19, 2009 council meeting minutes. All voted aye. Unanimous.

Bills

Bills added to the list to be paid were: 1) IAS Environmental \$361.00 for sewer tests, 2) R.B. Scott \$27.20 for mileage, 3) Lava Senior Center \$750.00 for restroom maintenance at Buddy Campbell Memorial Park, 4) USA BlueBook \$393.81 and \$78.59 for sewer department supplies. The Lava Senior Center and South Bannock County Historical Center bills for restroom maintenance were questioned. The city is working on a project to hire someone to clean the restrooms. Idaho Rural Water Association's bill for Billy's registration to attend conference was questioned. Motion was made by Council member Smith and seconded by Councilman Beeson to pay the bills with the exception of the three being tabled, South Bannock County Historical Center, Idaho Rural Water Association and Lava Senior Center. All voted aye. Unanimous.

**Law Enforcement
Monthly Report**

Sgt. Monte Steele, Bannock County Sheriff's Department, reported that officers are listing Lava on their citations. City is ordering Lava

Law Enforcement
Monthly Report

forms. There have been a few problems with semi's parking in town. Officers are addressing issues as they develop.

Sidewalk Cleaning

Irene Bergendorf expressed that she wasn't attending to complain about property owners not shoveling their sidewalks but she feels everyone isn't being treated fairly. Annually in October, property owners are notified of their obligations to keep their sidewalks clean. Mrs. Bergendorf didn't think that it was right for the city to remove the snow off of the sidewalks like they did this year unless the city rolls the snow over onto them. Mrs. Bergendorf feels that the city is setting a precedence and a bad example. Laws are made for everybody and ordinances need to be enforced or thrown out. Mayor Burgin explained that several senior citizens live along the South side of West Main and it is hard for them to remove the snow because of the retaining walls and lack of sunshine. The mayor has talked with maintenance personnel and West Main has been put on a higher priority to haul the snow off sooner especially along the south side. The city has to find some place for the snow because it is unaffordable to haul it all away. Councilman Beeson explained that he was gone in December until Christmas and when he returned he tried to remove the snow with a four wheeler but it had been rolled over onto the sidewalk and he couldn't remove it. The snow had packed and turned to ice. Councilman Beeson feels that the city should be helping citizens more especially in the winter like neighboring communities. The city does help clean out driveways when things are caught up. Councilman Beeson said that he would take the blame for the maintenance department moving the snow because he asked them to start pushing the snow back to clear storm drains and he authorized them to remove the snow from the sidewalk from Ramsey's to 1st. Absentee owners are not making arrangements for their sidewalks to be cleaned. Citations may have to be issued next year. Mayor Burgin was hired by three property owners along West Main to clean their sidewalks and he chose to clean the whole block. The city had no part in it. The majority of the businesses in the downtown area promptly clean their sidewalks. The city will try to do a better job.

Special Events
(Classic Car Show)

Gail Anderson proposed the Blue Moon Bar's plan to host a classic car show on Saturday, July 11th. Plans are to close off South 1st east from the alley up to the intersection of East Elm and around the corner to the Blue Moon's garbage cans from 10 a.m. to 5 p.m.. Gail has talked with Londa Palmer, owner of Alpaca Inn. Motion was made by Council member Smith and seconded by Councilman Beeson authorizing the street closure from the alley at the Alpaca Inn around the corner of the Blue Moon to the trash cans on July 11th. Councilman Vice questioned if other property owners should be

Minutes of the March 12, 2009 Regular Council Meeting cont.

Special Events (Classic Car Show)	notified? The Blue Moon is the only business on the block and other residents will still have ways to access their properties. All voted aye. Unanimous.
(Lava Rama Bicycle Race)	Email from Darren Lightfield, Wild Rockies, seeking support to schedule a one day race on May 23, 2009, Memorial Day weekend was considered. Safety and lodging concerns have been expressed. Organizers claim they can minimize safety issues by requiring participants to obey traffic signs as part of the race. The Lava Foundation and Chamber of Commerce have asked if the race can be moved to another day but organizer wasn't receptive. A certificate of insurance has been required in the past. Selecting an alternate route was mentioned. The centralized starting point has always been at the park across from the hot pools. The downhill event has been eliminated. The race has never been on a three day holiday before. Starting and ending times are unknown. The race may be an inconvenience for other guests. Motion was made by Council member Smith and seconded by Councilman Lowe to notify the officials of the Lava Rama Bicycle Race that the city would prefer that they choose another day other than a three day weekend and if they are unable to choose another date this year invite them back next year. All voted aye. Unanimous.
(Arbor Day Proclamation)	Mayor Burgin proclaimed May 7 th , 2009 as Lava's Arbor Day. City representatives will participate in an assembly at the Lava Elementary School to kick-off the celebration.
Main Street Planters	Dr. Bob Rush, Lava Pride explained proposed project to purchase and maintain 96 hanging flower baskets from the decorative lamp posts along Center and Main. Lava Pride will undertake the task of getting the project up and going if the city will underwrite \$5,800 for supplies and maintenance. Proposal includes funding to hire someone @ \$8.00 per hour to water every other day. Baskets will not hang out towards the street and need to meet the 8' height restriction from sidewalk to the bottom of the planter/plant material. Plants would be started and nurtured at a nursery until they are ready to be displayed in full bloom Memorial Day weekend. Project involves volunteer work, installing brackets, hanging planters and taking them down in the fall, etc. Information was gleaned from Pocatello's Old Town Project. One of Pocatello's challenges is keeping the plants moist. The proposed planters have a reservoir so that they don't have to be watered every day. No one had any experience with the reservoir planters but reviews sounded like they will work. Planters are durable and should last five years. Concerns regarding wind, movement,

Main Street Planters
Cont.

weight, costs to replace the decorative light lens, interference with the seasonal flag project and freezing conditions were expressed. It was suggested for the city to schedule a monthly routine to make sure lens were secure. Planters are designed to work with the Chamber's flag project. Two bids were obtained to design and make brackets. Lava Pride offered to talk with the designers to see if planters should be secured to the pole or not. Rod iron baskets were considered but too expensive. The plants cover up most of the planter. Reason volunteers aren't watering the plants is because Lava Pride feels that it would be wise to pay someone to protect investment. Plants susceptible to some frost will be chosen, Petunias, etc. The sooner the project can get started the better the plants will look. The balance of uncommitted 1% tourism and development funds was computed. City needs time to look at the poles and the weight issue. Twenty to thirty pounds a pot was estimated. Council agreed that the planters would look nice but they needed to check with the city maintenance personnel then mayor will poll the council or put it on a special council meeting agenda if one is scheduled within the next couple of weeks. Brook offered to meet with the city maintenance if necessary. Pictures of the plastic planters and brackets were presented. Brackets will cost \$30 each and be fabricated locally. Council will know more by the end of next week.

1% Tourism
Development Committee

Organizing a committee to administer the 1% funds was discussed. Involving the chamber was suggested. Some tax payers feel that it may be a conflict of interest if funds are solely managed by the chamber. Non-chamber businesses should be involved. A decision guide needs to be developed to evaluate requests. Mark Lowe drafted a similar document several months ago. There were mixed feelings among council regarding committee member representation. Notices have been emailed to other Idaho communities to see if they have formed a committee but no responses have been received. When the 1% was proposed, an extensive investigation was done and only one town at that time had established a committee and some were giving budgeted amounts to their chambers. There were concerns that many goodwill projects eventually wind back to the city to deal with, like the L hill. Some felt that the collectors of the 1% should be in agreement with the projects funded, including planters. It was questioned if the planters were really a tourism development and promotion project. An advisory committee would review requests and make recommendation to council for final decision. Councilman Vice will address matter with Chamber. It was questioned and explained that the item was scheduled on the agenda because Evelee Hill contacted City Hall questioning council's intentions, expressing desire to be on the committee and concerns regarding the hanging baskets being funded from the 1%.

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Planning & Zoning
(Eric & Julie Hills
Conditional Use Permit)

City Clerk informed mayor and council that the city attorney had just called and he is running a few minutes late. Council chose to wait to consider Eric & Julie Hill's conditional use permit application for a bed and breakfast until the attorney was present.

Business Licenses &
Non-Property Tax
Permit
(Canyon Concrete,
Caribou Mobile Repair,
Commercial Ventures,
EZ Livin Inn, Glitter,
Johnny's Restaurant,
Lava Hot Springs Inn,
Lava Hot Springs KOA,
Mountain Mayhem,
Portneuf Rapids Tube
Rental, Sweet Stuff)

List of licenses and permits was read. Sweet Stuff is the ice cream shop . The situation with the tube stands assisting with garbage and public restroom facilities was questioned. Council addressed the matter with the tube rental business owners last month and they are providing services. The business owners are supposed to cooperatively post signage at the 1st Alley North directing tubers to walk up the alley to try and keep them off Main Street. Motion was made by Councilman Lowe and seconded by Councilman Vice approving business licenses and or tax permits for Canyon Concrete (renewal); Caribou Mobile Repair, Sid Gyde, Owner/Applicant; Commercial Ventures, Inc., DBA Arthur Berry & Company, Owner/Applicant; EZ Livin Inn - Dennis Ekstrom, Owner/Applicant; Glitter - Sam Netuschil, Owner/Applicant; Johnny's Restaurant (renewal); Lava Hot Springs Inn - Frances Brady, Owner/Applicant; Lava Hot Springs KOA - Cory Unsworth, Owner/Applicant; Mountain Mayhem - Sam Netuschil, Owner/Applicant; Portneuf Rapids Tube Rental - Randy Benglan, Owner/Applicant and Sweet Stuff (renewal). All voted aye. Unanimous.

Building Permit
(340 West Elm -
Vacation Home)

Eva and Mary Ellen Desrosiers permit to change the use of her residential home at 340 West Elm Street to a vacation rental was considered. Property is zoned commercial. Ms. Desrosiers has provided a letter asking for approval to add nightly rentals to Sweetwater's business license. The matter does not have to go before Planning & Zoning. No special use permit is required. The structure will have to be brought up to code and the permit still needs to be approved and signed by the building inspector. Motion was made by Councilman Beeson and seconded by Councilman Vice accepting the change of use building permit for Eva and Mary Ellen Desrosiers contingent on the building inspector's approval. All voted aye. Unanimous.

City Services
(Ron & Sherril Tillotson -
Outside City Limit User)

Sherril Tillotson read a letter addressed to mayor and council explaining that they recently acquired the manufactured home at 9903 Paradise Circle, Lot #16, but they do not own the land and they have agreed to move it off the property this year. They have agreed not to rent the home at the site and asked that the city consider discontinuing monthly sewer charges. Land was purchased by the

City Services cont.
(Ron & Sherril Tillotson - Outside City Limit User) Idaho Transportation Department and will become part of the future proposed highway project. ITD paid the monthly fee up to sale date. Disconnection requirements were discussed. Tillotson's can not physically dig up the service to disconnect as they do not own the land but offered to cut the pipes under the house. Monthly charge is \$15.75. Motion was made by Councilman Vice and seconded by Council member Smith accepting Ron & Sherril Tillotson's letter requesting the sewer disconnect because of the situation with ITD owning the land and to discontinue charging for the service. All voted aye. Unanimous.

(Paradise Valley Homes) Paradise Valley Homes \$3,073.95 delinquent sewer bill was discussed. Property is owned by Kim Andrus. When Mr. Andrus built the mobile home park he agreed to pay the connection and sewer fees as the park developed. When residents were living in the homes they personally paid the monthly fees but Mr. Andrus would not pay the constant monthly fees when residences moved. There was no way to disconnect the line without disrupting the service of other paying customers. The property should have been annexed. Pursuing collections or writing off the bill were discussed. The land is now owned by the Idaho Transportation Department. Last payment date on the account was 10/22/01. Sending a letter to Mr. Andrus was mentioned. Letters have been sent and bill has been discussed with Mr Andrus several times. In the past, the city pursued small claims proceedings with Mr. Andrus for the delinquent Shed Restaurant sewer fees and Mr. Andrus was only required to compensate the city for the dates that the city could prove usage because of the shared connection. It was brought to council's attention that the city may want to check land ownership records. It's believed that there is still some isolated parcels that Mr. Andrus owns. City Code does not permit the city to lien the property. The city will have to pursue small claim proceedings. Motion was made by Council member Smith and seconded by Councilman Vice to write off the debt. All voted aye. Unanimous.

Planning & Zoning
(Eric & Julie Hill's Conditional Use Permit For B & B) Mayor Burgin announced that the public hearing is over and there will be no input entertained from the audience. Statement of facts, findings and recommendations was reviewed. Clyde Nelson, City Attorney, recommended that council place in their decision wording to insert non-locking between the words install and doorway in recommendation #7 and grant applicants one year to meet conditions and complete improvements from the date of approval or permit will become null and void. The recommendations had been originally determined by the planning and zoning commission but omitted. Council was made aware that the use would follow the property unless stated in conditions. Successor's would inherit

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Planning & Zoning cont.
(Eric & Julie Hill's
Conditional Use Permit
For B & B)

rights. City attorney suggested investigating time limit restrictions before making a decision because normally the use always follows the property and enhances the value. Conditions can not adversely effect property values. In the past, when similar uses were considered and approved, council felt that the conditional use was temporary not permanent. Parking conditions and driveway grades were discussed. Engineers recommendations were reviewed. It was questioned if the structure had to meet American Disability Act regulations. Building permit for change of use should address fire and ADA code regulations. The proposed driveway approach is steep; it is questionable if it is even doable. Julie Hill, applicant, reported that Kit Tillotson looked at it and feels that it is doable. Some gravel and dirt will have to be hauled in, retaining done and possibly the parking area moved more into the back yard. Maximum grade for the driveway can not exceed 8%. No engineer visited site. South 1st East was closed because of drainage and steep grade issues. Parking lot drainage was a concern. Julie explained that the parking lot will be gradually sloped to the backyard. Final inspection obligations were questioned. The building inspector will make the final inspection on building code matters and the rest is up to the city. Two trees will be removed to construct the parking area. Accessing the parking lot from the alley was discussed. It would be difficult to plow the alley in the winter. Off street parking area will be used by owner and guests along with the street as allowed. Upstairs guests will most likely park on the street and owners in off street parking lot. Julie explained that if they would have known that the planning and zoning commission was going to make them connect the triplex units interiorly to make the structure one dwelling unit they would have applied differently to have the bed and breakfast downstairs instead of upstairs. Julie proposed willingness to limit the number of bedrooms for guests to three in the basement which would reduce the number of off street parking spaces to three if council would allow them to switch the location of their living quarters. Application described use as owner occupied bed and breakfast with owner occupying lower lever with top two units upstairs being used for guests. Julie was advised that her proposed change would require a new application. Clyde advised council to put language into the conditions that the driveway can not exceed 8% grade and when final inspection is made have city engineer check grade to make sure it meets specs before business operates. Julie was advised that it would be wise for her to have an engineer look at the approach before she incurs any expense. Clyde advised council that if a motion is made to adopt the planning and

Planning & Zoning Cont.
(Eric & Julie Hill's
Conditional Use Permit
For B & B)

zoning's recommendations as council's decision, the council will want to include the 8% maximum driveway grade, a non-locking doorway between units, improvements have to be completed within one year or permit will be void and use can not follow property subject to legal counsel's review and recommendation. Motion was made by Councilman Vice and seconded by Councilman Beeson accepting the planning and zoning's recommendations with #2 not to exceed 8%, #7 non-locking doorway, improvements have to be completed within one year or permit is void and use follows owner after Clyde's review. All voted aye. Unanimous. Clyde will draft decision and if it is acceptable council will authorize the mayor to sign it at the next meeting.

(Variance & Conditional
Use Permit Fees)

List of neighboring communities fees was reviewed. Applicants are paying \$10 plus publication and certified mailing costs. Council discussed passing the legal service fees that the city has been absorbing onto the applicant. Legal fees have ranged from \$500 to over a \$1,000 per application. Applications involve at least ten hours administrative time. Establishing a starting fee with provisions that applicant is liable for all additional fees exceeding the amount including attorney fees was mentioned. Collection may be difficult. Applicants should be required to pay full fee at the time application is submitted otherwise it is not accepted. Any fee increase over 5% requires a public hearing. Establishing fees for map amendment, zone change and subdivision applications were also considered. Establishing a lesser amount for minor variances was briefly discussed. A minor variance involves the same amount of time and expense. Zone change, map amendment and subdivision applications are time consuming and involve engineering services. Motion was made by Councilman Vice and seconded by Council member Smith scheduling a public hearing at the next regular meeting to increase application fees for conditional use permits to \$400. plus mailing and publication costs; variance \$150. plus mailing and publication costs, zone change, map amendment and subdivision \$500. plus mailings and publication costs. All voted aye. Unanimous.

City Park/Public Restroom
Maintenance

Plans for park restroom maintenance was discussed. Council member Smith has not talked with Patricia Minor to see if she is interested in maintaining the restrooms at the Buddy Campbell Memorial Park again. In the past, the city paid \$750 to each of the Senior Citizens Center and Museum for supplies and maintenance. Arrangements with the Museum for the Veteran's Park restrooms has worked well during the week but no one cleans them on weekends and Johnny's Restaurant employees are expected to open and close. Discontinuing arrangements and hiring two positions

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City Park/Public Restroom Maintenance cont. were discussed. \$3,000 was spent for restroom maintenance last year. Partnership organizations feel that they are still entitled to the \$750 for cleaning and paper supplies. The city purchased some supplies last year but shouldn't have. Annual budget is \$5,000. Renting portable facilities or compensating another entity for hiring the custodian are options. Portable facilities cost \$100 per month, \$140 for handicap accessible units. When the restrooms were built by the Lion's Club, maintenance obligations and vandalism concerns were discussed and the Lion's Club committed to take care of them. Council member suggested inviting the Lion's Club to the next meeting to discuss issue. Maintenance responsibilities need to be defined. City may need to take some maintenance responsibilities (building, pipe and fixture repairs). Bargaining with the Lion's to share the Utah billboard costs in return for restroom maintenance was suggested. There were many mixed feelings. Several felt portable facilities were the answer. Sherril Tillotson offered input as a business owner who started out with portable facilities and went to a vault system. Portables are easily vandalized, pushed over and require more maintenance than the weekly rental cleaning to prevent health hazards. In the past, portable units were not vandalized. Mayor Burgin will talk with Les Bocek to see if the Lion's Club is interested in meeting and report to council. Restrooms need to be opened for Easter. Lava Senior Citizens Center and South Bannock County Historical Center's \$750 bills was left tabled.

Council President/Council Assignments Mayor Burgin asked Council if they were satisfied with their assignments. Assignments were not changed. Nomination for Council President was entertained. A change in the position involve redoing the bank account signature cards. Council member Smith nominated Councilman Vice. All were in favor. Unanimous.

Assignments:

Beeson: Sewer, Water & Streets

Smith: Parks, Holiday Decorations & Planning & Zoning

Lowe: Police & Fire

Vice: Liason - Legislative Committee, Chamber, etc.

Meetings/Announcements (AIC Legislative Bulletin) Last weeks legislative bulletin was quickly reviewed. Information on public television legislation was presented. The proposed legislation is not on the agenda of the states affair. Councilman Vice will follow up on the status of the legislation tomorrow.

(Chamber Brochure)	Information on the new brochure design and advertising options was presented. There was no interests in paying for any special advertising spots.
(Idaho Rural Partnership Training)	Councilman Vice mentioned that he would like to attend the training April 7, 2009 in American Falls. Registration fee \$35. Motion was made by Council member Smith and seconded by Councilman Lowe authorizing Councilman Vice to attend the Idaho Rural Partnership Training. All voted aye. Unanimous.
(Idaho Rural Water Association Conference)	Council discussed authorizing Billy Thompson to attend the annual conference in Idaho Falls, March 17, 18 & 19, 2009. Billy holds a position in the association and would like to attend. Registration is \$200. Representatives of the association visit regularly and provide technical assistance on water and wastewater issues. The city is a member of the association and pays annual dues. Billy will be driving to the conference. City will have to pay him for mileage. Agenda schedule was questioned. City Clerk will print it off the website.
(Miscellaneous)	There were no miscellaneous items.
Projects (Stimulus - Main Street Bridge Replacement)	Forsgren Associates submitted an LTAC application to replace the Main Street Bridge. The Center Street resurfacing project was not eligible because it is not a federal connector.
(Aerator Project)	Letter has been received from DEQ explaining that the project is not eligible for emergency funding.
(Inflow/Infiltration Project)	Meter was installed in the first manhole today. A lot of rocks and foreign objects were found in the manhole at the alley between Elm and Main Streets on South 1 st East. The mayor gave the maintenance supervisor permission to hire Coats & Coats to flush the line to try and figure out where the rocks are coming from. The manhole has to be cleaned out for the inflow/infiltration study. An inch to three inches of extra water is also flowing into the system from the basement of the Blue Moon Bar. There is a spring surfacing and a trench diverts the water to a hole punched into the sewer line. City needs to meet with the owners and have them pump and pipe the extra water to the storm drain system.
(Wastewater Improvement Project Contracts)	Mayor Burgin and Councilman Beeson attended a meeting with Southeast Idaho Council of Government (SICOG) regarding contracts. SICOG has since met with Keller Associates today to work out project administration duties. SICOG has also informed the city that USDA has a new Rural Development 100% grant

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(Wastewater Improvement Project Contracts cont.) program that may fund the \$20,000 re-evaluation contract that Keller Associates are proposing. Keller's should also be able to draft a USDA contract on a likely basis for the full project. USDA does have to approve the contract. Councilman Vice reported that Brian Phinney, Keller Associates, contacted him and expressed that they are willing to negotiate what ever the city wants to do. Engineers feel that a land application system would be the best option. City is hoping for a more economical system then what's in the facility plan. A land application system eliminates river discharge. Council felt that the land application system is over designed. The \$20,000 contract would reevaluate all options listed in the feasibility study plus discharge to the golf course. Council were concerned with high future growth predictions Meetings will be scheduled with Keller's to discuss contracts and DEQ to update them on the status of the project and see if they have any concerns. City received notice today that the \$250,000 federal appropriation for engineering was approved.

(Idaho Rural Water Association Conference) Conference itinerary was reviewed. Registration includes meals. Conference ends at 10 a.m. on March 19th. There would be a couple of hundred dollars in travel plus registration. Billy could take the city's pickup. Motion was made by Councilman Vice and seconded by Council member Smith authorizing Billy to attend the conference. All voted aye. Unanimous.

(Census Meeting) Council assigned Trish Avery, Office Assistant, to attend the Census meeting in Pocatello tomorrow.

Motion was made by Council member Smith and seconded by Councilman Beeson to adjourn into executive session as provided by Idaho Code 67-2345(1) (f) to discuss letter received from May, Rammell and Thompson representing Milan Zabka's rental property. Roll call vote taken. Vice,-Aye, Smith-Aye, Beeson-Aye, Lowe-Aye. Motion carred. R.B. Scott, Code Enforcement Officer was granted permission to stay in attendance.

Motion was made by Councilman Vice and seconded by Council member Smith to reconvene. All voted aye. Unanimous.

Motion was made by Councilman Lowe and seconded by Council member Smith to adjourn. All voted aye. Unanimous. Meeting adjourned at 9:30 p.m.

Canda L. Dimick, City Clerk

Marshall N. Burgin, Mayor