

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, April 9, 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

Guests: George Katsilometes, Richard Flick, Monte Steele, Carla Leafy, Robert Kowaliw, Tahara Dergee, Nancy Turecek, Patty Kruse, Monte Steele and Michael Dahlquist - Bannock County Sheriff's Department and Roger Chermine - CHAT TV.

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

Minutes Minutes were presented to council and tabled for review and approval at the special council meeting that will be scheduled to finalize engineering and project administration contracts.

Bills Insurance Designer's \$120 bill for city clerk's notary bond was added to the list to be paid and Intermountain Sweeper's \$687 bill that was approved and paid last month was deleted. Caribou Mobile Repair's bill was for fire truck #1 repairs. Kofoed Well power bill seems high so the crew will be asked to check to see if the heater is still on. Repairs need to be done so that well house doesn't need to be heated. City crew found the public restroom door kicked open and the heating constantly running on East Main Street. Door was locked back up and there are some cleaning and repairs that need to be done. Travel policy was questioned. Next time council will consider having employees travel in the city's pickup. City has to pay unemployment benefits on annual firefighter gratuity checks when they file for unemployment. Keller Associates has partially billed for the aerator and inflow/infiltration contracts. Motion was made by Councilman Lowe and seconded by Council member Smith to pay the bills. All voted aye. Unanimous.

Law Enforcement Contract (Monthly Report) Monte Steele, Bannock County Sheriff's Department reported that the department had received the city's uniform citations and that they have been handed out to the officers. City should start receiving the revenue.

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(Business Security Checks) George Katsilometes expressed concerns regarding business safety mainly connected with drunk and disorderly conduct situations. Business owners attempt to resolve matters first themselves but sometimes law enforcement has to be involved. Past experiences with officers have ranged from very effective to ineffective and response times vary from five minutes to three hours. The Bannock County Sheriff's Department has a large area to patrol. George feels that Lava occasionally doesn't have the protection needed and that it is effecting business. George explained an incident involving a disturbance that happened a couple of weekends ago caused by some guests staying at the Alladin. Incident happened around 11 p.m. Guests were verbally abusive and would not quite down according to the night manager, Richard Flick. Police officers sitting at the museum did not respond satisfactorily to Richard's expectations. Richard had to ask the officers to help and two hours later one officer responded. George claimed that the situation disrupted several of his guests and has been a negative impact for his business and Lava. Guests need to feel protected during their visit and leave happy. George reported that he followed up on the situation with Officer Taysom. Officer Taysom informed Mr. Katsilometes that he would talk with the patrol officers. Mr. Katsilometes expected Office Taysom to call him back but it never happened. Mr. Katsilometes has been in contact with a number of communities; Montpelier, Soda Springs, American Falls, etc., to see how their departments are funded and operate. Bannock County Sheriff Department's jurisdiction is all of Bannock County but incorporated areas within the county are required to provide law enforcement services either internally or contract with the county. Mr. Katsilometes expressed that he would like to see the city pursue alternatives for police protection. A \$220,000 grant is available for a three year police protection program. The city could save \$136,000 over a three year period by hiring two Lava police officers. George offered to write the grant. Advantages would be savings and internal control. New vehicles and equipment would have to be purchased. George expects the county and state to continue assistance. Council agreed to consider request. George was asked to arrange an evening special meeting with everyone interested including representatives from the county and state police departments and give the city one week notice.

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Increase Fee
Public Hearing

Mayor opened the hearing for input on the proposed increase for variance, conditional use permit, zone change, map amendment and subdivision application fees at 5:54 p.m. It was explained that the fees were being increased to cover Increase Fee Public Hearing administration and legal costs associated with the applications. Variance application fees will increase to \$150 plus mailings and publication costs. Conditional use permit application fees will increase to \$400 plus mailings and publication costs. Zone change, map amendments and subdivision applications will increase to \$500 plus mailing and publication costs. City Clerk reported that the notice was published in the Idaho State Journal and no written comments were received and that George Katsilometes had signed the register to speak but he had left. Mayor Burgin entertained input from the audience and there was none. Motion was made by Council member Smith and seconded by Councilman Beeson closing the public hearing at 6:00 p.m. All voted aye.

Resolution 2009-1 Resolution 2009-1 was read in full.

A RESOLUTION FOR THE CITY OF LAVA HOT SPRINGS, IDAHO, ESTABLISHING A FEE FOR A SUBDIVISION APPLICATION AND AMENDING FEES FOR ZONING TEXT, MAP AMENDMENT, CONDITIONAL USE PERMIT, AND VARIANCE APPLICATIONS; REQUIRING APPLICANT TO PAY ALL COSTS OF PUBLIC HEARINGS FOR THE SAME AND CERTIFIED MAILINGS; AND ESTABLISHING AN EFFECTIVE DATE OF THIS RESOLUTION.

I.

WHEREAS, Ordinance 2006-2, Ordinance of the City of Lava Hot Springs, Idaho authorizes the City Council to establish fees for subdivision applications by resolution and

II.

WHEREAS, Resolution No. 2008-1 establishing fees for zoning text, map amendments, conditional use permits and variance applications authorizes the City Council to change fees by resolution following a public hearing as required by Idaho Code 63-1311A

III.

WHEREAS, a public hearing was held before the City Council on the 9th day of April, 2009 to consider fee increases for the above stated applications, which public hearing was held pursuant to law.

IV.

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WHEREAS, following said public hearing, the Council did determine that the application fees be charged and increased as hereinafter set forth.

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

1. The filing fee for an application for a zoning text, zoning map amendment and subdivision shall be five hundred dollars (\$500.00) per application. The filing fee for an application for a conditional use permit shall be four hundred dollars (\$400.00). The filing fee for an application for a variance shall be one hundred fifty dollars (\$150.00). The amount of said fees may be changed by resolution of the City Council following public hearing as required by Idaho Code 63-1311A.
2. An applicant for zoning text, zoning map amendment, subdivision, conditional use permit, or variance, shall pay all costs associated with the public hearing process to include, but not be limited to, the cost of publication of notice of public hearing and the cost of certified letter mailings of notice of public hearing to property owners. Copies of the receipts for said mailing shall be provided to the City Clerk prior to the public hearing by the applicant.
3. No fees shall be required in the case of proceedings instituted by either the City Council or the Planning and Zoning Commission.
4. This resolution shall remain in effect until amended by the City Council in accordance with procedures established by Idaho law.
5. This resolution shall be in full force and effect from and after its passage and approval by the Mayor and City Council of the City of Lava Hot Springs, Idaho.

PASSED AND APPROVED this 9th day of April, 2009, by the Mayor and City Council of the City of Lava Hot Springs, Idaho.

CITY OF LAVA HOT SPRINGS

MARSHALL N. BURGIN, Mayor

ATTEST:

CANDA L. DIMICK, City Clerk

Motion was made by Council member Smith and seconded by Councilman Vice adopting Resolution 2009-1 establishing fees for zone text and map amendments, conditional use permits, and applications for variance; requiring an applicant to pay the costs

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of public hearings for the same and certified mailing and establishing an effective date. All voted aye. Unanimous.

Eric & Julie Hill's
Conditional Use Permit

Statement of facts, findings and decision prepared by the city's attorney was reviewed. Eric & Julie Hill's email suggesting that the City Council postpone the final review until the next council meeting so that they could be in attendance or change the conditions to allow the Bed & Breakfast use to follow the property. The city has followed the ordinance procedures in order to consider the application. Suggestion was made to proceed with a final decision. Motion was made by Councilman Lowe approving the conditional use permit application for a bed and breakfast located at 96 East Booth Street as recommended. Mayor Burgin entertained comments or concerns before calling for a second. Council member Smith expressed that she feels the conditions are in order and seconded the motion. All voted aye. Unanimous.

Kowaliw's Sewer Service

Robert Kowaliw disputed sewer charges for a connection that he is not utilizing. City crew has not been able to locate the service connection at the main. Mayor Burgin suggested disconnecting the service on record after Mr. Kowaliw has dug up the line where the connection is stubbed out of the ground two feet below the elbow, sawed pipe off, concrete block it and have the city crew complete an inspection before the area is backfilled to prevent any undue hardship or unnecessary expense. Mr. Kowaliw understood and agreed to terms. Mayor Burgin offered to donate a sack of concrete. Motion was made by Council member Smith and seconded by Councilman Beeson to allow Mr. Kowaliw to disconnect the unutilized sewer service to his property under the terms as suggested by the mayor. All voted aye. Unanimous.

Business Licenses
Non-Property Tax Permits

List of licenses and non-property tax permits to be considered was read. Motion was made by Councilman Beeson and seconded by Councilman Lowe approving business licenses and or non-property tax permits for EE Networks, LLC - Jesse Dunn, Owner/Applicant, Gunter Custom Homes - Gavin Gunter, Owner/Applicant, Hainline Construction - Don Hainline, Owner/Applicant, Service Master Cleaning & Restoration, Alma Stumpp, Owner/Applicant, Sweetwater Vacation Rental, Mary Ellen Desrosiers, Owner/Applicant, R & B LLC, Ron Berger, Owner/Applicant and White Cloud

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Cleaning, Carla Leafy, Owner/Applicant. All voted aye. Unanimous.

Building Permits

List of permits to be considered was read. Motion was made by Council member Smith and seconded by Councilman Lowe approving Amantha Sierra's building permit for an exterior access to upstairs, 185 West Booth Street, and Milan Zabka's residential addition permit, 311 West Fife Street, both subject to the building inspector's approval. All voted aye. Unanimous.

1% Tourism Development

Letters and emails have been received from Donna English, Joann Murphy, Nancy Turecek and Brook West addressing concerns with who and how committee member names were selected. Councilman Vice reported that he had met with Evelee Hill and Londa Palmer to select some names. The list of names submitted has not been presented to the Chamber of Commerce for a vote. Legal directives have been obtained and Council member Smith has researched how other communities are administering their local tax funds. There is no committee. No committee has been appointed by the city council. Council member Smith suggested pulling back on making any appointments, address situation in a more organized manner by drafting expectations then review list of names and select members and in the mean time have the city attorney complete the legal documents necessary to form the committee. Committee will be given the authority to make recommendations only. The 1% tax can only be used for tourism development and promotion. A definition and application process needs to be spelled out. Application form may be carbon copied from other communities. Committee will be appointed similar to the Planning & Zoning Commission. Some committees are meeting only once a year which prevents off-the-cuff proposals and develops some long term planning. Limiting meetings is beneficial for budgeting purposes. Establishing a reserve fund or not, the type of projects funded (i.e. construction or ones requiring on going support), eligible applicants were mentioned as some items that need to be determined. Chamber needs to vote on their list of names. Citizen representation needs to be on the committee also. A thank you will be sent for the list of names submitted with explanation that the city has to do some more planning and in the meantime no proposals will be considered. Council members Smith, Vice, Beeson and the city clerk will work cooperatively by email contact to draft guidelines which will be

1% Tourism Development
Cont.

presented to the council at the next meeting for consideration. Copy of McCall, Idaho's committee documents are available. The city is dealing with the disbursement of public tax money and is accountable for how it is spent. Citizens voted in the tax which entitled them to a voice. Nancy Turecek presented two petitions that she had circulated the last forty-eight hours, one representing city residents and one representing residents within the 83246 zip code, containing fifty-two signatures requesting that the council take the matter of forming a 1% tax committee very seriously, giving it full consideration and providing the findings to the public. Nancy reviewed her letter with city council addressing concerns regarding, committee appointments, number of committee members, self appointments, provisions for transparency, community awareness, input and representation, guaranteed assurance that the authentic and historic character of the town will be respected, protected and preserved and ordinance amendment to form committee. The drafted guidelines to form the committee will be public information. The formation of a committee has been on numerous council meeting agendas since the 1% tax was imposed. Nancy questioned what project categories fall into the meaning and definition of tourism development and promotion. Nancy reported that the five individuals who's names were submitted for consideration met last Sunday. Nancy was assured that the committee has not been appointed and that if the individuals met they have no authority. Discussion followed on the collection of the 1% tax. Nancy expressed that businesses in no way should be entitled to making decisions on the distribution of funds because they feel that they have the burden of collecting it. The collection is an assumed responsibility. The committee when formed will follow the Idaho public meeting laws and procedures as obligated. One of the individuals whos name is on the list for consideration has been advised not to meet. Nancy was assured that no group has been working with the city and that even though citizens may presume that those individuals are moving forward that they have no authority and it isn't significant. Nancy expressed that the citizens want to be in touch with the council and it was questioned where all of them were. Nancy was asked to wrap things up since her letter on the agenda had been presented. Nancy explained that the agenda is a head of schedule and that she had contacted the City Clerk on Monday to make sure that she was on the agenda and would be allowed to speak. Nancy requested on the behalf of petitioners that Lava Hot Springs City Council take the matter of forming the 1% tax committee very seriously, the use

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1% Tourism Development of such funds may chart the destiny of our community. The city council is taking the matter very seriously and that is why the council is working with an attorney and taking some time before action. Nancy was advised to feel free to inform her constituents and that legal counsel information is not public information. Nancy asked for council's position in writing. Nancy was advised to contact the city clerk next week to obtain a copy of the minutes when they are transcribed which will not be in verbatim form. Nancy was asked to leave a copy of the petitions. Council was comfortable with the petition formats and Nancy's interests to continue circulating efforts. It is understandable that rural Lava residents are impacted also. City Council members will work together on a draft which will be presented at the next meeting for discussion.

City Park/Public Restroom Ad has been sent to the Idaho State Journal for publication as required in the city's personnel policy. Upgrading wage rate was discussed. One applicant who applied for the position last year has been contacted and is still interested. If no applications are received, an ad will be placed in the Lava News next month. Establishing a closing date was questioned. No date was established. Bigger signs need to be posted for the East Main restrooms. When the community map gets going on the internet, the restroom locations can be targeted. Portable toilet facility was delivered today. The city crew has repaired the frozen broken valve servicing the Buddy Campbell Memorial Park restrooms and they will be open for the Easter hunt. System had not been totally drained. Shut off needs to be installed for the East Main restrooms so the pipes can be drained and the building doesn't have to be heated before next winter.

Buddy Campbell Park Weed Control Proposal Jerry Hobson's weed control proposal, \$1,228.00, for Buddy Campbell Memorial Park was considered. Improvement was questioned. Motion was made by Council member Smith and seconded by Councilman Vice hiring Jerry Hobson to provide the weed control for the Buddy Campbell Park for 2009. All voted aye. Unanimous. Proposal was compared to previous year fees. After the 1st application, council will take a look at it to see if another application is needed.

FY2010 Budget Hearing was scheduled for August 13, 2009 at 5:30 p.m., Lava City Hall. Notice will be sent to the County.

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Public Transportation Funding	Request for funding assistance for FY2010 increased to \$700. Appropriation will be worked into the budget.
Meetings/Announcements	AIC Legislative Bulletin explaining the bill passed regarding changes to the open meeting law was presented. No significant changes. Law clarifies process for amending agendas and reasons permitted for executive sessions. Councilman Vice reported that he has been writing to representatives and coping the city into his input when ever AIC suggests supporting or opposing bills.
(Horizons Visioning Rally)	The next phase of the Horizons program is the Visioning Rally which is scheduled for May 16, 2009 at 9 a.m., Lava Community Building. Mayor and council's participation was encouraged.
(2009 Idaho Wastewater Reuse Conference)	Conference scheduled May 13 & 14, 2009 at the Hilton Inn in Boise. The city's wastewater land application is reuse. No one was interested in attending.
(2009 Budget & Levy Training)	City Clerk was authorized to attend the budget and levy training in Pocatello on May 13, 2009.
(PRIMA Spring Training)	Essential training for risk management is scheduled for May 7, 2009 in Pocatello. No one was interested in attending.
(Miscellaneous)	Letter seeking donation for Marsh Valley High School's senior all night party was considered. Mayor suggested and council supported the purchase of a \$25.00 Royal Pizza gift certificate. Expense will be posted to the mayor's discretionary fund.
Projects	Mayor Burgin reported that the application had been changed again and the project is to mill the asphalt and install a new mat on both sides of the East Main Street bridge approximately 50 yards on each side. Replacing the bridge and resurfacing Center Street were not eligible projects. City Clerk reported that she understood the project was an overlay along the total distance of East Main. The city will wait to see if the funding is awarded. Application was due April 3 rd .

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- (Aerator Project) System is up and running. Partial bill has been paid to electrician. There were some overheating problems. Electrician is still making some adjustments. New system should help take care of the odor problem.
- (Inflow/Infiltration Project) The second flow meter had to be returned for repairs and a replacement is supposed to be delivered tomorrow. Engineers will try and get the meter hooked up before the weekend if it is delivered in time. Who's responsible for all the time involving the equipment failures was questioned. It was specified in the contract that the city is obligated to order and pay for the equipment. The rental company is working with the city and has extended the agreement. City is running out of time. Compensation for the extended engineers time will have to be negotiated before final payment is made. City maintenance crew has been asked to document facts.
- (Wastewater Improvements) Insurance limits need increased according to the city's attorney and various fees for services were pointed out. Motion was made by Councilman Vice and seconded by Councilman Lowe approving the wastewater improvement contract with SICOG with the changes recommended by the city's attorney. All voted aye. Unanimous.
- (Fire Station Solar Project) Kellers was supposed to send updates for the meeting. City Clerk and attorney have reviewed contract. Kellers have been hesitant to revise contracts in the past. Legal advice will be forwarded to Kellers to incorporate changes.
- (Wastewater Improvements) Mayor Burgin reported that last Tuesday, Councilman Beeson, City Clerk and himself had met with representatives from USDA, DEQ, SICOG and Kellers Associates. The city needs to have a signed contract with the construction contractor by no later than January 17, 2010 or the city will lose the stimulus funding that DEQ has appropriated. Bond election is scheduled for August. City Council needs to move forward and select design location and finalize engineering contract. Project is on a tight schedule. Three funding scenarios were presented ranging from \$43.00 to \$80.00 per month per equivalent user fee based on a \$8 million project excluding operation and maintenance costs. Projected O & M \$180,000 annually. City Clerk is going to meet with Julie Neff, USDA to project a rate that the community can afford. Fines and penalties are still a threat.

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- (Inflow/Infiltration Project) Mayor Burgin sees no need to conduct the second phase of the study due to delays. If engineers feel the need to negotiate additional fees for extra work due to equipment problems, the city will propose decreasing fees due to the fact that the project phases were scaled back. City crew was never approached about the possibility of helping the engineers with the study during the winter.
- (Directional Tourist Information Signs) Sign was presented. Size was a concern. Sign is too big to be posting on Main Street. Mayor Burgin suggested talking with the museum about posting one of the signs on two posts in their planter box. Signs were ordered through an ITD Program by Kathryn DeMott and Tony Varilone. The city thought that the signs were going to be 2'x2' or 2'x3'. It was questioned and confirmed that the signs would comply with the city's sign ordinance. Sign is too big to post at the Post Office. Alternative site needs to be found. City will get with
- (Directional Tourist Information Signs) the museum and if it doesn't work out the city will get back with Kathryn to see what else can be done.
- (FEMA) The Federal Emergency Management Agency has updated the city's flood plain maps. No significant changes were noted. Ordinance will have to be amended in the near future.
- (Miscellaneous - Garbage Truck) City of Grace has offered to sell Lava a 2001 garbage truck for \$60,000. Cans cost \$54.00 each for little and \$225.00 for large. Grace hired a third person to haul the garbage. He works two days a week for six hours a day hauling garbage and the rest of the week they can afford to pay him from the revenue generated from garbage collections. Grace hauls only four miles to the landfill and Lava will have to haul forty. Council will possibly look at it in the future.
- (Miscellaneous - Wastewater Improvement Project) Mark Krantz from Farmington, Utah works for a company interested in piloting a new technology wastewater treatment plant that will guarantee grade A+ discharge water at no up front cost to the city until the plant is running, operable and approved by DEQ and EPA. Cost after approval would be \$20,000 per month, including maintenance and operation. Four plants are currently operating in Finland and Norway and the company is trying to get established in the U.S. The city may need to dispose of or market the sludge/solid waste. City would be responsible for distribution lines. Plant would

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(Miscellaneous - Wastewater Improvement Project Cont.) be house in a building, 30' x 80'. Council expressed interests in hearing more. Mayor will schedule a special meeting with rep.

Discussion There were no discussion items.

Motion was made by Councilman Beeson and seconded by Councilman Lowe to adjourn. All voted aye. Unanimous. Meeting adjourned at 7:50 p.m.

Canda L. Dimick, City Clerk

Marshall N. Burgin, Mayor