

Minutes of the Special Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Tuesday, July 20, 2010 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho

Present:

Marshall N. Burgin, Mayor

Canda L. Dimick, City Clerk

Rita Anderson, Councilperson

Clyde Nelson, attorney

Phillip Beeson, Councilperson

Newton J. Lowe, Councilperson

Cathy Sher, Councilperson

Guests: Shawn Mulholland, Laurel Pumphrey, Wade Olorenshaw, Steve & Lisa Toly

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

### **Amend Agenda**

A motion was made by Councilperson Anderson amending the agenda to add Jaycob Burmester, Four Trax Excavation LLC to the list of business licenses. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

### **Lava Planning & Zoning Commission's Statement of Facts, Findings and Recommendation on the Zoning Map Amendment Application - River's Edge Resort, LLC, Applicant**

Surveyor Wade Olorenshaw presented and explained his findings and survey map regarding the access from the River's Edge Resort Campground to the A-frame house. The access is a prescriptive easement for and in behalf of the city and the residential dwelling west of the campground. The river used to run along the cliff which was rip rapped to install the city's sewer line.

Councilperson Beeson asked the mayor how the property with the A-frame house was accessed before the city rip rapped and created the current access road. The mayor said the property was a pasture and they would come up the river.

The grade of the road from River Street was questioned. Councilperson Beeson stated the sewer line angles down the hill along the graded road and then cuts down to the sewer truck line.

Mr. Olorenshaw stated that none of the properties in question have property that goes to the access road or the river. The attorney questioned whose property the trail from River Street runs across. Mr. Olorenshaw stated that the trail runs across the property owned by River's Edge Resort and Jerry Zambo's property. The estimated grade of the trail is 8 or 6 percent but has never been shot.

The attorney stated that there are a couple of problems; 1) the access road along the river is very narrow which is a concern for emergency access and the alternative road is very steep. He suggested talking with the Emergency Service Departments and getting their recommendations on the secondary road; 2) Possibilities of approving or denying the

Planning & Zoning Commission's recommendation was explained. Keeping the upper bluff portion of the property residential as a buffer zone and zoning the lower area C1 commercial would somewhat satisfy the objecting neighbors. A campground in C1 commercial requires a conditional use permit. If the city chooses to split the property with a portion remaining residential and a portion changing to commercial, the property would need to be surveyed to determine the boundaries of the new zone. Mr. Mulholland asked if keeping the residential buffer zone would restrict them from improving the road for emergency access. He was told that the city's sewer line easements preexist and would have to be protected.

Councilperson Sher stated that there are definitely safety issues that need to be addressed. If they are planning on expanding the high density use, the traffic bottle neck on Center Street is also a concern. Shawn Mulholland stated that safety is their number one concern. They do not plan to congest the expansion of the campground like the existing campground they purchased does.

Steve Toly stated that as a member of the fire department they do have concerns about fires around propane tanks in the campground.

Councilperson Beeson asked the attorney if the emergency access would need to be addressed at this time. The attorney stated all the council is doing at this time is stating if they will permit it as commercial. When a building permit application comes in the council would look at it to see if the emergency access is adequate before approving the building permit.

Steve Toly stated that consideration needs to be given to the property owners along the cliff before building permits are issued. He stated concerns of additional traffic, dust, motorbikes on the emergency access road, etc. Councilperson Beeson stated that those issues could be given consideration in the conditional use permit process. The mayor stated that the only thing the council is considering at this time is allowing the zone change to commercial. The applicant will have to come in with engineered plans before any construction can be considered.

Councilperson Anderson stated that when the recommendation came back from the Planning and Zoning Commission they recommended C2. There were a lot of issues with the residents. She stated that no matter what the council does tonight, not everyone is going to be totally happy. She said that she felt that a C1 zone with a buffer would be a reasonable compromise.

The council reviewed the uses allowed in the C1 and C2 zones. The attorney said that the council could as part of the motion to approve include that prior to the issuance of any building or zoning permit for any type of use that the primary access and emergency access would have to be address to the satisfaction of the city.

A motion was made by Councilperson Beeson that the council deny the Planning & Zonings recommendation to C2 zone and recommend to the council that they approve a

C1 zone including a buffer zone leaving the upper portion as R2 Residential and as part of the approval any use of said property must address emergency access off the hill.

The attorney clarified that Councilperson Beeson is making a motion to rezone the area from the river to the bottom of the bluff to C1 conditioned on a survey of the property and a map of the property being rezoned, maintaining the upper portion from the bottom of the bluff to River Street as R2 and that any application for a building permit in that zone would be subject to proper emergency access being provided.

The motion was seconded by Councilperson Anderson. Lowe - aye, Anderson –aye, Beeson – aye, Sher nay. The motion passed.

The attorney stated that before the council signs off on the decision the applicant will have to provide the survey and survey map.

**Discuss enacting an ordinance regarding recreational vehicles on residential developed lots with city attorney.**

The attorney stated that he does not read the city ordinance as permitting occupied RVs in an R2 zone, they are not permitted. The only places that occupied RVs are allowed are in RV parks. Allowing occupied RVs in the residential or commercial areas in the city other than RV parks creates other problems. 1) They are not connected to the sewer lines; the city ordinance requires any property for human occupancy has to be connected to the city sewer line. 2) You can get into a vacation rental problem in your residential zone; a RV is basically a vacation rental on wheels.

The mayor stated that there are several people who have family pull in and stay for a week and sometime up to a couple of months. Sometimes they hook on to the city sewer and water. The attorney stated that this is a violation of the city ordinance. He recommends that the city does not allow any occupied RVs outside of a RV park. The ordinance implies that the storage of RVs is allowed. The city may want to clarify the storage of RVs. The City of Soda Springs allows one (1) RV on a residential lot as long as it is not occupied.

The mayor stated that residents should be allowed to let family members park their RV in their driveways. Councilperson Sher asked if they wanted to limit it to a 2 or 3 night stay the ordinance would have to be amended. The attorney said that the ordinance would have to be amended and then the entire residential zone would be opened up to vacation rentals which the city has worked very hard to restrict. Councilperson Beeson and Anderson stated that then everyone becomes family or friends and it becomes an enforcement problem.

The city clerk reminded the council that at a previous meeting the council had made a motion to amend the ordinance, there were some concerns after she had gotten back with Trish, this is why it is back on the agenda. She asked if the council wants to resend the motion, or postpone and do more research on it.

Councilperson Anderson stated that she had mixed feelings on this issue. When your family comes to visit it would be nice to allow them to park their RV for a few days, but on the other hand what happens in Lava when we open that little narrow window people try to get around the ordinance.

The city clerk stated that the ordinance does not allow RVs or tents at a vacation rental but next door at a residential lot someone could pull in an RV and it is allowed. This is a problem.

Councilperson Sher stated that she has liked being able to have family or friends pull in a RV and visit for a few days. She is in favor of amending the ordinance to allow it on a very limited basis. She is very against allowing them at a vacation rental. She stated that we are infringing on the property owner's rights to not allow them to have company for a few days.

Councilperson Beeson stated that if this is allowed we are taking business away from the RV park owner who plans on these people staying in his RV Park.

The city clerk asked how the council feels about RVs at the second homes. The ordinance does allow for temporary occupancy of an RV during construction. She stated that on the 4<sup>th</sup> of July the entire residential zone could be filled with RVs which would be a problem. She asked if we are discriminating if it is allowed at a permanent residence and not at a second home. The attorney stated that if it is opened up for one it has to be opened up for all.

A motion was made by Councilperson Beeson to table the matter until further review. The motion was seconded by Councilperson Lowe. All voted aye, unanimous.

The attorney excused himself from the remainder of the meeting.

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

- A. A Higher Healing – Carey Tomich, Owner/Applicant**
- B. ASL Annex (105 East Main) – Evelee Hill, Owner/Applicant**
- C. EE Networks LLC/Lava WIFI – Jesse Dunn, Owner/Applicant**
- D. Gem Valley Survey – Wade Olorenshaw, Owner/Applicant**
- E. Sunshine Window Cleaning – Ryan Allred, Owner/Applicant**
- F. Zipline Adventures – Milan Zabka, Owner/Applicant**
- G. Four Trax Excavation, LLC. – Jaycob Burmester, Owner/Applicant**

The mayor read the list of business licenses and non-property tax permits.

A motion was made by Councilperson Anderson and seconded by Councilperson Sher to approve the business licenses as read. All voted aye, unanimous.

## **Inflow/Infiltration Study Report/Wastewater Improvement Project**

The mayor is going to take the I & I Study home and read it. He is working on the easements, but has not had much success.

The study indicates that a lot of the flow is hot water. Actions need to be taken to address the additional flows. The city will have to decide how to address the problem and put some pressure on the property owners creating the additional flows.

A motion was made by Councilperson Sher that upon the mayor and Billy Thompson's review of the I & I study, the council accept the study. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

The mayor reported that he had instructed the city clerk to buy flowers for Edna Hobson's funeral (Tony's step mother). The council had no problem with this.

### **Adjournment**

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

The meeting adjourned at 6:45 p.m.

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Trish Avery, Transcriber

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Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk (proof read)

Approved August 19, 2010