

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, November 11, 2010 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

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

Guests: Evelee Hill, Nathleen Rife, Vicky Lyon, Mike Vice, Camille Vice, John Fleming

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

Amend Agenda

The mayor requested that the agenda be amended to consider the 2011 dog tag discounts and 2011 Business License renewals to authorize the city clerk to issue renewals upon receipt. Councilperson Sher requested to include visitor information signs.

A motion was made by Councilperson Sher to amend the agenda to include 2011 dog tag discounts, 2011 Business License renewals and visitor information signs. The motion was seconded by Councilperson Lowe. All voted aye, unanimous.

Approval of Minutes

Councilperson Anderson mentioned a correction on page 10, under Wagon Wheel Lounge's Liquor Catering Permit for Oktoberfest, third paragraph of the October minutes the word "put" needed to be changed to "but". She also questioned page 12, first paragraph under B) IFFT Foundation Grant in the October 14 minutes, the wording "proved up on the matching funds". This was discussed and decided that the wording was correct.

Councilperson Sher mentioned some corrections and additions to the minutes as follows:
October 14, 2010 minutes:

- 1) Page 7, third paragraph under B) Solar Systems. She requested that the minutes reflect her comments regarding height and noise issues of wind turbines which are not an issue with solar panels.
- 2) Page 8 under enacting an ordinance restricting equine transportation. She requested that the minutes reflect her comments regarding horses in town could be an entrepreneurial business down the road and the audience comments regarding exceptions for special occasions such as parades or carriage rides for weddings, etc.
- 3) Page 9, last paragraph, the word "first" should be changed to "second".
- 4) Page 13, first paragraph under E) Miscellaneous. She requested that the last sentence be changed to two (2) sentences. The first sentence ending in "\$4,518.75" and the second sentence begin with "There".

October 28, 2010 minutes: Page 4, paragraph 7, a semicolon should be added after “The city clerk stated that her feeling is”.

A motion was made by Councilperson Anderson and seconded by Councilperson Sher approving the minutes of the October 14, 2010 Regular Meeting and the October 28, 2010 Special Meeting as amended. All voted aye, unanimous.

Reviewing of Bills

Councilperson Beeson questioned the Fire Services of Idaho bill which was noted that the “bill is being questioned and held until matter is resolved”. The city clerk reported that when the bill was received Tony was on vacation and did not get to review it. Tony has reported that he was in a construction meeting ~~with~~ when Fire Services showed up to do the inspection so he had given them a key to the fire station and was not aware of everything that was inspected. He was not aware that they had done the SCBA testing which was also done by LN Curtis last spring. There is also a discrepancy on the number of fire extinguishers that were tested. Payment is being held until the issues are resolved.

A motion was made by Councilperson Anderson and seconded by Councilperson Sher approving the payment of the bills as listed with the exception of the Fire Services bill. All voted aye, unanimous.

10' x 20' Portable Chamber of Commerce Office/Visitor Center – Evelee Hill Rush

Evelee Hill presented a proposal to install a portable structure in the Veteran’s Memorial Park for a Chamber of Commerce Office/Visitor Center. She reported that she had not approached the Chamber about the proposal because she wanted the city council’s approval first. If both the city council and chamber approve the proposal, she will donate the unit.

Councilperson Beeson expressed concerns that the park is dedicated as a Veteran’s Memorial Park and should remain dedicated for that purpose. He stated that tourist and visitor information is available at the museum. Ms. Hill stated that there is 30 feet area of frontage that would not encroach onto the monuments or flags. The mayor stated that he had spoken to the American Legion and that they were not in favor of the project. The American Legion is supportive of temporary occasional uses, like the seasonal town square. Councilperson Anderson stated that there are concerns of how to man the visitor’s center. The museum is open seven (7) days a week from noon to 5 p.m. and is currently providing that service. Councilperson Sher gave the details of the numbers of museum employees and volunteers they have to cover the shifts. Councilperson Sher expressed that she would like to see the energies and moneys used for other beneficial services in town rather than duplicating services. Ms. Hill questioned if there was a conflict of interest for Councilperson Sher because she serves as director of the museum. Councilperson Sher stated she didn’t feel that it was a conflict of interest.

Ms. Hill stated that she felt that this is a doable project with funding from the 1% tourism promotion funds. Council agreed that they are not in favor of the unit being placed in the

Veteran's Memorial Park. Evelee will look for a different location and bring the matter back for reconsideration if one is found.

Town Square/Veteran's Memorial Park – Evelee Hill Rush

Nathleen Rife, representing the Community's Holiday Lighting Committee, stated that they are requesting permission to be able to use the Veteran's Memorial Park as the Town Square rather than cutting down trees and decorating the vacant tribal lots for the Christmas season. She said that they would like to use it all year round as a town square not just at Christmas time.

Vicky Lyon stated that Nathleen Rife and Gail Palen have put together decorations for a beautiful winter wonderland. She also reported that the Chamber is supportive of the project and that the chamber has ecological concerns of cutting down two or more large trees every year for a few months of decorations. They would like approval to use the Veteran's Memorial Park as a winter gathering spot for the Christmas season through the Fire and Ice festival. Nathleen Rife stated that they are working towards making this bigger and better each year. She also reported that the chamber is planning several activities and events for the Christmas season. Councilperson Anderson stated that using the park for this purpose through the winter would not be a problem, but using the park through the summer for gatherings would potentially create problems of wear and tear on the park.

Councilperson Sher questioned who covers the utility costs. The mayor reported that the city covers these charges at this time. It was asked if the restrooms could be opened during this period. Councilperson Beeson reported that the restrooms have been winterized. Some discussion followed regarding equipment needed for decorating.

Councilperson Beeson expressed concerns of having a fire in the park. There was discussion of how to have a fire and not create any damage to the grass beneath. It was decided that if the fire is in a pit off the ground that it shouldn't cause any damage. Fire safety issues were also discussed. The chamber will have someone present at all times when there is a fire burning.

It was questioned if the council would approve the seasonal use as an annual event. The mayor suggested that the use be approved for this season only, then review it for next year. The council agreed it would be good to see how things go.

A motion was made by Councilperson Sher approving the Town Square/Veteran's Memorial Park proposal for this year as a winter wonderland beginning Thanksgiving through Fire and Ice. The motion was seconded by Councilperson Anderson. All voted aye, unanimous.

Tourism Tax Information – Evelee Hill Rush

Evelee Hill reported that in 2009 the City of Salmon instituted a 4% LOT (Local Option Tax) tax. She presented an application which the City of Salmon uses. The City of McCall has also updated there Local Option Tax. She requested that the city council consider an advisory board again. She presented the list of advisory board members for the City of Salmon which included two (2) city council members, one (1) parks and recreation person, and four (4) business people. She stated that this advisory board is a combination of individuals and it takes some of the labor and effort off the city council. Councilperson Sher recommended that the city council continue to manage the 1% tourism promotion funds until the city has a good grasp of where the city is going with it. She stated that she appreciated Ms. Hill's recommendation but there has been a lot of work done on the proposal application process. She stated that at this time with the city attorney's recommendation, the city council is better off to continue as they are going in regards to administering the 1% funds.

Ms. Hill stated that she felt that there could be some conflict of interest with some council members because some council members are also serving on boards that may be submitting applications. There was further discussion of the issue of conflict of interest. Councilperson Beeson stated that he agreed with Councilperson Sher's comments regarding the city council continuing to administer the 1% tourism promotion funds. Councilperson Sher thanked Ms. Hill for the information which she had presented from other cities and stated that the council would review the information and possibly integrate some of the information into Lava's proposal process.

Ms. Hill questioned who can apply for the funds. Does it have to be an organization or can a business or individual apply for them? Councilperson Sher stated that the proposals have to come in from organizations, non-profits and groups to help the council know that the proposals are being planned as a group process and not just an individual. Ms. Hill stated that there needs to be some clarification of what constitutes an organization or group. It was also clarified that once an application is approved that the city will contract with the provider of the goods or services.

Building Permit for Aura Soma Lava Vacation Rental -69 West Main (Change of Use) – Bob & Evelee Rush, Owners/Contractors

Evelee Hill-Rush reported that the building inspector had approved her application. Councilperson Sher questioned if the off-street parking was approved along with the application. The city clerk reported that the off-street parking was approved. The occupancy was set at four (4) persons. Ms. Hill stated that she will ask her guests to unload in her parking space and park out front on Main Street.

A motion was made by Councilperson Beeson and seconded by Councilperson Anderson approving the building permit application for Bob & Evelee Rush. All voted aye, unanimous.

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

- A. C.R.F. Mechanical, LLC – Charles Fife,
- B. Owner/Applicant B. Harmony Hill Vacation Rentals – Cori Rife & Tahra Dergee, Owners/Applicants
- C. Safe Haven (general contractor) – Louis Adamson, Owner/Applicant

The mayor read the list of business licenses and non-property tax permits. The council reviewed and discussed the applications.

A motion was made by Councilperson Anderson and seconded by Councilperson Beeson approving the business license and non-property tax permit applications as read. All voted aye, unanimous.

Pioneer Country Travel Council – Councilperson Sher

Councilperson Sher reported on the advertizing list that the Pioneer Country Travel Council has put together. The advertizing is focused on the off season. She also reported that there is a focus on natural resources which is also part of the comprehensive plan. Evelee Hill reported on the funds that Pioneer Country Travel has spent on the advertizing. Councilperson Sher also reported on Lynx. Lynx is taking off where the Salt Lake shuttle service has left off and is connecting a tri-state area. They are looking for investors. She left the information with the city clerk to be available for the council to review. Councilperson Anderson reported that Lynx made a presentation to the Chamber.

Visitor Information Signs

Councilperson Sher stated the directional visitor information signs that were provided were too large and that a smaller sign is now available which they would like to hang on the street light post. It was stated that the sign could not be mounted to the decorative street lights. There was discussion of where and how the visitor information signs could be placed.

(The mayor was dismissed and Councilperson Beeson, Council President, finished conducting the meeting.)

Councilperson Sher reported that the signs will cost \$50 each. It was decided to table the issue and to discuss it at another meeting.

American Legion Post 21 Troop Care Package Drive

A motion was made by Councilperson Sher to send American Legion Post 21 Troop Care Package Drive one hundred (\$100) dollars. Councilperson Beeson explained that the Lava American Legion Post sends donations to Downey’s Post 21 in lieu of doing their own troop care package drive. The motion was seconded by Councilperson Anderson. All voted aye, unanimous.

Idaho Intergovernmental Insurance Authority (A Health Care Joint Power Authority, A Strategic Partnership of Cities Supporting Cities) – Review legal opinion and decide on participation.

The city clerk reported that the city attorney had called her and stated that he felt everything was in order. The council questioned the city clerk on her feelings on participating in the group. She stated that she felt it would be worthwhile to participate which would cost \$16 per month. This group will help cities negotiate insurance rates, etc. A city councilmember, mayor or staff will need to be designated to sit on the review board. Vicky Lyon stated that she has a background in insurance and would be willing to sit on the board if the council would like her to.

A motion was made by Councilperson Anderson to participate in the Idaho Intergovernmental Insurance Authority. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Adopt Ordinance 2010-5 imposing herding restrictions on city right-of-ways and prohibiting any animal to be left tethered or unattended on city right-of-ways at anytime.

A motion was made by Councilperson Anderson dispersing with the three separate readings of the ordinance. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Ordinance No. 2010-5 was read by Councilperson Beeson as follows:

Ordinance 2010-5

AN ORDINANCE AMENDING SECTIONS 5-2-9D AND 5-2-9E1 OF THE CITY CODE OF LAVA HOT SPRINGS, IDAHO, IMPOSING HERDING RESTRICTIONS ON CITY RIGHT-OF-WAYS AND PROHIBITING THE TETHERING OR LEAVING OF ANY ANIMAL UNATTENDED ON ANY CITY RIGHT-OF-WAY AT ANYTIME; REPEALING ALL ORDINANCE OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; WAIVING THE RULE REQUIRING THE READING OF THIS ORDINANCE ON THREE SEPARATE OCCASIONS; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

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

Section 1: Section 5-2-9D is hereby amended to read as follows:

5-2-9D: Use of Public Ways or Property Prohibited: No person shall lead, drive, or ride any horse, pig, sheep, goat, mule, cattle or other animal over, across, or upon any sidewalk, parkway, or public parking area, or over or across any public park. (Ord. 1993-7, 12-9-1993) Herding any animal on or over any city street or alley, except US Highway. 30, is prohibited. An animal(s) ridden or lead upon any city street and/or alley must be attended to and with the owner, custodian, and/or rider at all times. No animal may be left tied to any city property, street light pole, public utility pole, or other property not the property of the owner, custodian, and / or rider of the animal(s) . The owner, custodian, and/or rider of any animal(s) will be liable for any damages the animal(s) causes to any public or private property.

Section 2: Section 5-2-9E is hereby amended to read as follows:

5-2-9E: Penalty:

1. Notice of Violation: The owner of any animal found to be running at large within the city shall be issued a notice of violation and assessed a fee of fifty dollars (\$50.00) per occurrence to be collected by the Lava Hot Springs city office. Any animal left unattended or tied to any city property, public utility property, or other property not the property of the owner, custodian, and/or rider of the animal(s) will be considered running at large and will be subject to violations and penalties.

Section 3: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: The rule requiring that this ordinance be read on three separate occasions is hereby waived.

Section 5: This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO this 11th day of November, 2010

A motion was made by Councilperson Lowe adopting Ordinance No. 2010-5. The motion was seconded by Councilperson Sher. Lowe - aye, Sher - aye, Anderson – aye, Beeson – aye, unanimous.

Letter of Understanding with Ware & Associates for FY2010 Audit.

The council reviewed the letter of understanding with Ware & Associates for the FY2010 Audit. Councilperson Beeson instructed the city clerk to put “Not To Exceed \$5,500” on page 5.

A motion was made by Councilperson Lowe accepting Ware & Associates letter of understanding for the FY2010 audit. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Building Code & Inspection Agreement

A) 2009 Building Code Adoption

The city clerk reported that the city needs to adopt the 2009 International Building Code which is an updated version to the 2006 Code that the city has adopted. The council will need to adopt the code at the December meeting.

B) Cooperative Building Inspection Agreement (Fees & Enforcement Authority)

The city clerk reported that the city attorney had reviewed the current building inspector contract. He said that the contract is for inspections and does not include the enforcement of building violations. He did not feel that the hourly price for enforcement was unreasonable. He suggested that the council discuss this with the county if the council has reservations. Councilperson Beeson stated that he and the mayor are willing to go to the county to discuss the enforcement fee. There are several concerns. The city clerk was instructed to make some notes of the discussion items to send with the mayor and Councilperson Beeson when they meet with county officials.

A motion was made by Councilperson Anderson authorizing the mayor and Councilperson Beeson to represent the City of Lava and talk with the county officials regarding the building inspector issues, enforcement and history. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Vicky Lyon questioned if proof of insurance was required before a business license is issued. The city clerk reported that proof of insurance is only required if they are operating a business on city property. Mrs. Lyon stated that requiring proof of insurance could possibly resolve some building safety issues. It was decided that the council would discuss and consider requiring proof of insurance at a later meeting.

Meetings/Announcements

A) Annual Eastern Idaho Legislative Forum – November 19th, Idaho Falls

The city clerk reported that the meeting was an invite to the mayor. If he is not able to attend, he may appoint a councilmember to attend instead.

B) Miscellaneous

1) 2011 Dog Tags

2) 2011 Business License renewals

The city clerk reported that in the past the city has offered a 50% discount on dog tags purchased before the end of the year and requested a motion to do the same this year. She also requested authority to issue the business license renewals upon receipt.

A motion was made by Councilperson Anderson granting a 50% discount for dog tags purchased before January 1, 2011 and authorized the city clerk to issue the business license renewals for 2011 upon receipt. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Projects

A) Sewer Rate Study

The city clerk asked for direction on moving forward with the business inspections for the sewer rate study. Councilperson Beeson will talk to the maintenance crew about finishing the business inspections.

B) Wastewater Improvement Project

1) Phase 1 Change Order #2

No change from last report.

2) Transmission Line Easements

The city clerk reported that she has gotten the transmission line easements recorded, but she is still working on the easement in the county right-of-way.

The city clerk reported that some of the easements for the trunk line are prescriptive right-of-ways and that they are working on obtaining written easements for them.

3) Phase I Winter Shut Down

The city clerk reported that the contractors will be shutting down for the winter soon.

4) Community Block Grant Application

The city clerk reported that the block grant will be submitted next Wednesday.

5) Miscellaneous

None

B) Winterizing Public Restrooms

Councilperson Anderson asked what would be involved in opening the restrooms for the winter activities. Problems with having the restrooms open during the winter were discussed. It was suggested that port-a-potties be brought in.

Councilperson Beeson will check with the city crew to make sure that the restrooms are winterized. The city clerk said that there is money in the park fund that can pay for two (2) port-a-potties as discussed.

C) Miscellaneous

- 1) Councilperson Sher reported that the museum had been vandalized on Halloween night. "Kill", "Shoot" and other words were scratched into the glass on and around the front doors. She asked the council to consider extra police patrols in the future. The council will discuss this at a later meeting.
- 2) Councilperson Sher questioned if there is any policy on the weight of which the public input from those who attend a public hearing has on the decision. Councilperson Beeson stated that the council is the governing body. Council listens to the concerns and makes a decision. Councilperson Anderson stated that it is good to hear the public's concerns and if everything is in order the council makes the decision. She stated that the public input is considered when the council makes their decision. Councilperson Sher questioned if there is any written policy. The city clerk reported that Idaho Code requires that a public hearing is held. There is not policy that the council has to follow what the public input is. She referred to a recent training where the council was told that the two or three that attend the meeting are not always the majority. The ones that don't come don't care or may be supportive. The city clerk reviewed the requirements of holding a public hearing and the notifications process and the procedure of which a public hearing is conducted. The city follows the Idaho Code requirements for holding public hearings.
- 3) The council discussed a letter received from Robert Rush regarding the recycling project. It was decided to table the issue and discuss it on the next agenda.
- 4) There was some discussion regarding the findings from the recent safety inspections done at the Lava Hot Springs Inn/George Katsilometes properties. The issue is being handled by the building inspector, fire inspector, safety inspectors, judge, etc.

Discussion – Items from the audience.

Vicky Lyon asked if the city council had been given all the information on the public hearing that was held on the River’s Edge Resort zone change. Councilperson Beeson stated that the council had received all the minutes from the public hearing. Mrs. Lyon stated that there are feelings around town that the process was not followed as it should have been. Councilperson Beeson clarified that the issue was to change the zoning to commercial and that the council has approved the zone change. He clarified that a campground use has not been approved at this time.

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 6:55 p.m.

Trish Avery, Transcriber

Marshall N. Burgin, Mayor

Canda L. Dimick, City Clerk (proof read)

Approved with correction December 9, 2010