

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

Phillip Beeson, Councilperson

Newton J. Lowe, Councilperson

Cathy Sher, Councilperson

Guests: Lisa Toly, Craig Lyon, Vicky Lyon, Jane Linford, Steve Toly, Ben Fisher, Connie Fisher, Glenda Heath, Jerry Zambo, Laurel Pumphrey, Mike Hansen, Vicki Hansen

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

Approval of Minutes

A motion was made by Councilperson Beeson approving the minutes of the August 19, 2010 regular meeting and the August 23, 2010 special meeting. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Reviewing of Bills

A motion was made by Councilperson Anderson approving the bills to be paid as listed for September. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Law Enforcement Monthly Report

No officer in attendance.

Wastewater Improvement Project

A) Block Grant Funding – Susan Lorenz, Southeast Idaho Council of Governments

Susan Lorenz was not in attendance. The city clerk reported the Ms. Lorenz will have several items prepared for signing next month.

B) USDA – Notice of Application Review

The council reviewed the application.

A motion was made by Councilperson Sher authorizing Mayor Burgin to sign the American Recovery and Investment Act form and letter. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

C) Preliminary Notice from Northwest Linings & Geotextile Products, Inc.

The city clerk explained that this notice is to let the city know that the city needs to get lien releases from all subcontractors. This is a standard notice which they are required to send.

D) Miscellaneous

The city clerk reported that there will be a construction meeting next Thursday at 10 a.m. The contractor is on site. The city is working with the attorney on the easements for the transmission line right-of-way. She will work with the engineers to clarify placement of the easements. The mayor has been negotiating with the property owners regarding the easements.

Legends Vintage Motorcycles Temporary Vendor's License/Non-Property Tax Permit Applications for Lava Palooza

A motion was made by Councilperson Anderson approving the temporary vendor's license and non-property tax permit for Legends Vintage Motorcycles for Lavapalooza. The motion was seconded by Councilperson Lowe. All voted aye, unanimous.

Mike Atkins building permit for a new single family dwelling – 113 West Merle

A motion was made by Councilperson Beeson and seconded by Councilperson Sher approving Mr. Atkins application a for building permit. All voted, aye, unanimous.

Lava Planning & Zoning Commission's recommendation on ordinance provisions to regulate solar panels.

The council expressed concerns on the Planning and Zoning Commission's recommendations for roof solar panels. The mayor stated that he did not see the advantage to roof installed solar panels because they would have 2 feet of snow on them in the winter. He questioned if we need to address yard mounted solar panels or pole mounted solar panels. Jane Linford stated that they had considered free standing solar panels that rotate and follow the sun.

A motion was made by Councilperson Sher tabling the ordinance provision to regulate solar panels until further research is done. The motion was seconded by Councilperson Lowe. All voted aye, unanimous.

Projects

A) Miscellaneous

Councilperson Anderson reported on plans to plant six (6) Newport Flowering Plum trees which are very hardy and fruitless. These trees grow from 15 to 20 feet tall. It is recommended that they are planted 15 feet apart. Pocatello Town & Country have six (6) trees in stock that are half price this fall. She has talked with the maintenance supervisor; they have decided to plant the six (6) trees on the west side of the tennis court this fall. If the city wants to plant trees on the other side, the city will have to budget for them next year. The trees are in 25 gallon containers and cost \$125 each.

Councilperson Anderson thanked the council for the flower arrangement for her husband's funeral.

Councilperson Lowe questioned the status of purchasing the property next to Veteran's Park for a city park extension. Councilperson Anderson reported that

she talked with the Berti's and they were not receptive but still considering. The Shoshone Bannock Tribe lot and adjoining property on the East as an option was discussed.

The city clerk reported that there is noise that the Bannock County Sheriff's Association has been given the Mountain View Trailer Park. No paperwork has been seen yet so no one knows if there is any truth to it. There is some talk that the substation may be relocated to that trailer park site in the future. The mayor hasn't talked with the Sheriff about relocating the substation yet. Vicky Lyon thinks it would be great for a substation on East Main Street. The chamber would be interested in supporting the move.

Petition from concerned citizens regarding River's Edge Resort's Application for a zone change from residential to commercial – Lisa Toly

The mayor told the audience that the public hearing is over and that there would be no more input considered on the zoning change application. The council will accept the petition for the record and allow Lisa Toly to present it

Lisa Toly submitted a petition signed by 30 citizens objecting to the zone change. She stated that she has attended all of the meetings and the public hearing on the zone change application. She stated that at the public hearing before the Planning and Zoning Commission and the meeting to approve their recommendation that there were only four (4) commission members present. She stated that those commission members that were present were not one hundred percent (100%) in favor of the zone change.

Lisa stated that the area is one of the few neighborhoods that has not been impacted by a commercial zone or vacation rental and questioned what effect the zone change would have on the other residential zones.

She shared the statement from the petition that they are concerned citizens that share a common goal. They all want to have a good quality of life for those who live here and those who make a living here within reason. Some of the concerns that the citizens have is the changing of the status of the property. Lava has a large commercial zone already; much of the commercial property is undeveloped. The city has gone to great lengths to enact an ordinance to prohibit vacation rentals in the residential zone. The petitioners feel that now the city is allowing nightly rentals in their backdoor. The petitioners have safety concerns with the one-way emergency access, no street lights, and no fire hydrants. They are concerned about safety of residents if there is an increase of two hundred (200) more people in the rezoned area.

Mrs. Toly quoted from Ordinance 1982-2, Chapter 5, Section 2: Conditional Use Permits, subsection B as follows:

3. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;

7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

Mrs. Toly stated that the proposed zone change will impact and disturb neighboring uses and be detrimental. She acknowledged that the city did require a buffer zone to allow the developer to develop the property. She questioned if anyone could truly establish a buffer zone against noise, smoke, garbage and increased traffic.

Mrs. Toly stated that one of the concerns is the emergency access off of River Street. Petitioners feel that eventually it will be used as an access to the property not for emergency vehicles only. They do not want a commercial access in their residential neighborhood. The added commercial property will increase the burden on an already over taxed infrastructure. Center Street is already hard to access the trailer park.

Mrs. Toly stated there had not been a zone change granted in Lava Hot Springs for many years and questioned if granting the zone change would set a precedent for future commercial development of residential land. She asked that the council take the petitioners concerns into consideration and thanked the council for their time.

Discussion – Items from the audience.

Jane Linford stated that the council's decision has already been made on the zone change issue. She said that the council's role is to decide if the decision was made through due process. She questioned why there were not more people at the Planning and Zoning Commission meeting. The mayor stated that he could not tell her why more people weren't at the public hearing.

Steve Toly questioned why the city informed him years ago when he approached the city about subdividing his property by the Sunnyside Sinclair Station that no development could happen until all roads were developed up to city standards. He stated that if he has to abide by this standard, other developers should also. He questioned if the one-way emergency access road to the rezoned property would have to be developed to city standards. The mayor told him that the city has nothing to do with development in the county. The mayor told Mr. Toly that if his property were annexed into the city, he would be required to develop the infrastructure for a subdivision before the city would take over maintenance.

Meeting will be adjourned into an executive session to consider Donna Carlson Enjaian injury claim as provided by Idaho Code 67-2345(f).

A motion was made by Councilperson Beeson to adjourn into executive session pursuant to Idaho Code 67-2345(f). The motion was seconded by Councilperson Anderson. Lowe - aye, Sher – aye, Anderson – aye, Beeson – aye, unanimous.

Motion to reconvene into regular session.

A motion was made by Councilperson Beeson to reconvene into regular session. The motion was seconded by Councilperson Sher. All voted aye, unanimous.

Donna Carlson Enjaian Injury Claim Decision.

A motion was made by Councilperson Anderson to deny Donna Carlson Enjaian’s file for personal injury claim and to refer the denied claim to the city’s insurance company. The motion was seconded by Councilperson Beeson. All voted aye, unanimous.

Evelee Hill’s plan to convert the art gallery to a vacation rental was discussed. Off street parking in the alley is a concern. The council does not feel that the alley parking is acceptable. Winter access in the alley is a safety concern. There is also concern that Ms. Hill does not limit the occupancy in her other vacation rentals. The city clerk stated that now, occupancy limits are established when a change of use is issued.

Adjournment

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

The meeting adjourned at 6:30 p.m.

Trish Avery, Transcriber

Marshall N. Burgin, Mayor

Canda L. Dimick, City Clerk (proof read)

Approved October 14, 2010