

Minutes of the Regular Meeting of the Lava Planning and Zoning Commission held Tuesday November 18, 2008, 6:30 p.m. at Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho

Present: Dave Sanders - Chair  
Nick Nelson  
Rita Anderson  
Fred Hinz  
Curtis Waisath

Trish Avery - Secretary  
R.B. Scott - Code Enforcement

The meeting was called to order at 6:30 p.m.

Minutes A motion was made by Rita Anderson and seconded by Fred Hinz to approve the minutes as typed. All voted aye, unanimous

Oath of Office: The oath of office was tabled until the December meeting because the city council is in the process of making a change to the ordinance.

Vacation Rental Ord.: Dave Sanders opened the floor for discussion on the Vacation Rental Ordinance and the information received from the attorney on ordinances in other cities.

Rita Anderson and Curtis Waisath stated that they had found some good things in the information. One thing that might help the code enforcement officer is fines that have been placed on code violators. Rita also asked what the city council wanted them to do with this information.

Trish Avery reported that the city is getting a lot of rumbling of complaints about the vacation rentals that continue to go on in the residential areas. She said that we may want to further define a vacation rental as in one of the sample ordinances which stated "The term Vacation /Conference Rental shall mean the rental of residential property for leisure, conference or recreational purposes for fewer than ninety (90) days by a person who has a place of permanent residence to which he or she intends to return."

Changing the ordinance to disallow all vacation rentals and bed & breakfasts in the R2 zone, and making a Bed & Breakfast owner occupied as a residence, also enforcement concern, issuing citations to violators, and fines were discussed at length. RB Scott suggested that the ordinance could be rewritten to say that a violation of the ordinance is a violation of a misdemeanor with fines of 1st offense \$500, 2nd offense \$600, 3rd offense \$1000 and 4th offense license revoked permanently.

Nick Nelson stated that the public has spoken and have asked why we have public hearings when every time they say we don't want another vacation rental or B & B in the R2 zone it is allowed

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anyway. Rita Anderson said that we do not have much residential area left and we need to protect it. Also discussed how much right a city has to restrict how people use their property and the purpose of zoning laws.

A motion was made by Rita Anderson that the city look into applying fines in the enforcement of the vacation rental ordinance. The motion failed for lack of second.

Dave Sanders questioned if we wanted to prepare a section in the ordinance that identifies all the infractions and misdemeanors and the fines. He also asked what the difference between an infraction and a misdemeanor. R.B. Scott stated that an infraction fine can be set by the city council and a misdemeanor has to go to Bannock County Court. Lava City ordinance #2006-5 which states that a violation of any city ordinance is a misdemeanor with a maximum fine of \$1000.

Dave Sanders questioned what we do with change as Lava develops. If there is a zero tolerance there is no space for change. Trish Avery said that the zone boundaries can be changed as needed. Rita Anderson stated that the public have stated that nightly rentals take away their security because of visitors coming and going.

The commission discussed what changes need to be made to the vacation rental ordinance so that it is enforceable. It was suggested that we contact the city attorney and the prosecuting attorney to find out what needs to be done to make the ordinance more enforceable.

A motion was made by Dave Sanders and seconded by Fred Hinz to contact the city attorney about the enforcement of the ordinance and to have him attend our next meeting. All voted aye, unanimous.

R.B. Scott will also talk to the prosecuting attorney about his suggestions for the enforcement of the vacation rental ordinance.

Other Business: Nick Nelson said that he would try to attend the Bannock County meeting on November 25, 2008 pertaining to size limitations of P.U.D.s.

Next meeting: A motion was made by Fred Hinz and seconded by Nick Nelson to hold the next meeting on December 16, 2008 at 6:30 p.m. All voted aye, unanimous.

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Adjournment: A motion was made by Curtis Waisath and seconded by Fred Hinz  
to adjourn. All voted aye, unanimous.

Meeting adjourned at 7:40 p.m.

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Trish Avery - secretary

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Dave Sanders - Chair