

Minutes of the Regular Meeting of the Lava Planning and Zoning Commission held Tuesday, April 26, 2011, 6:30 p.m. at Lava City Hall, 115 west Elm Street, Lava Hot Springs, Idaho

Present: Fred Hinz – Vice Chair
Curtis Waisath
Dave Sanders

Trish Avery, Secretary
Councilperson Cathy Sher

Guests: Milan Zabka, Kathryn DeMott, Rory Simons, Ken Sikkenga, Grant B. Pankhurst, Carolyn Gunter, George Katsilometes, David Grosso, Paul Bieniauz, Lola Potter, Evelee Hill, Jim Butterfield, Joyce Hainline

The meeting was called to order at 6:34 p.m. Vice-Chair Fred Hinz conducted the meeting in the absence of Chair Nick Nelson.

Trish Avery reported that Milan Zabka would like to discuss the letter which he had sent last month and would like the agenda amended to include this discussion. Mr. Zabka explained that there had been a misunderstanding; he would like to make comments on the zoning ordinance amendment recommendations memo that went to city council. Trish explained that this item is already on the agenda therefore the agenda would not need to be amended. She explained that this meeting is not a public hearing so the commission did not have to allow public comment at this meeting. This is a time for the commission to discuss and work on agenda items.

Approve minutes – March 22, 2011

A motion was made by Dave Sanders to approve the minutes. The motion was seconded by Curtis Waisath. All voted aye, unanimous.

RV Ordinance – Councilperson Sher

Councilperson Cathy Sher presented the information which she has put together for a RV Ordinance. She stated that she had used the Stanly, Idaho ordinance as a model for her proposed ordinance. She explained that the city council has reviewed this proposal ordinance and she was directed to bring the ordinance to the Planning and Zoning Commission as the commission would need to work on the ordinance and hold the public hearing.

She read the condensed mission statement of the City of Lava Hot Springs as follows;

“Lava Hot Springs is surrounded by natural beauty, and bestowed with the rare natural resources of hot mineral waters and the Portneuf River. These resources attract visitors from all over the globe and provide an appealing life-style to a community of full-time residents. City Government welcomes diversity in business, year-round tourism, as well as residential life. The City Government is committed to serve with balance, the diverse needs of this vibrant small mountain town.

City Government will provide quality city services, infrastructure, and public safety, while encouraging respect for the natural resources that make Lava Hot Springs a unique community. The City Government seeks to lead through informed decisions and well planned growth. Lava Hot Springs City Government intends to support the town’s

friendly, home town feeling and its history of being an ideal place to visit, operate businesses, and provide community residents with a wonderful place to call home.”

Councilperson Sher explained that her proposed RV ordinance comes to the commission because at present the zoning ordinance does not allow for recreational vehicle use outside of campgrounds. She stated that historically there have been residents that have had brief visits by family and friends in their RV's. She then read her RV Ordinance proposal as follows;

Zoning Ordinance on Recreational Vehicles in R-2 and R-3 Zones:

The purpose of this ordinance is to assure residents with rights to temporarily host family and friends visiting in Recreational Vehicles as these visits are historic to their residential lives and important to their quality of life in the R-2 and R-3 Zones of Lava Hot Springs. These visits of Recreational Vehicles in R-2 and R-3 Zones are to be conducted in a neighborly, quiet, and safe, manner conducive to the traditional peaceful quality of life in the R-2 and R-3 Zone. The hosting of Recreational Vehicles in R-2 and R-3 Zones shall not be a disturbance to the peaceful nature of the neighborhood. Penalties for violations or in conflict with the intent of this ordinance shall be enforced as defined in this ordinance.

Recreational Vehicles may be used for human occupancy or habitation only as set forth in this section.

Parking Allowed:

The owner or occupant of a developed parcel or lot, with a permanent home in an R-2 or R-3 zone, shall be allowed to park not more than one (1) recreational vehicle upon said lot for storage purposes, so long as said recreational vehicles is not used for human habitation. Long term storage is permitted as long as recreational vehicle storage is located on the developed lot, not on public thoroughfare, and not used for human habitation. Recreational Vehicles stored on a developed parcel or lot with a permanent home in an R-2 or R-3 zone shall have current registration, registered to the property owner unless permit is requested and granted by City Council.

USE BY PERMIT ONLY:

Recreational Vehicles may be used for human occupancy or habitation only as set forth in this section.

- A. Permit by City Staff: Upon issuance of a permit therefore by an officer or employee of the city so charged by resolution of the city council, the owner of any lot (R-2 and R-3 Zone) with a permanent dwelling, and owner occupied at time of RV permit use. The officer or employee issuing permit shall state the permitted duration of the use, not to exceed three (3) consecutive days. Requests for permits shall be made only during the regular hours of business as established by City Hall. Permit by City Staff

shall be posted and visible by permitted property owner during temporary visit by Recreational Vehicle.

- B. Permit by City Staff: Property owners of a lot (R-2 and R-3 zone) with permanent dwelling shall be allowed to host a Recreational Vehicle visit upon their lot for a period not to exceed three (3) consecutive days. One recreational vehicle for temporary use for human occupancy. Only one permit may be so issued per lot, per year.

- C. Permit by Council Approval: Recreational vehicles so permitted shall not be allowed to run on-board generator or attach to city sewer. Visiting Recreational Vehicle may plug into host site's electrical plug for duration of permit. Permitted Recreational Vehicle shall park only on the host property and may not park on public thoroughfare. Visit by Recreational Vehicles in R-2 and R-3 Zones shall be conducted in a neighborly, quiet, and safe manner conducive to the traditional peaceful quality of life in the R-2 and R-3 Zone. Said Recreational Vehicle permitted visits may not impose an undue burden on other landowners or interested persons, and no fees may be exchanged by recreational vehicle occupants and host land owners.

- D. Contents of Permit: The recreational vehicle permit herein provided shall contain the following information:
 - 1. Property owner's name and address.
 - 2. Date of permit issued.
 - 3. Location and description of recreational vehicle.
 - 4. Signature of owner.
 - 5. Signature of issuing authority

There shall be no fee for the issuance.

- E. Penalties for misuse of the above ordinance shall be....

Councilperson Sher explained that this ordinance comes mostly in response from the feedback from the city council members. She asked the commission consideration of this proposed ordinance. She stated that there is an importance of balancing the business district and the needs of the residents. She hopes that the commission would consider the needs of the residents in the community to have family R.V. visits.

Fred Hinz commended Councilperson Sher on her work and stated that the commission would take this ordinance under advisement. Dave Sanders and Curtis Waisath stated that they would like to consider a longer length of stay.

Councilperson Sher stated that there may also need to be consideration to allowing RV stays on vacant lots so that the lots would be better maintained. She thanked the commission for the work that they perform for the city.

Zoning Ordinance Amendments Recommendations

Review City Council and City Attorney Comments

Trish Avery explained the handout that she had prepared. She stated that the commission has been working on several items from the zoning ordinance but because the commission had requested that their suggestion for the clarification of a vacation rental be sent to the city council and attorney for their review, she had sent all items pertaining to vacation rentals and bed & breakfasts for review. She explained the color coding of the handout.

Fred Hinz allowed Milan Zabka to make comments at this time regarding the memo that was sent to the city council from the P & Z commission.

Mr. Zabka stated that he particularly wanted to address item #1. He defined “tenancy” as for compensation and “occupancy” as not for compensation. He then read the statement as follows: “Rental of a residence in the R2 zone shall not exceed one individual tenancy within thirty (30) consecutive calendar days. No additional occupancy shall occur within the thirty (30) day period.”

Mr. Zabka stated that he has a problem with this statement because should he rent his property to a tenant and they stay for only a few days; he as the landlord is in violation if he occupies the property. He also stated that if his tenant were to have guest come to visit them for a few days, they would be in violation. He stated that he feels that this was unconstitutional, and that the statement “No additional occupancy shall occur within the thirty (30) day period”; does not make any sense to him. He stated that he would not have any problem with this if it only stated that there shall not exceed one individual tenancy within thirty (30) days.

Fred Hinz stated that he would not debate this recommendation because this is not yet an ordinance and this is not a public hearing.

Mr. Zabka stated that when he first read this memo he felt that it was a personal attack on him because it states only R-2 zone instead of R-2 and R-3 zones and because he just finished the battle with the city over this situation. He then gave the commission a copy of a letter from his neighbor regarding this issue. The commission told Mr. Zabka that they would review the letter and thanked him for bringing his concerns to the commission.

Dave Grosso stated that as he reads this statement; if he wanted to go on vacation for ten (10) days and he got someone that wanted to rent his home for the ten (10) days that he was gone. When he comes back from vacation, he cannot occupy his house for another twenty (20) days. He stated that he didn’t think that is what was meant, he thought that what was meant was that you could not rent it more than once a month.

Evelee Hill stated that in the ordinance there is no definition of tenancy or occupancy. She suggested that if the city is going to change the ordinance there would need to be definitions added.

Kathryn DeMott stated that as a property manager who manages some properties in the R-2 zone; if there was a default by one of the renters in the middle of the month, she would not be able to go in a care for the property. She said that it would be a real hardship if she could not go in and care for the property or re-rent the property for a month. She stated that she does property management for Craig Knutson, and the Mr. Knutson has great concerns about this proposed ordinance change. She expressed concern on the personal attack on Mr. Zabka, and that as she reviewed the minutes of the prior meeting there was topic regarding his court case. She questioned why they were targeting the R-2 zone and that if it is about thirty (30) day rentals. She questioned why this amendment would be needed in the vacation rental ordinance when vacation rentals are not allowed in the R-2 zone.

Trish addressed this question. She stated that the vacation rental ordinance is an amendment to the zoning ordinance. She said that the vacation rental ordinance refers to thirty (30) days. As the commission has been drafting this amend, they are trying to come up with a better definition of what a thirty (30) rental consists of. This is an early draft form of how to better clarify the intent of the ordinance.

Ms. DeMott requested that the commission address the broad scope of the thirty (30) day rental.

Grant Pankhurst stated that this is confusing and the definitions would need to be included. He suggested that the commission be careful with the wording of the ordinance. They do not want to leave it to a judge and a jury to decide what they want to say. The commission needs to be sure that the ordinance says what they want it to say.

Evelee Hill stated that she is concerned about the occupancy number. Lava has a reputation of an affordable town. She also stated that the parking requirement is included in the building code and therefore; this is repetitive. She also questioned the legality of requiring local management.

Kathryn DeMott questioned occupancy being established per bedroom. She stated that some vacation rentals may have large rooms with multiple beds; the parking requirement is per bedroom. There may need to be changes to the parking requirements. She questioned if the management would be expected to enforce these changes and suggested that lodgers may need to charge an over occupancy fee.

Fred Hinz thanked the guests for their input and stated that the commission would consider the input. He explained that the commission will work closely with the

city council and the city attorney before the ordinance amendment goes to public hearing. He stated that the commission is open to the community's input and welcomes the community to give input at anytime.

Kathryn DeMott thanked the commission for allowing the guests to give input on this amendment. She also questioned if there is quiet hours for the residents.

It was explained that there is a noise ordinance. Councilperson Sher reported that the Bannock County officers do enforce the noise ordinance.

Evelee Hill questioned how many time an incident occurs before an ordinance change is initiated. Trish Avery stated that the city staff has not tracked the complaints.

Kathryn DeMott asked if the city identifies what specific problem they are trying to solve before proceeding with an ordinance change. She stated that transparency would build a better community for everyone. She said that it would serve us all if we learn to be a little more cooperative.

Dave Sanders explained that the commission is working on a whole effort to update the zoning ordinance in conjunction with the comprehensive plan update.

Comprehensive Plan Report

Trish Avery reported that the committee has completed the rough draft of the chapters and they will be holding a community meeting on May 10th. The chapters have been written from the input that was received at the community meeting that was held October 22, 2008. The purpose of the May 10th meeting is to get input on the future use map. She explained the purpose of the future use map and that the comprehensive plan is used to help the city as they receive requests for annexation, variance, and zone changes. The commission has to review the comprehensive plan to ensure that the proposed change is in agreement with the comprehensive plan. She also explained that when the draft is completed it will be submitted for review by the P & Z commission, the city council, and other government agencies after which public hearings will be held and then the plan will be adopted by the city.

Councilperson Sher stated that the comprehensive plan committee would like a lot of community participation at the May 10th meeting.

Trish explained that invitations to the community meeting are being posted around town, in the Lava News and will be mailed in the water bills. The map which was used for the flier is a map which was done by the engineering firm that did the city transportation plan and is not the official certified zoning map, but it does give a good idea of where the zones are. There are no proposed zoning changes on the map; the committee is looking for community input.

Evelee Hill questioned how much notice the community is getting to review the plan.

Trish Avery and Councilperson Sher reported that the chapter drafts are on the city website for the community to review. They also explained again that the comprehensive plan will probably be adopted in the fall and therefore the community should have ample time to review the plan before it is adopted.

Milan Zabka questioned if this community meeting would be a good time to bring up defining the zones on the zoning map. He stated that the map is confusing. He stated that he had not received a response back to his letter requesting that the city address the zoning map definitions.

Curtis Waisath asked if Mr. Zabka had brought this question to the city council because Ordinance # 1983-2, Chapter 3, Section 4F states: Where other uncertainties exist, the City Council shall interpret the map.

Evelee Hill questioned how the city handles those areas which are owned by the state.

Fred Hinz stated that the commission is aware that there are problems with the zoning ordinance and the map. The commission has a list of items that needs corrected which they are working on.

Other Business

No other business.

Schedule Next Meeting

The next regular meeting of the Planning and Zoning Commission will be held Tuesday, May 24, 2011 at 6:30 p.m.

Adjournment

A motion was made by Dave Sanders to adjourn. The motion was seconded by Curtis Waisath. All voted aye. The meeting adjourned at 7:37 p.m.

Trish Avery – Secretary

Nick Nelson – Chair

Approved May 26, 2011