

Minutes of the Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho held Thursday, December 10, 2009 at 5:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:

Marshall N. Burgin, Mayor  
Michael Vice, Councilman  
Newton J. Lowe, Councilman  
Phillip Beeson, Councilman  
Katherine Smith, Council member

Canda L. Dimick, City Clerk

Guests: Officer Hart, Bannock County Sheriff's Department

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

### **Approval of Minutes:**

Mayor Burgin stated that good detail had been put into the minutes. Councilman Vice said that he likes that way the minutes are organized now, easy to find items.

A motion was made by Councilman Vice and seconded by Councilman Beeson approving the minutes of the October 26, 2009 special meeting and November 12, 2009 regular meeting. All voted aye, unanimous.

### **Reviewing of Bills**

#### **A) Master Rooter's Bill**

The mayor stated that the Master Rooter bill was \$1,500 over the bid and they didn't complete all work that was contracted. The council reviewed and discussed the bill. The bid was to dump two (2) lift stations at 4,000 gallon each; only one (1) lift station was pumped. The mayor suggested that because no gallons were pumped at the one (1) lift station that the city pay for a total 8,000 gallons pumped which would be the same as if two (2) lift stations were pumped at 4,000 gallons. The mayor noted several sections that were not cleaned or cameraed. He would like to figure out a way to settle the bill. Councilman Beeson suggested that the city write a letter explaining the city's position on the bill.

A motion was made by Councilman Beeson to produce a letter to Master Rooter explaining the city's position on the 8000 gallons pumped, and pay \$195 over the original bid as settlement because of the several lines that were not cleaned or cameraed. The motion was seconded by Councilman Lowe. All voted aye, unanimous.

#### **B) Approval of Bills**

Added to the list of bills was a bill from Shawn's Market for \$100 for holiday candy for the school Christmas program. The city clerk also reported that Shawn's Market had sent a few bills that they said have not been paid. One is a bill for \$15 that was

signed for by Trish which she believes was for a case of paper towels. The other receipts the city clerk has researched and found proof of payment. Councilman Beeson suggested that Shawn's Market be notified to send a monthly statement and the employee who pick up the supplies write on the receipt what was purchased.

Councilman Beeson questioned if the bill from Western States was for the cutting edge on the backhoe. The mayor said that it was for the two (2) new cutting edges.

The city clerk reported that the bill from Creative Energies was for \$33,000; they did not honor the approved change orders. The bill amount listed for approval was for the \$30,000 revised amount due. The mayor reported that Keller's are going to check into the statement and change orders.

Master Rooter's bill amount was changed to \$8,000 on the list.

Council member Smith questioned the Fire Department volunteer's gratuities. The city clerk said that the report had some minus numbers and that she had not been able to clarify the numbers with Ken Fagnant because he has been out of town. The Fire Department's annual appreciation dinner is on December 17, 2009. Gratuity checks will be given to the volunteers out at the dinner. The budget for gratuities is \$3,000 which is divided between the volunteers according training and response time hours volunteered. She suggested that in the future that there be a set amount that each volunteer is eligible for, with part for training and part for fire calls. The way it is set up now is causing feelings. Because there were only 8 fires this year, those who attended the training in Inkom received the larger checks.

A motion was made by Councilman Lowe to pay the bills with the addition of the \$115 to Shawn's Market. The motion was seconded by Council member Smith. All voted aye, unanimous.

### **Law Enforcement Monthly Report**

The mayor questioned Officer Hart about how things were going in the Lava. Officer Hart said that everything had been pretty quiet. The mayor asked what position the city can take with citizen using profane language. Office Hart reported that the law concerning profane language has been changed. Now a citizen can be given a citation when using profane language in front of children, it used to be women and children. If the citizen is making a threat, a citation can be issued. If the citizen is disturbing the business they can be told that they are required to do all their business over the phone or by mail. Office Hart discussed the options with the council and encouraged the city to file reports.

### **Ordinance 2010-1 establishing regulations for the permitting and construction of recreational vehicle parks and manufactured home parks.**

The city clerk reported that as the staff was going through the ordinance there were a few places that "mobile" was not changed to "manufactured", therefore we will need to reschedule the hearing. The council was acceptable with the changes. The public hearing was scheduled for the regular council meeting on January 14, 2009.

**Lava Foundation Sign Permit (lighted letters attached to slide)**

A motion was made by Councilman Beeson and seconded by Councilman Vice approving the State Foundation signage (LAVA HOT SPRINGS – lighted letters) on the water slide. All voted aye, unanimous.

**Interior Remodel (Bathroom), 105 E. Main - Thomas Berti, Owner/Applicant**

The city clerk reported that the bathroom at 105 E. Main was moved to avoid heating the whole building.

A motion was made by Councilman Beeson and seconded by Councilman Lowe accepting the interior remodel permit by Thomas Berti. All voted aye, unanimous.

**Business Licenses & Non-Property Tax Permits**

**A) Kruse Custom Care - Donald & Patricia Kruse, Owner/Applicants**

**B) Tumbling Waters Inn - Sam Netuschil, Owner/Applicant**

The mayor read the list of business license applications.

A motion was made by Councilman Beeson and seconded by Councilman Lowe to accept business license applications A & B as stated. All voted aye, unanimous.

**Lava Chamber of Commerce Board Ballot**

Councilman Beeson stated that he didn't feel that the council should be involved with Chamber nominations. The council will appoint a council member to represent the city to replace Councilman Vice who is currently the council representative on the chamber. No other action taken.

**1% Tourism Tax Advisory Committee - Council member Smith**

Council member Smith reported that she has not had the time to revise the documents for the 1% tourism committee. She will try to work on them through the Christmas break.

**RV's on Developed Lots - Lava Planning & Zoning Commission Minutes**

The council reviewed the recommendation which was made by Planning and Zoning regarding RV's on developed lots. The mayor questioned if there will be enforcement issues with the six (6) limitations. Councilman Beeson said that we do need to have something in place or we will have the whole town full of RV's. The mayor noted that if the recommendations are accepted, an ordinance will need to be drafted, public hearings held and the ordinance approved.

A motion was made by Councilman Vice and seconded by Councilman Lowe accepting the Planning and Zoning's recommendations 1 – 6 according to the Planning and Zoning minutes of November 17, 2009. All voted aye, unanimous.

**Lava Spa Motel/City Hot Water Agreement**

The city clerk reported that since the change of ownership of the Lava Spa Motel, the new owners have not used the hot water. She presented a proposed agreement for the

council's review. The rate of diversion on this water is 1 c.f.s. The city clerk suggested that the city add a provision for authority to cancel the agreement with a 30 day written notice.

A motion was made by Councilman Beeson to accept the agreement to supply water to the Spa motel with the provision written that the city has the right to cancel. Further discussion followed. Councilman Beeson withdrew his motion accepting the agreement.

A motion was made by Councilman Beeson and seconded by Council member Smith to inform the Lava Spa Motel that the city is in the process of applying for a grant to study recapturing the water and doing something with it; the city is not going to renew the agreement at this time. All voted aye, unanimous.

### **Norwex Enviro Products Multi Level Marketing Sales Tax Remittance Agreement**

The council reviewed the application from Norwex Enviro Products.

A motion was made by Councilman Vice to allow the mayor to sign the agreement with Norwex Enviro Products. The motion was seconded by Council member Smith, all voted aye, unanimous.

### **Meetings/Announcements**

#### **A) Legislative Committee Report - Councilman Vice**

Councilman Vice reported on the legislative issues. He reported that the governor's financial staff reported on the deep cuts in the state's budget.

#### **B) Resolution supporting AIC's NPDES Primacy Report - Councilman Vice**

NPDES primacy resolution adopted by AIC was discussed. AIC is looking for a cooperative effort for the state to assign DEQ to be our enforcer instead of EPA. Cities are encouraged to follow suit. List of AIC Ad Hoc Committee findings and recommendations were reviewed. A DEQ representative was at the meeting therefore DEQ is well aware of the attempt. Some industries are not 100% in favor of the resolution.

#### **C) Lava EMT Course**

The city clerk reported that there will be another EMT course starting in January. There are 10 people from Lava signed up to take the class. There is \$1,000 budgeted for EMT training so there will be expenditures presented for approval for the class in the near future.

#### **D) ISU Web-in-ar Free Workforce Training**

The city clerk reported that the ISU training information has been given to the employees. These courses are free.

#### **E) Fish Creek Water Rights - SRBA Special Master Recommendations (Approval)**

The council reviewed the recommendation. This appears to be a final notice received from Idaho Water Resources on the Fish Creek water right. The priority date was changed from 1900 to 1889.

F) **Miscellaneous** – none

**Projects**

**A) Wastewater Improvement Project**

**1) Land Application Site Evaluations**

Land application site evaluation was completed on three sites which are: the LDS Church farm, The Miller Estate farm and Earl Smith's property. It appears from the evaluation of the sites that the Miller Estate farm is the most economical option. The city clerk reported that the evaluation report cost \$5,000 as contracted with Keller Associates. Councilman Lowe commented that the report looked good.

**2) Appraisal Contract Status**

The city clerk explained that Paul Smith was not MAI certified. If the appraiser is not MAI certified the appraisal may not hold up in court if the city should have to condemn the property. She has checked with several appraisers on their MAI certification. The council discussed if a MAI certification was necessary or not. Councilman Beeson stated that the Miller's do want to sell the property to the city. The council also discussed the option of sending the Miller's earnest money.

A motion was made by Councilman Beeson and seconded by Councilman Vice to proceed with the contract with Paul Smith Agency for the appraisal on the Miller property. All voted aye, unanimous.

**3) Preliminary Plans**

The council reviewed the preliminary wastewater improvement project plans. The mayor questioned if the five (5) wheel lines to irrigate 70 acres are needed. He stated that once the city owns the land the city can fine tune the operations. The council is happy with the preliminary plans.

**4) Letter from bond counsel regarding authorization to issue bond and contest period.**

A letter from the bond counsel giving the city authority to issue bonds was received. No contestment.

**5) Miscellaneous**

**a) Rate Study**

The city clerk reported that even though the council has talked about a rate study since the beginning of the work on the sewer project that when the mayor, Tony, and she met with Keller's on Monday to finalize the

contract, Keller's told them that a rate study was not part of Keller's \$1.2 million dollar contract. The council discussed options of having the rate study done. The council agreed to seek bids for a rate study.

**C) Park Improvements - Council member Smith**

Council member Smith reminded the council that ICF did commit a grant for \$10,000 which is subject to a match of \$15,000 to complete the park improvement project. We have also received a grant of \$2,000 from Rocky Mountain Power which can be used toward the matching funds. She said that the city may want to sign and return the grant agreement a.s.a.p. Proof of matching funds has to be committed by April 1<sup>st</sup>. Councilman Vice asked if the city could provide any in-kind match. Councilman Beeson suggested that the match could come from the tourism promotion tax because in the summer time the tourists use the park more than the locals. The council agreed to sign and send in the grant agreement.

The city clerk questioned if the East Main public restrooms were going to be winterized. Council member Smith said that she thought they were done at the same time as the Buddy Campbell park restrooms were winterized. The mayor said that former Council member Linford always wanted the East Main restrooms left open during the winter. The mayor will notify the maintenance crew to winterize the restrooms.

**D) Fire Station Solar Project**

The city is waiting for a revised statement from Creative Energies. The city clerk will work with Rocky Mountain Power to arrange a ribbon cutting celebration. Councilman Beeson reported that the solar power has a different metering system needed before turning it on. He told the city clerk to contact Glen Pond at Rocky Mountain Power concerning activation of the system.

**E) Fire Department BLM Grants**

The fire department has received a grant in the amount of \$5,654 for equipment. No action needed.

**F) Chicken Soup Springs Study Grant**

The city clerk is working with Forsgren Associates on the Chicken Soup Springs Grant which is due on December 18, 2009.

**G) Miscellaneous**

**a) Letter from Henry and Kathy Etcheverry**

The mayor explained that the code enforcement officer talked to Mr. Etcheverry as a courtesy to notify him that according to the city ordinance he could not put a storage container on his property as an accessory structure when there is not a residence on the property. He notified Mr. Etcheverry that if a storage container were placed on his property, the city would have to cite him. Mr. Etcheverry went

ahead and installed the container therefore the code enforcement officer has cited him and a court date has been set for January. Discussion followed. The mayor stated that the city either has to enforce the ordinances or throw them out.

**Discussion - Items from the audience.**

None

**Adjournment:**

A motion was made by Council member Smith and seconded by Councilman Lowe to adjourn. All voted aye, unanimous. The meeting adjourned at 7:17 p.m.

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Patricia Avery, Transcriber

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Marshall N. Burgin, Mayor

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Canda L. Dimick, City Clerk (proof read)

Approved 1/14/10