

The Regular Meeting of the City Council of the City of Lava Hot Springs, Idaho will be held on Thursday, October 8, 2020 at 5:30 pm, Lava City Hall 115 West Elm Street, Lava Hot Springs, Idaho. Guests may participate by teleconference if they so desire. To participate or listen to the meeting by teleconference, please call (408)638-0968, meeting ID number is 5731543907#, password 745563#. Depending on your telephone service plan, long distance charges may apply. All participants will be muted when they join the meeting. Guests can unmute themselves by entering star six (\*6). A

**Present Phone:**

Jon Thomson, Mayor  
Randy Benglan, Councilperson  
Rickey Frandsen, Councilperson  
Lisa Guthrie, Councilperson  
Gary Cooper, City Attorney  
Canda Dimick, City Clerk  
Lindsey McCulloch, City Code Enforcement Officer  
Amantha Sierra, Office Assistance

**Excused:** Brian Hinz, Councilperson

**Guests Phone:** Paul Carew, Wendy Perkins, Sam Netuschil, Brandon De Los Reyes, Tommy Kofoed, Ron Hunt John McKenzie, Bryan Phinney, Mathew Hill, Zach Fillmore, Aaron Swenson

**Guest at City Hall:** Megan Reno, Gail Palen, Lance Schuster, Lisa Toly, Tony Manu, Mike Dahlquist, Diane Beckstead, Matazie Hobbs, Lora Gunter, Sherril Tillotson, Gavin Gunter

Mayor Thomson opens the meeting at 5:30 p.m. and welcomes everyone attending the zoom meeting.

The Pledge of Allegiance is led by Councilperson Frandsen.

**Announce Agenda Deadline for November 12, 2020 meeting will be November 5, 2020:** Mayor Thomson announced agenda deadline for November 12, 2020

meeting will be November 5, 2020 by close of business, one week before scheduled meeting.

The Pledge of Allegiance led by Mayor Thomson.

**Approval of Minutes – Motion to Table ACTION ITEM:** Councilperson Guthrie made a motion to table until the next meeting. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**Review & Approve Bills ACTION ITEM:**

**A) Water Service Connection Refund Request – Nephi Reno:** Mayor Thomson reported the Reno's intension at the council last meeting was to do a dedicated water hookup for fire suppression system on their home down here and I understand they have changed their mind and they are not going to do that now and they are looking for a refund of that money that was deposited down for the water service connection. Megan agreed they are not pursuing the nighty rental at this time. Gary Cooper, City Attorney reports there are no provisions about refunds and such. It's totally at the discretion of the council. Councilperson Benglan asked Megan if they decided not to do an overnight rental. Megan responds we're not pursuing it at this time. Councilperson Benglan responds so, you're not doing an overnight rental any more. Megan responds if we do the fire place said there are other ways to do it. Councilperson Benglan responds as long as the permitting is approved and looks good with the State when you decide to do it. Councilperson Frandsen made a motion to refund the money for their two (2) inch line waterline permit. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**B) Nitro-Green Lawn and Tree Care – Aeration:** Mayor Thomson reported on a bid or estimate from Nitro-Green for aerations on the city park. City Clerk Canda Dimick explains we have never aerated with them. The City actually has an aeration device that the city maintenance crew has used in the past that the city bought. The city maintenance crew sent the notice so I don't know if there are feeling aeration need to be done over there. I don't know if you want Nitro to do or the city to do it with the equipment the city has. Councilperson Benglan comments if we have the equipment to do it I don't think we hire Nitro to do. Council agreed. City Clerk Canda Dimick explains it looks like they are recommended that we get it done, they have never sent this to the city every year. I think they are suggesting to the city that it needs to be done, needs aerated. Mayor Thomson announces he thinks the city crew can do the aeration. Council agreed. He thinks next week they will be blowing out lines and shutting off water

so they will be working in the park. Tony is off next week. Make a motion that we'll do it ourselves.

Councilperson Frandsen made a motion to aerate the lawn ourselves.

Councilperson Benglan seconded the motion. All voted aye, unanimous.

**C) Motion to approve bills:** City Clerk Canda Dimick reviewed Bills with City Council. Bill received from Forrest Design Group for 2020 marketing plan covered under contract that the city has with her. Four J's portable rentals invoice received and they billed for a full month and they have not sent in a revised one. The units were pickup right after Labor Day. They billed for a full month and council may want to table. Four J's was going to send a revised invoice today through email but, never received it. Thirty five (35.00) dollar increase on insurance this year for employee benefits, IIIA. Keller Associates invoice is for July 1<sup>st</sup> through August 31<sup>st</sup> 2020. Pocatello Sweeping there was several areas the city did asphalted insulation repairs on. Mayor Thomson can report on if work is acceptable or not. I haven't received the invoice only the contract. I know they are inspecting submission of invoice shortly. They just completed the work this week. Pocatello Ready Mix last month the city had concrete blocks delivered and the city paid the sixty four (64.00) dollars per block but, they also billed for a one hundred (100.00) dollar loading fee. Mayor Thomson reported that was after the fact was that reflected on invoice. City Clerk responds it's on the invoice. Mayor Thomson reported Pocatello Sweeping is in town. They have completed the asphalt at Spring Street and 4<sup>th</sup> on the corner of the church, by the school, 2<sup>nd</sup> and Fife, they have the asphalt prep on Booth in front of Dr. Goodliffe, and the asphalt prep on 5<sup>th</sup> as you drop down over the hill just off of Fife. They were going to put the rest of the asphalt down today. They were prep and ready to go and then the asphalt company told them they couldn't get asphalt out to them until tomorrow. That will be laid and rolled tomorrow so, far their work right up there it's good, clean and very decent job, quite happy with it. They should be done tomorrow. What they are doing is waiting until the afternoon, until the temperatures warm up a little bit so, that the asphalt rolls out better. It's a little chilly in the morning, they are using the morning for prep and the afternoons to roll. They should be done tomorrow evening, that's their idea of getting out of here because this is cutting into their profit line know, not having the extra day. I might note that some of the open water mains have been poured today. Knife River was back in town and they started pouring some of the concrete rings. I don't know if they got to the two (2) down on Main Street. They did the two (2), one (1) on the corner of spring & the church corner and the other one (1) down at Main & 5<sup>th</sup>, they have both been poured. I didn't go down past the Chuck Wagon to see if those two (2) have been

done. They will be with us for a few days. Any other question on the bills. The Pocatello Sweeping contract actually came in above their contract number. They were willing to work with the city and revise that number. The City allowed them to dump the old asphalt on the city dump site by the land app and that saved them a few dollars hauling it off so, they could get the bid back underneath the threshold. That's how it was adjusted down. They seem to be a pretty good little company to work with for small bids and things like that. Councilperson Frandsen asked if this is going to cover everything. Mayor Thomson responds yes, that is the total. I did see anything today that would indicate a surprise. They've got it all prep and that's usually were you get your surprise, needing some additional fill or something like that.

Councilperson Frandsen made a motion to pay the bills except for Four J's will hold off until the city gets the revised billing and pay it then and as soon as the Pocatello Sweeping is done pay them. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

#### **Law Enforcement/Code Enforcement:**

##### **A) Building Permit Report – Lindsey McCulloch, Code Enforcement Officer:**

Lindsey McCulloch, City code enforcement officer reported the state didn't send a report. I've issued a couple of CO (Certificate of Occupancy). One to the message studio Brenda Hatfield received a final. Jade Bues received a final and a CO (Certificate of Occupancy). Councilperson Benglan asked if we need to approve those. Lindsey responded no. Mayor Thomson no they were approved they were just finalized. Lindsey responded council already approved. Councilperson Benglan comments with stipulation. Lindsey responded no, there done. Councilperson Benglan comments oh, we just got the certificate occupancy is that what you are saying. Lindsey responded so I did it to them, the council is done. The state tells me it's good then I issue the CO (Certificate of Occupancy). Mayor Thomson questioned if Brenda Hatfield parking was completed. Lindsey responds parking lot is completed and I inspected. Jim, State inspector came and looked at it this last Thursday.

##### **B) Weed/Fire Hazard Abatement and Tree Trimming Notices Report – Lindsey McCulloch, Code Enforcement Officer:**

###### **1) Letter from Michael Jones regarding tree/shrub trimming notice –**

**ACTION ITEM:** Councilperson Frandsen asked Lindsey McCulloch, City code enforcement if she is good with Michael Jones's plan to trim the trees and shrubs. Lindsey responds she has not read it yet. City Clerk Canda Dimick explains the note was received last month you had it. Lindsey respond sorry, I got it mixed up.

I did read it. The Mayor & I looked at it. Mayor Thomson comments this is just an acknowledgment that he will do it. Lindsey respond yes. Councilperson Frandsen reports is an action item. Mayor Thomson asked if there is a time frame. City Clerk explains there is one in the letter I believes. If you read the letter it will go on the record. Mayor Thomson comments to have it completed by October 31, 2020. Councilperson Frandsen made a motion to accept Michael Jones's plan to trim and bushes around his yard on Elm & 4<sup>th</sup> to be done by October 31<sup>st</sup>. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**C) Archibald Fence – 450 West Booth – Status Report (Completed) – Lindsey McCulloch, Code Enforcement Officer:** Lindsey McCulloch, City code enforcement officer reported look good. Mayor Thomson asked if they did the whole property or just around the foundation. Lindsey responded just around the foundation. They did it like fence to fence, front and back, then went to the sides fences and put a gate in.

Lindsey reported on a truck in the alley behind Shawn Midkiffs rental. I've tagged it a couple of times and it hasn't been moved. I talked with Shawn Midkiff he thinks it a renter that has been put in jail and he said just to have it towed. Councilperson Frandsen explained if we do that the city is stuck with the bill. Lindsey explained the issue with it being in the alley and she has tagged three (3) times. City Clerk Canda Dimick asked Tony Manu if there is any way they can commute to the inmate if he has a friend who could possible move the truck for him. Discussion followed on location and why it needs to be moved, hazardous. Sheriff's department will take care of it tonight.

**D) Violation Forms (Review Proof & Order) ACTION ITEM:** Council reviewed proofs. Gary Cooper, City Attorney recommended print minimum in case changes need to be made to the forms. Discussion followed.

Council agreed no changes needed. Councilperson Frandsen made a motion to order violation forms books. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**E) Monthly Law Enforcement/Code Enforcement Reports:** Tony Manu, Sheriff introduced his new Chief Deputy Mike Dahlquist and Officer Fullmer. Mayor Thomson explained they get a report monthly which they cannot share with the public however, it gives them something to tell the public that yes indeed this folks are doing more than setting on Main Street where you see them. They are out here all the time and in the middle of night. Tony commented he gets quarterly reports

from their system and asked council if they want quarterly or monthly reports. Discussion on how many pages was in this last quarterly report. Tony reported that Chief Dahlquist and he meet with some of the Chamber members at a meeting and they brought up some concerns which are the same concerns they have received in letters from some of Lava visitors. The concern is how they feel like Lava is a big party town and people are doing whatever they want to do. This last summer was really busy here and I would request from the city moving forward into the next summer that we strategize how we make this place little bit more under control. The new bar was one area that we got constant calls on and really we are kind of limited on what we can do with business. The City has more reach than we do, rather it's a noise complaint. I'm not sure where you gauge that as a city as part of your ordinances that we talk about. Gary Cooper, City Attorney announces we just enacted those and put a little more robust provision in the business code and the likes. So, hopefully we will be able to take some of that pressure off of your folks in the coming year. Tony asked that the plan for next summer is to try to maybe bring some of the problems we had to the table. Everyone that has a business has an issue and it would be nice to at least get all those problems on the table and strategize how we mitigate this better next year. Councilperson Benglan asked Tony how we would go about doing that. Could we setup some work meetings. Tony responded yes, I would defiantly want some of our patrol guys whether it's a sergeant that can come up and give some of the problems there were having. Really they didn't have any real teeth in what they could do unless it was a state code and we talked about this. If it doesn't violate state code there is really minimal things they can do. It would be nice to at least strategize into the next summer so we can at least put a little control in to this town.

Wendy Perkins online interrupts and announces she cannot hear anything. She can hear now.

Mayor Thomson reports he can agree with Tony and part of this is what we discussed before the meeting. This is the city operation and we have ordinance to go with that. I feel like in conjunction with that there are certain issues that I have as the Mayor in town that I would hope to get some help from you guys on. Tony announces he thinks we can get there before next summer. Let's put a plan in place. Mayor Thomson responds I will tell you for twenty (20) years that I lived here this is about as bazar of summer as we've had. It started off slow it pick up in July like it was a runaway freight train and people were short tempered and short fused. I don't know, I mean, I never seen of the attitudes that we saw in late July and early August and that got to get curtailed before it gets any worse. Tony

agreed, especially as word gets out. Lava is getting more and more visitors even in the off season because it is getting more and more popular. I think moving forward we need to start stargazing how we are going to kind of put a lid on some of this. Whether it's, we get out here strike early and let them know that you can't get away with pissing on the corner there, out in public, stuff like that or right in front of someone's house, things like that. That were brought to their attention. You've got to understand that sometimes things are happening and by the time we get here they're not happening. So, are hands are tied sometimes. Mayor Thomson suggested selective enforcement where a task force comes in and flood the area with officers. I think that's a good thing. I think it could happen in this town a couple of times in the summer time and it really gets the point across. It doesn't put as much burden on your force because it's a joint task. Force from other counties that can go around. Tony responds right, and as long as we can work together and figure out when those big weekends are. The obviously are founders day, pioneer day or whatever you want to call them weekends, 4<sup>th</sup> of July but, it seems like every weekend was a 4<sup>th</sup> of July weekend. Council agreed. Tony continue with your community input, chambers input with some of the issues they had. I just think it would be smart for us to come together and figure out how we can strategize for next year before that hits which, is usually Memorial Day and doesn't stop until Labor Day. Councilperson Benglan reports that great and you guys are the expert on law enforcement it would be good to strategize. Mayor Thomson adds we've got to work smart, work together and nip it now before it gets started. That's where we are headed, the path we are headed in conjunction with you guys help I think we can get there. Councilperson Frandsen adds the open container addressing that more should help out a lot. Tony adds there are other idea that we could come up with collectively that you guys could probably curve a lot just on certain codes. Mayor Thomson announces he doesn't see open containers near the problem as I do public intoxication. To me, I see more of that without the container in their hand. That's more of the noisy boisterous type activity that offending people, you know, but again, like I said, I think we will have several meeting this spring and hopefully by mid spring, earlier summer we will have something in place. Tony comments maybe that's the start we need on the codes.

Tony continues the second thing is Ken and I talked briefly about your one of your problems. I'll let Chief Deputy, Mike Dahlquist address we talked about it today in a mental health meeting. Mike Dahlquist continues with everybody's heard the Ian Green. I guess, I want to promise everybody that our whole office is working on that situation. Ironically, we just had a mental health meeting with the state. Some of the doctors there and stuff in his name did come up. I assume everybody's aware of the problems. What we have done proactive wise is. I talked to the school

resource officer today and he's going to do the extra patrol when school gets out and just keep a watch over the kids. Councilperson Guthrie comments they had an incident, Tuesday at the school and she was wondering if there could be an officer out there. The kids are of leaving school. Mike continues hopefully you see the officer up there a little more. On the 19th of September he did get criminally charged for disorderly conduct. So that's in the process of going through the court system, but I think we all understand that it's a mental issue. In talking to the mental people is like you just kind of fits in that crack where he's not really suicidal, homicidal or grave danger of himself. We can't really take him into custody for protective custody and on the criminal side, you know until somebody actually witnessed something like what happened on the 19<sup>th</sup>. Maybe that's some sort of probation where he has to go to mental health but, those guys are more than willing to work. They want to take calls from the public. Canda Dimick got that number. Our officers been told to that they're welcome to call mental health people. They'll try to interject when they can. Mike comments I think the more calls mental health gets from general public. Right now he doesn't fall in that category where he's committable and he's not really doing anything seriously criminal, he's just a nuisance. Mayor Thomson comments the biggest danger in my mind is the harm to him. Mike comments even though it's mental we've got to understand, collectively, even the people that are in that mental state, they have rights. They still have the same rights that we have to honor. You know until they cross that threshold. Councilperson Benglan asked is that threshold a crime, committing a certain crime. I live by him. Mike continues at the same time, even if he commits a crime and if the mental state of is the bigger problem. Really he shouldn't be housed in a jail because we cannot house mental patients by statute. We can if he commits a crime to a certain degree, but if the mental part takes precedence, then we have to ask for DE and it's the same process. Councilperson Benglan comments it's the Health department's domain. Mike responds yes. Councilperson Benglan continues I don't know much about mental health but I know that people can lose their civil liberties, based on their actions, based on their evaluations. I mean he's, he's all day. He's lives a block, a half of block from me. He's running up and down the street, he yells at everybody that runs by, he yells at me. I mean, there's some girls that come up on the weekends across the street and they yells at them. I'm wondering if he doesn't meet the thresholds, what does. Mike responds that's the question we have every time we deal with him. Councilperson Benglan continues it seems to me we're just waiting for him to committed a serious crime. Mike explains we take people into custody all the time, especially on patrol guys. They feel like this dude is serious by the time we take him up to the hospital, they get their exam. The professional say he's not committable, so he walks. We can't do anything about it, unless he commits a



crime. But therein lies the problem is he committed the crime because he's a criminal he committed a crime because he mental. The true problem is he needs mental health. So, yeah, he's in the jail because he never committed a crime but it's really not doing anything other than he goes through the court process. He gets kicked lose, and he's back, but the only thing like the chief said he gets he gets a criminal charge, there's a possibility that if you introduce that probation aspect of it. And really what they're saying is Ian Green, he's just not taking this meds. So, maybe that aspect of the probation, is part of that is taking meds, or. So, it gives us a little more teeth, which is a good thing that he got cited but, he really doesn't belong in jail because, that's not the place for him. And I think anybody that's dealt with anybody in your family has mental health issues. Everybody knows jails not the place for him and that's the problem nationwide. Mental health has got such a big gap right now. And that's kind of an area we're trying to get mitigated with mental health. Councilperson Benglan comments it seems to me like he has some kind of little bit of restraint within him. It's just difficult for him to exercise. He'll be yelling at me running up the street and I'll turn and look at him and he'll turn around and run back down the street Mike comments the interesting thing he knows all the mental health workers by first name, and they all know. So, I think once they make contact with him, he calms down, he levels out. Mayor Thomson comments he does the same thing with your officers. Mike comments right, as soon as you get there, you talk to him, he seems okay, and he's not a threat. We can't really do anything. Mayor Thomson comments my biggest fear is that the locals know and most of the locals know, he's harmless but, we have enough influx of outside folks here that someone's going to take him seriously and he may suffer injury. That's my biggest fear that. Mike agreed, but I think the more contact from the citizens to that mental health office may raise the bar a little bit for them. Councilperson Benglan asked as far as next steps go I mean for us to be able to deal with this situation, we need to develop some kind of relationship with the mental health people. Does he have a specific psychiatrist or mental health therapists that's a sign to him? Mike responds Shane Griggs dealt with him last. Marty Cooks is the director. Shane Griggs, he's more of a caseworker and I know Shane's been here a few times. Anybody at that number will now who he is. It's not like he's an unknown name in that world. And that's, that's probably the best part for us, dealing with mental health, they usually know who it is. And even the patients know those caseworkers, which is good for us because it can it can mitigate a lot of problems without escalating us as deputies get into a problem with a mental person really mental issues not the issue. He may not be a threat. He probably needs to talk somebody familiar. That's their philosophy is they're trying to chip away at him a little bit to get him to open that door so they can help him. That's kind of where they're at now so they said they were welcomed any kind of

feedback that you guys or the citizens have. We'll keep at it as well but, just kind of a thin line. I don't know we'll see what happens with this last citation he had issued. That's such a difficult area for us as law enforcement. It's not our expertise and by code we can't put somebody that's deemed committable it has to be a medical type facility. Just so we all understand that it's a hard situation. Lindsey McCulloch, City Code Enforcement Officer comments for me, I have a bunch of friends that like want me to do something about. Mike responds have them call the number, give them that number, it's a Monday through Friday eight to five (8 to 5), unfortunate that the funding they have. We all know it's doesn't always fit in those hours. But again, don't hesitate to call us. We're not saying don't call us. We've been up here, four times in the last three days, we were up here last night, twice the night before, but every time we tried to make contact with Ian he's runs in his house shuts the door. Says leave me alone, you know, but every time we've dealt with him he's never been a threat to himself, or harm anybody, just comes out. He's just acting out, he doesn't want to hurt himself. He lives there by himself. His mom's gone, he's not being monitored in any way. He's kind of running free. And we know that he's not taking the medication. So it's altering his state of mind, he's got to get some help. Our hands are kind of tied unless he does something that crosses that line for us to intervene criminally. Keep in mind if we arrest him, we're going to take him up to the hospital for an evaluation. Mayor Thomson comments he at the state where he just needs health provide care, he needs someone there to give him his meds. Councilperson Benglan asked do you know his meds is a daily thing once a week. Mike responds I don't even know. It's interesting because a lot of people we deal with, it's a medication issue, they just, they start feeling okay and think they don't need the meds any more. Then the next thing you know, they're off the rails but they don't realize they're off the rails. We still have a responsibility to do what's best for me and because we. Everybody knows we know what he needs. Councilperson Benglan comments we talked a lot about it but it feels like we don't have the tools that we need. We're rely on the mental health department professionals to take the lead on that but we don't have anybody, communicating. Mike comments the sad thing is the truth is, you can get somebody deemed committable but, there's very few places you can take them. If they do get committed. It's for at the most 90 days now. They're not long term commitments, so 90 days, he'll be back. He'll be fine for a while but there's really no one at home to monitor. It's such a gray area. He is more of a nuisance than a danger. Mike will check if there someone specific they can talk with at the mental facility and maybe he's familiar with a certain caseworker. Mayor comments we appreciate you stopping. You're welcome anytime out here. Tony responds I think at least quarterly. Canda I'll sent send you the quarterly report I have and check. City Clerk Canda Dimick explains they

have been getting it every month this is the first one they have not gotten. Tony supports another meeting and suggested inviting Steve Herzog. Gary Cooper, City Attorney agreed. Mayor Thomson comments he was part of the procedure as well, would like to show him where we are headed with it as well. Tony agreed, and suggested asking Rich Hill, Pocatello code enforcer to join in on the meeting. Gary agreed.

**Riverside Hot Springs/Blake and Gail Palen – East Portneuf Street Proposal – Gail Palen and Lance Schuster, Attorney - ACTION ITEM:** Mayor Thomson asked Lance Schuster and Gail Palen to come up to the front so, the recorder can pick up the conversation. Lance reported he wasn't sure if council has been back there recently and he brought some photographs of some of the improvements Gail has made to her property. Council reviewed the photographs. Gail explains the fence is portable. We put tubes in the ground so, we can pick the fence up if we need to. Councilperson Benglan comments we've got easement for water line, easement for the hot water, 50/50 on the disputed parcel, right? Gail and Lance responds yes. Mayor Thomson comments the only difference I see is the way that the parcel been split rather than east and west length wise, it's been diagonal. The red line approximates the underground water line from the City. Not quite, but in some respects its right underneath that line or crosses Gail's property now. Gail comments the diagonal line gives the city ten (10) feet from that corner to the edge of the river for a walking path. So it stays ten (10) feet all the way down, that affords the ten feet. That's why it was done that way. Mayor Thomson comments as you're viewing the sketch here the right hand side, the point there is that there is a pan in the middle of the alley that's the corner of the possible belongs to the Pancake House. It makes sense to divide it that way because it gives you a continual line of travel. I've been down looking and trying to reclaim some of this riverbank and that can be done as well Gail comments there's a good ten (10) feet all the way down so at least. Mayor Thomson comments this area right in here where it's kind of slough off. Gail responds yeah. Mayor Thomson comments I've been talking with core and some of the water folks about being able to reclaim some of that slough off in there. Again, it just for the aesthetic purposes. Gail comments as long as we can access our springs. Mayor Thomson comments I have a little problem back in here where I had some sidewalk sloughed off into the river we want to try and get repaired. It has nothing to do. It's all part of what I'm trying to do back here along this piece in order to perpetuate our plan in making that a nice area to go along with what you are doing. Lance comments I think the biggest difference between the cities proposal and this proposal is leasing that ten (10) foot by ninety (90) foot strip between 2<sup>nd</sup> Avenue and Gail's property. Gail would like to make sure that the strip is available for customers of the Riverside

Inn, to be able to come in from 2<sup>nd</sup> avenue to get to the Riverside Inn. Mayor Thomson explains that property is all designated as public way and must be open to the public. As we view that in means it's open to the public, meaning they can travel across it at any time to access your property or to access the rest of our property. That's kind of written in the CCR of that particular piece when it was deeded over to the city. Lance asked on the ten by ninety (10 by 90) foot strip. Mayor Thomson asked are you talking this piece here. Gail responds yeah. Lance comments he thinks the piece to the north, yeah is dedicated to the public. I didn't believe those CCR you mentioned. Mayor Thomson comments I'm sorry, just this piece up here. Lance responds yes. What we are proposing is a long term lease on the piece just to the south, itself that's the ten by ninety (10 by 90) foot strip. Councilperson Benglan responds you're saying the ten by ninety (10 by 90) is owned separately than the piece in front of it, to north. Gail responds yeah. Lance responds yeah. Mayor Thomson comments yeah, its two (2) pieces there. Councilperson Benglan questions there not both considered a public thoroughfare. Gary Cooper, City Attorney comments there was a condition in the deed that it had to be retained for public purposes or the in that effect. Councilperson Benglan questions the one up against the river. Gary responds yeah, right. I don't know how the city acquired that other piece. I think I've got the deed here. Mayor Thomson comments I think you know as city property goes with view that as open to the public anyway, it's not restricted in any manner. Councilperson Benglan comments I think this proposals is closer than we've ever been so far but, I'm trying to drill down on the actual reasoning for you doing that. You say you want the public to be able to access that but, the city can make that happen. You don't want vehicles in there we can make that happen. If that's a public access it doesn't inhibit your customers from walking back there. So, I'm just trying to drill down on your reasoning. Gail responds because what we would like to do is continue the pavers down the middle so, it's easier to easily walkable for customers or people coming over to the Riverside and landscaping it. Continuing it to maybe the ten (10) foot little portable fence and then it just kind of encloses everything and makes it look real tidy. So, if you really look at that (10) foot walking path it makes it a lot nicer looking. Councilperson Benglan question as far as looking at you would fence it, you would continue that fence. Gail responds no, we would just continue it down that line. Councilperson Benglan question paver and the fence. Gail responds yes, I don't know if we would do the whole thing, paver it to the center at least. Mayor Thomson questioned the purpose of the fence, to keep the public of your property. Gail responds no, we have people out there dining and it's just kind of a nice little separation so, people don't feel uncomfortable going down the walking path and littering our place. It's just a nice little way to keep it tidy, you know. Lance comment the ten by ninety (10 by 90) foot strip right now

how's weeds on it, it's really un-kept. It's not an attractive entrance. The lease would enable Gail to be able to invest some money into really making them prettier. Putting in landscaping, putting in pavers and making nice attractive entrance for the Riverside Inn. The funny thing about the Inn of course is the front of the Inn is actually facing the river. There is an entrance on the back but when it was built back in 1914 that was the front of the Inn. Gail comments it will make it very attractive continuing it down. It's very nice. It looks very attractive. I think if you looked at you would realize or see that continuing the fence would also enhance the walking path. It separates the public walking path, it makes it look very nice. Councilperson Benglan asked if we lease the ten by ninety (10 by 90) to you what your intention with it is. Gail explained there is a little bit of a bank that takes up probably two (2) feet of that that Paul D put in or something like that it got a rock and I would put some flowers in there because taking it out would not make since. Then either putting up the matching pavers down the middle or maybe the whole thing. It just kind of depending on how laid out. Then the portable fence along there. It looks very nice and the funny part it's the first time ever that I've seen people walk down that strip. I haven't seen people hardly at all now, you see them walking down the strip looking around. It does set it apart, and it save the city money. Councilperson Frandsen addresses his concerns, if the city has to do some repairs to the main water line and I think you should be responsible to move your fence and pavers. The city will fix their line, repair the ground back, compact and level so, you can put your stuff back in. Gail responds okay, so just so we're both on the same page. Just go back to the ten by ninety (10 by 90) strip. There's no waterlines at all under that strip. Councilperson Frandsen confirmed there are no waterlines under that at all. Gail responds no, the waterline runs almost next to that little cement fence and it's on city property. Councilperson Frandsen confirmed there no water line on the ten by ninety (10 by 90) strip. Gail responds no, not at all. In fact there's no water so the city can't even water if you had flowers so, we can because we have the duplex. Gary responds the question would be whether you need to use that for equipment or something to access that line and do the excavation. Gail responds it's still ten (10) feet, it's actually right next to the fence. Gary responds that's the issue and that might damage the pavers or it might damage the fencing and stuff like that. That's the concern the council is having, you would have responsibility for that. Mayor Thomson addresses his with the easement. A ten (10) feet easement is certainly not enough. A twenty (20) foot easement not excessive. I would invite you to step out into the machine shop and have a look at the size of what these vehicles are that have to be in there and the dirt still has to be piled somewhere. So, if the city excavates the water line normally twenty foot is what we have for an easement and the reason for that is you have equipment on one side of the line, put the dirt on the other side of line

that way you never get of the easement. That's the basis of the twenty (20) foot. As you well know the beer truck barely fit in a ten (10) foot wide spot. I'm just judging that as the size of equipment that's used today, it's not hand dug anymore. Gail asked do you think it's going to be dug up. Mayor Thomson responds I hope it's never dug up in my life time but, I can tell you what size it takes to dig it up. Gail comments Rickey the answer to your question the place that the line does cross is just barely a corner of where we put the pavers in on the north/east side and then it crosses the property that we're taking about splitting diagonally and it runs almost on the diagonally so, that gets rid of a lot of the issues, it's only a little small parcel. Mayor Thomson comments if you notice right there where you come off the cross hatched area onto Gail's, I call it the Riverside property because it's behind the building. The water line touches the corner of her property right there but, as it starts through that cross hatch diagonally area. I would say the first half of it is almost right underneath line and then it starts parting the red line and starts working its way back towards the center of the property. Inaudible – cross talking. Gail comments it almost follows the line, you know the diagonal line it's almost on that Rickey. Mayor comments and again it's one of those situations where the easement you hope you never use it. I mean I hope I never have to dig that brand new water line up for any purpose but, the reason for the width of the easement is pretty much to get equipment in there, being able get the dirt out. Lance comment he agrees with you that ten (10) feet is necessary for digging the trench and I wasn't thing so much about the dirt, I mean I guess my thought is if you had a break in the line you'd go in and have a smaller unit. Mayor Thomson replies the way it was explained to me was they like to be able to access on one side and set the equipment, dig the line up and be able to put the dirt on the other side and never get off their easements, not to disturb out past that, it the idea. You know, because then at that point if I have to pile dirt back on your patio then I have a heck of a mess. If I have to swing to the north side and drop it off over across that wall I have a big problem over there. That's a real tight area there and for the most part, you'd never run into that. You know like I said I hope we never have to dig that line up again, in my life time. The last one was in forty (40) years if that gives you an indicator. Councilperson Benglan asked what kind of line was the old one, I'm just curious. Mayor Thomson replies ductile iron. Gail comments one of the other things that we did to resolve is we dug up the trench between our springs and the pump house and fixed that completely. We evened that all out and plus we put a casing over it. Mayor Thomson replies I would suggest that you asked or we grant the same width of easement for that line as what we're asking for ours. Lance comments the twenty (20) feet. Mayor responds the yeah. Gail comment that was about ten (10) feet. Mayor Thomson replies yeah, but you still have to have a piece of equipment setting up on top of the bank to dig it out. That's what I'm

getting at. It takes a lot more space than what you think for the work. Lance comments if that's the only issue of concern. Mayor Thomson replies that's my only concern council may have more. I would refer to Gary as far as leasing city property. Gary responds Idaho code section 50, 1407 and a resolution allows the mayor and council to lease property that's not otherwise needed for city purposes. On such terms as the council determines maybe just. Mayor Thomson comment it makes life so much easier than trying to sell it, doesn't it. Gary responds it is. You don't have to through all the same process that you through on selling property. Lance comments we would just propose that you lease it for fair market value. Mayor Thomson replies are largest objection Lance was that we have to go through such loops to sale city property to an individual, it's a public hearing and so on. Lance responds yeah, that makes sense. Mayor Thomson comments it's a different matter if it was going to a school district or a church. Councilperson Benglan comment his think is, I'm not necessarily opposed to what you're doing here, beautifying that ten by ninety (10 by 90). I would support something along that lines, if the city doesn't have a plan or the interest in creating a landscape beautified city park down there, along the river. Mayor Thomson comments the city does have an interest in that but, it will not hamper out interest. Are interested will go hand in hand with here interest. Councilperson Benglan comment what he is getting at is that ten by ninety (10 by 90), that can be used so this ten (10) foot area would be a walking area and that ten by ninety (10 by 90) could be an area for people to sit, talk and do whatever. So, my thinking is Gail's plan is good if the city doesn't plan on making that into a park. If the city doesn't plan on ever doing that then I'm not really necessary opposed to allowing her to beautify it. One of our strength with the things the city really wants to beautify is our river frontage. Mayor Thomson comments that's it and I will tell you this, based upon some knowledge that you may or may not have. Obviously Ricky knows, the State is putting in some pretty good money into a public bathroom or a bathroom right across the bridge. For some reason they feel like that's going to be a busier area or is increasing in business, which brings across that footbridge. I'm have been talking with some of the river developing entities around town that have worked with the corps of engineers and FEMA on getting or trying to find out permits. The city has a piece of sidewalk that has sloughed off into the river. That's north of, excuse me east of 3<sup>rd</sup> street that we need to repair. I would think that could be joined in with a walking path down through there. There are some long term future plans in the mill for a fairly extensive development down in the low area owned by what used to be aura soma conference center down in there. So, all in all, what I see is that area along the river is starting to build and develop more and more. You're kind of the guiding light on it but, I see it a lot of folks following suit and I see that area getting busier and busier down there. Councilperson

Benglan comments a question for you Gail if we decide as city to beautify and develop this ourselves, would you be supportive of something like that. Because your main argument is that it's not beautified, right. Gail responds well, there's a couple, I guess, concerns that I have that it's not beautified and I'm willing to tie it into ours. We are a little bit limited on space and would give us a little bit more space, because that ten by sixty (10 by 60), or ten by ninety (10 by 90) is not very big when you talk about an outdoor patio so, that would give us a little bit more affordable space. I have a night watchman that's an ex-sheriff. We take good care of our property, we watch it. I don't want to be responsible for a ten (10) by, it's actually more like, when you really look at it's more like a ten (10) or like an eight (8), seven (7) foot by sixty (60) feet or ninety (90) feet. So, it's really not viable to put a park in, I don't think. Lance comments it's not riverfront either right. Its right up next to a fence. This ten by ninety (10 by 90) foot strip, it doesn't butt up against the river. Councilperson Benglan explains he is talking about the entire, all the way through, thinking river walkway. That's what I'm getting at and that ten by ninety (10 by 90) can be used as a setting area, that's what I'm getting at. Like benches and little umbrellas, it could be landscape. Mayor Thomson comments he has a three hundred by seven (300 by 7) foot area that goes down Main Street that's already being used for that. It's landscaped with blocked off thing, tress growing, and tables. Councilperson Benglan comments I'm glad you brought this to us because I agree with you. That area through, we don't have a ton of river frontage, that whole area through can be really nice. Mayor Thomson comments I guess I don't see it as one or the other, I see it as a partnership where she's developing a piece of it and the city come along and develop the other piece. They go hand in hand. I don't think that neither person needs to do it all. That's my though on it. The ten (10) foot strip would be a path that the city would put in and then when we get down to the eastern end have a little bit more than ten (10) foot we could put in some setting down there were the river does flow. City Clerk Canda Dimick comments Sam has talked about it and he actually is online. I don't know if he is listening but, he has talked about approaching the city on different things on that other end. Mayor Thomson comments well, I have a proposal in front of me now I'm considering. I don't know what Sam's thinking. Gail responds I do know today when Tony came out. I saw what was out there and Sam's property is a little bit different than I thought it was. That might be the opportunity to but benches by the river. Mayor Thomson reviewed and discussed Sam's property with Gail and council. Mayor Thomson explained he understands Randy's concern and I agree. Councilperson Benglan Comments I don't know if I would classified it as a concern. What you did here is beautiful if that's the best that's going to happen down there then we should lease it to you but, if the city can do something. Mayor Thomson interrupts I see the city



developing taking place down here were you are right on the river and you're seating is there you have more space more width, your seating there and you're watching the river and watching the activities across the river on the state property. Whereas over here this is treed and private property. Gail comments and its dead ends. Lance comments he can draft a lease for Mr. Cooper to review.

Councilperson Frandsen comments concerns with the pavers and fence if a waterline need to be repaired. Gail comments that why we did pavers and hoping that happened it was just a tiny piece and you could put it back and restore it and the fence pops right out. Councilperson Frandsen comments keep that in mind so, if in the future, something happened, you would take that move it and preserve it and then when it done put everything back and you would be responsible for it. Mayor Thomson comments he is one of the fortunate folks in town that has a ten (10) foot easement with Rocky Mountain Power running through my backyard. So, there basically there sixty by ten (60 by 10) feet that I can't do anything with except mow. City Clerk Canda Dimick announces will do have a problem with existing pavers that you just put in they are covering the meter, the city hasn't been able to read for the last couples of month. Gail responds I talked with Tony about that and I didn't realize they put them over there and Tony said they have a sleeve they can put in that will bring it back up to the height. The reason that actually got done is I talked to the gentleman, the company that put it in and the reason said well normally the reader, reads through those pavers. City Clerk Canda Dimick explains that's a radio read system and we have a touchscreen system. So, the city has to touch the meter. Gail responds I talked to Tony about it today, and he said he has a sleeve that could bring it up to height and we know where it is. He said he came over scanned it to make sure he knew where it was. City Clerk Canda Dimick asked Gail to make sure pavers are not put over the meter at the pink house. Gail responds they will make sure. The company said oh no, they just scan right through it and I didn't think anything of it. It will be fixed. Mayor Thomson comments it looks like a ring that goes around the top of our cans, it brings that head up to the top of the pavers. When it all get done it will be just be a cement ring level with the pavers. No tripping hazard at all it will all be flush. Just like on the sidewalks. Councilperson Frandsen comments he is okay with the lease as long as the city isn't responsible for pavers or fence if the city every have to excavate in that area. Councilperson Benglan asked are the terms are you looking for. Gail responds I would like to have it as long as I could because if I'm putting several thousand of dollar into. City Clerk Canda Dimick asked if the terms can go beyond the terms of council. I know the city can't go in debt, the city can't commit another council to a debt. Mayor Thomson comments she's just speaking about time limits on anything that extends beyond the limit of what the council is that makes the decisions. Gary explains it's just the reverse of what he

general gets involve with. I'm not positive what the answer to is, I'll have to look into but, it's a good point. It's one we got to consider. Lance reports our proposal would be ten (10) years. Mayor Thomson asked if there are any other question. I know Rickey's concern was on the easements. Anything put over the top of the easements becomes the expense of the property owner that puts it there. Both the city and/or Gail. Then Lance and Gary can handle the lease agreement so, that it's legal per the city ordinances and whatever timeframe meet the requirements and legalities. Gary comments and whatever you are thinking about the bollards and signage that's addressed on page two (2) of the letter. The easements, the disputed ten by sixty (10 by 60) parcel and you want to tackle all of that tonight. Mayor Thomson asked the ten by sixty (10 by 60), you mean the hash marks one, the crosshatch. Gary responds exactly. Mayor Thomson comments I have no problem with the diagonals splitting amongst that. Does anyone on the council? Gail comments that's the nicest way for the city not to have to put a lot of money. Mayor Thomson comments I don't see this as a thing for the city but, whatever. Gail comments it gives it ten (10) foot right along the river continues. Gary comments so you guys would file the quiet title action, we simply would not. I guess maybe the city's appear and don't contest it. Gail asked do we do it together. Mayor Thomson question how do you split ownership of that though. How do you go about doing that without us as a city putting in a claim as well? Gary responds well, if we had a side agreement and they quieted title in their name. Then they conveyed to the city. Mayor Thomson asked they do a quick claim back to the city. Gary responds right. Mayor Thomson responds they quiet title to them a quick claim to the city. Gary responds it works, not sure that the city needs to petition with them. I think it makes more sense that we answer and don't contest it. I just think it gets messy. If we somehow get a joint title to it and then split it up we get into that whole issue of whether the city then have to go through the publication at a public hearing and all that. The city just has to have a side agreement on that. I suppose we'd have to have a survey so, that we have a survey of those two (2) parcels. That's not that difficult. Gail responds I think there's already one. Gary responds I think there's a survey of the entire pieces but, I don't think the diagonal triangles are survey but, I think that surveyor can create depth pretty easily. Gail question the bollards, I think we talked about having them at each end, on 2<sup>nd</sup> & 3<sup>rd</sup>, to keep traffic out. Gary responds a side agreement authorizing that. I'm just thinking about what needs to be in the lease if they are not going to be on the leased property then it doesn't need to be addressed in the lease. Gail would hope that they are the city bollards, then it's continuous across both sides, both ends, to keep traffic out. Mayor Thomson comments I would think the city ballad both ends and completely the width of strip. Gail agreed. Gary comments I think you do that by a resolution. I don't think that requires an

agreement it's the city's property. Mayor Thomson comments the way I'm looking at it, we will ballad both ends and we'll use the type of ballad that can taking down in case a emergency vehicle needs to get in there. Hopefully we never have to that either. Councilperson Benglan asked Gary is there any uses there that we need to limit on that leased property. Meaning is there any precedents that might create some unattended consequences in the future. So, if we lease that property to Gail and then she is using it for her restaurant and serving alcohol and stuff on that piece of property. Does that then set a precedence for someone else approaches us elsewhere to lease city property? Gary comments first of all I don't think you can lease it, it's still city property and have her use it for, number one (1) the sale of alcohol. That's part of the problem we've ran into before but, that isn't what you're going to use these for. Gail responds no. Gary continues you're going to use it for access. Gail responds I would have liked to have more dinning off it but, I guess if I don't, I don't, I'll just put it down the other way. Councilperson Benglan asked so, we're *not* talking about leasing it. Gary responds we're talking about leasing it but just to use it for access and install pavers, fence and landscape. Councilperson Benglan comments we are limiting the use. Gary responds because that's the sole use of it. Councilperson Benglan asked so the sole use will be for access. Gary responds and it's not exclusive, correct. Lance comments there will be other seating. Gary comments I mean, other people can use it as well, and it's not exclusive to you. Is that right? Councilperson Benglan comments she wants it exclusive to her hotel. You want to restrict who comes in and out of it? Gail comments yes I would prefer to. Gary comments you're going to fence it right. Gail responds right, I would like to keep it quiet. Councilperson Benglan that's what I'm getting at, if you're going to put in seating in there as part of your restaurant. You would then be selling alcohol on that property. Mayor Thomson comments no necessary. Councilperson Guthrie comments just not on that spot. Gary comments I think you have a problem doing that. Mayor Thomson comments me too, you can seating out there but, you can't sale food or alcohol. You can do what they do at 78, they serve food to-go and then their guest can go out there and set at those tables. That's what they are doing on city property there. Councilperson Benglan comments they own that. Mayor Thomson comments they don't own the pavers along Main Street. Councilperson Benglan comments the sitting area. Councilperson Frandsen comments they own the property were the gazebo. Mayor Thomson comments the gazebo is theirs, that's private property. Councilperson Benglan comments because that their setting and the waitress serve them there, that's private property. Mayor Thomson comments right but, there is also setting out on the city property. Councilperson Benglan confirmed they don't serve them there. Mayor Thomson responds no, and what you can do and what they have been doing is, if somebody wants a to-go

container and want's to set their they can, its public setting. It's like taking it across the street to the park and setting. Lisa Toly from the audience comments they don't restrict anybody, they let everybody sit at it. Mayor Thomson comments there is no restriction on that. What I'm saying is that doesn't preclude from having a seating there. Inaudible – cross talking. Gary comments that's open container I don't think you can do it, you have to be on private property. Inaudible – cross talking. Councilperson Benglan counties job to enforce the open container laws, they sale it to go. Gary responds I'm saying you can't encourage that because then someone going to get popped for open container. Gail comments I would need clarification on what is a lease affords you to do. Councilperson Benglan responds generally you have a bundle of rights and you negotiate that. I mean, it's been my understanding this whole conversation is that you lease that and you get procession, it's basically a private use. You restrict who comes in and out of it but, some others have understood that for public use. Gary explains that's what he is trying to clarify. Now we're saying we're just going to keep it private. I'm still concerned as to whether you can serve alcohol on that leased property and if that's an issue I think I have to research that further. Gail comments that's what I'm asking. Gary respond I don't know the answer to that. Mayor Thomson comments he doesn't know either. I mean, it's still city property whether it's under lease or not and the city has an ordinance against selling alcohol on city property, whether a lease overrides that I don't know. Inaudible – cross talking. Councilperson Benglan comments the city has been approached before businesses where they want to serve alcohol on the sidewalk or elsewhere and it's like, if we lease and your allowed serve alcohol on it then how can we tell them no. I mean, I guess, we could but, I just want to make sure it's a tight lease and we understand it. Gary comments in other cities when they have allowed people to put up and I know it's going on in Pocatello because I've seen a couple of spots where they're actually putting up an enclosure. I don't know whether it's on the sidewalk or if it's on the city street that they're serving people but, I think that requires a whole different ordinance that allows them to do that. It's more complicated than just saying you can do it. Diane Beckstead from the audience comments it's because of Covid that they issued permits because of Covid. Gary responds you're exactly right, came about because of Covid but, I think they had to take some special steps in order to do that. Mayor Thomson comments we allow sales of alcohol on public property under the umbrella of an events permits but, it's a temporary onetime thing. Gail comments we are licensed with the State, the County and the City to serve alcohol on our property. I guess it's a question of can we do that if it's leased. I don't even know would. We used that spot for a wedding and was really cool and if you had a pathway coming from the road, where they could walk down just a small wedding it would be really pretty too. You know because we're a little

bit scrunched right there. Lance explains the use of the ten by ninety (10 by 90) foot strip as access is really the primary purpose of leasing. Councilperson Benglan explains we just need to have it clarified in the lease. I would say and it seems like we would probably agree, that we probably won't want that use for serving alcohol. Mayor Thomson comments too many issues that we would have to deal with. Councilperson Benglan comment too many unknowns. Gary comments I've think I heard what you're talking about and we may have to tweak the language but, we have enough we can get something down in black and white and see how it fits. Mayor Thomson asked council if there was anything else. Nothing. I think that's the three (3) main issues then.

Councilperson Frandsen made a motion to authorize Gary, City Attorney to work on a lease agreement based on the concerns discussed and authorize Gary to work with Gail's attorney, Lance on the ninety (10 by 90) and the two (2) easements. Councilperson Benglan seconded the motion. All voted aye, unanimous.

Mayor Thomson reviewed what the city agreed to. Traffic bollards on both ends of the Alley to close both ends to access. Gary comments he thinks that a subject that should be handled by a resolution. Mayor Thomson comments it's the city property and we will do it by resolution. Gail agreed.

Mayor Thomson asked City Clerk, Canda Dimick for help on the amendment for agenda on the one percent (1%). City clerk explained he was supposed to do that at the beginning of the meeting. Let's take care of that under the 2021 marketing plan, council will do both under that action item.

### **Lava Chamber of Commerce/Lava Community Event(s):**

#### **A) Marketing Plan Report – Sherril Tillotson, Chamber Marketing**

**Committee Representative:** Sherrill reports on the annual marketing.

Oktoberfest we felt like for the amount of people that we had to get that put together and what not, we felt like the event went very well. We had lost family involvement. I put together just a little, a brief summary on some of the comments. They wanted more events, more things to do, which requires more people. But we were aware of that, we had other things we would like to have done. And just didn't have time or people to do that so when we get an event coordinator on board. I believe we can build this even greater than it was. According to what I was able to pull through. The information was sent to me by Liz from Riverside who compiled it off of square. It appears we had somewhere between two hundred (200) and three (300) people participating in the events. We had thirty three (33), kids, adults whatever at the pumpkin painting. That was a wild success. We will

definitely enlarge that particular activity for another year. We had eleven (11) teams in the new stein race, which was when we shut off Main Street that was very well received. Brandon and Cody from the rooftops, were in charge of that event they did a very good job of organizing it keeping it under control and making it a fun event for those that participated so we were pretty excited about that. On the Riverside event for the beer tasting on Friday night we have approximately eighty to eighty five (80 to 85) people participating in that. Throughout the day on Saturday, there was based on the statistic of what was sold about one hundred and fifty five (155) that purchased brats and sauerkraut at Mike's Market. We had about fifty five (55) that were at the Royal garden there next to the Royal where we had our beer tasting beer fest. And we were able to manage that and keep everybody inside the garden, I personally was out on the street a couple of times to make sure and run a few back in that had wandered out with their mugs so we were well aware of what needed to be done there. We've had one summary meeting, and what we can do to make some improvements and we got a whole list of things that we'll be working on for next year that will increase the attendance even more I think we had beautiful weather, I think we can attribute a lot of the success of the event to the weather that we had. So I'd answer any questions or concerns that the council might have about Oktoberfest, whether you've heard any negative that we need to address or if you're satisfied with the way it was handled. Mayor Thomson reported I personally saw what I thought was, was a lower attendance that I would hope for. Positive response to having the activities on Main Street. It allowed the activities to be viewed by, even if you were on the other end the main streets, you could see something going on down the street. I don't know all the businesses, the business or two that I talked to, had a positive response and that they had specials going on their menus and stuff that night and they sold out. So, all in all, I heard nothing but positive comments, and the fact that it needs to grow. Sherril reported as a committee, we'll be the first to say that advertising and marketing for the event was a weakness for us this year because of the untimeliness of being able to get the event planned. Mayor Thomson comments I think he changed my format entirely, I think you did a heck of a job, in the fact that it went from one (1) Local spot to spread out in multiple events I think it was a great effort. Sherril comments we have one location that we're already talking about and up across from the Chuck Wagon we were not as successful as we would have liked to have been with activities and people in that area and we already have plans, or what can we do there at the next Oktoberfest that will bring in the group. We had people and activity all the time in the center next Ace, at Mike's, the beer garden, over at the sweet shop, they had climbed on board with some specials. Mayor Thomson comments I think the business community as a whole welcomed that because it brought the party to them, rather than across the river where it was isolated.

Sherril comments they jumped on board. We chose not to have vendors this year, and I think that also helped with what was happening in businesses. Mayor Thomson asked if they had restrooms this year. Sherril responds we did, we had one porta-potty by Ace, and one across from the Chuck Wagon. Mayor Thomson comments no problem getting them in and out. Sherril responds no, we did talk about some different changes for next year. I think probably, we would move one down into where ever the beer garden is because you get a lot of use there and for those to be using the Royal facilities we felt like it was appropriate on the part of the chamber so, we are looking at making a change. And so that that activity from the chamber event is not using the facilities of a private enterprise.

We've talked about a lot of things. But overall, we felt like it was successful. And we're pretty tickled with it. And I only could use numbers from sales to really give you a guesstimate, you know, of how many people may have participated in the event, I don't know. I honestly don't know, I'd say somewhere between two to three hundred (200 to 300) people. Then right now we're going to be concentrating for the balance of the year, on our brochure development for 202. A meet and greet which was going to be this month, but still with COVID problems and with Oktoberfest and the amount of energy from the volunteer force that went in to Oktoberfest we have kind of postponed the meet and greet until probably December. We will want to have city people coming, it will be open to everyone in in the community, chamber membership and anyone who would like to come. We'll be starting that planning process. We're working with Gail's group, I believe they have their gingerbread house starting and will help whatever they need help with on that folk festival people still got some things going and will be helping with that. Mayor Thomson asked when the Folk Festival was rescheduled for. Gail Palen reports the Folk Festival we are going to hold the 22<sup>nd</sup> to the 24<sup>th</sup> of April next year, we're not going to do it this fall. We will still do some fundraising to the end of the year. We tried it for the fall but, kids not back in school and everything upside down we said let's just get enough money raised enough money to pay the teacher for this year in our minimal expenses and then we'll have it next year April 22<sup>nd</sup> to the 24<sup>th</sup>. Sherril asked Gail if she left anything out between now and December what the Chamber's working on. Gail responds we've just finished an ad for Idaho Travel it is a digital marketing guide that the state distributes it is nationally and internationally once a week. We did a full page ad in that. Sherril comments we have that process when I talk about statistics. The link from that ad if, and when someone clicks on that. That takes it right to our website that will get us to statistics immediately of how many hits we're getting there. And we'll know the effectiveness of that ad in that particular publication, and we'll be able to evaluate, do we spend our dollars on a full page, half page. So we're looking

forward to having a banner reporting to measure and leverage our marketing dollars with. Sherril comments that's pretty much all I have to report.

**B) Temporary Event Coordinator- ACTION ITEM:** City Clerk Canda Dimick explained to council they have a revised job description. Sherrill summarized we asked Gail to drag out the fire and ice only so the city could have a job description for the temporary event coordinator position because Fire and Ice event the only event for the chamber that she would be working on in collaboration with whatever else she was assigned to do. Gail did a great job of doing that but, it still included some verbiage for an independent contractor so I have to beg for Gail's forgiveness and going through and making sure all that got modified. Gail comments please edit away. Sherril continues so, it doesn't refer to the chamber having that person as an independent contractor at all, in the new verbiage on that. It just lists what our requirements will be for the person who will be coordinating fire and ice, what their job description for us. City Clerk Canda Dimick comments I think, just from your new one there are a couple of things was liability under additional requirements on the 2<sup>nd</sup> page. Sherril responds Bryce had sent a text late this afternoon to me that the chamber had agreed they did not need liability insurance in there. He had checked with our insurance company and they had assured him that our events were covered and that we could add whoever was planning it at a nominal fee when we needed to do that. So, at Bryce's request that can be pulled off the job description. Gary Cooper, City Attorney asked if that the two (2) bullet points at the bottom of page two (2) then. Sherril responded yes it is. Those two (2) bullet points could be pulled off and just eliminated. Gary comments the other potential problem is the, the hours that are expected. We were just looking at this earlier. You go above nineteen (19) hours a week it may put them in a category, remember these person is going to be an employee. And so if they work if they work more than nineteen (19) hours a week they may be entitled to benefits. And that's a problem that we want to avoid that's, that's why we kept it at nineteen (19). So, that may run kind of counter to what people want because, for example on the three days of the event. You want 54 hours a week just too much. So, you know, can have to modify some of those things and do what they can. Gail comments so often I seen that a coordinate will hire someone else could we put that in there that they were eligible, that hours could be in addition, if it was their employees or a contracted person that they've contracted with. Gary explained they're not an independent contractor, they're an employee of the city and I don't think we can delegate that. Sherril comments excuse me, and I did receive a call from city about that. And if that was done then the chamber would have to do it separately. So we would have to make that decision, whether we as a chamber what the hire some people independently to help fill in the gaps to keep the nineteen (19). So the



event coordinator could work 19 a week so, we as a chamber would have to address whether or not we have funds to hiring people. Gail comment let me clarify. I thought it was an independent contractor so you're saying it's going to be an employee. Gary comments right. Gail comments this is for the interim position only. Gary explains I just called it the fire and ice event coordinator just for that specific event. Mayor Thomson comments so, then we will turn around and rehire, could possibly rehire that person or hire a different person. As the permanent events coordinator. Gary responds right, we would add much broader responsibilities. Mayor Thomson comments so, this that we're looking at now is specific for one time event only, based on this number of hours. Sherril comment this person being a city employee. Have you got something in there that allows you to assign them to do something to because you got city events, city Christmas lighting and stuff coming up that is not chamber hours. I mean we volunteer and help you with those things but are we being allowing the event coordinator to charge chamber requirements to that. Her duties for us will be strictly fire and ice. City Clerk Canda Dimick comments Gary that's why I put temporary in here. Mayor Thomson asked Gary isn't there a caveat that allows you to do a temporary employee seasonal, so to speak, if you want to view it that in that manner that is allowed to go above the 19 hours a week but it's is for a seasonal employee only, Gary responds we just looked at the qualification for what were we looking at health insurance benefits. City clerk responds it was five (5) months and we figured if we could keep it under that. Gary responds that's right. So we got to keep the term within five (5) months we can't exceed five. Mayor Thomson comments I know that's what the state does for, well that's what they did for my wife for instance they put her on seasonal, she worked forty (40) hours a week and still didn't draw benefits or insurance but then after a certain period three months or four months she has to be off. She's unemployed for a month. Gary explains I can do whatever you want. I'm just asking you, you might have a problem. If you want forty (40) hours a week or whatever and if they exceed 40 hours a week then you run into problems with overtime. Councilperson Frandsen comments it can't exceed forty (40). Mayor Thomson comment that's what you guys do at the state don't you, you run seasonal. Councilperson Frandsen yeah. Mayor Thomson respond that gets by the requirements. Councilperson Frandsen responds and the seasonal can't exceed forty (40). Mayor Thomson right, they can't exceed 40 and they have a limit of how long they can work, three months or something. City Clerk responds there's specifics on what can be seasonal. I don't think an event coordinator is called seasonal. Gary asked this is for what benefits Canda. City clerk responded the one we were looking under was health insurance. Diane Beckstead from the audience asked isn't there a difference between a temporary and a part time employee. Councilperson Frandsen there probably is. Mayor

Thomson comments the fifty four (54) hours will still exceed the forty (40) so screwed there anyway. Gary responds some of it does, we can control almost all of it. City clerk comment it refers to the seasonal as related to weather and growing season. Gary comments I don't think we can do that, what was the other designation. City Clerk responds it was five (5) months on part time employment. Gary comments so, if they are part time for five (5) months or less then hours are not a problem as long as it's not overtime, that they don't qualify for that benefit. Gary asked if that is for retirement or health. City clerk responds that's retirements and the insurance contract doesn't have a time limit. Gary responds I think the insurance agreement does, it's like thirty hour or something like that if I remember right. Basically I need to compress this to five months, avoid overtime, and if there is an hourly requirement for health insurance we keep it below that. Gary asked Canda to verify that it's below thirty two (32) hours. City Clerk explained why she put temporary employment agreement. The city has a procedure if they hire for temporary then we don't have to publicize an announcement. Gary comments you would like me to call this a temporary employment agreement rather than part time. City Clerk responds temporary part time. Sherril explained they have received two or three (2 or 3) resumes and I believe the Chamber President has given to the city. Mayor Thomson responds he hasn't seen any. Inaudible – cross talking.

Councilperson Frandsen made a motion that Gary proceeds forward with redoing the temporary part time employment agreement with the conditions discussed at get it done for the next meeting. City Clerk comments rather than waiting until the next meeting we need to get this person on board. Mayor Thomson comments we can't wait until the next meeting. Gary comments right, authorize me to we can modify the agreement so we can enter into it and they can simple approve. City Clerk asked if one (1) council member be meet with chamber members and do an interview with the names that they've gotten. Gary comments I think Randy the liaison with the Chamber. So, they can get something schedule with those three (3). Gary comments he should have the agreement ready next week. Mayor Thomson comments this is a two (2) fold thing we have to hire a temporary to handle Fire & Ice but, at the same time we need to be hiring a full time person and I would hope that person is hired before Fire & Ice and we don't want to wait until Fire & Ice to look at a full time person, even though it might be the same person. Sherril asked if the city is going to go with an employee or independent contractor. Gary comments his recommendation is an employee because you can exercise a lot of control over what this people can do and with an independent contractor you don't have any control over how they do it, it's up to them. Just your job description requires a lot of control anybody that looks at this from the outside is

going to say that's an employee. Yep, treat them as an employee, pay them as an employee, do the withholding and all that. Mayor Thomson comments my understanding is if we pay them out of that funds we have to have them as an employee. Gary comments I don't know about that. Mayor Thomson asked city clerk if that's what she thought. City clerk responds no, the city would have an independent contract with the person just like you do with Carew. They would have to have an independent contractor. What Gary brought up to me is they are set on an hour wage rate which normal when people done that are an employee. You don't normally pay an independent contractor by an hour rate and also the control of what you're telling them they have to do and they have to go back to the chamber to get everything approved. Gary explains it's more the control. You can see with Carew we have no control over how he does it. We just say we want a product, you figure out how to do, you do it on your own schedule, t with your own tools and stuff and provide the product and that's it. With this person we are going to have lot more supervision over this person in how they do the job, what they do, when the do it and that's what makes it an employee. That's distinguishes between the two (2).

Councilperson Frandsen comments we have a motion on the table and I need to amend it once Gary gets the agreement finished that it goes to effect and authorizes Councilperson Benglan to meet with the chamber to interview and hire the temporary part time employee. Councilperson Benglan seconded the motion. All voted aye, unanimous. Sherril responds I'll talk to the president we'll get the time setup for next week, what day of the week is best for you. Councilperson Benglan asked if she already has her candidates. Sherril responds we have three (3) and Gail has a lead and Canda may have some who has expressed interest, I don't know, I know the words out there. Sherril asked city clerk if there has been interest at city hall. City clerk responds there were two (2) different names she will have to follow up with them because there job situations has is changing.

### **C) Carew Company Independent Contractor Agreement - 2021 Marketing Plan - ACTION ITEM:**

Mayor Thomson reports the next item up is a 3<sup>rd</sup> one (1%) percent proposal with Chamber Of Commerce 2021 marketing plan activity request. Proposal to fund the Carew Company agreement. Councilperson Frandsen questioned if city already proved out expenditure. Sherril Tillotson explains the city approved the RFP which included the proposed budget in the RFP. This is a request for one (1%) percent funds to fund that budget. The RFP was approved last spring and included a budget proposal for one (1%) percent money and this budget hasn't changed. I'm not sure Paul Carew is online still or not, he was going to be online in case you had

any questions for him. Paul Carew announced he is online and address council. Hello, nice to meet you all, glad to answer any questions that come up. Mayor Thomson responds to Paul, thank you. Good to have you with us. Councilperson Benglan asked what the one (1%) percent was last year. Sherril responds forty eight (48) something just under forty nine (49). Councilperson Benglan responds and then you have the full marketing budget broke down in here. Sherril responds yes, and we are in the process now of restructuring, our dues and getting those out. Looking at our budget, making sure we're in line, there's always a constant reevaluation process, Mayor Thomson asked the total the total of the one (1%) percent monies would be sixty seven thousand (67,000.00). Sherril responds that's the total budgeted amount. I didn't bring that part with me. Councilperson Benglan comments eighty one five (81,500.00) is your total budget. Sherril respond yes, total expenditure between what chamber funds will be. Mayor Thomson responds that's not city funds, that's chamber funds and the one (1%) percent. Sherril respond yes. Councilperson Benglan so this fifty (50) you're requesting from the one (1%) percent. Sherril responds is what was priory approved through the RFP. Councilperson Benglan comments and then the thirty five hundred (3,500.00) will come later. Mayor Thomson comments the total for the year from the 1% would be the sixty seven thousand (67,000.00). Sherril responds if we're able to move forward with those programs. Mayor reports that exceeds what we did last year and I will warn the council that right now there's a surplus in that one (1%) percent. At this point it hasn't been generating that amount of money. Sherril responds my understanding is that it generates around the fifty thousand (50,000.00). Mayor responds Yeah, but right now there's a surplus in there so we can we can spend it but it won't be something we can continue, year after year. Councilperson Benglan asked so the only one (1%) percent requests that you've made, is this. Sherril responds is the fifty thousand (50,000.00). The Chamber wants to be sure that we can get started, we will have some pre planning that will be of course financing on our own and as a chamber with Mr. Carew between now and the first of the year, as he's been brought on board by contract, through the RFP on January 1. The Chamber wants to be sure those funds are in place to start the projects that Mr. Carew had proposed in his marketing proposal. Councilperson Benglan comments I'm excited to see what they can do for us. Sherril responds I am, we're excited. We have some hurdles. We have some marketing strategies to review and reassess. We've put some things in place to be able to better measure statistically. The success of our programs, and we know that Mr. Carew will be able to help us with that process. So, when we tell you this was a very successful program, we'll be able to statistically prove why, for whatever program it is whether it's digital one or the printed one or whatever, we'll be able to give you some background that justifies why we feel was successful or why we

feel it was weak and we need to make this change or that change. We're putting some things in place that will make us more comfortable with what we're doing, and better inform the city as to the success of the one (1%) percent dollars. Councilperson Benglan responds got you.

Councilperson Frandsen made a motion to approve fifty thousand (50,000.00) from the one (1%) percent so, the chamber can go forward with their marketing plan. Councilperson Benglan seconded the motion. All voted aye, unanimous.

Gary Cooper, City Attorney asked if Mr. Carew has been provided with the proposal agreement. Sherril responds I believe that the city clerk has sent him the draft on that. City Clerk Canda Dimick responds he online and I sent him your draft. Gary asked if it's the one without the modifications that I did this afternoon. Mr. Carew responds I did receive a copy, but it was this morning so I'm sure it's an older version. Gary explained there weren't many modifications I just, I got mixed up, trying to get ready for today so I did the wrong thing. But, yeah. It wasn't much, was it was just one. City clerk explains the concern was with the payment. The city felt like it needed to follow the process for payments that was in the RFP. And the other one was just a spelling correction. So there's only two things that I have addressed comments on and then requiring copies of paid invoices that they're wanting reimbursed. Sherril comments I have made Mr. Carew aware in my email trail with him that this is a collaborative effort between the chamber and the city and the marketing agency of choice, and it takes a little time to get it just right so we're aware that there may be some modifications in that agreement. That has to be fine-tuned. And that's why we started on it early. Sherril comments so, if I'm understanding and so also Mr. Carew will understand those modifications will be made and then another copy will be sent for Paul so he knows what's happening and then it will come back to council again as an action item, is that correct. Gary responds that's good by me. Sherril comments that's going to work for you. So gives us time to get it in place. Paul is that going to work for you. Mr. Carew responds that works perfectly for me. I'll keep my eyes open for the revised agreement. Gary explains the confusion on the agreement and apologized for them. City Clerk asked Mr. Carew if he looked over the agreement he has and does he have any concerns. Mayor Thomson asked Mr. Carew if there any items that need corrected on the agreement if so we can get your items incorporated as well. Mr. Carew responds I will give it a deeper review but it looks fine to me on first glance, there was nothing that stood out was concerned at all. Mayor Thomson responds okay. Gary asked just go ahead and shoot an email to whomever you're communicating with about this, and they can forward it to me if there are any

questions that you have about that, if necessary, I can just give you a call Mr. Carew. Mr. Carew responds sounds great, perfect.

Mayor Thomson comments that item is item C it says Carew Company independent contractor agreement would somebody please make a motion to table that until Gary gets corrections made and we get Mr. Carew updated and Sherril had a time to look at it and then we'll do it at the next meeting.

Councilperson Frandsen made a motion to table this agreement until city attorney can work with Mr. Carew and The Chamber and we'll address it on the next meeting. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

#### **D) Miscellaneous:**

**Kofoed/City Road Easement Agreement - ACTION ITEM:** Mayor Thomson announces the Kofoed/City Road Easement Agreement the city has been massaging this thing for the last week and some of the issues are the road from Maughan road to RV storage location is right now a city road but, once you go past the area that they setting up for storage then it goes back to city use only, on down to the sewer ponds. So, some of the concerns expressed by Tony were that we wanted to be sure that the road is adequate for increase traffic, increase weight of an RV going back and forth. There was also discussion on where to put the gate and we decided rather than putting a gate out on Maughan road we would just leave it like it is today and as you turn off of the city road into the storage unit he can put a gate there and that it becomes his gate and the city doesn't have to enter, exist or use it at all. That way he can control his own gate and the city doesn't have to deal with it to access the sewer ponds. Councilperson Benglan asked so he will use the key pad on his gate. Mayor Thomson comments yes, as you drive down the city street you would turn onto his property. His property starts just behind the well the wall that's city property. Gary Cooper, City Attorney explains he tried to incorporate all those in the revision that you have in your packets, those comments. I think that there were some other comments in making certain that an engineer looks at the road and it's adequate for this use. I think that's not something that should be the right away agreement. I think that something that's precondition to entering into this. I think the suggestion was that it should be at his expense and I agree. They should be willing to go that expense to make certain that the road meets whatever conditions you feel are necessary. Once that's done then we set this up, there were some other things like set back requirements. Things of the nature again, I think those are regulatory function that are either handled by planning & zoning or handle through a business license or something.

I think we should incorporate those into the easement agreement but, just recognize those are additional regulations that will come into play as far as setup backs. Mayor Thomson announced this is the county not city limits. Gary responded okay. Mayor Thomson comments the county zoning, it's the city impact area but, it's not in the city limits. Councilperson Benglan comments anything that we would survey would be city property which would be that road. Gary comments right, we are surveying the road so we have description for the easement. Councilperson Frandsen questioned the key pad, the city doesn't want the key pad on city property. Mayor comments correct, as you turn off the city road into the storage area is where the key pad gate would be. Tommy Kofoed is online. Gary explained he tried to incorporate everything in the new version he submitted today. City Clerk Canda Dimick reported Tommy hasn't seen any of the proposed changes. Gary explained he hasn't sent him the agreement would like city approval first. Councilperson Benglan comments how we determine the annual use on the road. Maybe we rely on what the maintenance would be over a five year period, is there any way to determine that. Mayor Thomson comments I don't know any way to determine that. It's so weather related, on a bad year you may have a lot of maintenance and on a good year you may not have any, weather wise. That road in pretty good shape actually. It's a pretty solid road base it's been there for a long time and we've been accessing back and forth to our sewer system for quite a while. It's not like just two (2) ruts through a field. This is a pretty substantial road. Councilperson Frandsen comments my feeling is, if Tommy is maintaining the first part of the road that his is going to be accessing I don't think we will need an annual fee, as long as he is responsible for keeping that road up. Mayor Thomson comments he is maintaining it to the storage unit entrance and we maintained from there on. Councilperson Benglan comments my main thinking is, the road needs some repairs say in three years and its five thousand (5,000.00) dollars Tommy may say well that, verses if we get thousand a year then it's built up some so he doesn't have as big as an expense. I'm just using numbers as an example because I have no idea how much the maintenance is and are we going to require it to be paid. I don't know that. Mayor Thomson responds you are just trying to set up a budget fund to handle possible maintenance in the future, so the funds there instead all at once. Councilperson Frandsen comments right now it's a utility road so it can be a gravel road. Councilperson Guthrie comments it probably should be paved if a lot of trailers are going over that. Councilperson Benglan comments that's why I say a civil engineer can look at that and tell us. You can get a pretty solid gravel road base I mean you can go up to lava ranch and thunder mountain ranch and those roads are gravel and they're pretty heavy duty roads. Mayor Thomson comments anytime you get to the level that you can where you can run an emergency vehicle on it like Lava Ranch or in Thunder Mountain

that's year around roads. Gary asked is your anticipation that the city would be responsible for maintenance of the first part of the road that what the fee is going to be for. Mayor Thomson responds my impression was that Tommy would be responsible for the road, from Maughan road to the entrance of the RV storage unit. Councilperson Benglan comments my question is his responsibility done through him actually doing it, contracting someone to do or paying the city to do it. I would prefer that he pays the city and then we know it gets done. It's for the council to decide. Tommy comments on that note. We have equipment to maintain, bring in gravel and as well as to grate it but, it's the council decision. Mayor Thomson comments obvious it's to your benefits to have that road up and maintained when your vehicle up and down it in the busy times of the year, spring and fall. Tommy responds absolutely. Mayor Thomson comments you're having two hundred (200) units in there. Tommy comments we want to make sure it's nice. It's in our best interest to keep in good repair. Mayor Thomson responds I think all Councilperson Benglan is asking is what kind of insurance do we have that you'll keep it that way. Councilperson Benglan responds I'm fine either way as long as it clear that it's going to be done. Gary comments all that you care about is that it's maintained to the extent that the city can get its vehicle access to the city property. The city doesn't really care whether it's maintained sufficiently for RV storage, right. That's really Tommy's. Mayor Thomson comments that would be my take on it. Gary comments all we care is that's it's enough that the city can get its vehicle over to the sewer lagoon. Mayor Thomson comments we have two (2) things city well adjacent to the property and then we have city lagoons past the property. Gary comments the city is going to use this road for access to both. I don't know what kind of vehicles you're going to do. All you care about is that the road is maintained sufficiently that what every equipment or vehicle the city needs to access its property that it's opened for that. Mayor Thomson comments mainly it's the cities service utility truck and the backhoe. Councilperson Benglan comments but, I mean it's got to be adequate to what he's doing so it doesn't inhibit what he is doing. I think we are making the same point. Gary comments we are making the same point his probably has to be maintained to a higher standard than what the city would. That's what I was trying to do with this is make him responsible for that and whatever he does it doesn't impede the city access or property. Mayor Thomson asked Tommy if he heard that Tony Hobson, City Maintenance doesn't really want to have to go through a key pad gate to access any of the city property. He was requesting that they gate runs a key paid to be access to your storage facility so, you're the only one using that gate. Tommy responds I didn't hear any of that. What would be the proposal then for the gate up at the top, does he still want a gate there. Mayor Thomson responds pretty much what it is right now. Which is it what is it key pad, lock and key or just stand open. Tommy



responds it's just a latch, it's just a drop latch. The gate is adequate it needs to be wider, the gate is only fourteen (14) foot. Mayor Thomson comments the way he understood it, is when the city access the sewer lagoons all the city wants to do is open the latch and drive in. Discussion followed concerning the gate. Mayor Thomson comment I think what Tony's point was, there really isn't any reason to secure the road for our purposes that the security needs to be where the RV storage is at. That's what you're trying to secure. Councilperson Benglan just beyond the entrance to Kofoed's you could put a chain across it, that's what I do at the golf course. Mayor Thomson comment I'm assuming they will drive in the road and turn off that road into a storage facility and to me that's the likely location for a lock, if it's required to be secured. Which I would want probably want some kind of security feature if I'm paying to store my RV there. Tommy explains what they had purposed for the upper gate is we need to go wider. We are looking at two (2) ten (10) foot gates that swing both ways. Mayor Thomson verifies a gate swing both directions. Tommy responds it would swing in, setback of twenty (20) foot off the road and then two (2) ten (10) foot gates. That way we would end up with a twenty (20) foot opening. Councilperson Benglan asked if we were talking about putting the gate on Tommy property, not on the main road, did I miss something. Councilperson Frandsen responds that's what we were talking about but, Tommy is talking about having it on the main road, right off of Maughan road when you come in. Councilperson Benglan asked what's wrong with if going over into his property. Mayor Thomson comments the gate that's on Maughan road right now, where you turn in the road is a ten foot wide gate, it's not large enough. It's going to have to have a twenty (20) foot wide gate so, you can swing a big RV in there. That gate needs to be upgraded to a twenty (20) foot, number one (1). Now I would assume at that point as you drive into the thing and you get to his storage facility there will be a second gate of a second something to secure that. Tommy responds correct. Councilperson Benglan asked the point is do we need a gate at the entrance. Why don't we move the city gate down past his entrance? Mayor Thomson comments asked Tommy if he is putting a second gate at your storage facility. Tommy responds yes we'll have another gate down there as well with a key pad, as well as a security system. I would like to have a gate up at the top as well or some form of gate to keep anybody from just driving on down. That's to protect my property and the city property. For me it doesn't have to be locked, it's not locked now but, it does keep people out. Mayor Thomson comments my understanding from a conversation with Tony and Justin was that's fine with them. They agree that there should be a gate at Maughan road where they turn off, that's like the gate there now and a secure gate ie, keypad, electronic however turning into your storage to Tommy's storage facility. I don't think we are trying to eliminate a gate, we're just trying to eliminate two (2) electronic gates. Tommy

responds okay. Mayor Thomson comments as I understand it, I would be glad to Tony again and get his thoughts a second (2<sup>nd</sup>) time. I think Tony's position is if it's working and it's not broken don't fix it. He doesn't see a need for a secured locked gate at Maughan road to secure the road into the sewer lagoons or to the well but, I'll review that with Tony again. Tommy comments understand. The thought was it doesn't necessary have to be high security it just needs to stay closed. The worry is people come down and leave and don't close the gate behind them. Mayor Thomson asked if they're doing that now. Tommy responds the city goes down there and I go down there but, nobody else is going down there because it's private. Mayor Thomson comments what we are going to do here is make some modifications and upgrade to the easement agreement and then have Gary Cooper, City Attorney send you a copy for you to review. Tommy responds okay that sound great. Gary comments there're some issues that we've been talking about, the gates, maintenance, fees and things like that, that you will have some input on, it's just a matter of negotiating those things. This isn't the final agreement I'm sending it to you to look over and give comments back to me so, I can carry back to the council. Tommy responds absolutely. City Clerk Canda Dimick comments Gary, Tommy asked me about a letter that the county wanting from the city on the easement can we discuss that too. Gary comments I have a vague memory of that but I don't remember the specific. Gary asked Tommy about what the county needs. Tommy responds the county needs an easement agreement or a letter from the city saying that we have permission to use the road, that's the one thing they are requiring. Gary responds he could send a letter that says that we are in the process of negotiating an easement agreement over that road, we haven't finalized it yet but, that what we are working towards. Would that be sufficient for them? Tommy responds you know I can ask. Gary comments why don't I provide that letter and they can respond that's it's not adequate rather than you asking if that's adequate, okay. Tommy responds that makes sense.

Councilperson Frandsen made a motion to that Gary forwards Tommy the agreement he has already worked on so he can review it make comments and move forward with getting the agreement finalized. Councilperson Benglan seconded the motion. All voted aye, unanimous. Mayor Thomson comments we'll get that out to you for your review. Tommy comments awesome and thank you council members.

### **Building Permit(s) - ALL ACTION ITEMS:**

**A) 4 Tiny Homes (128 sq. ft. each – nightly rentals) – West Main Street – John McKenzie, Owner/Applicant; Rocky Mountain Finish, LLC, Contractor:**

John McKenzie online, first of all I really appreciate the recommendation at the last council meeting for Xcell Engineering. We've been working with them over the last few weeks to make sure that the egress access et cetera are in place and obviously with the general contractor for the fire protection. So, if Canda can pull up they stamped approval from Xcell Engineering or I can share my screen which ever you prefer here. Mayor Thomson comments we are not quite sophisticated enough to share a screen so, we'll fumble through the paper copy. John responds okay, it's in the packet that Canda has. Mayor Thomson comments I've got about a ten (10) page packet here I'm thumbing through. John explains Xcell has been really good at working with us up here in Pocatello and if there's are any questions or anything like that we can always go back to them and the as well as the general contractor but, I think we have pretty much all the spec's in place here for you. Councilperson Frandsen asked John if he is planning on taking the driveway continual from Main Street all through to the ally, right. John responds well, that was the first proposition shall we say the way Xcell has explained it it's probably better to put two (2) unites at the back so, there is plenty of turn around space for the parking area, egress and ingress et cetera for Main Street and in the winter time it's not maintained. They think it might be better just the access onto Main Street. Do you see that as a challenge? Councilperson Frandsen not particularly, just as long as the parking and turn around is figured out. John comments right, that's what we've done is maximized the parking at the cost of that drive through into the alley way. We think that provides better access and emergency access, et cetera, et cetera. Councilperson Frandsen asked if John could provide a drawing that shows how the parking and turn around would work. John responds yeah, they got a couple of errors there in terms of the access point and egress. The actual parking spaces are defined, is that what you are looking for. Councilperson Frandsen responds yes. John comments in between the buildings where you see the entrance from Main Street and there the spaces between the building and that far west side where it says parking that's also where you would park a vehicle. There's four (4) spaces, one (1) for each unit, over flows we assume for parking still okay from the street. Does that address your question or do you want specific space outlined there. Councilperson Frandsen it needs to be laid out so, we can look at it see what going on. John comments yes, we can put some parallel lines that show parking outlines. Councilperson Frandsen comments and with the demission of the parking spots. Councilperson Benglan comments the council needs to see that it meets the requirement for parking stall sizes. John responds they will be at least thirteen (13) feet across for that. One of the question that I have is any type of current or future planning in terms of aesthetic for Main Street there if we put a fence around that front area does that coincide with what your expectation are for commercial district or do you want something that more commercial looking. Councilperson Benglan

comments we don't necessary have a design element code that I'm aware of. John comments okay, I just want to take into consideration any future planning. Mayor Thomson comments he has an existing sidewalk that would be the only thing be coming in there and there already is a sidewalk there. Councilperson Frandsen comments there is a restriction on fence height that you would need to look at. Councilperson Benglan comments one thing I want to point out is on this concept plan, concept layout down at the bottom it says preliminary not for construction or recording. So there are few things that Councilperson Frandsen brought up that we would need. We would need the parking stalls defined, also the grading and drainage plan that shows how the water is going to be retained on site. Are you planning on any kind of paving or anything like that for the high traffic areas or what's your plan there? John responds I'm not sure if we are looking at the same document says minimum drainage slope on site is two (2) percent. Councilperson Benglan comments yep I see that. John responds so in other words with have to have a least two (2) percent for the slope and basically we are going to level that out within a ten (10) percent radiant so it's well within that two (2) percent requirement. Does that address your question? Councilperson Benglan responds it not necessary a questions it what we would need from you to get this concept layout to a final. I actually called your civil engineering discuss with him layout and basically to get this to final we would need, as Councilperson Frandsen said the parking stalls drawn so that we can see that they meet up meet the requirement and then a grading and drainage plan. And if you're planning on doing any pavement that we will need that addressed under the grading plan. Mayor Thomson comment our standard parking stalls nine by eighteen (9X18). John respond Yep, and that's what we're looking at. Okay, so we can come back. Can I provide you an updated document next week for review internally? Or do we have to wait till the next council meeting? Councilperson Benglan responds I don't know the answer to that. Lindsey McCulloch, City Code Enforcement Officer comments did you and I have a conversation that you were going to go from four to three (4 to 3) Tiny Homes? Or is it still four (4)? John comments it's still four? Lindsey responds okay. John comments there was a conversation about maybe doing a double stack on one. And then after talking to Excel, they said I can go ahead and do four. Lindsey responds okay. Councilperson Benglan John are you plan on doing any pavement on site? John responds no, for now we are looking at just gravel and using the existing monuments in there as foundations. Councilperson Frandsen comments Mr. Mayor the question is can we preliminary approve this with a request that we asked about the parking plan and drainage? John comments this is coming from Xcell Engineering. Councilperson Frandsen then go forward? Or do we have to wait until the next meeting? Lindsey comments he's been really good to work with? Mayor Thomson responds I don't

see any problems going forward. Councilperson Benglan comments I think if we did something like we do a basically contingent approval upon receiving a grading and drainage plan that retains the water on site, the proper gravel base for your transportation areas, and then the drawings that show your parking stalls those three things. And then and then there's the understanding also is we'll issue a certificate of occupancy for these right. Lindsey comments not until they are done. Councilperson Benglan comment so, you won't receive a certificate of occupancy until the site or the state signs off on these buildings and we sign off on their site being completed. John Comments no worries, I'm not looking for that. Mayor Thomson asked John if he has determined where he is going to put your water and sewer hookup. John responds yes, on the east side so, as you face the property that to left. Mayor Thomson responds right. Got it. So you're going to run right down the line of the buildings then. John responds yep, absolutely we're doing a standoff of the backside there so we can ditch widget and we're kind of playing with snow freezing and springtime temperatures. There's going to be a little bit of nuances there. Mayor Thomson comments I missed it, are you going to pave this or not, gravel. John responds we're going to do gravel for right now. Mayor Thomson responds okay, doesn't make any difference. I will just give you the heads up. That one of the things that you need to be planning on when you're when you're laying out a site like this, like Councilperson Benglan said, the parking plus the drainage, obviously, the drainage can come back to main street and go into our storm drains. But you're going to have to look where you're going to pile snow for snow removal in the wintertime. You cannot put snow back in the city street. John comments and that is also why that space in the far back as the left open. Mayor Thomson comments yeah. John continues that's a potential snow area. And so we're trying to calculate that as well. Because obviously there's not going to be enough melting and runoff for Main Street drainage. Mayor Thomson comments well, and it's you know, up here, sometimes we get a lot of snow, sometimes we don't. So you just got to know what you're going to be facing there, but when you get when you get in there and start plowing your parking area out for your guests, you're going to have to have a place to put it where they can get in and out. And we can keep your access cleared. Our first our first plow goes right down the Main Street, we try to open that first, we open up the school second. So, the first thing on our list on plowing is Main Street and then the school. John responds the way we've looked at it is we're going to have to buy a four wheeler with a small snowplow on it for maneuvering within that small area. To keep that space clear for parking. Mayor Thomson comments we also have a couple of folks in the snow removal business here in Lava. So there's a couple of options. John responds all right, appreciate any other questions on this counsel. Okay then make the motion with the restrictions? Councilperson Benglan yeah, I've got five (5)

conditions here. So do we want to have them? Do we want to wait till next council meeting? I mean, if we if we put these conditions in here, then we would rely on them submitting it and then you saying that meets conditions. Councilperson Frandsen I think between the Mayor and code enforcer they can approve conditions. Councilperson Benglan comments so, we've got we've got five (5) conditions on here, john? John responds yeah. Councilperson Benglan comments I will make a motion that we approve this project and the five (5) conditions are the parking stalls, and turnarounds will be on the site plan. There will be a grading and drainage plan. Number three (3), the gravel base for the transportation areas. Number four (4) water and sewer hookups, where those are. Number five (5) where you pile snow on the on the site plan as well. John responds very good I appreciate that.

Councilperson Benglan made a motion that we approve with these conditions will then be verified by Lindsay and the Mayor. Councilperson Frandsen seconded the motion. All voted aye, unanimous.

Mayor Thomson comments you're conditionally approved. John, get those to us as soon as possible. We'll get you a final approval. John responds I'll hand it over to you next week. Thank you very much everyone. Mayor Thomson comments and also I would suggest we figure out and meet and get down pat, where you want the sewer and water hookup and the guys might be able to get that and before she freezes up for you. John responds yeah, I spoke to Tony this afternoon. And I think we got that squared away the wastewater talking to them tomorrow afternoon, but it's really not going to be a big factor for me if I don't get it in before April. Mayor Thomson comments Tony's going to be gone for the next six (6). It takes takes two guys to do that for safety reasons. But Tony is out on vacation next week. But yeah, get that to us and we'll get you started. John comments all right, very good.

**B) 24' x 24' Utility Building and Storage – 36 East Booth Street – Gavin**

**Gunter, Owner/Applicant:** Mayor Thomson comments Gavin leave us. Okay. Gavin wants to put up a storage utility shed behind his house there. Lindsey responds yeah he held out as long as he could. Councilperson Frandsen asked Lindsey McCulloch, City Code Enforcement Officer is she looked at it. Lindsey responds yes, everything looks good. He put it like on these big papers. And we had to size them down in order to scan them in and send them to the state so the state just barely got it. So I haven't got back approval yet. But I had Jim Lynch here the other day and he said everything looked good. He just did Gavin's new red house on Booth the finals on those decks. Councilperson Benglan asked so this isn't Gavin's house it's a different one. Lindsey responded it's just a shop.

Councilperson Guthrie comments it's at his house. Dave Simpson's old place. Lindsey comments setbacks are all correct.

Councilperson Frandsen made a motion to approve. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**Business License(s) ALL ACTION ITEMS:**

**A) Dempsey Creek, Inc., DBA Lava Hot Springs Liquor – 123 East Main – Sam Netuschil, Owner/Applicant (New License):** Mayor Thomson comments okay business licensing. First item up is Sam Netuschil, doing businesses Dempsey Creek Inc. That's the new liquor store owner, which is still doing business as lava hot springs liquor, same address. Councilperson Benglan asked if Sam bought that. Mayor Thomson he didn't buy the building. He has the license for the liquor store, and he's apparently leasing from the birdies. Councilperson Benglan responds oh, I got it. Did we get any documentation from ABC that they transfer the license to him? Do we get anything like that Canda? Councilperson Frandsen comments Sam's online. Councilperson Benglan comments Sam, did you receive a license from ABC on the transfer that license to you? Sam responds yeah. Councilperson Benglan comments probably need to be contingent on getting a copy of the file. Sam comments if I didn't I'll be going to jail real soon. Mayor Thomson asked City Clerk Canda Dimick if there is a copy of the lease for the building. City Clerk responded we have a copy of the lease. I would assume that we'd probably want a copy of the liquor license as well. To go with the file. Would you bring that over to as Sam? Sam responds yeah, not a problem. Just to put in with the with your business license packet. Sam responds yeah, you bet.

Councilperson Benglan made a motion to approve contingent on receiving a copy of the liquor license from Sam. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**B) Jade Beus (New License):** City Clerk Canda Dimick explains the reason Jades getting one so he's going to be hiring some contractors. For example, the guy that's doing the concrete work. So, Jade pulled a license and it will be basically a general. Mayor Thomson responds so, he's doing the general contractor's license, so he don't get any subs buy a license. I hope these folks understand that when something goes wrong with other subs, they're responsible. Someone for the audience comments we understand. Mayor Thomson comments you'd be surprised the people that don't. I had a lady that built her house in the wrong spot.

Councilperson Guthrie made a motion to approve Jade Beus contractor's license. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**C) Paradise Fire Protection, Inc. – John Blankman, Owner/Applicant (New License):** Councilperson Frandsen made a motion to approve. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**Non-Property Tax Permit(s) ALL ACTION ITEMS:**

**A) Dempsey Creek, Inc., DBA Lava Hot Springs Liquor – 123 East Main – Sam Netuschil, Owner/Applicant:** Councilperson Benglan made a motion to approve. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**B) Venishop, Inc.:** Councilperson Guthrie explains its internet sales. Councilperson Benglan comments they are required to get a non-property tax permit but not a business license. Mayor Thomson responds right. Councilperson Benglan made a motion to approve. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**Direct Communication Right-of-Way Use Agreement – ACTION ITEM:**

Councilperson Benglan comments did we finally get that all hammered out, Gary. Gary Cooper, City Attorney responds no, getting no communication. Mayor Thomson comments now we finally had a proposed revision to the route. We kind of got that hammered out and gave them you know, last week, we kind of gave them a go ahead to start laying out. The city amended that because our understanding was that everything was going to be bored. So, the city amended that to say everything will be bored. So our understanding as the council when we approved that, that this would all be bored, not micro trenched. So they're going to go down that alley across Center Street, go to First Street, east, then go north, across Main Street, and go down Portneuf Alley behind the bank, and then they'll branch both ways, they'll come back to Mike's market. And then the one caveat they have to do that we can't help him with they had to go through ITD (Idaho Transportation Department) to cross Center Street. Councilperson Benglan comments did we finally get that all hammered out, Gary. Gary Cooper, City Attorney responds so, have we had any communication with them since our last meeting, because we discussed all this in our meeting. Mayor Thomson responds here's the problem with those guys, you got two (2) people doing communicating. One (1) guy is trying to hammer out this lease agreement, and we're not getting a lot of response from him. And you got the other person, which I guess is running the construction crews. And we were supposed to be here last week doing this, you know, and I'm going wait a minute. City Clerk Canda Dimick announced Jason might be online. Mayor Thomson continued the problem I see it is we're giving them kind of the go ahead to start laying lines, and we still don't have an



agreement. So we've kind of put a caveat in the in the agreement that says guys realize that, that this is retroactive to cover whatever agreement we come up with. Whether it's by the customer or a flat rate or whatever, whatever we decide upon later is going to be retroactive, back to now, if we let you go ahead. So it's kind of a two (2) part thing. And I have said Gary's having some difficulties with communication on this agreement. But we tend to get correspondence back and forth all the time on this route? And can we get going type of thing. Councilperson Benglan did you say Nathen might be on? City clerk asked Gary so the thing with the agreement though, the last time we talked, you're going to try to schedule up a meeting to discuss the proposal with them about incorporating a fee and also service for city hall possibly for internet and that's where we're at. Gary responds they wanted to meet, they wanted to have the city meet with Michael Parrish, who is the CFO. I reached out to him to try to set that up. I haven't had any response from them on that and that's what we really need to do to hammer out whatever agreement we're going to come to on the right-a-way. Mayor Comments the city kind of made an offer, they rejected it, they made an offer and the city kind of rejected that and so we're kind of in the middle there now. The city had actually discussed about since they're going down this alley back here or at one time we were proposed going down this alley, but in either regard, they're coming fairly close to us. We were talking about getting servers here at City Hall in lieu of a franchise fee. Gary explains the city can't charge a franchise fee but, we're talking about right-a-way. Mayor Thomson responds yeah, the right-a-way y fees in lieu of a franchise fee that we used to get. But, you know, they were offering like numbers of five hundred (500) a year. And bottom line is we pay about seventy to seventy five (70 to 75) dollars a month for Internet service. So, you know, if we can we get high speed, fiber optic internet service from them in lieu of a connection for year, whatever flat rate fee, I think that would be worthwhile as well, or, or a flat rate fee. I think the last number I heard them offer was five hundred (500) a year or something like that. Gary comments I don't know, they really made that offer but they were saying that that's the most that they generally pay. Mayor Thomson continues so, it's kind of in limbo as far as what type of agreement we can hammer out. Gary comments we just need to sit down with them and hammer out. Mayor Thomson yeah. So I think what we need to do on this is just directory to continue to do try to set up a meeting with Mike Parrish and get something accomplished. And in the interim, we as a council can kind of tentatively agree on what we think is a fair agreement. You know, you have your option of a flat fee for each connection made. And this thing is growing. there's rumors now, in fact, I think it's more than rumors that the state wants to hook up to it, which means there's a fifth customer and so, Main Street is starting to embrace this and so, if you go a connection fee to each customer that will pay you one

thing, you go to a flat, yearly fee, like they do in a lot of towns that'll pay you something, if you personally, if I have my call, I would ask for your internet service, because it's something that's not as costly to them. I can't imagine and it gives us a better deal. But that's just my take on it. Gary comments we just need to set up a meeting. Mayor Thomson comments yeah, just have Gary continue with it.

Councilperson Frandsen made a motion to have Gary Cooper, City Attorney to have a meeting with them and work out the details for the communications right-a-way agreement. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

Mayor Thomson comment they are they are constructing. So I think we agreed to let him do that. For kind of doing it on good faith, though.

#### **Ordinance(s):**

**A) Ordinance 2020-6 Providing for the Maintenance of Alleys by those owning or in control of the property abutting or running along city alleys and also prohibiting the excavation and modification of City alleys without permission from the City - ACTION ITEM:** Councilperson Frandsen asked we talking about all the Alley's. City Clerk Canda Dimick explained in the past, that's always been the policy that property owners as far as maintain alleys, the encouragements as far as if they mow, they supposed to be spraying weeds portions of it and all that kind of stuff. That's been the policy. And so the city has the authority to do that. We were just basically under this ordinance, clearly stating it in the code rather than referring to Idaho code to do it. It would be in the city code. Mainly for the purpose of administration and my position down the road they can go right to the code and see it. They don't have to know that it's in it Idaho code. So, that was why I talked with Gary Cooper, City Attorney back backing the ordinance up so that it's clearly stated in the city code. Councilperson Frandsen comments so take for instance like behind my house on an alley there. I'm not responsible for that alley but just to the edge of the alley. Right, I want to make sure that I'm not doing anything on it. City Clerk responded yours is basically a developed alley I guess, the city's paved it. Councilperson Frandsen comments okay. City clerk continues but any weeds along there you would be your responsibility. Councilperson Frandsen asked the weeds reach out to the center of the alley I'd be responsible. Councilperson Guthrie yes, we mow the weeds down in our alley behind our house and clean the apples up. Lindsey McCulloch, City Code Enforcement Officer comments it looks nice. Councilperson Benglan comments so, this is requiring people to maintain city property. City Clerk Canda Dimick explains it no different

than your sidewalk it's on city property too. Councilperson Guthrie explains just mow down weeds in the alley and garbage/trash. Mayor Thomson reads "City to maintain such alleys in a condition allowing for free passage by vehicular traffic and equipment and to prohibit excavations and modifications to City alleys without permission." So don't park your truck back there. Councilperson Benglan asked if that creating a liability. City Clerk explained that would be they can't go pave it without city permission, or they can't grade it or that type of thing. Councilperson Benglan asked you're saying you're asking them to mow it and keep the weeds down, is that what I'm understanding? So that doesn't create any liability for the city. So if I'm on the city property, cutting the weeds and slice my foot open. That doesn't create any liability for the city? On the city property? Gary Cooper, City Attorney responds not in that circumstances? No. Mayor Thomson comments probably more than if you trip and break your arm on a city street? Councilperson Benglan comments well yeah but, we're requiring people to do that. Councilperson Guthrie explains kind of like the sidewalks we're requiring people to keep a sidewalk clear. Inaudible – cross talking. Gary responds if you hurt yourself during snow removal and stuff, no I've never seen a case that makes the city responsible for that just because it happened on their property and stuff. So no, I don't see that requiring them to do that creates any additional liability. Mayor Thomson comments what I was trying to say is no more liability than requiring them to shovel their sidewalk. Gary comments and, you know, the converse of that is that the property owners if they don't do it, and something happens to somebody, you know, I don't know. I mean, they don't clean up their alley and somebody trips or something like that. It's no different than the liability that a property owner has for not cleaning their sidewalk and somebody falls on the sidewalk, they might have liability for that. So the liability for property owners. Mayor Thomson comments I know the city, we come down to the alleys and spray the weeds in the center of the alley. But I spray up to it on my side, you know, just to make it look uniform. But those guys, they spray enough to maintain an alleyway down there so they can drive a vehicle through there. They do that and all of them? City clerk responds no. Mayor Comments for the ones that they plow snow in and stuff like that they do. Councilperson Benglan comments it just seems odd to me that we're requiring people to maintain property that isn't there's. I just haven't heard that before I get the sidewalk part, but basically just what we're doing. Someone in the audience comments talking softly indiscernible. Mayor Thomson comments so, in effect, what we've done is we've written an ordinance that mimics the state code. Gary responds no, state code doesn't address these issues. It gives the city authority to do this. City clerk comments and we've actually had policy in the past that the city has required, but it hasn't been in ordinance form. Gary comments I thought it was time that we go beyond that and prevent people from doing excavations, dumping

trash in the back. I think it came up that somebody had built up sand and gravel someplace. Councilperson Benglan comments yeah, see that makes complete sense. Gary responds yeah, the city ought to prohibit that so, I added that to it. Mayor Thomson comments so basically, this is a new ordinance then. Gary responds we don't have anything like this in the codebook now and the State doesn't have a code that requires it. Mayor Thomson comments the next step is what to send this to publish. City clerk explains you would basically adopted it but, you need to read it by title, waive the three week readings and adopted it. Gary comments then we would publish it. Mayor Thomson responds okay. Councilperson Benglan asked is this the first we've heard this? Gary responds probably, it first I've seen of it. I mean I drafted, but this is the first time I've seen it in here. City clerk explains what we've been going through is trying to, I'm going to retire guys one day. And we're trying to get everything set up to where the city clerk can go and look at the code and know what's in there without having to say, oh, that's been policy since I started in 86, or that kind of stuff. So we're trying to make it black and white. What these policies and what these procedures that had been placed from the beginning of time are so, that they're on for the next administration, basically. Councilperson Benglan comments I think that's great. But I shouldn't be coming to a city council meeting, and never heard of an ordinance until the meeting. I mean, we're the legislative body for the city and so an ordinance getting drafted and prepared without us even knowing about it. City Clerk comments you can discuss it now. I mean, he would be drafting it to talk to you about what's in it anyway. It doesn't have to be adopted tonight. Councilperson Benglan comments no, I get that but, this should be discussed and approved by the legislative body of the city before we're sitting down to approve it. It's not that I'm opposed to it. I mean, I'm just saying, a city council meeting, and I have this new ordinance in front of me. I've never even heard of it. Mayor Thomson comments then the motion would be to table this while we review it and bring it up at the next meeting for adoption. Councilperson Benglan comments yeah, so for future reference, if things need to be updated, I'm fine with updating it, but we need to know about it before the night of discussion. Megan Reno from the audience asked if new ordinances need a public hearing, or can you guys just pass those. Councilperson Benglan comments I don't know on that. Gary comments this is a public hearing. City Clerk explains a public hearing basically are zoning issues. Gary comments yeah, but I mean this is where it's publicized is right here. So it's on the agenda, then discussed here. Megan Toly from the audience comments it doesn't say it's a new ordinance, someone might think that the ordinance has already been done. Lindsey McCulloch, City Code Enforcement Officer comments it is partly done you're just adding things to it, right? Because I already enforce that you take care of ten (10) feet into the alley. Megan comments

right? I'm just saying that ordinance. 20-26, is a new ordinance and I think people have a right to know about it. That's all I'm saying. Mayor Thomson asked do you want to spell to review this and bring it up at the next meeting.

Councilperson Frandsen made a motion to table review and consider adopting at the next council meeting. Councilperson Benglan seconded the motion. All voted aye, unanimous.

Mayor Thomson comments yeah, I agree with Randy. I mean, it's an ordinance as a relatively serious thing, we should probably have time to at least read through it, whether we agree or disagree with the thing? Councilperson Benglan comments yeah, I think it's great. Mayor Thomson comments and I think that was a valid option to make to night, table it, until we get it reviewed, we'll bring it up next month for approval. Councilperson Benglan comments Canda if there's a list of these that you feel need to be addressed and work through, I mean, let's get going on it. Gary comment I got to tell you, you can make a lot of changes to the city code. I mean, a lot of it is very antiquated and needs updated, but it's a monumental task. Councilperson Benglan comments chip away. Gary responds chip away. I mean we don't have the time or the money to go through every ordinance and try to change it. But there's a lot of work to be done in those ordinance. And we're making a good progress on it. I mean, we're getting the things that are requiring the work. I mean, the business ordinance, the noise ordinance is a lot of those. I mean, we're making some good progress there. And, you know, we hit them as the issues come up. Megan comments I'm just saying that ordinance. 20-26 is a new ordinance. Gary comment it is. Megan comments I think people have a right to know about it. That's all I'm saying. Mayor Thomson comments yeah, do you want to spell review and bring it up at the next meeting.

Councilperson Frandsen made a motion to take time to review ordinance and table for consideration at next council meeting. Councilperson Benglan seconded the motion. All voted aye, unanimous. Mayor Thomson comments he agrees with Randy, it's an ordinance as a relatively serious thing, we should probably have time to at least read through it, whether we agree or disagree with it and have time to make comment. I think that's was a valid option tonight let's just table it until we get it reviewed and we'll bring it up next month for approval. Councilperson Benglan asked City clerk if there's a list of these that you feel need to be addressed and work through, I mean let's get going on it. Gary comments you could make a lot of changes to the city code, a lot of it is very antiquated. And he's updated, but it's a monumental task. I mean we don't have the time or the money to go through every ordinance and try to change it. But there's a lot of work to be done in those

ordinances. And we're making a good progress on it. I mean, we're in things that are requiring the work. I mean, the building or the business ordinance, the noise ordinance is a lot of those. I mean, we're making some good progress there. And, you know, we hit them as the issues come up. Mayor Thomson comments I will say that part of the explanations that I've given to the citizenry is the fact that my council doesn't have the leniency of the able to see things every day I get to see them. And so sometimes what they get in their packet, they have a few minutes to digest and make a decision on. And I think that anything that can be brought for us and resolved and looked at and discussed is better than something we have to make a snap decision. Not that there's anything wrong with this. Gary responds I guess my point is there's too much umbrage here. I have to provide something to you and it's easier if you see it in writing and then you can make changes to it. If we're just talking in theory, we only meet once a month. I mean, we're putting everything yeah, three or four months down the road before we get it. So I thought this was the most efficient way to do it, if you have a different way that you'd like me to present these things I would be happy to do it. Mayor Thomson comments I think this is great. I feel the same way I have a terrible time with building permits. Because I get to hear Lindsey every day and I see what's going on every day. But do you guys sometimes don't see a building permit until a couple hours before you have to make a decision on and it's a lot to dissolve and digest and say oh, okay, that makes sense. So, you know, the more complete, we can make something the better off we have it when it comes time to make that final decision. So I have no animosity is about putting something aside and reviewing it and reviewing it till you're happy with. That's our job.

**B) Moratorium on Commercial Building Permits - ACTION ITEM:**

**C) Development Ordinance – Randy Benglan, Council Member:**

**1) Guidelines for Project Development Submissions - ACTION ITEM:**

**2) Xcell Engineering, LLC Development Specifications Proposal - ACTION ITEM:**

Councilperson Frandsen comments we should *not* do the moratoriums. Let's try to work with an engineers to help us create the guidance for this and get it done as quickly as possible but, let's *not* do a moratorium. Mayor Thomson comments having thought about this a little bit. And I'm going basically what we're what we're striving to get here is a requirement that gives the city in a building permit packet, so to speak, or a package. That map of land usage that shows certain issues like floodplains, if they're in a floodplain, drainage issues, as Randy mentioned, parking a little bit more complete package, besides the setbacks in the building, but a complete package of how the land is used. And I, I think we'd be just as well off

just to say, this is what's required in all building permit packages now. And then build on what the city has to have. I think it needs to be more than just an engineered approved site plan. It needs to be an engineered approve site plan to include appropriate issues such as floodplain, floodway, drainage issues, parking issues, and some of those types of things. And then just make it part of the requirement for a package. That gets us to the same place without dragging it out for three (3) months. Councilperson Frandsen comments I think where Keller's has made an offer to help the city set that up. The city can make it happen quickly. Mayor Thomson responds I agree. I honestly do think it's something that should be required and it needs to be required in the building issue. But I tend to agree with Ricky that I think that the moratorium on permits is just dragging it out longer than what we needed to get out. The city needs to make now and get it done. I think you made a big step forward in the building permit tonight by saying this is what I want to see. Councilperson Benglan responds yeah, and let me just tell you where that originated. This Xcell engineering, that's who I've been talking to this, Paul Bastion, and he did the site plan for John McKenzie and he's the one that sent over basically a framework. I don't know if you saw it in the in the packet, but it has what we've been talking about legal description, building plan, utility plan, grading and drainage, fire suppression and the geotechnical environmental. Basically the city would create a development ordinance, get it passed and approved. Paul sent over a scope of work and what his fee would be to help us develop that. I called him today asked him kind of like the timeline, how long would take to develop the development ordinance. He said pretty quickly, about a month. So usually that means two (2) months, right. We are kind of in the slow season. I asked him about what he thought about John McKenzie and he's like, you know, it's pretty small, pretty straightforward, we were able to work through it. We just need to get that all streamlined, like you said, into an ordinance. So it's the same for everyone. As far as moratorium goes, I think from what Gary sent over, if something big came along, you know, a big hotel project or whatever, we could do a temporary emergency moratorium if the development ordinance isn't done. Mayor Thomson comments there's an issue like you said, when you look at something that John McKenzie 's doing up here, that's two (2) lots but, if someone were to buy that city block across from the tennis courts and decide to put in something that requires a PUD, now you got substantial piece of property there, and a PUD, the city has never done one that I'm aware of and they're you have a lot of issues on drainage, parking areas and things like this that need to be addressed. So I think it just needs to be part of the basic package. Sometimes we get spoiled, we see a package that Cody brings in for one of his campground areas, and it's got this much stuff in it, it's all been signed, sealed, improved and looked at, and the next guy comes in, and it's a preliminary sketch, you know, we need to kind of find a happy medium there

that gets everybody on the same page and gives us enough information to make an educated decision. You know my pet peeve is this grandfather stuff. And I hate to say, well, he's grandfathered, but he drains into the kid's school yard or something. Because you know, it was built before we had this, I don't want to see that on something continuing. I think there's a better way than slapping the moratorium on. Councilperson Benglan explained he call both Brian Finney and Paul Bastion today, Paul provided this framework that we have in our packet, which looks like a good starting point. Paul is provided the scope of work two thousand (2,000.00) dollars. I talked to Brian in their experience, he said depending on how robust it is, depending on the city, he said it is depending on the city. He said it can be anywhere from 10,000 to 80,000. And I thought you know, I think we just need something simple to start with, to streamline the process. I guess I'm a little more inclined to because, I've been talking to him this whole time, if we need Keller to submit a scope of work as well, so we can make a decision. I mean, it's really up to you guys how you want to do it from here. But I do feel like we need some kind of professional third (3<sup>rd</sup>) party with experience that at least consult and help us as we work through it. Mayor Thomson comments yeah, get the items in there that are required. Councilperson Frandsen comments there is one thing to consider is having Xcell do the one for like a homes and simple things. We could have a Keller's, develop something for the commercial, a hotel or big projects. Mayor Thomson comments if we ever get a big project, but I can tell you from experience that with the last relatively robust building permit we issued in a commercial district turned out to be a total disaster on land usage. And I'd like to avoid that issue again. Councilperson Benglan comments when I talked to Brian and Paul, they kind of broke down the discipline of civil engineering. They both said if we got to a point where there was something that was beyond their discipline, they could reach out to other engineers to comment on that or to help us through that. And so, I'm mostly interested in I the residential areas, for the most part is pretty straightforward. I mean, Lindsay can handle the setbacks, unless you get into the R3 and someone wants to do an apartment building or something with a commercial zone is the main area where we need to make sure that we do it right. Mayor Thomson comments I think the biggest issue we have in the residential area is the terrain, some of the geo requirement, earthquake build code or whatever. Councilperson Benglan comments that something Paul mentioned because Paul's a civil engineer, but his main discipline is geotechnical. And he said the Pocatello has a hillside ordinance that he would recommend that for us too, to develop our own hillside ordinance for the residential. So that if anybody's building minutes meets those requirements. So as far as being a consultant we don't have a scope of work proposal from Keller. I guess, however, you guys want to handle it from here. Mayor Thomson I kind of like the response from Excel. I think we need to



pick their brain a little bit and kind of get a guideline going. Gary can draft an ordinance. Councilperson Benglan comments Paul said he's pretty busy the next couple of weeks, but he said November he could pretty much help. Mayor Thomson comments I think Xcell engineering, we just get a list of pertinent items that we need to look at, then as far as getting it into an ordinance. I guess I don't know the need for an ordinance. I think it's a requirement for a building permit but, if you have to submit a building site plan per ordinance. Councilperson Benglan comments I did a little research today and McCall, Chubbuck, Island Park, they've done it in an ordinance, a development ordinance. I think we all agree this is something needed. Mayor Thomson comments we got an action item on the moratorium. So what do we do with that? Councilperson Frandsen let's shelf it. Councilperson Benglan comments Gary sent over some stuff where if we need to do an emergency moratorium, if something big came in while we're working on it, then we could we could address it. Gary comments here's the only issue that concerns me a little bit. I'll just express it. I don't know the answer to this, and I couldn't find the answer. Once somebody makes the application, can you then pass a moratorium that would affect that and have they acquired any rights by making the file? And that's the only thing that concerns me a little bit about that. So I think we're such a small community that I think you can keep your ear to the ground. And if you hear something like that's going to happen, you should act very quickly about the moratorium. Mayor Thomson comments my response to that would be I don't know that we need a moratorium, but I don't have to approve these building permit for two or three months either. I can keep finding things that need to be answered. I'm a little scared of the moratorium. Gary comments and you're right and this is the reason that you have them. We have a planning and zoning ordinance that's been reworked and changed right now. And it's a slow process. And it has been and it's not ready to be developed. So they put a moratorium in effect, well, that is being developed. And what did I say the limit was like a year. I think that's as long as you can have the moratorium in effect while you're developing now, which may change the rights that people have in the way they develop their property and things like that. And that's why I'm saying, if somebody comes in, under the old ordinance, have all the rights and under the old ordinance, you may have some problems and trying to lock them into a new ordinance. You see what I'm saying? Mayor Thomson comments with that statement fresh on your mind, our P&Z (Planning and Zoning commission), spend two and a half (2.5) years writing a zoning ordinance and we've spent well over a year and we have not got through the definitions. Councilperson Benglan comments I'm wondering if there's a way to do kind of an upfront contract with people, meaning that they come in for a permit. There's a way to inform them disclose to them that this new application may be subject to a development ordinance in the process. Gary

comments yeah, I think you definitely can do that. Now. Can you force them to do that? Probably not. But I think it is a matter of they can negotiation I'm not arguing with a moratorium, I just told you what's required for a moratorium. But that's the main reason to do it. So that you can develop that new ordinance that's going to be different in the way that people can use their property. Mayor Thomson comments I think our other problem here in this in this council is this once a month meeting tends to drag things out longer than it does then is required, because when something else comes up like Knife River or something else comes up like this, or that, then all of a sudden, we get this issue pushed to the side, and all of a sudden, it's three (3) months, four (4) months and/or five (5) months in, before we get it and we only get a few hours a month shot at it. Councilperson Benglan comments sounds like the moratorium is scary to some. I wonder if maybe we even just did it for two (2) months, till the December meeting. What's the reason not to do it? Gary comments I think if you do that. And I'd have to look at this closer, Randy, because I'm not positive how this fits together, but once you establish a moratorium, you can't enact another moratorium without I think a year's wait between. So if you just did it for two (2) months, you probably didn't accomplish any concept of hamstringing yourself. You probably want to do it for the whole year with the expectation you're going to get the new ordinance into effect and passed. Mayor Thomson comments I like the suggestion to keep our ears and nose open. We haven't done anything on the plate right now that's major. If something major comes up, then we'll talk about enacting a moratorium until we get a handle on what that big issue is. Councilperson Frandsen suggested going forward with this the best we can with engineers and get something in place. Mayor Thomson comments I think we can have something in place by the end of the year. Councilperson Frandsen continues so it doesn't become an issue we can keep things going forward and people now where we are at, what required. Mayor Councilperson Benglan comments yeah, that's fine. Thomson comments I think Xcell the key to it, they're willing to work with us, and they've given us a good deal. We'll take a look at a couple of these other ordinances and go from there.

Councilperson Frandsen made a motion to table the moratorium for now.  
Councilperson Guthrie seconded the motion. All voted aye, unanimous.

Councilperson Benglan comments so the guidelines for project development submissions, I would just say that I make a motion that we use that as a loose favorite framework for our development ordinance for Xcell engineering to use. It's not necessarily saying that's exactly how we want it, but it's a loose framework. Megan Reno comments from the audience asked is that just for new builds? Or is it's a building permit that you're working with? Right? Councilperson Benglan

responds the development ordinances. So your building permit is through this the state. And so the development ordinance is what we did with John McKenzie, you know, how we gave him all those conditions. We'll, basically codified that into a development ordinance. Megan Reno comments right and so does the development ordinance work with just new builds change your uses, who is it applicable to. Councilperson Benglan responds it would be applicable, so if it's just a remodel, something like that that would just be through your state. But if it's some significant changes your site plan, and it like a significant addition, or something like that, then the development ordinance would come into play. Megan Reno asked about a change of use. Mayor Thomson responds it depends on what you're doing it's aimed mainly at land usage. So if you're taking a bare lot, and you're wanting to develop it into a parking lot or a complex set of apartments, as part of a planned unit development or something like this, what we're looking at here specifically, we've got everything else pretty much in place, the building and the building codes, but we don't have is a good hard look at how you set up drainage, parking some of those issues. Megan asked so if your building a new house right now in Lava would this apply to you. Mayor Thomson comments it's not aimed as much as residential as it is commercial. So yes, it would have an effect in my mind on residential if you're building up here on top of the hill and you're in, you're in a twelve (12) percent grade, you're going to have to have a look at how you support in that grade environment. How you support for it. If you're building flat down here, like across from the tennis courts, there's not much to do down there except to figure out where you're going to put parking and that kind of thing. Megan asked that person could use like a builder's grade thing. Mayor Thomson responds yeah, so it can it can affect in my mind, it can affect residential, but it's aimed primarily at commercial. Megan asked is it to slow down commercial growth? Councilperson Benglan responds no. Lisa Toly from the audience comment commercial people, they have a timeline, they have loans to meet and you can't expect a commercial person to come in one meeting and talk about a concept to come back to the next meeting, and say, okay, here's the packet, fill it out, oh, come back the next meeting. Mayor Thomson responds want me to give you a real good example. And be real blatant about it. I've got a three (3) year project to build an eight (8) room hotel that still hasn't developed a damn parking lot like they said they were going to the first day they walked in. Lisa responds I can't speak for them I can just speak for myself. Mayor Thomson responds I understand, but I'm trying to give you an example of what we should have done, then and said this is what it takes. And if we had a requirement to have an engineered site development plan, rather than, well, we're going to put a parking lot here and we didn't get. Lisa comments what I'm asking is your language. When you're saying, oh well, if you see something big coming in, let's kind of stall it for a

while. So we can put these ordinances in place. So what does that mean? Are you stalling it for a different ordinance? Because everything that Randy said about Mr. Mackenzie's property, you went right down, and you told him what he needed to do? And I appreciate that. Because that's what you want to hear? Why do you know exactly what to do? Councilperson Benglan comments that's because I called the civil engineer. We basically need that information so, that a streamline for anyone else so, I don't just have to, like, try to remember. Lisa comments and I agree with. Megan asked why do a building moratorium if there's a big thing, why can't you just do the same thing for them? Councilperson Benglan replies because I'm not a professional. I'm not a civil engineer. And we need to be the same for everybody. Lisa Comments my question is, is your verbiage, like finding ways to hold him off until you can figure out all you need to do? I mean, that would be scary to me as a potential developer, that you're not sure what you want us to do. As a developer. I'm playing an advocate here. Because if I'm a developer, and I want to put millions of dollars into your economy, and your infrastructure. I would want that respect reciprocated and be straightforward with me and say, okay, you know, he require engineering plans, you require it, not this meeting. Oh, we want this. And then the next meeting. Oh, yeah, we want this and then the next meeting, oh, by the way, get this. I don't think it's fair for something. Councilperson Benglan replies No, I agree. You're pointing out the reason why we need the development ordinance. Lisa Comments I'm just saying right now, you know, if you're going to have someone that wants to come into your community, I mean, could you do that without pushing them off? And having them come back? Because it really makes a bad taste in people's mouths? Councilperson Frandsen Comments we don't want that. Councilperson Benglan comments yeah, it's one of those things that it's, it's unnecessary for us to have otherwise, me sitting here just thinking as a non-engineer and non-professional, giving these people all these requirements. Lisa asked isn't that why you require engineer's plans and an engineer plots. Councilperson Benglan replies that's exactly yeah, that's right. That's what we're talking about. Lisa comments are you duplicating, because you're already requiring it to be engineered. So it by duplicating it by having it in an ordinance? Councilperson Benglan comments throw out those conditions as a city council person, but we need we need it codified, we need it an ordinance. Gary comments the city doesn't have an ordinance that requires it. Councilperson Benglan comments so, they could they could they could accuse me of being arbitrary meaning, I require this person but not at this person. Maybe we miss something. So we get it all in an ordinance. So it's clear, just like you said, they deserve that respect. So you know, most cities, not most cities, but a lot of cities, you go down to Salt Lake, you want to do development. They have a professional's staff, they have a planner, they have a civil engineer, they have all

these people, and they work through the concept, the preliminary, and the final plan. They do all those conditions all that stuff. Then it comes to the council for approval. Well, we don't have that here. We don't have a civil engineer on staff, we don't have a planner, and we don't have any professional governance. And so it comes to us as a city council who, I'm your neighbor, I'm a real estate agent. You know what I mean? I don't have any civil engineer training. So when we get a development ordinance in place that lays that all out. So a developer comes in, he knows what he's supposed to do. And then we can contract with a civil engineer to represent us. So that they, they check all the boxes. So then that way, everybody's treated the same. They're not relying on us to just think, okay, so we need a site drainage plan, we need a survey, then that way, it's not arbitrary. It's just the same for everyone. Lisa comments and you don't think you can put that in, you have to have an ordinance for that? You can't put that in your packet that you give to someone. Councilperson Benglan comments I'm willing to do whatever is required, so it's not arbitrary. I mean, other cities do a development ordinance. I mean, we just need to make sure that's the same for everyone. You know, the big developer comes in, and we're going to say, we need this done before we give you a certificate of occupancy, we need parking, we need a paved, we need a drainage plan, then you're not going to get a certificate of occupancy until it's all done.

Megan comments and this new ordinance will lay out exactly what uses.

Councilperson Benglan comments the uses are in the zoning ordinance, this is for development for the land usage. So like we talked about with John McKenzie with, you know the site drainage, the parking and geotech. Megan comments what about non-conforming people, people that are going to do residential in a commercial people that are going to do a non-conditional? Councilperson Benglan comments yeah, I mean, that's all the stuff we'll have to work through. Megan comments yeah so, it will be in the ordinance and laid out so, people know. Mayor Thomson comments I can put in a three (3) page addition to a building to a building permit that says, I want this this this this or I can put a three (3) page ordinance out it says, do it per the ordinances? I mean, it's the same thing. Lisa comments I guess my question is like the county if you're zoned recreational, they have conditional use permits, because that's specific to that piece of property. And we have so many properties that are on a hill or a flat, are draining, have geothermal, would it be better to have a conditional use for that property this property has, you know, you get water at 10 fingers. There's so many difference parcels in our city that have different, some have lava reef underneath them, and some can't have a basement. Councilperson Frandsen comments it our planning and zoning ordinance that we're putting together that we haven't approved, there is requirements if the slope is above a certain grade, you do have to have geotech in engineering plans for that, and how you're going to do it. So that will all be in that ordinance, part of it. And

what we're really trying to establish here just give, get a streamlined of things that we can request, in the beginning, this is what you have to have. So when you come in to get a permit on something, the city can give you a packet. Lisa responds right and we've talked about that, how that would be beneficial. I'm just saying, are there going to be further things because of your where your property or you have electrical through them? Do you have to have it your electrical buried? I mean, do you have a way that those can be addressed, also, special circumstances. Councilperson Frandsen comments I know like slopes, there is a deal that hasn't been engineered for that. I guess we have never seen anything as far as like if your property has a buried line going through it. Lisa comments our Spring Street has it. The city gave the street to us years ago so we own part of that. Right now there's a power on our streets, that use to be the alley, and it was put on the wrong side. I'm just saying that piece of property has a unique situation. And there's other ones, you know. I just bought booth and there's a power cord that goes eight feet from the neighbors that I can grab so, that's a unique situation. So, I'm just saying is that that going to handle unique situations are you going to be able to handle it all. Councilperson Benglan comments yeah, so it's a framework for us to operate in. You take projects that have been done the right way, like Mike's market, Evelee stuff back behind, Kody Tillotson stuff and then you have other people that come in and it's not up to that standard. So basically, the purpose of the development ordinance is to make the standard uniform for everyone. Lisa comment right, I get you. It standard, but there's going to be circumstances that you're going to have to deal with on each piece. Mayor Thomson comments and I would hope part of that ordinance would eliminate these unique situations, like you talked about on Spring Street. I'm one of those that has a damn electric cable running down my back of my yard. You know, and that's bullshit it should be out front. Lisa comments that's nothing to do with the city that's Power Company. Mayor Thomson comments had it been set thirty (30) years ago, forty (40) years ago or fifty (50), whenever they did that, all power would go down the street? We would have that over there. That's a unique situation over on spring. Lisa responds right? So that's all I'm saying if you make that, have it included, have a special circumstance or conditional use that you're going to have to address. Because some of these people, they're just looking at lava on the map going and saying I could do this, but they don't, you know, and then they come out the spend a lot of money and then they get mad forget it. Mayor Thomson comments about four (4) years ago, when I came on the council I question buying a lot and putting in a fireworks factory. Do you know that there is nothing that prevents that? Do you want a fireworks factory downtown in Lava? There isn't an industrial zone, you don't have a thing that nothing prevents me from doing that in commercial, that's not quite right. But those type of issues that you see in the larger cities and larger

municipalities are growing, you know, we're way behind eight ball. Lisa comments yeah, but let's not put ourselves further behind the eight ball. Councilperson Benglan comments Lisa you brought up good point this gives us the framework, but every piece of property is different and so that gives the civil engineer in us an opportunity to say okay, we're operating within this framework but then there's certain conditions or certain uniqueness with this site that we have to address through the process. Mayor Thomson comment I know it just seems like we're adding more and more paperwork, here's a piece of paper, it tells you what you can and can't do in an alley behind your house but, sometimes you got to document every little step of the way in order to keep it uniform. So let's move on guys. So we don't stay here till midnight.

Councilperson Benglan made a motion that the guidelines for project development submission be used as a loose framework for the development ordinance. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

Councilperson Benglan made a motion that that we accept Xcell engineering scope of work dated October 5, for the consulting on a development ordinance. Councilperson Frandsen seconded the motion. All voted aye, unanimous.

Mayor Thomson comments I would take one step further and see if we can get copies of a couple of other city ordinances that have a development ordinance to do with some more guidelines for the ordinance development itself. Based upon, hopefully, what we can get from Excel.

### **Meetings/Announcements/Miscellaneous:**

**A) Annual Community Day - ACTION ITEM:** City Clerk Canda Dimick announces the council wanted to do one in the fall I think it's too late. Council agreed. Councilperson Frandsen suggested canceling it for this year. Mayor Thomson I honestly think that we should think about having it at a different time than in the summertime. I don't mean different time than summer, but a different time when schools on we don't have thousands of tourists here that's more of a community affair. Like maybe just before School's out, or just before just after school starts or just after schools starts early September late May. Councilperson Benglan asked if it's usually in September. Councilperson Guthrie responds usually July 24. Councilperson Benglan comments oh, I was thinking it was that service that we had there for a while. Councilperson Guthrie then it is all tourist coming it's not a community event. Mayor Thomson is a great event, one comment I'd heard wasn't so much community oriented, as it was just oriented for everybody that happened to be in town that weekend. So that was a suggestion

from my part. Councilperson Frandsen made a motion to cancel community day for this year and next spring we'll take about rescheduling for next year. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**B) Idaho Department of Lands Arborist Training & Certification Workshop -**

**ACTION ITEM:** City Clerk Canda Dimick explains we talked about possibly sending an employee to get certified. The registration date is closed. They still have one seat open, I would need to let them know tomorrow. Councilperson Guthrie asked is that date for both the Monday and Tuesday or just one of those days. I think we need to send them. City Clerk announced cost is one hundred and eighty (180.00) dollars for two (2) days, October 19<sup>th</sup> & 20<sup>th</sup> in Boise.

Councilperson Frandsen comments it's a three day training. Mayor Thomson comments the cost is more like five hundred (500.00) bucks or so. Councilperson Frandsen asked if we have an employee that wants to. Mayor Thomson comments no we don't but we have an employee that we can force. Councilperson Guthrie comments I think if we have this training we wouldn't always have to have an arborist come look at our trees. Mayor Thomson comments I couldn't agree more. Councilperson Guthrie comments then they will learn to trim the trees the right way. Mayor Thomson comments I've already approached Justin he doesn't want to be and Tony close to retirement. Hopefully Justin will be here more than a few years, he's the logical candidate. Now let me just say this, cost is one hundred and eighty (180.00) dollars for the training. How much for three (3) day stay in Boise, there's one hundred and fifty (150.00) bucks a day. Councilperson Benglan asked if they ever do them closer, in Pocatello. Mayor Thomson comments you're not looking at one hundred and eighty (180.00), you're looking at six or seven (6 or 700) by the time we put in meals, per diem to get him out there, hotels for three days and the classes. Whoever we send. I think we're looking more like six (6) or seven hundred (700.00) dollars by the time we send somebody to Boise. And I don't know if they ever have one on the eastern side of state. Councilperson Frandsen asked how long this certificate is good for, is it does have to be renewed? City Clerk comments it's a test, I would imagine they have to pass a test at the very end of the course. So it's like a course. Yeah. I mean, if you want to wait until we see if they're closer to the area, we can. Mayor Thomson comments I'm just thinking by the time we get three (3) days and hotel plus travel, you're looking at six (6) or seven (7), eight hundred (8) dollars. City Clerk comments I know we talked about looking for getting someone certified and that's the only thing I can find that's out there right now. Mayor Thomson comments need to find one that happens over in the eastern part of the state that would be so much better. Mayor Thomson comments I can't find an employee that wants to go but, I can find one I



can order to go. City Clerk comments make a motion to this table until we can find a class that's a little closer to home.

Councilperson Benglan made a motion to table until we find a class that's a little closer to home. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

### **Projects:**

**A) Water Improvement Project:** Bryan Phinney & Mathew Hill, Keller's Associates Inc., online.

**1) Final Punch List Report:** Mayor Thomson asked if Brian Phinney is online. Amantha Sierra, Office Assistance yes he is and Matthew Hill. Mayor Thomson comments I know we went through it again. Brian, Matthew, either one of you there. Mathew responds yes, I'm here. Mayor Thomson asked what the final punch list looks like. Mathew responds from the original items, the seventy (70) plus items. There's a few valve boxes, little bit of clean on a couple of spots, and couple asphalt repairs. Knife River said that they would be on site. They were there Wednesday and they broke out the rest of the concrete, couple curbs and a couple of sidewalk spots and then they poured today. Jeremy emailed and said they would be back on Monday the 12th and be working on the asphalt repairs. Mayor Thomson comments okay. What is your proposed date for approving, shall we say the warranty. Mathew responds if they get everything done Monday, we could come down next week, verify those items and then we'll be able to finalize and approve the punch list items. I believe we're still holding retainage if I'm not mistaken, then that would be to be released at that time. Mayor Thomson comments that's kind of the goal isn't it, to get them to finish and start the warranty period. Mathew responds yep, that'll be the end of it. Mayor Thomson asked is the punch list of warranty item or is it in separate items. At one time I thought we had a punch list that was separate from the warranty items. Mathew responds yes, the punch list there was a handful items left on the punch list. Mayor Thomson comments Knife River is in town to do both, is that what I'm hearing. Mathew responds yes, they will be tackling a couple remaining punch list items, and then a few warranty items that popped up. Mayor Thomson responds okay, so we'll hopefully get this project at least completed to that point where we can sign the warranty into effect and the punch list will be finished. Then I think all we have to do is we've extend the warranty on the valves for another year. Mathew responds yes. Gary Cooper, City Attorney asked at what point the warranty goes into effect. Mathew responds Knife River was finished. The certificate of substantial completion was signed, I believe, October 8, so a year ago. So their warranty is for

that one year after substantial completion. We did a walkthrough, prior to that identified that the warranty items that we saw, and they have other addressing those. So that is essentially that was your warranty period and then they did extend the warranty for an additional year on the valve boxes if, they're settling, for issues with operating the valve, the valve for the water system. Mayor Thomson comments so, we've essentially hit the warranty period today. Mathew responds yes, aside from those items we identified and went through with Tony and, and Justin over the last over the last year a couple times, we've been down around with them and things seem to be performing adequately except for items that we identified. Mayor Thomson comments all right, are you guys happy with that? Don't crowd up to the front there. Councilperson Benglan asked did we lose you. Mathew responds I'm still here. Was that a question for me or council? Mayor Thomson responds I asked are you happy with that? You're our engineering firm. Mathew responds I am really happy with them being done. Mayor responds okay. That makes us happy then. Any questions for Matt for we got him on the phone. Council responded no. Mathew comments okay, we had one more item about that bridge deck. We'll stick around for that one.

## **2) Idaho Department of Environmental Quality Water Source Protection**

**Grant for fencing Well #2 (Kofoed Well) - ACTION ITEM:** City Clerk Canda Dimick reports she submitted a grant for the application to Idaho Water Source protection grant program, and it was funded, received \$10,000 grant to go towards putting in the fence around the Kofoed well, basically is your sub award for that grant. What I'm asking is for the council to authorize the mayor to sign it so that we can proceed with getting a contractor on to do the work. Mayor Thomson reports that's basically an upgrade of fencing or first time fencing. City Clerk it's going to chain link. Mayor Thomson comments yeah, that was my understanding, it's like barbed wire now and it's going to chain link which is the basic requirement for water sourcing anymore.

Councilperson Frandsen made a motion to authorize the Mayor to sign document and get a contractor in to get the job done. Councilperson Benglan seconded the motion. All voted aye, unanimous.

## **B) Fire Station Addition:**

**1) Land Purchase Proposal – Written Response from R. Lee Willmore:** Mayor Thomson reported in your council packet, you should have an official I won't call it a rejection letter, Mr. Wilmore when I purposed that he sell the city a strip of property west of the existing fire station for part of our fire station/ambulance bay expansion. There is a strip of land it that's about twenty (20) foot wide by one

hundred and forty (140) foot long. His response was he has no interest in selling any property that future plans for the lot would be will be a camper site for to be used by recreational vehicles. I'm saying, like, I hope he's got lots of development money, because I don't know how he's going to access it. But that's neither there. I don't personally think this precludes us from ever extending out onto that property, I think that it certainly does not affect us from going ahead with our fire station expansion project, this property is going to be used for the driveway purposes to be able to drive around the building, and add access and I think there's always a future option that we might be able to lease property from him do some kind of an option, in conjunction with his property that allows us access over there. So to me, he says he didn't want to sell it, but I think that doesn't mean that we stop the project for any reason. I think like I said, there's always a future requirement that he may want something from us. I'm not sure he fully understood that it wasn't meant to be built on it was just a piece of property that would be used for driveway but I think we'll see what he's got to say and when he comes to us for expansion, we'll negotiate again. Right now he uses he uses us to get in and out there. There wasn't any action on this, just a FYI.

**2) Design Proposal ACTION ITEM:** Mayor Thomson reported on the design proposal for the portion expansion. Councilperson Benglan asked have we've seen this before. Mayor Thomson comments I don't know what this is, what is this Canda? City Clerk Canda Dimick responds this is to proceed with design. Councilperson Benglan asked will these be construction documents or? City clerk responds yes, he has already done a concept one, this one is to proceed with design plans. Keller's has kind of mentioned somethings to them and they talked with them briefly on the project, and we obtained a report from them or what they're looking at. The proposal on this is too basically to do it by phases so the city can keep things under the fifty thousand (50,000.00) mark. So we don't have to deal with public works issues, licensing issues. Mayor Thomson asked if this is this is their cost here. Zach Fillmore announces he is online. Mayor Thomson if I'm reading this right, we are breaking this down into as many different groups as we can to keep the building cost below the threshold. Zach responds I talked with Chris Jensen he has barely just retired as a director for the public works department in the state of Idaho. He's working with me as a consultant trying to make sure that that that we can do all things aboveboard and make sure it works but at the same time, he's very cognizant and very aware of small community like Lava that needs to make sure that they can one, utilize local resources, utilize local subcontractors, but they don't have a huge budget. So there's ways around and their intention is to make sure it works but there are a lot of advantages that come with, you know, public works projects and so between doing different elements he's got some ideas

and we're still working through those for the first half to make sure that we keep moving forward. Once we have designs in place permits in place that allows a lot more opportunities that way. As far as the ability to have you as a general or as a construction manager, then you can move forward in that respect, where I own a degree in construction management I'm looking at that opportunity and maybe that option for everybody too. If that were to help. The intention is to use as much local resources there because you have plenty of them in Lava. I know that you would love to utilize them but they don't all have that license and that might affect if we go another route. Councilperson Frandsen asked where is plan to go from here, what is the next step. Zach comments the other thing I might ask, real quick, just looking at the site surveys, it looks like that land that we've already kind of laid out in the conceptual plan shows you past those trees, is that not accurate? Mayor Thomson responds it pretty much it means that those trees will have to be moved, yes. Zach comments but, those trees are on your property correct. Mayor Thomson responds that is correct. Zach comments that still allows for a driveway in that area you just lose the trees. Mayor Thomson comments right. What we don't have or what we have failed to obtain is adjacent property for the driveway that goes around the building. From what I can see on the conceptual plan is all of the building was is within city property boundaries. Zach responds it is and then there's a twenty five (25) foot offset between the property line and the building. The hope is that we can put the trees onto the neighbor's property is almost a gift but not lose the trees if you wanted them. Mayor Thomson comments I have a place for the trees, don't worry about them. Zach comments then you might not be as bad off as you think. The only issue we'd run into is trying to identify a good place for the septic drain field. Mayor responds okay. The proposed site to move those right across the road at the city park if we don't obtain space there to put them in. Yeah, the trees aren't a stopping point it's just a matter of being able to get the building put up and get proceeding in that direction.

came to mind as you mentioned Xcell engineering a lot in European nations previously to this and that's something you'd like to maybe blend with this as he trying to start your attempt to trying to identify design parameters as you move through that process but this be a good testing ground for you on a kind of a city on project. Zach comments one thing that came to my mind is you mention Xcell Engineering a lot in your conversion previous to this. Is that something you would like to maybe blend with this? As you are trying to start your attempt to trying to identify design parameter as you move through that process. Would this be a good testing ground for you on a city owned project. Mayor Thomson responds I don't know. He's talking about Excel. Taking a look at this project for land use. You pretty much answered most of the land use questions in your, in your preliminary design. What we are trying to do is put together a guideline for land use when we

put together, or release building permits. I've worked Bryan Phinney with Associates Inc. on several projects in the past. We will have a little bit of civil engineering involved in this elements it there's an advantage that we can push back to the city for sure we'd like to look at that for you. Councilperson Benglan asked just my clarity. Is this from Keller, to be the owner rep for us, is that what this is. Mayor Thomson responds I basically tossed the ball out towards Keller's he was in here one day and I said look you know we've got a proposal here for a fire station expansion. We're ready to do the engineering would you guys be interested in bidding on that as well as Zack, you know. Councilperson Benglan responds okay, so this is a proposal. Mayor Thomson responds yeah, Councilperson Benglan Comments that's what this, Okay. Mayor Thomson comment so they gave us a little counter proposal or a second proposal. Run through this pretty quickly and tell us what we're getting here and this is this going to be build engineering. Zach responds yes so when we're done that will have full documents, the drawings for the civil, building interior and systems MEP the whole, the whole match. And then, any CDs through the course of the project and administration throughout the process. Councilperson Benglan comments so, this basically gets us the design and construction documents for the building, and the site the plan as well. Right. Zach responds correct. Councilperson Benglan comments so once we get this all designed out and then we be ready for bid on. Mayor Thomson comments you see a couple of prices back here ones for civil site plan and building shell. And then another one is for the billing interior and systems design. And again, this is an attempt to break this down, you know once you get the building and shell up then that can't be a stopping point until you gather funds to finish it out so you know Zach's been on this page since day one. Councilperson Benglan comments so, this is that concept. Mayor Thomson responds that's Zach's with Perspective Design Studios. Councilperson Benglan comments responds got you. Zach comments reports there's a lot of Canda comments in that design too you need to give her credit and the fire chief and many others it was a united effort. Mayor Thomson comments I was just pointing out to Randy that you've been on board since day one on this project. Councilperson Benglan comments now beyond the design and the construction documents for site plan and building. Are you planning on being involved in the bidding or any of the project management or is that a different scope than we would request. Mayor Thomson comments that's a different one. That's what he was explaining he's not a licensed project manager. If I understand, jump in here Zack and correct me but if I understand that processes. We have to go out and hire a project manager. Councilperson Benglan comments Got you. Zach responds you don't have to, you can easily do it as an owner, you can do it as a construction manager as an owner construction manager or if you're not in a hurry I can get my license for either a construction manager or a class C contractor or B,

whatever it takes for that element that all of those are options. I've got the ability to do any one of those or construction management where I hold a degree in construction management and so it just depends on what works best for you and the process in which you'll have funding so that, because you're not going to get all funding at one time and you're going to have to kind of phase it out and do it as one shell and go to the next one, but there is some opportunity if we can break it into smaller chunks according to Chris Jensen, which is well inside the rights of the state laws and statutes. Councilperson Benglan comments I'm seeing on here Zack on your professional services sheet on the back page. You have your civil site plan of building shell your building interior and system designs. And as I work up it shows what's included, and then under the additional services as far as getting involved in the bidding documents and that kind of stuff with it has an hourly rate or cost plus so that would be that would be a different fee to help us with the bidding for this project as I right. Zach respond potential it really depends on how we can craft it another way, I apologize I wish it could be cleaner cut than that but there's some, there's some real cautionary elements you have to do what is considered a construction manager and what's considered an owner's Rep. And so some of the things you would have to put out with your name, your title, you know as a city project, and I can only help you on that respect as an owner's rep role but this project is so small and not that big of a number that we've got to get creative and make sure it works for you in order to get the project to move forward. Right now you're pushing those machines in there and just squishing the bumper together until it fits to close the door and they just basically pop out the door when you open them up and so tight. It's definitely a needed project and it's understood by many for that purpose. Councilperson Frandsen comments I think we need to go forward and have him finish up the design phase. Councilperson Benglan comments then we can figure out the one rep and project manager from there. Mayor Thomson responds okay, and as you see over here, when Keller come in here they've, they've got the complete package so you've got bidding services and construction administration services and hence the price is considerably different. Councilperson Benglan comments this is Zach's baby. I think he's, he's got the momentum to get us to the construction route. Mayor Thomson comment then all we need to do is give him the go ahead.

Councilperson Frandsen made a motion to give Zach the go ahead with the design proposal. Councilperson Bengal seconded the motion. All voted aye, unanimous. Mayor Thomson comment alright Zach did you hear that. Zach responds okay, thank you all. I'll get in touch with probably you Canda and then move forward on the plan to get in that put together schedule wise. Thanks again and have a good night everybody.

**C) East Main Street Bridge Deck Rehab – Keller Engineering Contract -**

**ACTION ITEM:** Mayor Thomson comments Main Street bridge deck rehab. Matthew are you still with us? Matthew Hill with Keller's Associates Inc. responds I'm still here Mayor. Mayor Comments you're up again. Mathew comments alright, so you should have an engineer's estimate. We got with Tony and worked out what would need to be done to rehab that bridge, East Main Street Bridge. So you've got potentially removing the concrete off the top. I'm going to come back and put that bridge deck back on concrete epoxy overlay. And then there was a line in there for the pedestrian hand rail there that needed sandblast down and repainted or something. That's the proposal if there's any questions or comments, I would be glad to answer what I can. Mayor Thomson comments yeah, I think that's pretty straightforward. You guys remember the saying that, that was coming in right at a hundred thousand (100,000.00) dollars. That does not include the scouring problem down at waterline. And I don't know how to address that I talked to the engineer that was out here a little bit and I think the solution they're forcing us into probably not the best but it's not something we have to deal with today so this has to do with the deck itself. Mathew comments yeah, this should take care of is the deck. Mayor Thomson asked Matthew what's the timeframe on that Matt. Is that this year's project or spring project or what. Bryan Phinney from Keller's Associate online comments I've been here the whole time talking but apparently you guys couldn't hear me to the, to my mic. Mayor Thomson responds we can hear you now. How are you doing buddy? Are you feeling better is it you sick or someone in the family. Someone in the family. So, I'm just in COVID jail for a few more days. I'd actually worked on this proposal with Roger, the scour issues, a separate issue our recommendation would be to separate those two (2). To address that scour that one becomes an entirely different monster. Mayor Thomson comments that's kind of what Roger indicated, when he was out here talking to me. Bryan comments yep, and walking through this proposal with Roger I helped him put it together. This is very similar to what we did on the east road bridge, which is the bridge over the Portneuf River by the Simplot plant. They'll remove the decking down to the rebar and then re-pour the deck, sandblast and recoat the guardrails. Mathew asked Bryan if he heard the question about the schedule and timing when this would be done. Bryan responds yeah, so this is scheduled in the scope. What we've proposed is the design, the delamination investigation would be done by November, 15 and just for references on page six (6) of the scope of services or the packet that we sent down. PS density bid package will be done by December 16 so you could bid for construction starting in the spring. The first advertisement for bid and award services will be January 11. We anticipate opening bids on the 27th of January. The project

awarded with a construction start date of April 5, and the idea there is to be able to get construction done before your busy season starts because we're going to have to close that bridge during this construction phase. Mayor Thomson responds okay, I guess that's kind of what I was interested in is how long the bridge is going to be closed. Councilperson Benglan responds looks like about seven (7) weeks. Mayor Thomson comments yeah, that's streets hardly ever used but I'm sure the hot pool gals are concerned about it. Bryan responds what Roger has proposed the construction would substantially complete and open to traffic by May 3rd, so it would be a four (4) week closure of the bridge and then final completion would be that total seven (7) weeks, so three (3) weeks later. Mayor comments so, open by May. Bryan responds by May 3<sup>rd</sup>. Mayor comments any questions Council.

Councilperson Guthrie made a motion to proceed ahead with Keller's doing the East Main Street deck rehab. Councilperson Benglan seconded the motion. All voted aye, unanimous.

Mayor Thomson comments before you before you leave, I got a couple other questions here. You didn't bring Tyler with you, did you? Bryan responds no, but I am up to speed and have a report on land app site photovoltaic relocation. Mayor Thomson comments so, I guess my only concern is they threatened this with fifteen (15) days. Bryan responds yeah and Tyler has been in touch with them and what happened is we've gone through all of their steps for the fast track application. And then they decided that they would respond to you guys with a notification that they were canceling your Fast Track application. And the reason for that was. There's a threshold on the amount of power that you can produce to be to be able to be a fast track application. When they input your application into their computer system for all their all the different departments to review the fat finger to zero on the end of your proposed energy production. And so your application went in with an energy production of 980 kilowatts. That's actually 98 total 70 is what you're proposing. So we contacted them they caught the mistake they apologize they're reviewing the application and the indication was that there wasn't any problem with the application other than that. Mayor Thomson responds okay, Cool. Well, they can they can go ahead and figure on the 98k but cut us a check for the 980. Bryan responds that's what we told them, yep. Mayor Thomson continue that will work out fine. My only concern was when I read the letter was it says oh you got fifteen (15) days to circumvent and reapply and I'm going Whoa, you know, it took him six (6) months to get back to us maybe it was fifteen (15) days to take care of it so glad you guys were on top of it. Bryan responds and on top of that it was there error. Mayor Thomson comments alright so we're still on track for that one. Bryan responds yes we are. Mayor Thomson responds okay,



anything else for Keller guys while we're getting on the phone, Gary. Gary Cooper, City Attorney responds nope.

**D) Buddy Campbell Park Improvements:**

**1) Tennis/Pickle Ball Court Resurfacing:**

**a) Koch's Tennis Court Service, LLC Agreement - ACTION ITEM:**

Councilperson Frandsen made a motion to go forward with this contract with Koch's and give the Mayor authority to sign it and get the contract secured for the pickle ball courts. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**b) Posts and Nets - ACTION ITEM:** Ron Hunt online and asked if the council has any question for him. Mayor Thomson comments well, we're kind of looking through this court nets and fencing. Give us a quick rundown, you're saying something about the, the posts need to be put in before we do the contract. Ron responds yes, I confirm that again with Lorne Koch from Koch's courts in a recent phone call, last week I think it was sometime. All the post need to and he doesn't need the fencing up. He doesn't want the fencing or nets up when he's applying the resurfacing. So, the post shouldn't be in place, and I sent a text yesterday to Ricky, usually you put the posts on the fencing into the ground. But he was asking about whether or not we can bolt it and we're just kind of thinking that through, Leslie and I, who hadn't seen that ever done course but if it ran under the lower rail on the fence and there are only two (2) bolts that it shouldn't have any interference at all. So, I'm not sure what Rickey thought of that. I think he was just trying to look at a way that he didn't have to dig more holes or we didn't have to dig more holes. And then the other thing is the funding of the post and nets we realize we need to raise that money. And we were looking at possibly doing a GoFundMe page and then people can just go to the website and then the funds go directly to the city. Then if we can acknowledge the donors in a sign including first and foremost the city of Lava Hot Springs and then the donors. That might also be a way to say thank you to them but, also kind of a little bit of a carrot to draw those people into say I would like my name on a sign. But then again that just something I know a lot of communities do to try and get people that donate. So you'll see it all around the Salt Lake area, a number of ways they give signage to contractors that donate their time or donate funds to make it happen. Mayor Thomson comments well, you've got all winter. My agreement with Koch's starts April 1 and ends May 1. Ron asked does that mean he has to do it in that timeframe or what would happen if he doesn't get to it because he was saying that he got delayed so much this year. And hopefully we communicate. Probably not me but someone, a city official would communicate with him directly about timeframe. Mayor Thomson comments I'm

reading from a line on a contract I just approved it says contractor shall commence work on the project by April 1, 2021 and complete the project by May 1, 2021, weather permitting. Ron replies okay, so if the weather doesn't permit he can come in later and do it, is that how that reads. Mayor responds that's not how that reads but I assume that can be negotiated. I'm just reading you that because you're talking about trying to get the posts and stuff up before. So, assuming that he follows his schedule, that means you have to have yours done by April 1. Ron responds okay. Rickey does that seem realistic that we'd be able to do that. Councilperson Frandsen responds yeah, let's get the post, if you guys could get the poles and the sleeve to me and me Tony will get them put in either this fall or early spring. Ron replies okay and the fence you only need it to be four (4) foot and the interior gate would be four (4) feet and the exterior gate would mirror the other one that's already there. So don't worry about well, I just got to get this GoFundMe page if you guys are okay with that, that rather than us writing checks to the city that it goes through GoFundMe. City Clerk Canda Dimick asked Gary Cooper, City Attorney if he knows how that works for government entities on GoFundMe cause I don't know if government entities can. Gary responds I don't know Canda I don't know rather there is anything about that. Councilperson Frandsen comments as the fencing that part of it goes. We can always address that again after the courts are resurfaced. Councilperson Guthrie comments they take a percentage out for GoFundMe fund raisers. Talking softly indiscernible and Inaudible – cross talking. Councilperson Guthrie suggested to find some way better than GoFundMe. Ron responds okay, that was just one of the pickle ball players that has shown some real interest in it and said this was thing we can do. I didn't know that they took a large percentage I heard like 3%, but if they take 30%. Councilperson Guthrie comments they take quite a bit. Maybe we can put something in the water bills like a flyers and put at the post office and people could just bring the money to city hall and say this is for the pickle ball nets or pickle ball. Ron responds okay, that would be good. Would it be coordinated by the city itself or yourself Lisa. How do you want to do those flyers and getting the word out that way? Councilperson Guthrie responds I could get a flyer made up and put out down to the post office. And I'll work with Canda about doing something and putting in the water bills. Ron responds okay, that'd be great. Leslie Mulholland used to own the store and a campground in town and she said she might be willing to talk to the pickle ball player still there. We've already been talking a little bit but then also the businesses, a possibility that they might donate to. So, we've maybe we can get some good word out the way you're recommending and then hopefully Leslie is the co-chair on our committee can follow through on those other couple of places where we might get some, some funds, some interest in donate. Sounds great. Ron thanked you everybody.

Councilperson Frandsen made a motion that Lisa is going to put some fliers out for funding and as soon as we get the money to get the posts and sleeves, Tony and I will schedule time to install post and sleeves. City Clerk announced four hundred (400.00) received so far. Mayor Thomson comments looks like you're about halfway there right now Ron. Ron responds okay, great, do you want me to order the posts, and I don't know how the city pays for that directly if I'm ordering. City clerk comment the City will order the post. Councilperson Frandsen comments the city will have to order so, if you could forward any information to Canda. Ron responds okay, good. Councilperson Frandsen comments I made the motion and anybody want to Second. Councilperson Benglan seconded the motion. All voted aye, unanimous.

**2) Healthy Home Environmental Services Asbestos Abatement Agreement - ACTION ITEM:** Mayor Thomson announced next item on the agenda is a contract between the city and Healthy Home Environment Systems, LLC. This is for the removal and abatement of all the asbestos products on the Fagnant home out by the city park. Councilperson Frandsen made a motion to approve and get it signed and move forward. Councilperson Benglan seconded the motion. All voted aye, unanimous.

Councilperson Frandsen made a motion to cut a check for half of it. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

City Clerk Canda Dimick asked Ricky to reinstate his motion the half payment is for Senske.

Councilperson Frandsen made a motion to restate motion. As far as Healthy Home Environment Systems, LLC city will go forward with the contract and payment authorization when services are done. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**E) Senske Lawn Tech Tree Trimming Revised Agreement - ACTION ITEM:** Mayor Thomson comments now Senske they're the ones that want have up front tomorrow, fourteen forty two fifty tomorrow and fourteen forty two fifty upon completion. They're the ones doing all the tree trimming in the park.

Councilperson Frandsen made a motion to restate motion that we approve the contract agreement with Senske Lawn tech and cut them a check for half of the amount, fourteen forty two fifty (1,442.50) so they can get started with the contract

and balance when the job's is done. Councilperson Guthrie seconded the motion. All voted aye, unanimous.

**F) Chip & Seal 1) Local Rural Highway Investment Program Extension 2) Forsgren Associates 2019 Work Order and Agreement and Bid Documents -**

**ACTION ITEM:** Mayor Thomson reports the city did an extension on our grant money so, we could move it over the next year. City Clerk Canda Dimick Announced Aaron Swenson with Forsgren is online. Mayor responds okay. So what we have in house now is the work order, agreement, and the bid documents that Aaron's provided us from Forsgren. Are you online Aaron? Aaron responds I'm here, can you hear me? Mayor Thomson responds yeah. Councilperson Frandsen asked if the extensions was approved. City Clerk responds yes. Mayor Thomson comments the extensions already been done. We have the bid documents so basically what we have is a package of engineering and bid documents that are ready to go out. As you can see in your packet here. Mayor Thomson comments I'm trying to read this cover letter here. So did you send bids out? Aaron responds yeah, is alright if I take a couple minutes outline where we are at on that. We met back in August, there was still a handful of items that still needed to get done on the water projects and items on the road. As a result of the water project and Tony kind of thought he could get someone in there about the first to September, to get those done. We put together bid docs and had them out, I want to say the day was about the 25th of August. With the hope that the road work would got done the first of September, and the weather would be good at the end of September, and that we could find a contract, all three (3) of those things kind of have a lineup. We put a bid out we got zero responses to the bid. And at that point state law allows us to just start contacting contractors and say, give us some numbers, so I reached out. For as much chip sealing done in the state of Idaho there's only a handful of contractors in Idaho that actually do chip sealing, at least, big reputable companies that do chip sealing. Actually, if you remember right mayor, we had actually changed it from a chip seal to a micro surface. For your application we really liked and kind of went over the benefits of that. And if anybody had any questions we can talk about that but that opens the door a little bit there's a few companies in Idaho that do that. Companies in Idaho, did not want to do the work in September. We reached out to three (3) companies in Utah. Two (2) of them were not interested in the project but I did find one (1) Intermountain Mountain Asphalt or something like that I can't remember the exact business name. It's not a company I've worked with but it does a lot of work in eastern Idaho, they just might say just micro surfaced all roads in Rexburg, a bunch in Fremont County and some in BYU Idaho. They do work in east Idaho. I forwarded the email to Canda, you're welcome to there's a whole series of

correspondence back and forth. Anyway, long story short, the guy that I was working with kind of went radio silent on me when answering the phone when to respond to emails. Finally got ahold of somebody else who informed me that that guy had been fired. I started working with another guy but we're to the point now where we probably better just wait until next year. It was going to be iffy, if we were to get it done the end of September. It can be done and sometimes you get great weather and it's just fine. At this point, I would rather do this. Not in the fall, I would rather do this, going into warm weather not going into cold weather, because there's a lot there's a lot of benefits to heat traffic and kind of meeting that in all summer long. My recommendation is I know summer and spring are tough in Lava. I think my recommendation is we either rebid it and, then this is where I welcome some input from you guys. We can either rebid it, or ask for the week before Memorial Day to have it done, or because we have been into getting responses I really could just go work with a contractor to get a price and as long as it was fair and equitable and all of that, we can get them under contract. That's my recommendation, but any questions or input I'd certainly be open to. Mayor Thomson comments well, the only good news I have for you is that we can control the traffic right after the end of May. We're going to have a bridge closed on Main Street. Aaron responds you'll have a bridge and Micro seal going on. Mayor Thomson comments we may have a whole Street closed on top of it so you know that's it's kind of, you're absolutely correct, it's a little hard to forecast what's going to happen out here in late spring early summer. You know, it's about like trying to forecast what's going to go on into September, so I think you're right on one issue and we're a little bit a little bit after the fact on trying to get it done this year. We, actually have completed all of the issues that we were trying to get completed and we got those completed about mid-September, but, you know, it was one of those things where the weather's worked out for us we're still laying asphalt here in October, but it's iffy probably starting next week from what I understand. I think your recommendation to wait till spring is probably valid at this point. I don't know what else to do. When would you want to start putting bids out again when would you recommend start putting out bids again, first of the year. Aaron responds we could honestly put it out any time. My personal preference might be to just turn around and rebid it right now, but with the new construction dates on it. I might have to give that some thought. Oil prices change. Oil prices change at the beginning of the year. I'm not sure how willing contractors would be to lock in a price right now for next spring. I think you're right. I would rather do it sooner than later but we probably better wait till January. Mayor Thomson asked if council has any questions. So the bid documents are complete, all we need to do is just out the bidding process again with new construction dates. Now, it's title chip seal project but is it spelling out the, the micro particles stuff rather than the chip

seal. Aaron responds yeah and when I took that set down to Canada I reprinted everything I may have grabbed the old cover off of that, that would be my bad, but spec in the bid doc is for micro surface. Mayor Thomson responds okay, so that's still your recommendation for the best service. Aaron responds well yes, I could go through that a little bit. The nice thing about a micro surface is it does a better job because it actually has a screen on the end of it. And so it actually, it won't like make a road like perfectly smooth and new again, but it will take out some undulations were a chip seal just follows the undulations. And so if you've got a little bit of a rough road before we put the chip seal, you still have that rough road after you do the chip seal. And it's a tighter seal its finer aggregate and tighter seal. A chip seal, you're actually trying to build some surface. Like some of the counties actually build roads with chip seals that would definitely push it that way but for what you're trying to do. You just got some seams you're covering and you're just trying to get a seal coat on. I really liked the micro surface. Mayor Thomson comments we found a few of those roads that were built from chip seal when we did the water project. Aaron comments I'm sure you did, Yeah, I'm sure you did. Mayor asked if there are any questions for counsel.

Councilperson Frandsen made a motion that we have him go forward to get the dates on the bid documents and put it out in January. Councilperson Benglan seconded the motion. All voted aye, unanimous. Mayor Thomson comments we'll just kind of table this and review it towards the end of the year and get you to start putting out bid documents first of the year. Aaron responds Do I need to come back on the agenda or should I just send them out. Mayor Thomson comments let us revisit that because, I kind of like to revisit the potential cost increase in some of those issues that dealing with oil, you might have a better handle on that at that time. Does that make sense? Aaron responds fair enough. Mayor Thomson comments all righty, Thank you, sir. Aaron comment all right, thanks for your time.

Mayor Thomson comment I guess part of part of what we got to do here is, is finish paying him for the contract of getting this out, I think, I mean we still got a couple of invoice numbers, which I don't know whether that takes us up to the total price or not. I'm reading Gary's cover letter here now. Gary Cooper, City Attorney comments this was based on I thought you had no response from him but the last meeting and he asked me to put together a termination letter, basically and that's what that is. Now that he's come through and is responding. Mayor Thomson comments we didn't see a bid document, until after you sent this letter out. Gary responds I didn't send this letter. This letter was up for approval or did I send it out I don't know. City Clerk Canda Dimick comments no you did not. I stepped in

and asked for them, that's how we got. Mayor Thomson comments typically, you'd have a bid document in your hand before it goes out. I know we didn't have a bid document in hand by August the 25th. We certainly didn't have one by August 15 when they were supposed to go out. That was kind of the reason I indicated to you that we probably needed to review the contract and see whether we had grounds to terminate. I would like to read revisit this at a later date and possibly look at other options. We've been on board here now for what, two (2) years with this guy. We still haven't got a chip sealed down. For you guys that don't know I talked to Pocatello paving a little bit while we were reviewing their work and chip seal is you lay down of a tar coat or a hot mix coat and then you put the aggregate on top of it its fairly coarse aggregate. This micro serve, micro sieve stuff is a finer particle mixed in with it. So it's made into a slurry and then it's poured out and screed it so it gives you a little bit smoother coating and it's all bonded into the mixture better so it's a different process entirely but it works very well for, especially for asphalt it's relatively new, that really needs a seal on it. That's what it does well so our streets are pretty new we've got that trench cut from the water project going all the way up Main Street and we were planning on doing all the Main Street, doing, second, and third North which were brand new asphalt second South which was new asphalt, and then whatever funds we had leftover, try to go up as much as Center Street as we could, because it's never been sealed since it was put in five or six (5 or 6) years ago . Councilperson Benglan comments got you, so it's a way to preserve your asphalt. Mayor Thomson comments it helps give the asphalt longevity by sealing it top of it. That was one of the reasons we went with that aggregate mixture of micro particles in the seal. I personally, I feel like we can, we can go out to a couple of engineering companies and have them go out and do the bids and what have you. You know I don't know about you guys, but I just listened, to me I just go and it's tentative every time he says something, that's my opinion. I have sit here and talked with him in person, I'm going guys you know you're not a positive go getter, go out there and get the work done and get the bids done and get it in here on a timely fashion. That just my assessment. So, anyway. City Clerk asked if council wants to know the amount we paid though. Mayor Thomson comments well, I guess. City Clerk comments the amount you've paid already for only means putting another thing on bid documents and going out for bid. I want to get the amount, put it on the record before we go for the evening. Mayor Thomson comments well, I kind of wanted to review all that before we before we did it again. What I have in this letter from Gary is its two (2) invoices and there's numbers and then I have two (2) additional invoices. City Clerk comments the city has paid him four thousand two hundred and twenty two dollar and fifty cents (4,222.50) out of his forty eight hundred (4,800.00) dollar contract. If you go to another engineering, they're going to have to do their own

bid document, they can't use another engineers bid docs. Mayor Thomson comments I'm not saying we're not going back to him, just that we are not going back to him today. As his suggesting it was the first of the year because what he's hedging against is this price is going to change. You're not going to get as much for your dollar next spring as you are now and he's feeling and I think rightfully so nobody's going to commit to a bid right now based on next year's prices. City Clerk comments the price change isn't going to be in the engineering, it's going to be in the bid. I mean you got probably 780 bucks left to finish a contract with him. Mayor Thomson comments right and, again, all we have to do is just say resend it out and rebid it in January, which is what Ricky made the motion to do, it was seconded and passed so basically what we're going to do in isn't it. I think the situation is, we had a hundred thousand (100,000.00) dollars and each time we push it another year we're getting less and less for are hundred thousand (100,000.00) because prices continue to go up, not his price. The price of materials. Councilperson Benglan responds right, exactly. Mayor Thomson continues so, that being said, as he suggested the price of oil so it's going to continue to go up and that just means we just get less coverage.

#### **G) Miscellaneous:**

**Discussion:** Councilperson Frandsen asked if there is anything from the audience or anybody online. Brandon is online. City Clerk announced there are people online. Councilperson Benglan asked if anybody online have some discussion, is so need to unmute your phones. Bandon comments yeah, I'm still online I was just following through I didn't have anything else. Thanks for everything you're doing. Mayor Thomson asked anyone else

**Motion to adjourn - ACTION ITEM:** Councilperson Guthrie made a motion to adjourn. Councilperson Frandsen seconded the motion. All voted aye, unanimous.

Meeting adjourned at 11:43 p.m.

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Amantha Sierra, Transcriber

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Jon Thomson, Mayor



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Canda L. Dimick, City Clerk