

A Special Meeting of the City Council of the City of Lava Hot Springs held Thursday, November 16, 2023 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho

Present: Vicky Lyon, Mayor
Randy Benglan, Councilperson
Rickey Frandsen, Councilperson
John Head, Councilperson
Amantha Sierra, City Clerk

Present
Phone: Leah Navarro, Councilperson

Excused: Jill Makuaole, Treasurer
Gary Cooper, City Attorney

Guests Phone: Bryan Phinney, Kellers

Guest at City Hall:

Kit Tillotson, Connie Tillotson, Sherill Tillotson, Shane Tillotson, Clinton Pagnotto, Jeanie Avery

Mayor Lyon welcomes everybody and called the meeting to order at 6:30 p.m.

Pledge of Allegiance.

Kit Tillotson demolition permit - Blue Moon – ACTION ITEM:

Kit Tillotson reviewed the JLS hazard waste report. Clinton Pagnotto insurance company hired JLS to perform hazard waste test. They found a couple of positive samples of what they call a category one non-friable asbestos, which is basically the roof mastic and there one or two places where they found low levels of lead paint on a door. Kit read the end of the report to council. Based off the results, the roofing and associated roofing debris at the subject property are category one non-friable. Additionally, the exterior and interior paints were identified with lead and are to be considered MCL which, is materials containing lead. Based on sample results, damaged materials and waste stream at the subject property are considered

non-hazardous which should be handled in accordance with all applicable state and federal regulatory standard.

Kit said he has turned in the form required by the EPA. “I spoke with John Pavick (s) who is out Anchorage, Alaska with region 10 of EPA. I spoke with him yesterday specifically regarding this, he was very familiar with this report. He has examined it he assured me no abatement is needed as per their regulations, that this form is all they needed. The form asked for square footage, there’s like 10,000 square foot of roof and it says not to be removed. What that means is that the asbestos is not required to be remove from the project prior to the demolition.”

Councilperson Head asked Kit what the credentials are for JCL. Kit responds it’s the company that Clinton insurance company (Nautilus) hired, they’re out of California. I don’t know their credential. Ultimately, I’m the one that’s going to be responsible for the abatement. I have notified the land fill and the only thing they need is a copy of the report. I feel like we have met all the criteria that’s required by the Federal government and the State. I actually talked to DEQ and they said they don’t monitor or govern asbestos that’s EPA, federal. I’m ready to move forward and I feel comfortable as a contractor. I don’t want the community or my workers exposed, that is why I verified the report with EPA. Councilperson Head comments I was concerned with the asbestos abatement and how they determine what kind of hazards issue are there. You have the report, you’ve done your due diligence requirements in what the city would be concerned with.

Bryan Phinney, City Engineer with Keller Associates reports he looked at the application that was submitted I looked at it. The EPA report form is there, no documentation on the conversation that was had with EPA but, the form is filled out. I think for the city files if Kit would submit any response he got back from EPA so, that we got that documented in case the question ever comes up. Beyond that, it doesn’t surprise me that was the respond you got from EPA. If the asbestos is in the mastic, then it’s not going to be airborne as you take things apart. Kit explained he only has the conversation nothing in writing. Councilperson Benglan suggested Kit verifying the minutes after Amantha transcribes the zoom recording, kit agreed. Brian agreed with Kit verifying the minuets for accuracy. Brian asked Kit, the building has a basement once you get done with demolition what are you doing to protect community from the open hole of the basement. On

the application it indicates there are not any plans at this time for rebuilding we understand that we need to know what you are going to do to prevent anyone from falling into the hole. Kit replies the owner would like to do all we can to maintain the integrity of the floor and just pull the building down and leave the floor intact at this point. That the goal that we're going to work towards. Now that being said, I don't know how that floor is going to hold up under the demolition process. I told Clinton we would work towards that and if it turns out that we can salvage that floor and save it. Then that's a decision at that point he would need to make as to rather he continues on and if the floor becomes damaged beyond it being salvage, we would take the floor as well. The deal between Clinton and I is when we got to that point, we would need to negotiation a deal as to where we are going to at that point. I didn't want to give him a quote or an estimate on things that are unknown to me because we don't know what we are going to get into at that point. That's why on the permit its unknow at this time. Brain comments he understands that. I think one of the things we are going to need is as that floor gets uncovered, we're going to need somebody to make the determination on the structural integrity of that floor if staying. Because we can't confirm the amount of time that's going to take, we need to protect folks who may be less than attentive from wondering across something that could become a hazard or a danger. We also will need to have the stairwell in the basement secured so nobody can get down in there. Kit responds yes, I know that as long as this as this job is under my liability we have fencing and all that to protect the public from any danger, rather it's an open floor, open pit or whatever. When we get to the point where we determine whether the floor stays or goes Clinton will have to determine how he wants to proceed based on what the city is asking for and what I can provide for him. I just don't think we're ready to comment to what we're going to do with that, other than analyze and do what needs to be done for public safety when we get to that point. Councilperson Navarro (on phone) comment it's alright to have it in the minutes however, I believe we should still have documentation from whoever quoted that simply because of the fact that the minutes are under whoever typed them interpretation unless it's verbatim and it should be attached to the back of this demolition permit. Because I have in the past searched minutes and it takes me forever to find things. I think if it's attached to the back of the demolition permit, then it's going to be right there so, people 5 years from now are going to have to go searching back into minutes. I feel that there should be something on paper that states that release the city from liability in the future of claims. Kit responds he will reach out to EPA and asked that we move forward approving this permit pending that verification. Council person Benglan asked Brian if he would be okay calling EPA for documentation. Brain responds no, I'm not okay tracking down documentation on behalf of the owner and the contractor. I'm okay if the

council approves pending getting that documentation, that's fine. I don't see where it's the city's responsibility to track down the documentation for a project that being proposed. Mayor Lyon responds what I think we need to understand is Kit and Shane probably want to start tomorrow because they got good weather for the next few days. Kit comments as the criteria for this form EPA required, I cannot start for ten (10) business days, November 30th is the tentative start date. Brain comments Kit you can tell him that the city is not going to approve it without confirmation from EPA that they received the application, reviewed and approved it. Councilperson Head comment we are going to approve it contingency tonight so we don't have to wait we've got a ten (10) day grace period. Mayor Lyon comment kit get the conformation back by email. Brain comments an email is fine. Kit responds he will get the email and bring it to the city.

Councilperson Benglan made a motion to approve pending EPA confirmation signing off on project by John Pavick. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Keller Associates – Street Improvement Grant – ACTION ITEM: Bryan Phinney, City Engineer with Keller Associates reports on the L-Tech grant, the grant named LHRIP that a hundred thousand (100,000) grant we think the city should be applying for that every year. I talked with Tony Hobson, City Maintenance & Justin Casperson, City Maintenance and we're going to get this moving sooner next year. Tony & Justin have some stuff they need to submit to LHRIP on the street's budget for the City, I talked to Tony on that today. What we asked for and what we negotiated was five hundred (500) dollars agreement for Keller to help you put together the LHRIP for funding and it's due the end of this month. Councilperson Head asked if there is enough time for Tony and you to put everything together for that? Brain responds we are collecting that now I had two (2) of my transportation guys in contact with him today.

Councilperson Benglan made a motion to authorize Kellers apply for the LHRIP grant for LHTACT for Kellers to write a contract for five hundred (500) to put the application together for city. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Mayor Lyon asked if Bryan wanted to talk about on another opportunity.

Bryan Phinney, City Engineer with Keller Associates responded I'd be happy to share, it'll put a big smile on everybody's face, I suspect, I guess Christmas can came early! It's not completely for sure but, we were asked to submit a grant

application on behalf of the city for the fourth (4th) Street project and we got notified this morning. That Lava is being recommended to L-Tech and ITD (Idaho Transportation Department) for full funding request. It's a little bit over five hundred thousand (500,000) dollars, I think it's for five hundred and nine thousand (509,000) dollars and it looks like your gong to receive that funding and it's in a form of a grant. That will be to build fourth (4th) street, which means we can do a little bit more than just a temporary or partial rehab of the road. We can go ahead and get it done complete. Tony Hobson, City Maintenance had asked if could add in curb and gutter on that section as bid alternate. If it comes in at the right price, you guys can accept that and we'll get it added to the design. Councilperson Benglan asked when it will be awarded. Councilperson Head asked if that something we can do early in the summer. Bryan responds the grant we're expecting to find out about within the next month. Kellers has the design almost complete. Kellers's goal and recommendation to the city is that we pursue bidding this spring so, we would like to be bidding in March/April. Jeanie Avery asked will that road improvement include bring in infrastructure of sewer and water? Byran replies no. Mayor Lyon comments tell me if I'm correct, Tony was telling me they came up with a plan to put the utilities on the outside of the Black Top so, if you do any so, if you do anything then we don't disturb the blacktop. Is that correct? Bryan responds that is correct and this grant can't pay for the water and sewer. This grant is a transportation grant and pays for the roadway. But we want the utilities, water and sewer outside of the asphalt. So, when that develops, we're not digging in the roadway, digging through the asphalt to do things up. Mayor and Council thanks Bryan for his dedication to the city.

Chamber of Commerce 1% Budget Request – ACTION ITEMS:

Councilperson Benglan made a motion to approve the 1% budget request. Councilperson Frandsen seconded the motion. All in favor. Head -Aye, Benglan - Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Local Option Tax Question – Education:

Councilperson Benglan reports the Chairman Page Amstrong? of the schoolboard asked if the city local option tax could be used for education. As written the local

option (non-property) tax cannot be used for education. The voters vote on what the use is for option tax. Discussion took place on non-property tax.

Adoption of Appropriation Ordinance 2023-1 – ACTION ITEM:

Mayor Lyon explained this was on our agenda last time but it was late and couldn't be voted on. This ordinance was written back in January on special meetings but it fell through the cracks and we don't know if it got voted on our not and a copy was in your package last month. Councilperson Benglan made a motion to waive three (3) readings on three (3) different occasions for ordinance 2023-01. Councilperson Frandsen seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Councilperson Benglan read title only.

ORDINANCE 2023-01

AN ORDINANCE AMENDING SECTION 1-5-4 OF THE CITY CODE OF LAVA HOT SPRINGS, IDAHO, PROVIDING FOR THE AMENDMENT OF THE CURRENT PROVISIONS RELATING TO MEETINGS TO INCREASE THE TIME FOR NOTICING SPECIAL MEETINGS FROM SIX HOURS TO TWENTY-FOUR HOURS AS REQUIRED BY I. C. § 74-204(2); CHANGING THE QUORUM REQUIREMENTS FOR DOING BUSINESS AT SPECIAL MEETINGS FROM FOUR MEMBERS OF THE CITY COUNCIL TO THREE MEMBERS; PROVIDING THAT LESS THAN A QUORUM OF COUNCIL MEMBERS CAN ADJOURN A SPECIAL MEETING TO OBTAIN A QUORUM; AND PROVIDING THAT IF ONLY THREE COUNCIL MEMBERS ARE PRESENT AT A SPECIAL MEETING VOTES MUST BE UNANIMOUS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; WAIVING THE RULE REQUIRING THE READING OF THIS ORDINANCE ON THREE SEPARATE OCCASIONS; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

Councilperson Benglan made a motion to adopt ordinance 2023-01. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Approve Bills – BrandCraft – ACTION ITEM:

Mayor Lyon explained this bill didn't make it into bill package last month and it's the end of marketing campaign for BrandCraft.

Councilperson Benglan made a motion to approve the BrandCraft bill. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Discounted Pet Licenses and Business Licenses 50 % off pet Licenses Prior to December 31, 2023 – ACTION ITEMS:

Amantha Sierra, City Clerk report the council usually offers pet (Dog & Cats) owners a fifty (50) percent discount on pet license. Mayor Lyon comment only for pet licensing not kennel permits.

Councilperson Head made a motion to approve a fifty (50) percent discount on pet licensing for 2024 licensing, offer expires on December 31, 2023. Councilperson Benglan seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Business License renewal \$55.00 prior to December 31, 2023 post mark – ACTION ITEMS:

Councilperson Benglan made a motion to approve the December 31, 2023. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Remove all current signers to all banks and authorize Mayor Vicky Lyon, City Clerk Amantha Sierra and Council President Rickey Frandsen to be added as signers and Online Banking access – ACTION ITEMS:

Councilperson Benglan asked if Jill Makuaole, Treasurer should remain on the account. Amantha Sierra, City Clerk reports she would like to continue the check processing duties and feels like if she remains on the accounts, it's a conflict of duties. Mayor explains it's been identified as a risk.

Councilperson Head made a motion to remove all current signers to all bank account and add Vicky Lyon, Amantha Sierra & Rickey Frandsen as signers and online banking access to all accounts. Councilperson Benglan seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Authorized issuing ICCU credit card to City Clerk Amantha Sierra – ACTION ITEMS:

Councilperson Navarro comment the policy needs updated to remove Chandra and add Amantha.

Councilperson Benglan made a motion to authorize a ICCU credit card to be issued to Amantha Sierra. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Councilperson Navarro made a motion to take Chandra Taylor off the credit card policy agreement and add Amantha Sierra, city clerk to be added on.

Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Annexation Task Order – Randy Benglan – ACTION ITEMS:

Councilperson Benglan requested to have this item be moved after the executive session.

LEAP Housing MOU – Randy Benglan – ACTION ITEMS:

Councilperson Benglan reported he took the last conversion to the CEO of Leap Housing and let him know that legally we have to put out an RFP for a project like that. They are pretty interested he is about doing something in Lava. They understand for us to do something we have to send out an RFP. Basically, I came away from that and I think what we should do is, once we decide on a City Planner. We should work with our city planner to develop an RFP once he gets everyone's input. Then we can send that out and Leap will be first in line to respond to it. Then that way we do it the right way. Councilperson Frandsen comments I think that's the right thing to do. Councilperson Benglan comments I don't know as far as an action item if we really need one other than once we get a city planner, we can address it then and prepare an RFP then. Councilperson Benglan made a motion to make the new housing discussion part of an overall plan to craft an RFP to send out whoever wants to respond. Councilperson Frandsen seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Accept Jeanie Avery resignation from P&Z – ACTION ITEMS:

Mayor Lyon announced letter is included in council package. Councilperson Head asked how are P&Z (Planning and zoning) members are selected, are they nominated, appointed? Mayor Lyon responds historically the person resigning is has found the replacement and make that recommendation, the last few anyway. Councilperson Benglan made a motion to accept Jeanie Avery resignation from Planning and zoning. Councilperson Navarro seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Nominate Diane Beckstead to P&Z – ACTION ITEMS:

Mayor Lyon announced Jeanie Avery and Mark Lowe recommended Diane Beckstead. Mayor and council discussed term limits and vacancy on P&Z (Planning and zoning) seats. Mayor Lyon announced she would like to nominate Diane Beckstead for Planning and zoning. Councilperson Frandsen made a motion to accept the mayor nomination for Diane Beckstead as a member to Planning and zoning. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Councilperson Benglan announced the terms are 4 (four) years, discussion followed.

Motion to go into Executive Session per Idaho Code 74-206 (1)(a) to Discuss Attorney and City Planner position. Roll call.

Councilperson Benglan made a motion to go into executive session per Idaho Code 74-206 (1)(a) to discuss Attorney and City Planner position. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Motion to Reconvene - ACTION ITEM:

Councilperson Head made a motion to come out of executive session and reconvene. Councilperson Benglan seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Motion regarding City Planner Position - ACTION ITEM:

Councilperson Benglan made a motion to accept Rodney Burch as the city planner and work with legal to execute a contract. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Motion regarding City Attorney - ACTION ITEM:

Councilperson Benglan made a motion to hire Lyle Fuller As city attorney and work with legal to executable contract. Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Annexation Task Order – Randy Benglan – ACTION ITEMS:

Councilperson Benglan made a motion to develop an annexation task order with Brad Kramer to work on a strategy to catalog all the property outside of city limits that are on city services and work towards annexation into the city limits.

Councilperson Head seconded the motion. All in favor. Head -Aye, Benglan -Aye, Frandsen -Aye, Navarro -Aye, unanimous.

Motion to Adjourn – Action Item:

Councilperson Frandsen made a motion to adjourn. Councilperson Benglan seconded the motion. All voted aye, unanimous. Roll call. Guthrie -Aye, Frandsen -Aye, Benglan -Aye, Knutson Aye, unanimous.

Amantha Sierra, Transcriber

Vicky Lyon, Mayor

Amantha Sierra, City Clerk