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Canda Dimick

Council Members
Rickey Frandsen
Randy Benglan
Leah Navarro

Minutes of the Regular Meeting of the City Council of Lava Hot Spring held on September 8, 2022

Those in attendance: Mayor Thomson, Councilmembers Randy Benglan, Ricky Frandsen and Leah Navarro via Zoom. Office staff Jill Makuaole and Chandra Taylor, Code Compliance Officer Hudson Saffell, City Attorney Gary Cooper and City Engineer Bryan Phinney. Guests: Lisa Hunt, Joyce & Darwin Bosen, Bill Perkins, Hallie Soderquist and Sherril Tillotsen with the Lava Chamber of Commerce.

Meeting called to order at 6:00 pm and Pledge of Allegiance recited. Mayor Jon Thomson welcomes all. "The agenda posted on the website was incorrect. We will need a motion to use the agenda that was posted at City Hall and at the Post Office.

**MOTION TO ACCEPT THE AGENDA THAT WAS
POSTED IN THE CITY.**

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. ALL AYE

The deadline for agenda items to be included on the October 13, 2022 will be October 6th at 5:00 pm.

Opened the Council Hearing on Red Log House business violation.

Randy Benglan, councilmember, "Do we have a format?"

Gary Cooper, City Attorney, "You are the hearing deciders and Hudson is the complaining witness. He will present you with the outline of the violations. I think I saw Barbara Williams was on the phone. She will respond to those. Then it will be submitted to you for decision."

Mayor Thomson, "you can make a commitment tonight or in writing at a later date."

Gary Cooper, City Attorney, "you have ten (10) days to make a decision."

Randy Benglan, councilmember, "And what are the decision options?"

Gary Cooper, City Attorney, "That's up to you. Anything from revocation to anything less."

Hudson Saffell, code compliance officer, "On weekend patrols there are several residences where there are often out of state license plates. I was driving by 377 W. Fife which I knew was a bed and breakfast which is allowed. It is an allowed use in an R-3 zone. I spoke to a Jerrod Hackala(sp) the first guest I spoke with. And I asked if I could speak with the owner manager on-site." He responded that, "there was no such person this is an air B & B."

Hudson continues, "I sent a notice, a warning basically, initially to Denise Fugimoto who is the owner on parcel viewer. I just asked them to inform the city who was the owner manager who will be occupying 377 W. Fife."

Randy Benglan, council member, "What is the date on the warning?"

Hudson Saffell, "12 June. And I also requested they fill out a sign permit application. Then I received an email that went to the old code enforcement email. That said, 'This is Barbara Williams. My guests said you wanted to talk to me. I've been trying to reach you but I'm only here a couple more hours then I'm going to St. Anthony.'

Barbara Williams then came into city hall in person. And wrote a note that said, Barbara Williams is the owner onsite who will serve breakfast of granola, muffins, pastries, coffee and orange juice. And her phone number.

Then the next incident was the 26th of July. That's when I sent the second letter of business violation. I spoke with another guest in the driveway. His name was Riley. I asked Riley if the manager was available. He responded, that there was no such person and that he and his family prepared breakfast. Which implies they had full access to the kitchen. I also issued a fine for failure to have a sign. Barbara had filled out an application for a sign and you (city council) approved it before that. I think this was 12 days after it was approved. There was still not a sign. Emails between Barbara and I then on 11 August I sent notice of a hearing. Barbara then responded with an email disputing some things I said." Hudson reads the email from Barbara Williams. Addressed to the City Council. Barbara Williams says she would like to read the email. Hudson says, "ok, thank you. I have just a couple more things here. Lots of reviews from Airbnb about the space. These refer to the description space available. Mentions that guests will have full use of a fully stocked Kitchen. Reviews from 2 guests spoke about Barbara communicating via texts.

Randy Benglan, councilmember, "We have the business license compliance agreement where you can do an inspection?"

Hudson Saffell, Code Compliance Officer, "It's in our ordinance."

Randy Benglan, "Have you done any inspections of the inside?"

Hudson Saffell, Code Compliance Officer, "No I haven't been inside."

Randy Benglan, councilmember, “so we don’t have any knowledge if there is a manager’s quarters downstairs or not.”

Hudson Saffell, Code Compliance Officer, I am very careful because I don’t always know if it is a business or is friends of the family...I have to be careful not to trespass.

Randy Benglan, councilmember, “So just a summary, a bed and breakfast as per our ordinance is a conditional use and requires either an owner or manager onsite who is designated by the applicant as the person onsite.

Hudson, “it is an allowed use in an R-3.” Randy Benglan continues, “So as a result of your, I don’t know what to call them, “inspections”. You have evidence of 2 violations (guests staying with no manager onsite) from your inspections and evidence of 2 more via reviews on the Airbnb site for a total of 4 violations.”

Mayor Thompson, “Ok, Barbara your side of the story please.”

Barbara Williams, “Ok, first of all my co-owner, Denise Fujimoto, lives in Utah so her car has an out of state license plate and so does some of her family and my family that stay at the house on occasion. I am going to read to you the emails I sent to the city council on August 17th. I would like to present an accurate account of City Council Compliance Officer Hud Saffell’s miss representation of the facts in last Thursday’s City Council meeting and further illustrate other incidences of unprofessional conduct. In the meeting Hud lied when Randy asked, ‘at this point there is nothing to appeal, correct.’ Hud replied, “Right.” That is a lie on July 26th Hudson issued me and co-owner Denise Fujimoto a \$250.00 fine and it was not for not having a sign. It was for failure to comply with conditions established 3/1/14 \$250.00. City code 1982-2 upon conviction of a violation a violator may be fined for failure to comply with conditions established 3/1/14. Hud violated code 1982-2 as we have not been convicted, furthermore his letter stated that we have 14 days from the date of the citation to appeal the fine. July 26, 2022 in writing I appealed him in an email on August 1st Hud also lied when he said on June 12th he spoke to a guest in the driveway, this is his exact words in the last meeting, “Jared said he had been coming there for a few years and it is an Air BnB.” That was the first time that guest Jared had stayed at my house. He has not and did not say he had been coming there for a few years. I did prepare a meal of granola bars and coffee. I was on site on June 12th and Jared gave me the business card. I immediately called the number on the card for Hudson Saffell. It went to a voice mail for Lindsey. There is no such person. I called two more times in the afternoon and left messages for Hud and I emailed Hud at the email address listed on his business card. I never received a response to it or to my messages. Later Hud told me that there was no need for me to be at the meeting I did not need to attend it. He purposely lied when I wasn’t there to defend myself. When I went to city hall on Friday,

August 12th and asked him why he lied he said, "It doesn't matter what I said all the members had all the documents in front of them." I also tried to pay my fine of \$250.00 and asked for a receipt. Hud told me he doesn't take payments and he doesn't give receipts. I feel this whole incident has been handled very unprofessionally and I seriously doubt Hudson Saffell's credibility. We are tired of Hud's harassment and bullying so we are selling our house but not to a locals like Hud said the city wants but to out of towners. Even though Hud told me the city doesn't want house sales to out of towners. Hud cannot tell us who we can sale to. Hud you are not a local at least Denise and I were born and raised in Idaho. At this point I'm asking for our fine to be dropped.

Mayor Thomson, "Any questions?"

Randy Benglan, Councilmember, "I'm a little unclear, Hud you didn't mention the fine in your presentation did you?"

Hudson Saffell, Code Compliance Officer, "Yea, I did."

Randy Benglan, Councilmember, "What was the fine for?"

Hudson Saffell, Code Compliance Officer, "for the sign."

Randy Benglan, Councilmember, "but not for the violation of owner/manager onsite?"

Hudson Saffell, Code Compliance Officer, "There is no fine for that."

Barbara Williams, "I have it right here in my hand. Failure to comply with conditions established 3/1/14 fine \$250.00."

Hudson Saffell, Code Compliance Officer, "And what are those conditions?"

Barbara Williams, "to avoid confirm to the city's contacted collections bureau please provide payment of \$250.00 made to the city of Lava Hot Springs within 30 days from the date of this letter. If you wish to appeal this citation you must do so in writing no later than 14 days from the date of this notice. Which I did. I appealed in an email to Hud on ummm let's see... I just read it to you it's within the 14 days

Randy Benglan, Councilmember, "So I'm a little hazier on this June 12th interaction. If you were on site on June 12th why didn't you speak with Hud?"

Barbara Williams, "I don't know I was in the basement. There's not an outdoor no _____ coming into the basement if he caught someone in the driveway. Apparently the guests didn't come get me. They handed me the card when I came out and when I first came in to talk to Hud about that. I said, "so you want me to be a little more visible to the guests. And he said, "yes." And then on the second time when he did speak to the guest. I didn't have a guest registered under that name but maybe it was one of their kids or something that he talked to. I was not there that day because I was exposed to Covid and I didn't want to stay in the house with the guests because I didn't want to give anyone Covid. I explained that to Hud when he sent us that second

Violation notice.

Randy Benglan, Councilmember, "So we are talking about 2 different things. The fine and the violation. So as far as the appeal on the fine that's not in front of us today. Have we received the documentation on that?"

Hudson Saffell, Code Compliance Officer, "I received an email..."

Barbara Williams, "Well I have it right here I can email it to anyone.

Actually I did I sent a picture of it to Randy in a text. I'm sorry in an email I sent Randy."

Randy Benglan, Councilmember, "So is the sign up there now?"

Hudson Saffell, Code Compliance Officer, "Yes, she hung it the afternoon I served her with the last correspondence which was notice of this hearing.

Randy Benglan, Councilmember, "K"

Mayor Thomson, "Just for clarity on both incidences that you approached a guest in the driveway did you ask for or inquire as to the presents of a manager?"

Hudson Saffell, Code Compliance Officer, "I did. That was the first thing I asked them and both Jared and Riley, who were both adult males. State that there is no manager here. This is an Air BNB."

Mayor Thomson, "So obviously a miscommunication if she was in the basement."

Barbara Williams, "Possibly it's a miscommunication, I mean, since he lied to Randy in the last meeting, directly and said that there was nothing for me to appeal and Hud said, "that's right." But he did give me a fine and 14 days to appeal. So he lied directly to Randy, who's to say...I mean you get caught in a couple of lies...you're probably...I mean maybe, maybe he just didn't remember right. But to me if you're caught in a lie you're probably not telling the truth all of the time."

Leah Navarro, Councilmember, "Barbara this is Leah. Just out of curiosity 2 weeks ago were you up in Lava?"

Barbara Williams, "Yes"

Leah Navarro, Councilmember, "You were?"

Barbara Williams, "Yes"

Leah Navarro, Councilmember, "Are you sure? Because I was the one who pulled that stove away. And when you were talking to that other person, they were just using my truck and me to get it out there."

Barbara Williams, "Yes, and I told her I wasn't there right now I was running supplies."

Leah Navarro, Councilmember, "No, you told her those were your friends and you weren't in town. So you know everyone can say what they can say. It just that I happened to have been there personally and I happen to drive by there a lot. There is usually one car or two cars and I know you say you put your car in the garage but... Neighbors have reported for about the last year that you are there not there. So you know, we're trying to figure

out... I don't think that Hud is lying. I don't believe he is lying...
Barbara Williams, "He did lie, well maybe there is a miscommunication but he did lie directly to Randy Benglan if you want to listen to the meeting cause they are recoded. Randy Benglan said, "Well, there is nothing to appeal at this point, correct?" and Hud said, "right." That is a lie I was fined \$250.00 and given 14 days to appeal it."

Leah Navarro, Councilmember, "Right but there hasn't been a decision There was a fine and as I understand it you came in to try pay the fine and Hud doesn't take the money. Which is the truth and he did notes that you tried to come in but as far as appealing something there has not been a decision made yet. So for him telling you that there is nothing to appeal on the last meeting was probably pretty true because there was not a decision that had been made."

Barbara Williams, "So then why wasn't I notified about that? That there was nothing for me to appeal

Leah Navarro, Councilmember, " but the meeting last month was for us to listen to what the findings were and for us to decide if it needed to go to hearing there is no appeal for that because we hadn't decided one way or the other.

Mayor Thomson, "Council any more questions for Barbara?"

Randy Benglan, Councilmember, " Barbara, you said you were selling your house. Are you wanting to continue to operate your business?"

Barbara Williams, "No, not at this point because we are selling the house."

Randy Benglan, Councilmember, "So you've stopped taking bookings? And you're done."

Barbara Williams, "I stopped taking bookings. I stopped taking bookings when Hud...like when Hud I'd have to look up the exact date but when Hud

Leah Navarro, Councilmember, "Have you take the listing off of AirBNB and Verbo and all the other ones that it was listed on?"

Barbara Williams, "It's blocked. It's not off it's blocked"

Leah Navarro, Councilmember, "It's blocked but have you taken it off?"

Barbara Williams, "No, I haven't. Because, you know, a lot of work put them on and off. So I didn't want to take them off until the house is sold. But I blocked the dates through February. I told Hud that too, that I wasn't taking anymore bookings until we got all of this resolved.

Leah Navarro, Councilmember, "Where is Denise in all of this?"

Barbara Williams, "She lives in Utah."

Leah Navarro, Councilmember, "I know but what does she have to say on all of this? Are you the one taking the full responsibility for."

Barbara Williams, "No, she's in full agreement with me and I talk with her about it. She works nights and sleeps in the day, so I'm doing

This. I'm doing this. This is my job. I manage the place. We are Co-owners but I do the managing."

Randy Benglan, Councilmember, "I don't have any more questions for Barbara or Hud but I do have a question for Gary. If we determine to take that 10 days to respond in writing. Do we need to schedule a meeting to deliberate. How do we deliberate a decision? It's an open meeting issue.

Gary Cooper, City Attorney, "You should do it right here."

Randy Benglan, Councilmember, "Ok."

Rickey Frandsen, Councilmember, "I have a question for Hud. So the Citation, you're saying, was for was for the sign violation."

Hudson Saffell, Code Compliance Officer, "It's one of the conditions listed."

Rickey Frandsen, Councilmember, "So on the code violation it falls under that for the sign. It wasn't for her not being present violation of the bed and breakfast. Correct?"

Hudson Saffell, Code Compliance Officer, "There is no fine established for that. And I told Barbara not to worry about the fine until we had this hearing."

Leah Navarro, Councilmember, "Were you going to say something Barbara?"

Barbara Williams, "Yes, about my sign. When I first got my business license I was told by Canda that the sign was optional. That's why I haven't had one. And then when Hud told me I needed one so I applied for a sign. I was waiting and waiting to hear that it had been approved.

Leah Navarro, Councilmember, "When was that?"

Barbara Williams, "I guess that was probably back in June. Oh, when I got my license I would say almost 3 years ago.

Leah Navarro, Councilmember, "Ok, here is something I do know about. I use to have a rental in Lava Hot Springs and it was about 5 years ago or maybe 6 years ago and we had to pull teeth in order to get our sign approved. So I so know that ordinance was in effect and I don't believe Canda said that. Because that was the thing holding up our license we had to go back 2 or 3 times and get our sign approved. Benefit of the doubt could have been said but I know for a fact that the Ordinance was in action."

Barbara Williams, "The Fire Marshall came twice. He wanted to make sure I had an exit sign on the door and a map for them to get out the second time he came. They had told me at that time that the sign was optional. Then when Hud told me I needed a sign I filled out an application but no one ever let me know. When he said 'you still don't have your sign up.' I was waiting to hear if it was approved. He said, 'It's your job to find out.' I didn't know that so then I asked if I could put up a handmade Sign. He said, yes because it takes a while to get a sign printed.

Randy Benglan, Councilmember, "I'm a pretty business friendly guy I'm

Not on a warpath to revoke business licenses. But something is you are not operating a business anymore you say out of business...”

Barbara Williams, “That’s correct we are selling the house.”

Randy Benglan, Councilmember, “so my thinking is. I’m not making a motion I’m just opening discussion. If you decide to start operating your business again. I don’t know if there is an in active business license. If you aren’t operating your business I don’t know if you want to keep your license then there is no point to this hearing.”

Barbara Williams, “That was my point in writing the letter, or of me being fined. Randy said that it had to be discussed at tonight’s meeting.”

Randy Benglan, Councilmember, “It’s my feeling that there is enough evidence here, 4 incidents, to show that the business owner hasn’t necessarily been occupying the property when guests are there. At the same time the business owner is out of business. She isn’t taking any more bookings. So my thinking would be that we revoke the business license and waive the fine of \$250.00.

MOTION TO REVOKE THE BUSINESS LICENSE OF
THE RED LOG HOUSE AND WAIVE THE \$250.00
FINE.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN ALL AYE

MOTION TO CLOSE RED LOG HOUSE HEARING.

MOTION BY RANDY BENGLAN.

SECOND BY LEAH NAVARRO ALL AYE

MOTION TO OPEN HEARING REGARDING
COMMERCIAL GARBAGE RATE INCREASE.

MOTION BY RICKEY FRANSEN.

SECOND BY RANDY BENGLAN. ALL AYE

Jon Thomson, Mayor, "Was there any written notices that came forward, Jill or Chandra?"

"No"

Jon Thomson, Mayor, "Is there anyone signed up to make a statement tonight?"

"No"

Jon Thomson, Mayor, "It has been discussed that since we as a city, no longer collect the fees for commercial trash services, even though they are still under our contract. Gary felt and I agree that we should hold a public hearing regardless of whether we needed to or not. So that is the purpose of tonight's hearing.

Rickey Frandsen, Councilmember, " How much was the increase going to be, again?"

Jon Thomson, Mayor, "They are proposing a 10% increase in commercial rates. Due to the costs of doing business. In the presentation they made to council they felt if they did this increase this year they could hold off on a residential increase.

MOTION TO CLOSE PUBLIC HEARING ON
COMMERCIAL GARBAGE RATE INCREASE.

MOTION BY RANDY BENGLAN.

SECOND BY LEAH NAVARRO. ALL AYE

Approval of minutes from August 11, 23 and 26, 2022

Leah Navarro, Councilmember, Clarification on August 11th minutes page 7 regarding the Taylor's. "When we approved the Taylor's monthly rental. I questioned them as to why they felt they needed a sign on their deck. If they were going to do a monthly rental. I didn't really get a response.

MOTION TO APPROVE MINUTES FROM AUGUST
11, 23 AND 26, 2022.

MOTION BY RANDY BENGLAN.

SECOND BY LEAH NAVARRO. ALL AYE

New council member

Jon Thomson, Mayor, I have been talking to a few folks around town about filling Craig(Knutson)'s position on the council, remaining 14 months or so

Mark Oyler has expressed an interest in serving on the council. I would like to present him to the council as a nominee. I feel I should note to the council that there is some question on Mark's eligibility to serve on the council due to his in transit residency. I'd like to go ahead and nominate him but not make the approval until we find out for certain that he has fulfilled all the residency requirements.

MOTION TO TABLE UNTIL NEXT MEETING.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN ALL AYE

Approve Bills

Jon Thomson, Mayor, I would like to question in front of council what exactly zoning ordinance review has to do with the comprehensive plan? Randy Benglan, Councilmember, "Didn't we discuss this at our last meeting?"

Jon Thomson, Mayor, "I believe we did. It is \$2200 that was charged for review of the zoning ordinance at that point I made the statement that I couldn't tie that to the comprehensive plan. Needs to be paid out of planning instead.

Randy Benglan, Councilmember, "So we need to get that cleared up again."

Jon Thomson, Mayor, "So that need to be put in his planning budget which will probably clean it out for the year."

MOTION TO APPROVE THE BILLS WITH MOVING
THE ZONING ORDINANCE BRUCE PARKER \$1800
SONING ORDINANCE REVIEW TO THE CITY
PLANNING FROM COMPREHENSIVE PLAN.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. ALL AYE

Payroll Services

Jon Thomson, Mayor, Jordan Company is increasing their monthly cost from \$150.00 to \$250.00.

MOTION TO LOOK AT THE BUDGET TO SEE
WHERE WE CAN COVER THE ADDITIONAL FUNDS.

MOTION BY RICKEY FRANSEN.

SECOND BY RANDY BENGLAN. **ALL AYE**

Law Enforcement Service Agreement

MOTION TO APPROVE THE AGREEMENT WITH
THE COUNTY FOR LAW ENFORCEMENT SERVICES.

MOTION BY RANDY BENGLAN.

SECOND RICKEY FRANSEN. **ALL AYE**

Fire House Building

MOTION TO DECLINE BOTH BIDS ON THE FIRE
HOUSE BUILDING.

MOTION BY RANDY BENGLAN.

SECOND BY LEAH NAVARRO **ALL AYE**

Parking and Traffic Circulation Study

Randy Benglan, Councilmember, "We have talked with a company that has put together a survey for us. So that they can craft a scope of work that meets our expectations. I've been in touch with Tyson Koester, executive director of the State Foundation, and their board did approve some money for a portion of the parking study. The way I represented it to them was that it would be good to share the costs 50-50. It is a state/city problem And working together maybe we can find a solution.

MOTION FOR RANDY TO CONTINUE WORKING WITH TYSON TO GET THE INFORMATION THE SPECIALISTS NEED TO CRAFT A SCOPE OF WORK. THAT WE CAN GET AND WORK ON.

MOTION BY RANDY BENGLAN

SECOND BY RICKEY FRANSEN ALL AYE

William Goldberg Will Serve Letter and Annexation/Development Agreement

MOTION TO REFER THE DRAFT AGREEMENT FOR ANNEXATION AGREEMENT TO PZ FOR REVIEW.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. ALL AYE

Approve Ballot Question

MOTION TO AND APPROVE QUESTION 2 WITH CORRECTION TO ITEM 4 IN PARAGRAPHS 1 AND 3 TO INCLUDE CAPITAL IMPROVEMENTS OF INFRASTRUCTURE. AND AMENDA QUESTION 1 TO EXEMPT SHANE'S SERVICES AND ACE HARDWARE FROM THE INCREASES AND REMOVE THE EXEMPTION FROM MIKES MARKET GROCERIES.

MOTION BY RANDY BENGLAN.

SECOND BY LEAH NAVARRO. ALL AYE

Building Resilient Infrastructure & Communities & Flood

MOTION THAT WE DO NOT TAKE ANY ACTION AT THIS TIME.

MOTION BY RICKEY FRANSEN.

SECOND BY RANDY BENGLAN. ALL AYE

City Treasurer

MOTION TO HAVE RANDY KEEP WORKING ON A CITY TREASURER AND NEW AUDITOR CLOSER TO HOME.

MOTION BY RICKEY FRANSEN.

SECOND BY LEAH NAVARRO. ALL AYE

Business License

MOTION TO APPROVE A BUSINESS LICENSE FOR JEREMY PIERSON HANDYMAN SERVICES.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. ALL AYE

Lava Chamber of Commerce

MOTION TO APPROVE EVENT PERMIT FOR OCTOBERFEST.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. ALL AYE

MOTION TO EVENT PERMIT FOR BLUE MOON CAR SHOW.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. **ALL AYE**

MOTION TO APPROVE ADDING OCTOBERFEST FLYERS TO THE UTILITY BILLS AS LONG AS THE FOUNDATION PROVIDES THE FLIERS.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. **ALL AYE**

MOTION TO TABLE SCARECROW CONTEST UNTIL WE GET MORE INFORMATION FROM THE CHAMBER.

MOTION BY RICKEY FRANSEN.

SECOND BY RANDY BENGLAN. **ALL AYE**

MOTION TO ADJOURN.

MOTION BY RANDY BENGLAN.

SECOND BY RICKEY FRANSEN. **ALL AYE**