

APPROVED
THE 1433RD REGULAR MEETING OF THE CITY COUNCIL WAS HELD ON
MONDAY, MARCH 16, 2015 @ 7:00PM IN THE COUNCIL CHAMBERS

CALL TO ORDER

The meeting was called to order at 7:00pm by Mayor Roll who welcomed the public and led the pledge of allegiance.

Mr. Olsen, Mr. Teske, Mrs. Williams, Mrs. Raines, Mrs. Desch and Mr. Bischoff were present. City Attorney Allan Payne, City Administrator Jim Hammons and City Clerk Glenna Hook were also present.

Tom Cole was present to offer prayer.

Mrs. Williams made a motion to approve the minutes from the Regular Meeting 3-2-15. Mrs. Desch seconded the motion. Mr Olsen stated he had requested the minutes of his judiciary committee be appended to the agenda. Mr Roll responded that lacking a quorum of committee members it could not be considered a meeting. Motion Passed. Mr. Olsen opposed the motion.

ANNOUNCEMENTS

COMMITTEE REPORTS

Parks/Cemetery; Mrs. Williams stated she would like to let the council know about a training session being put on by the County.

Fire; None

Resolutions/Ordinances; Mrs. Williams stated there were two ordinances on the agenda. Each council member was given a copy of the ordinance page pertaining to chapter 128 showing the change to municipal infractions in December 2012. This (Resolution 1868) is a housekeeping thing that should have been done within months of that change but has languished.

Personnel; None

Building; Mr. Teske stated they were still waiting for additional estimates for Fire Hall Roof.

Water/Sewer; Mr. Teske stated the City if Libby is officially under a boil order. Jim Hammons stated they were hoping that the boil order would be over by the end of the week.

Budget/Finance; None

Police; None

Lights/Streets/Sidewalks; None

City Administrator; None

Finance; City Clerk-Treasurer Glena Hook stated the auditors would be here on Wednesday, March 18 to finish the audit for fiscal year 2014.

HEAR THE PUBLIC FOR ITEMS ON THE AGENDA LIMITED TO THREE MINUTES

Mr. Orr residing at 1117 Nevada Avenue, Libby stated he wanted the public to know what went on at the Judicial Committee Meeting. Mr. Orr stated his concerns about the City Attorney and Mayor. Mr. Orr spoke about the Judicial Committee and his concerns about the members of the committee.

Rob Hubbard residing 15 Northwood, Libby wanted to make everyone aware of his concerns with the ordinance on amending Municipal Codes for removal of jail time for violations of certain provisions of the Code. Mr. Hubbard stated he thought the change in the ordinance would take away the rights of the people to defend themselves.

UNFINISHED BUSINESS

First Reading of Ordinance # 1867, discharge of firearms within city limits; Mrs. Williams made a motion to approve the 1st reading of Ordinance # 1867. Mrs. Desch seconded the motion. Motion Passed.

First Reading of Ordinance # 1868, amending Municipal Codes for removal of Jailtime. Mrs. Williams made a motion to approve the 1st reading of Ordinance #1868. Mrs Desch seconded the motion. Mr. Olsen thinks that more time is needed on this ordinance. Mrs. Williams pointed out that there have been two committee meetings on this issue this year. Mr. Payne stated that the ordinance on Municipal Infractions was originally passed two years ago and this is simply removing jail time for simple infractions. Mrs. Raines has a question on page 3 of the Ordinance about poisons. Mayor Roll stated changes could be considered until final passage. Motion passed. Mr Olsen opposed the motion.

NEW BUSINESS

City Attorney Allan Payne report; On the issue raised by Mr Olsen of a possible conflict of interest with Dejon Raines, Mr. Payne stated these are the kinds of issues that should be brought up during the selection process, not after. Mr. Payne stated her listing contract (for a city owned property) pre-dated Mrs. Raines taking office, so her performance under that contract is not implicated under MCA 7-5-41-09 sub 1, which speaks to a contract entered into while a person is in office. A second contract, the sell contract may come before the city council. Any profit from that contract goes to the city so that contract does not implicate her. The solution to conflict of interest is not to change the council person but to change the contract. Mr Payne's opinion is, in this case it is clear there is no conflict and Mrs Raines would not have to have to forgo commission. Mr Teske stated the Loveless Realty contract comes up again in May. Mr Payne stated that a contract extension is another contract and does create a potential conflict. It was determined a contract amendment could be added at any time if agreed by the seller (the City) and Loveless Realty. Mr Roll suggested a contract amendment stating Mrs Raines and her father's agreement to forgo taking a profit from the sale of the property be placed on the contract, eliminating the problem. Mrs Raines indicated that both she and her father would be willing to do so.

Mr. Payne stated they are catching up on a number of resolutions, working on the annexation of Creek View Estates block 3, and have a healthy criminal case load with 30 legacy cases left over from prior to Mr Payne becoming city attorney and 27 new matters opened.

Mr. Payne stated they were not doing anything with the Golf Course Subdivision at this point. He reviewed past history and stated that procedurally, there is no subdivision application in front of the city council to consider. The Golf Course needs to decide if they want to go forward with a new subdivision application. Until the city has a subdivision application and public input city council cannot make a decision whether or not there will be fees attached.

Concerning the Libby Baptist church claim against the city, Mr. Payne stated he has talked to Darwin (Scofield) and encouraged him to get an engineer to look at the area and get a report as to whether there was an error in the previous engineering that caused the flooding of the church. Pastor Scofield has indicated that the church is agreeable to seeking an engineer's opinion.

Allen Olsen asked a question about open meeting laws wanting clarification on the difference between a mass email and a breakfast meeting? Mr. Payne stated the breakfast meetings are noticed and open to the public. Discussion of substantive issues in mass emails can be seen as a public meeting and his advice is to avoid it as it can be construed as a meeting of the council that has not been noticed. Discussion continued on the subject on including the public in mass emails and discussions. It was determined that at this time the city does not have the electronic ability to do so.

COUNCIL ACTION/DISCUSSION

Approval of Business Licenses received to date; Mrs. Williams made a motion to approve Business Licenses received to date. Mrs. Desch seconded the motion. Motion Passed.

Approval of Water Distribution Project Draw; Mrs. Williams made a motion to approve the Water Distribution Project Draw. Mr. Bischoff seconded the motion. Motion Passed.

HEAR FROM THE PUBLIC LIMITED TO THREE MINUTES

Arlen Magill residing at 807 Wisconsin Avenue, Libby stated his concerns with the city attorney. Mr. Magill wanted some answers about mass emailing. Mr. Payne called a Point of Order and stated the speaker is supposed to address the chair. Mayor Roll asked Mr. Payne if he would like to address the question. Mr. Payne said he would be happy to. Mr. Payne stated if there is a mass email out there he has not seen it and if he sees something that the council could be getting into trouble on legally he is duty bound to say something about it.

Mr. Hubbard spoke about seeing a lot of good things in Libby. Mr. Hubbard stated his concerns about the City Attorney and his duties as City Attorney. Mr. Hubbard stated he is seeing a lot of contention about Mr. Payne and how he got to be City Attorney and what his pay is. Mr. Hubbard's opinion is that Mr. Payne seems to know what he is doing and is probably really good for Libby. Mr. Hubbard mentioned the ordinances and resolutions and that Mr. Payne asked the council for what they wanted in the ordinances and resolutions. Mr. Hubbard read an ordinance from 1986 of the duties of the City Attorney which stated the City Attorney

will write all Resolutions and Ordinances. Mr. Payne stated that in order to write the ordinances and resolutions for the city he needs the input from the council on the ideas they want in them. Mr. Hubbard spoke of other concerns and stated that he just wanted everyone to go by the book.

DC Orr residing at 1117 Nevada Avenue, Libby stated the council needs to find a way to communicate in a mass fashion. Mr. Orr stated lack of communication has caused problems. Mr. Orr stated the issue with Mrs. Raines has already been settled. Mr. Orr also stated more of his concerns with communication and the City Attorney.

City Attorney Allan Payne encouraged everyone to read the email attached to the end of his report (on the Dejon Raines possible conflict of interest) and listen to the last 5 minutes of the meeting of January 28, 2015 to find out that he quoted Mr. Olsen exactly as spoken.

ADJOURNMENT

The meeting was adjourned at 8:04pm.

Mayor

Attest; _____

City Clerk