

## APPROVED MINUTES

The City Council held Council Meeting #1626 on Monday, April 3, 2023, in the Council Chambers at City Hall.

### **Call to Order:**

The meeting was called to order at 7:00 pm by Mayor Peggy Williams.

The Pledge of Allegiance was completed, prayer was by Matthew Coblenz, roll call commenced. Present were Mayor Williams, Councilors Gary Beach, Melissa Berke, Zach McNew, Kristin Smith, Hugh Taylor, Brian Zimmerman, Administrator Sam Sikes, Clerk-Treasurer Leann Monigold, and (via Zoom) City Attorney Dean Chisholm.

Mayor Williams welcomed all present.

### **Approve Public Hearing meeting minutes dated March 20, 2023 and City Council meeting #1626 minutes dated March 20, 2023:**

Councilor Smith **MADE A MOTION** to approve and Councilor Zimmerman **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

### **Committee Reports:**

**Administrator:** Administrator Sikes reported after roughly two years, the USDA – RD has clarified the minimum reserves for each loan with the Water and Sewer Departments. All of the reserves are considered full except the short-lived asset replacement account and the city will no longer be paying twice into the one account. An example is next year the Water Department was scheduled to pay over \$188,000 into the reserve accounts, which is now just under \$83,000. This miscommunication was caused by the city and auditors treating each reserve account separate to each loan, the way the loan letter read it was correct. When the city had received more than one loan the USDA -RD saw both short-lived asset accounts as one fund to maintain the water system as a whole. As an outcome, \$422,000 has been transferred into the CIP to pay for the Cabinet View Water Main Replacement for the Water Department and \$138,000 was transferred into the CIP to pay for the necessary PER for the Sewer Department.

The Sewer Department has received the parts for the auxiliary bar screen and are being installed. The project is expected to be completed close to the end of the month.

In the Water Department, portions of the Water Rules have been identified as outdated. The Rules were adopted in 1986. The Streets Supervisor and Water Department have made several recommended changes to the document and would like to request the recommendation be taken into the Water/Sewer Committee for consideration.

Libby is still waiting to hear from Play Co. , the installation group, to schedule construction of the playground equipment in Fireman's Park. The Cemetery flagpole has been brought up again by concerned citizens who want lighting to be added. It was recommended that the flagpole topic be placed into the Cemetery/Parks Committee for consideration.

Councilor McNew accepted bringing the flagpole lighting to Cemetery/Parks Committee.

Councilor Zimmerman accepted bring the Water Rule changes to the Water/Sewer Committee.

**Streets Supervisor:** Streets Supervisor Justin Williams reported the number of shut-offs has decreased since the City started using the new payment methods and has eliminated a lot of the time, it takes two guys to shut the water off.

Both reservoirs are looking good, the water starting to come into the lower reservoir is turning a little discolored. Everything appears stable at this point and will continue to monitor the creeks and bed loads.

April Rainy, Jennifer Nelson, and volunteers in town have been doing a great job pruning our city trees.

The second week of street sweeping activity has been completed around the city.

Projects identified for the summer will be water line correction, painting, Education Way Project, street lights on Commerce Way, road patching, jetting, and playground equipment. Yellow and white paint has been received for street painting and the crews have been jetting lines, patching holes, inventorying, cleaning up garbage, snow equipment clean and put up for the season, and general maintenance activities.

Repairs on the Hall Bridge have been done the best they can and is in decent shape right now.

Joint effort with the Libby Volunteer Fire Department to purchase 60 hydrant lifts to allow them to be easily seen.

Six applications have been received for seasonal workers at Job Service and we will be hiring for those positions mid-month.

Mayor Williams inquired if blue paint was also purchased for handicapped spaces. Mr. Williams said we do have blue paint.

**Police:** Sergeant Buckner reported for March, 212 cases compared to 186 last year. More transient activity, theft cases are on the rise and thankful for the help from the County deputies.

All of the 2021-2022 IBR (Incident-Based Reporting) has been caught up and now eligible for state and federal funding.

Mr. Rovang has been detailing patrol vehicles to have them ready as we get new officers.

Stg Buckner said goodbye to Officer Brabo at the end of March and wishes him the best with his new job.

He joined the Troy Police Department with their weapons qualifying events and is now up to date on all certifications for weapons qualifications.

**Light/Streets/Sidewalks:** Councilor Beach announced a meeting will be held in the next few weeks and waiting for responses from people who would be adjacent to proposed handicapped parking downtown.

**Zoning/Planning:** Councilor Smith announced the Zoning Commission met last week and the next meeting is scheduled for April 24<sup>th</sup> to continue reviewing the residential districts.

**Finance:** Clerk-Treasurer reported the new budget season is about to begin and budget information is being updated to have it prepared for the Budget Committee meetings that will be starting soon. Last week, MMIA sent out the adjustment for the Employee Benefits Medical Rate. This year it did increase 9% but last year the rate had a significant drop of 16% for the medical benefits program cost so the City will still be able to offer the Mission plan and stay well within budget.

**City-County Board of Health (BOH):** Amy Fantozzi reported the Health Board has been educating the public on CPR, first aid, "Making Correct Choices" education with Libby and Troy schools taught to over 290 students, offered hygiene and nutrition presentations, and tobacco prevention. The County Health Department partnered with several organizations to help educate school staff and community members about mental illness identification and suicide prevention strategies in youth, 80 people have been trained, 16 people trained as facilitators, and a teen education version will be brought into the schools since most youths talk to their peers and friends. Training will start next week with the sophomore class. BOH approved influenza response plan and the next meeting will be May 9<sup>th</sup>.

**Wildlife Committee:** Councilor Taylor reported he had reached out to Tonya, our local biologist, they are still waiting on the last lab results from the CWD testing.

A Wildlife Committee meeting will be held at City Hall on April 6<sup>th</sup> at 6:30 to discuss the turkey problem.

**Public Comment on Non-Agenda Items:**

Mike Myers, 41 Midland Rd., had concerns about a Council member working for another Council member and saw it as a conflict of interest. Attorney Chisholm stated, this time is for comments, not questions, and there are statutory conflict of interest provisions and an

employment relationship is not contemplated by anything in the law. Mr. Myers inquired if the City hired a consulting firm to expand the city limits and had concerns of expenses if the city limits expanded. Mayor Williams explained, if referring to the Growth Plan as an annexation plan, it is not an annexation plan and there are no plans to annex.

Dan Torgison inquired why Mike Fraser was paid \$50,000 two years ago when \$18,000 was supposed to be set aside for the Switchback to help put in a sewer during the water main project.

Ben Scott, 252 Woodland Heights, president of the Ski Club, tailings from the primary dam (spoils pile) were left on city property by the ski course and requested it be discussed in the future to remove it.

Jim Myers, 4978 Kootenai River Rd., had concerns about a Council member working for another Council member and saw it as a conflict of interest.

DC Orr, 1117 Nevada Ave., said people are getting fed up from not having questions answered at a council meeting and wanted to know why questions have not been answered when getting a hold of the city administrator and concerns about transparency. Mr. Orr commented the Libby Creek Community Project is receiving grants and will be annexed. Concerns of a Council member working for another Council member and commented about the IP Settlement being taken off the agenda.

Kenny Rayome (via Zoom), 1314 Dakota Ave., wanted to remind people this is a small town and people have to wear lots of hats and trust the systems that are in place.

### **New Business:**

#### **Ordinance #2004, First Reading, Amending section 14.24.010 2021 International Fire Code.**

Steve Lauer, Fire Chief of Libby Fire Department, requested the adoption of the 2021 International Fire Code and explained the updated ordinance.

Mayor Williams read Ordinance #2004 aloud for the first reading.

Councilor Taylor **MADE A MOTION** to approve Ordinance #2004, First Reading and Councilor Berke **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

### **Approve construction of Chamber of Commerce storage shed:**

Liz Waylon, representing the Chamber of Commerce and on the Farmers Market Committee, explained a grant is being applied for to get a constructed storage shed and requested a letter of support from City Council for the grant that will also show approval to build on city property. Ms. Waylon explained the size of the shed and where it would be located on the property, being only used for storage.

Councilor Smith **MADE A MOTION** to write a letter of support for the grant, and Councilor Zimmerman **SECONDED**.

Mayor Williams stated, according to lease, the Council does have to approve any building or changes.

Jennifer Nelson, 1026 Washington, requested the Chamber work with the City on the placement so it does not interfere with maintenance at the park and is aesthetically pleasing.

Councilor Smith **AMENDED** her **MOTION** to include the shed be placed in the location Ms. Waylon has instructed on the parking lot side of the building.

Council discussed the motion and the placement of the shed.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

### **Approve separation agreement with Libby Police Chief Scott Kessel:**

City Attorney Dean Chisholm explained, the document is a termination agreement between the City and Chief Kessel. There have been discussions in the executive sessions about the money factors at play in this situation, including the potential for long-term litigation and the potential for up to 4 years wages with benefits as reward for a successful wrongful discharge case. Due to privacy laws, not all details could be discussed even with Council, and we are in the process of making all of the information available that the law allows regarding the internal investigation and investigation done by external employment and law enforcement. This employee will receive roughly \$15,000 in gross compensation, \$9,000 in net compensation and in return, the employee will waive any rights to take any action against the City for anything related to his employment. By Age Discrimination Employment Act (ADEA) requires that employees over the age of 40 be given 21 days to review the agreement and 7 day rescission period. In this case, the employee waived his 21-day review period and rescission period will run in a day.

Councilor Taylor inquired why there were no copies of the document available to read before agreeing to it.

Mayor Williams called for a 10-minute recess for copies to be made and handed out.

Meeting resumed at 7:55 pm.

Attorney Chisholm explained and read over the details of the document.

Kenny Rayome, 1314 Dakota Ave., inquired why an attorney was involved, why not handled by MMIA, the amount spent on the attorney fees, and why it was not notarized.

DC Orr, 1117 Nevada Ave., inquired why copies were not made available prior to the meeting and stated his opinion.

John Bebee, 704 E. 9<sup>th</sup>, thanked Hugh Taylor for asking for a copy.

Smith **MADE A MOTION** to approve separation agreement with the Libby Police Chief Scott Kessel and Councilor Zimmerman **SECONDED**.

Attorney Chisholm explained no notary clause is need for this type of document.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve all claims received to date:**

Councilor McNew **MADE A MOTION** to approve all claims received to date and Councilor Zimmerman **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve all business license applications received to date:**

BTH Retail LLC and Wesson Moving LLC.

Councilor Smith **MADE A MOTION** to approve all claims received to date and Councilor Zimmerman **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Unfinished Business:**

**General Comments from the Council:**

Mayor Williams stated this was the point in the meeting she had told Ben Scott she would mention the spoils pile.

Councilor Smith agreed to review the spoils pile if there was new information and should pursue looking for funding regarding the Haul Bridge.

Councilor McNew wanted to clarify about annexing, the funding received by the Libby Creek Community, grant money from the County and State was to redo the water supply that was outdated and would help the City by upgrading the line out that way and there is zero sewer hookups, only new septic tanks. Water and sewer must be provided to be annexed into the city.

Mayor Williams announced Farm To Market Store sent treats for the Council.

Councilor Taylor reminded the public of a Wildlife Committee meeting Thursday night and to come and give opinions or suggestions on the turkey problem.

**Adjournment:**

Councilor McNew **MADE A MOTION** to **Adjourn** and Councilor Berke **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

Mayor Williams adjourned the meeting at 8:09 PM.

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Mayor Peggy Williams

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Clerk-Treasurer Leann Monigold