

APPROVED MINUTES

The City Council held Council Meeting #1630 on Monday, June 5, 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, 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 City Council meeting #1629 minutes dated May 15, 2023:

Councilor Zimmerman **MADE A MOTION** to approve **City Council meeting #1630 minutes dated May 15, 2023** and Councilor Berke **SECONDED**.

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

MOTION PASSED.

Announcements:

Mayor Williams announced an invitation to LOR Foundation 1st Anniversary celebration in the Ponderosa Room Friday, Noon to 2pm. LOR welcomes everyone to come talk to them, find out what they are all about, and see if they can help your organization.

EPA will have a Libby Asbestos meeting June 6th at 6pm in the Ponderosa Room. The presentation is about OU3, spillway, wildfire response, and take questions from the community.

The City received a \$460,000 grant from the Montana Coal Endowment program for the water main extension into the Libby Creek Community. Last year it was submitted but was not approved, this year it was resubmitted and approved.

The way the calendar falls in July, the normal Council meeting would be on July 3rd. Knowing a lot of people will be out of town, the Mayor requested the Council meeting be moved to Wednesday the 5th. Council agreed.

Committee Reports:

Administrator: Administrator Sikes announced PlayCo has been erecting the playground equipment at Fireman's Park and is close to being finished. The remaining steps will be to let the concrete cure, bring in soil to raise the slide landings, border and chips being placed, a soil ramp being built for access to the Brava Universal Swing and replace one tire and bench.

Karen Stickney, with help from friends and family, finished the memorial swing set with a Mommy & Me and Tandem Expression swing. An adjustment will be made to lower the swing to a safer and more comfortable height.

The Auxiliary Bar screen for the Sewer Department is almost completed, just waiting on another computer controller.

The Water Department is running smoothly and waiting for the Preliminary Engineering Report to be completed. A lot of work will need to be done to update the water treatment plant and our entire water system, the cost will be in the millions over the next decade and the City will be preparing for that.

Mr. Sikes is hoping to have the Cabinet View Golf Club (CVGC) water main replacement back from the DEQ in the upcoming months. Once it is approved the project will be put out for bids. This project will be just to increase the size of the service lines so should run smoothly.

Lead Service Line inventory, is being required by the Federal Government, more information is now available, questions will be answered during the main part of the meeting.

There was a meeting with EPA and DEQ recently. It was discussed how difficult it is to find information on Superfund sites for ground contamination and asbestos. The City will be adding information links to the City website to make that information easier to locate.

Streets Supervisor: Streets Supervisor Justin Williams reported the street crew has spent a couple of days with the vac truck cleaning storm drains, patching potholes, jetting lines, trimming trees and bushes that are a line-of-sight issue.

Street lights on Commerce Way are nearly complete, after a long wait, and FEC will be pulling wire and erecting the light poles to complete the project.

Cemetery cleanup has gone well and the seasonal employees are doing a great job maintaining all of the properties. A couple of the roads have been graded within the cemetery.

Some roof panels have been replaced at the water shop after it was discovered there had been a water leak.

The City had some major vandalism issues so far this summer, a paper towel dispenser was smashed and has been removed and repaired. Memorial weekend someone set fire in both restrooms at Riverfront Park and another incident in the woman's restroom at Fireman's Park lighting a blue smoke bomb under the toilet seat. Street signs were stolen from Montana St. and E. Balsam, they have been recovered and re-installed. Signage at the small pavilion on 2nd Street next to the ballpark was torn down, those were put back up. The bridge on the walking path has been damaged, the repairs to the fence, it is believed will deter any further damages. Citizens are requested to please report if they see anyone

damaging, vandalizing, or stealing city property because it not only costs the taxpayers money but in some cases, closure of facilities.

Police: Chief Ercanbrack announced his first month is done and he has achieved the 30-day goals he set. Last year at this time the department responded to 138 calls, this year there have been 202 calls. The number of calls were lower in the month of May and are working to lower the number of calls to make the citizens feel safer.

Ordinance: Councilor Smith announced the committee had a meeting on May 18th to discuss adopting some recommendations to residential parking standards. Those are on the current agenda.

Zoning: Councilor Smith announced the commission had met on the 22nd of May wrapping up some recommended changes to Residential B and identified changes to Residential C district. Discussions began on Accessory Dwelling Units.

Wildlife Committee: Councilor Taylor announced a meeting will be held Wednesday to go over the Deer Management Plan to see how it can be used that to address the turkey problem.

Park District Manager of Projects: Tony Petrusha, 559 Florence Rd. reported they met on May 11th discussing trails on Balsam and Education Way, the Safe Streets for All grant through the Federal Government that is due July 10th that deadline will not be possible. The Montana DOT grant, part of the Balsam project, is due January of 2024, the group would like to put all efforts to make that deadline. Mr. Petrusha is requesting Council commit to that grant and coordinate with DOT to make that possible.

Mayor Williams clarified this is to complete the sidewalk that was started on Balsam to the Elementary School.

Mr. Petrusha stated no answer was needed at this time but as they proceed through the grant application and find out all the steps needed to move the plan forward, it will take everyone to working together.

Mr. Petrusha is working with County and Libby parks district to get properties transferred and to create a Park Board to be functional in all park business. He is working to get Port Authority recreational assets facilities transferred to the Libby Parks District board of directors.

Flower Creek and Snowshoe trail outline has been confirmed, the Forest Service and all the partners have agreed and will be held with the Forest Service Supervisors to analyze that to begin moving forward.

The Port Property has a Targeted Economic Development district (TED, as the value in the Port property increases the taxes for individuals owning that property will increase

allowing the (TED) taxes received to go to use facilities within that district but must be used for infrastructure and cannot be used for recreation. Councilor Smith clarified, the (TED) funds must be used within the (TED) district.

Public Comment on Non-Agenda Items:

Gloria Burns, 1621 Main, requested a stop sign on Cedar by the radio station and explained why it was needed. Councilor Beach confirmed the corner of the request.

Arthur Hall, 1112 2nd St. Ext., would like to donate a boat to the Fireman's Park play area for kids to explore and have fun on. He would remove any items that are unsafe and ask the City to bury it partially to make it stable and safe for the kids.

DC Orr, 1117 Nevada, stated he had asked for years for the meeting to be recorded and was given reasons why they couldn't. He would like to know why Zoom is being muted at inopportune times. Why the volume was off until part way through a Planning Board meeting. Why it is muted when someone is making comments and the audience claps. Mr. Orr said it was bad advice from Attorney Chisholm saying it was not covered in the Montana Code as a conflict of interest for one council member to be employed by another council member, he thinks it is a conflict of interest. Mr. Orr addressed a council member's home being the target of a firebomb and does not think it is right a council member is targeted. Mr. Orr stated he has had a hard time hearing Councilor Smith and requested she speak up or get closer to the microphone.

Tony Petrusha, 559 Florence Rd., wanted to give recognition to the crews for the Playground and Cemetery looking great.

James Neime (Zoom), 1516 Utah Ave., had concerns about large sections of the Port property being sold off without public comment or public knowledge and wondered if Council is aware of that. He is concerned about the future of the Port property, what it will look like and what the city is doing as far as that property.

Mayor Williams clarified the Port property is County and those questions should be directed to the County or the Port board.

Carla Girard, 137 Norman Ave., had concerns about the angled parking on Mineral and wanted to know if it has been addressed, because it is hard to see oncoming car until you are almost in the middle of the street and concerned about safety for pedestrians and other traffic.

Old Business:

Approve Ordinance #2006, Second Reading, Amending Title 17, Chapter 04 of the Libby Municipal Code, adding “Yard Sale” to definitions:

Councilor Zimmerman **MADE A MOTION** to Approve Ordinance #2006 and Councilor Smith **SECONDED**.

Mayor Williams read Ordinance #2006.

Councilor Smith recommended a change for Council to consider, the Committees intent was to allow folks to have 3 yard sales a year and the way it reads it is only 2. Councilor Smith recommended changing the numbers to read (less than four (4) times per calendar year) and (holding four (4) or more yard sales) and add “estate sale” to the last line.

DC Orr, 1117 Nevada, had concerns about adding “estate sale” to the Ordinance because of unseen circumstances it may take longer than allowed and should make provisions for an “estate sale” to go on for the season to avoid anyone having to throw things away.

Councilor Beach stated there was a case last year on the 1400 block of Utah, an individual had a permanent sale and labeled it as an “estate sale”, they were acquiring more items elsewhere and bringing them in. The sale was going every weekend the entire summer and it really impacted the neighbors. Mr. Orr asked that provisions be made for someone that is honestly in those circumstances.

Leanna Nelson, Dakota Ave., inquired who would be monitoring the yard sales or who was doing more than 3 a year and feels it would be better to pay the police to monitor something else instead of going around giving out fines for multiple yard sales. Ms. Nelson, referring to the Visibility Triangle Ordinance on the agenda, asked for more stop signs be installed along with the Visibility Triangle.

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

MOTION PASSED.

Approve Ordinance #2007, Second Reading, Amending Title 12, Chapter 40: and Title 17, Chapter 32 for the Libby Municipal Code to address trees and shrubbery and fences in the Visibility Triangle:

Mayor Williams read Ordinance #2007 and specified the changes.

Councilor Zimmerman **MADE A MOTION** to approve Ordinance #2007 and Councilor Smith **SECONDED**.

Councilor Taylor stated he agrees with public safety but in the downtown areas along California and Mineral Ave., nowhere has an 80ft Visibility Triangle with all the buildings within 6 feet of the street and the angled parking. He does not agree that the home residents will have to hold to this standard but not the downtown area.

Council discussed the Visibility Triangle within the residential areas and the differences in the downtown area.

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

MOTION PASSED.

New Business:

Chamber of Commerce update:

Miranda Cravens, general manager of the Libby Chamber of Commerce, announced in 2022 the Chamber of Commerce website received over 95,000 visits. The Chamber has hosted 6 ribbon cuttings and supported 5 local grant applications. 253 visitor packets and 248 relocation packets were mailed out last year. 10,000 copies of the Libby area visitor guide were printed and distributed over the course of 2 years. Currently, there are 275 Chamber members.

Last year the Business and Banter, an after hours networking event held once a quarter event, was reintroduced having been discontinued during Covid. The next Business and Banter will be held at one of the local business on August 17th. The event is free and open to the community.

A 2 year YouTube video project was launched last year in partnering with Big Sky Media to promote the Libby area, has produced 20 of a 34 video series so far. The channel has had over 200,000 views and 3000 hours of watch time.

The Duck Race will be reintroduced July 8th. 400 rubber ducks will be released and the first 3 winners will win a cash prize.

Public Hearing Annexation:

Mayor Williams called the Public Hearing to order at 7:51 pm and explained it was for comments concerning property owner requested annexation and zoning of property located on West 2nd Street Extension between East Horseshoe Land and the BNSF Railroad.

No Comments.

Mayor Williams closed Public Hearing at 7:53 pm and regular meeting resumed.

Approve Ordinance #2005, First Reading, Annexation:

Mayor Williams read Ordinance #2005.

Councilor Taylor **MADE A MOTION** to approve Ordinance #2005 and Councilor Smith **SECONDED**.

Councilor Smith does not support annexing the property with Business Residential zoning and does not believe the findings support that zoning, and should be Residential B or Multi-Dwelling as the proposed use. Asked Council to consider that as an alternative.

Councilor Beach had concerns about limited access on foot from that location down 2nd Street, because of no sidewalks it creates a very limited foot path leading into downtown Libby.

Councilor McNew had concerns about developers asking for annexation into Business Residential because there are no ordinances and it is very vague allowing developers to do what they want with the land. McNew explained the annexation is proposed as affordable housing and describes affordable housing as 30% of gross income. Average income in Lincoln County is \$37,000 making affordable housing \$900 a month. Since these apartments would be going for \$1250 a month, he would not consider that affordable housing and would like to see developers provide affordable housing to Lincoln County standards. Councilor McNew emphasized this community needs affordable housing.

Councilor Smith agreed there is a great need for affordable housing and recommended Residential B would allow for the kind of density that would allow developers to meet the proformas and yet still have some performance standards the city can be proud of and look back because once it is built, it is built. There will be a variety of families and individuals living there, and not all services are close by and having no sidewalks to make it easy to get to other places. The proposed parking is greatly needed but there is very little outdoor living space. "This is a creation of a neighborhood, and we have not seen a project of this size without any real detailed plans, without a lot of information, believing it is a big leap of faith" Smith said.

Councilor Taylor emphasized Libby needs housing whether it is called affordable housing or housing. There are concerns over more green space and parking space as terms of the annexation, but he has no issues approving the developer's request for Business/Residential zoning. There are cities with similar programs, space and profit is not a bad word. It is okay if the developer makes some money because homes are not built to be given away.

DC Orr, 1117 Nevada Ave., said Libby does needs affordable housing and agrees with Councilor Taylor, Libby needs housing. The occupants will be a higher income and will have cars so no need to walk anywhere and thinks Council is trying to steamroll the project.

Councilor McNew wanted to clarify he supports the development, as Residential B zoning not Business/Residential because the development is not a business it is residential. There should be some ordinances for developers wanting to use city services and that zoning would be Residential B.

Jennifer Nelson, 1026 Washington, agreed housing is needed and asked Council to consider looking to the future of what this development will do, besides the infrastructure of water and sewer, to consider the need for sidewalks, lighting, and a wider bridge. If zoned for business use it will open up for use the area for business instead of just residential.

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

MOTION FAILED.

Councilor Zimmerman suggested, if moving forward and zoning the development as Residential B, it would be good for the community and the developers.

Councilor Smith **MADE A MOTION** to annex the property from Ordinance #2005 and zone the property Residential B and Councilor Zimmerman **SECONDED**.

Levi Thompson said his understanding is the annexation request could either be approved or denied with Findings of Fact and does not agree with the zoning change suggested to the request.

Attorney Chisholm acknowledged the decision before the board is to accept or reject the annexation and assumes Council could communicate other conditions under which it would be accepted.

Mayor Williams stated the Council has rejected the Ordinance zoned as Business/Residential and with proposed Finding of Fact for Residential B, provided to Council, suggesting withdraw the motion of rezoning and wait until the next meeting.

Councilor Smith **WITHDREW** the motion.

Council recess 8:10 pm – 8:23 pm.

Appointment of Gail Burger to the City Planning Board:

Gail Burger, 302 California Ave introduced herself and briefly described her background in Libby.

Councilor Smith said she has enjoyed Gail’s attendance to the Council meetings and would appreciate her discussions having her on the Board.

Councilor Smith **MADE A MOTION** to appoint Gail Burger to the City Planning Board and Councilor McNew **SECONDED**.

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

MOTION PASSED.

Public Hearing for Conditional Use Permit for LAC Arms and Cerakote LLC:

Councilor Zimmerman recused himself.

Mayor Williams called the Public Hearing to order at 8:26 pm and explained it was for comments regarding a Conditional Use Permit for LAC Arms and Cerakote LLC, a home-based Federal Firearms License (FFL) and Cerakote business located at 717 Main St.

The Conditional Use request is to sell guns from a home-based (FFL) by orders and cerakote gun parts. Cerakote is a backed on paint for guns. The only noise would be the compressor inside the garage, no store front, parking would be the driveway, and would only be open 6 pm to 8 pm.

Public Comment:

Lynnette Filler, 803 Main Ave., wanted to make sure there would be no issues with parking overflowing into the street.

Jennifer Nelson, 1026 Washington, had concerns about this type of manufacturing business in a Business/Residential area. Concerns about ventilation and disposal that may come from the cerakote process and cause possible harm or endanger the environment and public health. Mentioning, Greg Stickney at 718 California, did not receive a letter and has concerns about this.

DC Orr, 1117 Nevada Ave., had concerns about the possible hazards this may cause and if the neighbors had been notified or if the City had received letters from the neighbors.

Levi Zimmerman stated he works a full-time job so this business would be on the side, for fun. A FFL is required to handle gun parts that will be in his possession for more than 24 hrs. The chemical is not being poured down the sink and does go bad after a while because

it is a hardener, it would dry hard and is not very toxic. When the business does get setup, a ventilation filter system would be in place.

Councilor Taylor inquired if a letter was sent to all the neighbors. Administrator Sikes confirmed letters were sent to all neighbors within 150ft. and letters were also sent to each council representative. Letters were mailed 15 days prior to the Public Hearing.

Ardell Filler inquired why Council denies businesses being ran out of homes but is going to allow this business if it is in a residential home.

Mayor Williams explained he lives in an area that is zoned business/residential and is allowed to have a business that is why he is asking for a Conditional Use.

DC Orr, 1117 Nevada Ave., inquired if Councilor Zimmerman had a financial interest in the property and if he has lobbied any of the Councilors about the business, they should not vote.

Councilman Brian Zimmerman, 1203 Nevada Ave., answering Mr. Orr's questions, his grandparent's house was sold to his son in 2016 and no, he has not lobbied.

Councilor Taylor **MADE A MOTION** to close the Public Hearing, Councilor Beach **SECONDED**.

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

MOTION PASSED.

Mayor Williams closed the Public Hearing at 8:37 and regular meeting resumed.

Approve Conditional Use permit and business license for LAC Arms and Cerakote LLC:

Councilor Smith asked Mr. Zimmerman about ventilation and his suspected growth of the business. Mr. Zimmerman explained the type of ventilation that would be installed and the business was just a side hustle and does not predict a large growth because it is not in high demand.

Councilor Smith **MADE A MOTION** to approve the Conditional Use permit to Mr. Zimmerman subject to a few conditions; he has a ventilation system in place and a plan for disposal in place and Councilor McNew **SECONDED**.

Councilor Taylor suggested part of the motion should include the Fire Marshal inspection of the ventilation system.

Council discussed the Fire Marshal inspection related to the business license. Decision was made to address the business license at a later date to allow time to discuss with the Fire Marshal.

Councilors Beach, Berke, McNew, Smith, and Taylor voted **FOR** the Conditional Use permit.

MOTION PASSED.

Jennifer Nelson inquired how this could move forward if not all the neighbors received a letter. Administrator Sikes reviewed the mailing list and confirmed a letter was mailed to the owners of the house in question.

Approve Ordinance #2008, First Reading, Parking:

Mayor Williams read ordinance #2008.

Councilor Smith **MADE A MOTION** to approve Ordinance #2008 and Councilor McNew **SECONDED**.

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

MOTION PASSED.

Lead Service Line inventory update:

Administrator Sikes explained the DEQ is required to address all water service lines be inspected for lead and letters will be going out to city water users explaining the process and what will be required from the property owners. Expecting to receive a 65-75% response, the city crews will go door to door to those that do not respond because it will require 100% to find out what service lines are made of lead.

Council discussed how it would affect those that did not comply.

Mayor Williams explained this is something the City is mandated to do and has until October 24, 2024 to identify all of the lines.

Councilor Beach inquired how lines would be identified between the house and the curb stop if no one knows what type of line is there. Mr. Sikes explained the letter states lines may have to be dug up for identification.

Leanna Nelson inquired who would be paying for lines that needed to be replaced.

Mayor Williams explained it is an unfunded mandate at this time. The first step will be to identify it, then will be moving to step two.

Councilor Beach found a statement in the letter that said “your water provider MAY replace lead service lines in the future.”

Approve all claims received to date:

Councilor Zimmerman **MADE a MOTION** to approve all claims received to date and Councilor Berke **SECONDED**.

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

MOTION PASSED.

Approve all business license applications received to date:

Design Fabricators and Intergrators and Orsborn Fire Reduction and Landscape.

Councilor Beach **MADE A MOTION** to approve all business licenses received to date and Councilor Smith **SECONDED**.

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

MOTION PASSED.

General Comments from the Council:

Mayor Williams announced the sub-committee had met with the EPA and DEQ to discuss controlled area ground water. Councilor Taylor stated the meeting was held with EPA, DEQ, and their lawyers trying to point out the short comings in IP's efforts in the controlled ground water issue. All parties explaining their side and another meeting will be held in the future. There was no agreement and no common ground.

Danielle Herbert inquired about Council's knowledge of drag performers happening at the Pride Festival before giving a permit. Mayor Williams stated this has been questioned and seeking legal opinion about the use of Riverfront Park.

Councilor Berke announced her Girl Scout troop will be sanding and repainting the picnic table in Fireman's Park to make it look nice and match with the new playground.

Mayor Williams asked Clerk-Treasurer Monigold to explain how the Owl worked in reference to the questioning of being muted during an applause. Ms. Monigold explained the technology of the Owl used for meetings. It focuses on individuals or small groups at a time and if too much noise is being made throughout the room it cannot focus on everyone and will mute itself. If there is too much movement throughout the room, and it cannot focus on one location, video will be jumpy.

Adjournment:

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

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

MOTION PASSED.

Mayor Williams adjourned the meeting at 8:58 PM.

Mayor Peggy Williams

Clerk-Treasurer Leann Monigold

