

## UNAPPROVED MINUTES

The Libby City Council held regular meeting #1665 on Monday, November 18, 2024, in Council Chamber at Libby City Hall.

### **Call to Order:**

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

Present were Mayor Williams, Councilors Melissa Berk, Gail Burger, Ian Smith, Kristin Smith, Hugh Taylor, Brian Zimmerman, Clerk/Treasurer Leann Monigold, and (via Zoom) and City Attorney Dean Chisholm. Administrator Sam Sikes was not in attendance.

**Announcements:** None

### **Approve minutes for Special City Council meeting held on September 16, 2024, and Regular Council meeting #1663 held October 21, 2024:**

Mayor Williams stated that the minutes from the special meeting on September 16 were held over as they did not get approved at the last meeting and asked if everyone had a chance to read them over and listened to the recording. The council indicated that they had.

Councilor Zimmerman **MADE A MOTION** to approve minutes for the special council meeting on September 16 and regular City Council meeting #1663 held on October 21, 2024, Councilor K. Smith **SECONDED**.

Councilor Taylor said he had relistened to the audio repeating Mr. Orr's comments, felt that Mr. Orr's comments were reflected in the minutes. Councilors I. Smith and Burger agreed. No corrections were made.

DC Orr. explained the reason he had brought up conflict of interest was one of the Council members had brought up conflict of interest.

Councilors Berke, Burger, I. Smith, K. Smith, and Zimmerman voted **FOR**.

**MOTION PASSED.**

### **Committee Reports:**

**Administrator:** In the absence of Administrator Sikes, Mayor Williams placed a community members request to be allowed to construct elements of a skate park in the park next to Legion Field into the Parks Committee.

**Police:** Chief Ercanbrack reported that the city was awarded the Tourism Grant for the purchase of a new police car. The contract should be signed in the next two weeks. Due to business owners' complaints Chief Ercanbrack spent the afternoon patrolling Mineral Avenue making 15 traffic stops, 13 of those were stop sign related, two were speed related. He reported that the average speed was 20 miles per hour, Officers will be made aware of this information, so they act accordingly in the future.

**Ordinance: On the agenda**

**Streets: On the agenda**

**Building:** Councilor Taylor stated the committee reviewed the lease for Pure North. It has been sent to legal for review and should be back soon, so the council can be briefed next meeting.

**Zoning Commission: On the agenda**

**City County Board of Health:** Councilor K. Smith reported the Board met on November 12, time was spent on two topics, one a variance request and modification of system from the Eureka area concerning well/septic issues. Reports were given for programs under health department. The Board reaffirmed the pandemic/influenza response plan and are near to confirming a communicable disease plan. The board increased animal shelter fees and discussed a group event policy designed to address impacts and short-term camping problems created by events held in the county.

Jason Rappe, EPA representative from Helena, gave an update on superfund site. No council or Port Authority update is planned. Most of the updates were historical data and talking about the new Biosparging treatment method being implemented. Near the end of the presentation Mr. Rappe dropped a request that the Board of Health might be looking at the Controlled Ground Water area in future.

Some public members were present with pointed questions, DEQ was on the line as was a regional EPA representative. There will be more to come.

Councilor Smith expressed the hope that the council does get a direct update from EPA.

**Park District Manager of Projects:** Mr. Petrusha reported that he is working with the Libby Park District, Port Authority and Lincoln County to manage recreational facilities in the Libby area with a Memorandum of Understanding to be signed soon. Projects in the works include the swimming pond area, installation of trail bridges at Deep Creek and Lee Creek and building the lower seven miles of that trail. Pioneer Park bike track has been approved, design and construction planning in ongoing. Mr. Petrush reviewed the status of Natural Resouce Damage grant funding: the Balsam Street sidewalk was rejected, two years of funding for recreation

manager was approved and hiring is moving forward, the Norgard parking lot was approved, the Flower Creek rubble pile was funded and is being managed by the city.

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

Carol Sugar, owner of Jade Salon, Fourth and Mineral, requested a four-way stop at 4th and Mineral for the safety of her elderly clients, explaining what she sees every day is concerning.

DC Orr, 1117 Nevada Ave., stated there were no minutes from the September 16 EPA meeting in the Mayor's office. The meeting was not noticed. Mr. Orr stated he has filed a complaint with the Officer of Inspector general alleging criminal acts on the part of the Mayor in an illegal meeting. Mr. Orr feels the public deserves to know what went on in that meeting with Director KC Becker. Mr. Orr talked about the old mayor and EPA paying for buildings on the former mayor's land and will request information from Regional 8 Director Becker.

Chelsea Mugford asked why four-way stop signs were not put on the agenda.

Xannie Riddle, 251 Montana, spoke on the need for a four-way stop. Since she purchased her salon on the corner of 4th and Mineral in 2016, she has witnessed how hard it is to back out of parking spots. A stop sign would slow traffic so it would be safer to pull out. Councilor Zimmerman was provided with a petition with over 200 signatures supporting a stop sign.

Terry Noble, 350 Cabinet Heights Road, wanted to know when this would make it onto the agenda.

**Old Business: None**

**New Business:**

**Heritage Museum update on Montana State Tourism Grant:**

Sherry Turner had requested to be on the agenda but had a schedule conflict so will be on the agenda of December 2nd.

**Approve Zoning Districts: Residential A, A2, B and Residential Business, 1st reading:**

Mayor Williams announced that even though the agenda stated first reading the item would continue to be discussion only.

The council was provided with an updated copy of the zoning districts reflecting the changes the council requested at the previous meeting.

Regarding Residential A District, Councilor Ian Smith stated he does not agree with the restriction on fires to rear yards only. Council discussion centered around fire codes with a decision to listen to the last meetings tape for clarification of any discussion and decisions.

Regarding Residential A2 and in Residential B districts, the backyard fire restrictions were identified as needing reviewed.

Regarding Residential B, Councilor I. Smith would like to see a definition of what landscaping is or could be or would look like, his preference is to see the land scaping clause removed.

Residential Business has the most changes. Councilor Smith pointed out the only change was under USES.

Councilor Burger asked for a clarification of electronic signs.

Public Comment:

Vince Backen, Thomas Street, was looking for clarification of the use of words should or could in relation to landscaping. As a person who owns property in city feels landscaping should be an expression of yourself, culture of your life, and personal expression. He agreed with Councilor I. Smith regarding removing the clause.

Karen Dinkins, 1210 Dakota Avenue, asks that we confirm that the zoning districts map on the website is most current in its districts. Councilor K Smith responded in the affirmative, then corrected that the most recent annexations are not reflected.

DC Orr, 1117 Nevada, asked if the maps will be up to date before a decision or if the public will be left to wonder where this is going to affect. He stated that at the last meeting the committee chair acknowledged that there are no minutes for these meetings. In Mr. Orrs opinion there has never been a legal meeting of the zoning board meaning that everything brought by zoning board is illegal and this is not how things by government is supposed to run. Mr. Orr referred to official misconduct citing Title 45 and stated that everything is being illegally done and that there will be accountability for crimes committed. He referenced removal from council and official misconduct as reason for a recall.

**Approve LOR offer to grant fund crosswalk flags for Mineral Avenue:**

From the streets committee's conversations regarding Mineral Avenue, two items were brought forward for the agenda. Those were the reduction of the speed limit from 25 to 20 and the offer from LOR Foundation for funding crosswalk flags.

Councilor Zimmerman, committee chair, talked about the purpose of the flags. High Vis flags would be at each intersection so pedestrians could feel safer crossing the street. Lor Foundation is willing to write the grant and take care of the paperwork.

Public Comment:

Tonilynn Backen feels the flags are a great idea and thanked the council for taking the project on.

Carol Sugar feels the flags are a fantastic idea and makes people more visible in the crosswalks.

Councilor K. Smith wanted clarification of where the flags would be placed, are they intended for every downtown intersection or just 4th, possibly 5th.

Vandalism was also discussed, and it was possible the flags would go missing.

It was decided that the council needs clarification from LOR about exactly what they wanted to fund.

An on-line taken later in the meeting, Tabitha Viergutz 4680 Kootenai River Road, listened to conversations related to the flags and stop signs. LOR Foundation would still be in favor to funding those costs as long as they fall under the \$30,000 level that LOR can fund.

**Approve reducing Mineral Avenue speed limit from 25 mph to 20 mph from 8th Street to 1st Street:**

Councilor Zimmerman reported the committee talked about the reduction of speed; LOR was willing to fund a radar sign showing speed. Because some people see those as a challenge it was felt they might not be the best idea. For now, if speed could be reduced, the corner is big enough on 8th street to place a breakaway speed sign.

Chief Ercanbrack said that the radar signs record all data, times and speed, and can be custom set so information could be used to focus patrols. He is looking at a grant that would fund some portable signs that could be moved around town. According to his research, the Chief said that a speed study might be required to reduce speed, he is unsure if it falls under the city streets. Statistics show that a reduction of speed from 35 to 20 lowered crashes and incidents by 40%, a drastic change.

Councilor Taylor would like to see a stop sign at 6th Street where the Fire Department crosses, slowing people down in that intersection.

Public Comments:

Chelsea Mugford, said that what they see everyday verses Chief Ercanbrack's one day, does not believe that 20 miles per hour is the norm. She feels that reduced speed would be nice as well as the four-way stops.

Carol Sugar likes the idea of having two stop signs, it would make more of a walking town.

Karen Dinkins likes the idea of a second sign on sixth as well, having a sign for the fire department.

Xannie Riddle wanted to say that Justin Williams stated that it would be very easy to place the stop signs at Fourth, she loves the idea of a second one at Sixth and volunteered to pay the \$86.00 cost.

D C Orr ,1117 Nevada Avenue, noted that the city website is not user friendly and could not call up committee reports he wanted. Mr. Orr appreciates chair Zimmerman for keeping good minutes and doing things legally and properly.

**Approve Ex-officio member of Government Study Commission:**

An MCA stating the requirements of the ex-officio member of the commission was distributed to council and public. Mayor Williams noted that Administrator Sikes would be willing to serve in that position but asked for other volunteers. Councilor Taylor volunteered.

Public Comment:

Vince Backen, 427 Thomas Street, thinks it would be a good thing for an elected council member to be on the commission rather than a member of the administration who will be part of the administration to be interviewed.

DC Orr ,1117 Nevada Ave., invited all council members to attend the meetings, the commission is going to rely on great community engagement and invited everyone in the room to come to the meeting.

Councilor Burger **MADE A MOTION** to appoint Councilor Taylor as the ex-officio member, Councilor I. Smith **SECONDED**.

Councilors Berke, Burger, I. Smith, K. Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED**

**Ordinance recommended by Libby Police Department (discussion):**

The Ordinance committee reviewed the ordinances and recommended five, the loud vehicle came forward with no recommendation.

This discussion is to identify changes that might be recommended.

AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 10-VEHICLES AND TRAFFIC ENTITLED "DISTRACTED DRIVING" AND ADDING DEFINITIONS TO 10.04.020

Council I. Smith would like to see it as an enhancement as a traffic citation or citation during a motor vehicle accident. He feels everyone should not be penalized all at once for the mistakes of one person who gets into a motor vehicle accident because they are using their cell phone. Councilor I. Smith's recommendation is not to pass this ordinance.

Councilor Taylor agrees with Council Smith on some of it, but it seems to be aimed at cell phones, he sees plenty of other distracted driving, seems to be attacking one thing and calling that distracted driving.

Councilor K. Smith cited Provision D as the catch-all for those things, she raised the same question in the committee. That is an attempt to address that.

Chief Ercanbrack commented that Libby doesn't have an obscene amount of accidents directly related to cell phone use, pointed out it is officer discretions, if someone is causing a hazard then it becomes an issue.

Councilor I. Smith disagreed, citing there are state codes out there to deal with those things.

Chief Ercanbrack responded that yes there are other codes, this is another tool to help educate the public.

Councilor Berke asked about the police report and the statistics for distracted driving and how much of that was cell phones.

Chief Ercanbrack responded that they can't prove it, things like that is what we are trying to address, wants to help prevent crashes and keep people safe.

#### Public Comments:

Tonilynn Backen wants to understand is this, is this going to be the first offense or is this a second offense. Will they get pulled over if the phone is seen in your hand? Or will you get pulled over because they are doing something else. She would like that clarity.

Xannie Riddle remarked that we don't need extra laws if there are already in place don't need redound laws, hate to see laws upon top of laws.

D C Orr, 1117 Nevada Avenue, the chief was very clear that the lesser fine amounts were what he was shooting for, this is not a revenue issue. Mr. Orr has some reservations, the chief being approachable, the chief has alleviated a lot of his fears. Harped on no minutes passed illegally, unethically, dishonestly. Irony in enforcing laws passed illegally.

#### **AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 9-PUBLIC PEACE MORALS AND SAFETY – ENTITLED “URINATING AND DEFECATING IN PUBLIC PLACES”**

Councilor K. Smith stated this was self-explanatory, as stated in the memo several people attended the committee meeting and one of the changes the committee made was directly related to comments received. Number two, if the act of urinating on is on private property not open to public view.

No Public Comments.

AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 9-PUBLIC PEACE MORALS AND SAFETY-ENTITLED "AGGRESSIVE SOLICITATION" AND ADDING DEFINITIONS TO SAME

Councilor K. Smith noted that some of the ordinances are proposed with new definitions; each chapter will have additional definitions added to them.

Chief Ercanbrack, for clarification, Montana already has solicitation on side on highway as illegal for safety reasons, this is for more aggressive, in your face solicitation, soliciting in general is protected by the Supreme Court under free speech.

No Public Comments

AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 9-PUBLIC PEACE MORALS AND SAFETY-ENTITLED "CAMPING, SLEEPING MOTOR VEHICLES AND STORAGE OF PERSONAL PROPERTY AND ADDING DEFINITIONS TO SAME

No Public Comments

1.28.020 PARKING VIOLATIONS DECLASSIFIED AS MISDEMEANORS

This Chapter is currently in our code, the request is filling out middle column with first offense, second offense, third offense, there is currently not a graduated fine.

Councilor I. Smith would like to see fines for handicapped parking doubled.

Chief Ercanbrack, the purpose for clarification of fines wasn't specified at all, was discretionary which is not appropriate at all. Handicapped is set by state law at \$100.00, not sure if we are allowed to change it.

Public Comment:

Chelsea Mugford spoke about problems with parking violations, specifically parking in the yellow lines, is no parking allowed, is drop-off allowed? Chief Ercanbrack responded that it is no parking is allowed.

Terri Noble there are signs for two hours parking on Mineral Avenue, California Avenue, all the side streets, see all the cars parked for more than two hours without getting tickets. Either it's a law or its not a law, she wants to know.



## PROHIBITED OPERATION OF LOUD SOUND AMPLIFICATION SYSTEMS IN MOTOR VEHICLES

Councilor K. Smith stated the committee discussed this and had too many reservations about what was proposed and questions but did not feel compelled to make any suggested changes, so it comes to the council with no recommendation.

Councilor I. Smith stated this fell under disorderly conduct, gave the example of a gentleman listening to podcast with profanity, people complained, were willing to sign complaint, the person was cited for disorderly conduct. Councilor I. Smith feels this is too open to interpretation, needs to be decibels, 50 feet or more and clearly hears does not like it

Councilor Berke stated her recommendation is no.

Chief Ercanbrack stated this came up into their thought process through complaints received of vehicles driving by with loud levels shaking houses. He understands everyone is different, the point of this code is to be more specific, received many complaints throughout the community, just trying to address them.

### Public Comment:

Karen Dinkins, 1210 Dakota Ave, attended the meeting where this was discussed. A lot of people were against it, if someone wants to make a complaint, then they can do something, if someone just wants to call and say they don't like it but don't want to make a complaint, she does not like all the construction noise next to her.

DC Orr, 1117 Nevada Ave., wants to know if there are minutes of this meeting, which are required by law, MCA 23-2-12 If there are no minutes there was no meeting. To quote Terri Noble, If it's the law, it's the law, if it's not it's not.

There are questions about distracted driving and sound amplification.

### **Approve all claims received to date:**

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

Councilors Berke, Burger, I. Smith, K. Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

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

Libby Quik Stop

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

Councilors Berke, Burger, I. Smith, K. Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Swear in Local Government Study Commission:** D.C. Orr, Karen Dinkins and Vince Backen.

Mayor Williams administered the oath of office. Clerk/Treasurer Monigold will file the oaths with the County Clerk and Record on Tuesday. There will be an organizational meeting on Tuesday at 6. The first item of business is to elect a temporary presiding officer, and it becomes their commission from that point.

**Unfinished Business:**

**Discussion to amend Libby development Fund Policy and application process:**

No Discussion

**General Comments from Council:**

Councilor Zimmerman brought up an item from the Streets committee discussion regarding a four-way stop at 4th Street. A 227 signatures petition supports the signs. Justin Williams and Councilor Zimmerman met on location to determine placement. It was determined that a power pole on each corner would support a 36 inch stop sign. Also, there was some talk about whether to do anything elsewhere. Councilor Taylor brought up the placement of stop signs at 6th Street. If the council wants to move forward with it there was discussion but no recommendation. Councilor Burger, streets committee member, brought up five or six things that were discussed and supposed to come to council for discussion: repainting, rumble strips, bump outs, more patrols. Only two things made it on the agenda. Councilor Zimmerman stated that after the meeting, talking with the Mayor and Councilor K Smith, some things are already in progress and being talked about. Councilor Burger stated that she was sure that the decision was to bring these things to council. Councilor K Smith pointed out that yes, the committee was going to take it to the council to pursue these things, not that they were necessarily going to start tomorrow. It was to talk about them and to have a bigger conversation about things like safety on Mineral Avenue. Councilor Smith likes the idea of stop signs at those two locations, but more can be done design wise. Councilor Burger pointed out that with the Streets committee having three members and two members having these discussions, one member is left wondering what happen. Councilor Zimmerman said that what happened is his going to the mayor about the agenda since it was already Thursday afternoon. Mrs. Smith just happened to be there. Councilor

I. Smith noted that the council has a clear thing to do to make people happy and increase safety, and that is the stop signs, it seems a good path forward.

Councilor K. Smith suggested it be put on the next agenda.

Councilor Burger feels it is inappropriate for a sitting city council member to speak with the community on their own behalf, and says, I've done some research, I've checked this out, we're going to get this done, she would like it to stop. Councilor K Smith pointed out that the council is elected by the people of this community and there is every right to speak to whoever person is comfortable with. Council Burger says she understands that, but it's the "hey it's ready, you go ahead and do that" and council hasn't heard it yet. Council K. Smith said that is a separate thing but should be up to an individual member to bring it to council if it has legs, but an individual council member can say this is something you can pursue, or talk to these people, one individual council member does not make decisions. Councilor Burger said there is a sitting council member, things not approved by council, yet there they are, all of a sudden, yeah, you go ahead and do that, and it's done, and council has not voted on it. There are issues, with a sitting council member has, before council heard about it, when the member goes, Don't worry about it, I'm going to make that happen. Councilor Burger is not sure how this gets handled but feels it needs addressed.

**ADJOURNMENT:**

Councilor Zimmerman **MADE A MOTION** to adjourn, Councilor Berke **SECONDED**.

Councilors Berke, Burger, I. Smith, K. Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

Mayor Williams adjourned the meeting at 8:37pm.

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Mayor Peggy Williams

Attest: \_\_\_\_\_

Clerk/Treasurer Leann Monigold