

## APPROVED MINUTES

The City Council held meeting #1561 on Tuesday, January 19, 2021, in the Council Chambers at City Hall.

### Call to Order:

The meeting was called to order at 7:17 pm by Mayor Brent Teske. The meeting was started late due to an interruption in internet connectivity.

The Pledge of Allegiance was completed, and Roll Call commenced. Present were Mayor Teske, Mrs. Williams (via Zoom), Mr. Dufficy, Ms. Smith, Mr. Taylor, Mr. Zimmerman (via Zoom), City Administrator Mr. Hammons, and City Clerk/Treasurer Mr. Sikes.

Mayor Teske welcomed all, a prayer was offered by Mr. Joseph Miller.

Councilor Beach was able to join the meeting via Zoom at 7:19 pm due to the internet interruptions.

Approve City Council Meeting minutes for #1560 dated 4 January 2021. Councilor Smith **MADE A MOTION** to approve and Councilor Dufficy **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, and Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

### Announcements:

No announcements were offered.

### Committee Reports:

**City Administrator's Report:** Mr. Hammons informed the Council that everything was quiet now with the City Crews removing fallen trees off the roads and City property following the major windstorm adding that the Wastewater and Water Plants were running smoothly. Councilor Smith commented that the City may have a budget surplus in the snowplow budget with the lack of snowfall so far this year.

**Fire:** Councilor Zimmerman spoke of the submitted Annual Fire Report as to the calls responded to and the value of services donated to the City. Mayor Teske informed the Council that he had spoken with Mr. Steve Lauer concerning the necessary maintenance on the concrete apron at the Fire Station to which Mr. Hammons said he was already working on the issue.

**Police:** None.

**Resolution/Ordinances:** Mrs. Williams pointed out that the Ordinance on Golf Carts was back on the Agenda for this night and that more would be coming soon.

**Lights/Streets/Sidewalks:** None.

**Building:** None.

**Water/Sewer:** None.

**Zoning Commission:** Councilor Smith reported that the Committee will be meeting on Monday, January 25<sup>th</sup>, at 6pm.

**Cemetery/Parks:** None.

**Finance:** Mr. Sikes informed the Council that the W2s were complete.

**KRDC:** None.

**City-County Board of Health:** Mayor Teske read a resignation letter from Mrs. Laura Larson-Crismore and directed Mr. Hammons to post the opening in the Board.

**Park District Manager:** None.

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

No public comments were offered.

**New Business:**

**Approve Support Letter and Consideration to match Grant Funds for trail improvements.**

Mayor Teske spoke to the support letters requested and asked that Ms. Tina Oliphant approach the podium to discuss the request. Ms. Tina Oliphant, Lincoln County Port Authority, 64 Lincoln Blvd., discussed the effort to rehabilitate a large portion of the J. Neils and Haul Road trail system. The rehab requested in the briefing included the sealing of the Haul Bridge, sealing and/or laying a 2" asphalt top to the trails on both sides of Libby Creek, adding benches and picnic tables, adding strategic fencing, and adding a vault toilet in the area with other improvements planned if monies are available.

Ms. Oliphant stated that she had worked with Mr. Mark McCully from the County on planning the 4 mile rehab adding that the information for the requested 2 Grants was due on the 1<sup>st</sup> of February. Ms. Oliphant stated that four items were needed from the City with the first being a Letter of Support for each Grant and the second being a copy of the Haul Bridge Title with a Letter consenting to allowing the sealing of the bridge.

Councilor Dufficy commented on whether the bridge needed sealed or not as the surface looked good and Mayor Teske stated that the sealing was more of a preventative measure.

Councilor Smith questioned as to why Ms. Oliphant was wanting to pave the trail on the East side of Libby Creek adding that there could be an ecological concern due to the proximity to the water. Ms. Oliphant answered that she did not believe that it would be a problem.

Councilor Smith continued discussing the currently graveled East side of Libby Creek stating that as gravel is a permeable surface it would be better suited to the trail. Ms. Oliphant stated that asphalt is "what the people want." Ms. Smith went on to explain that eight years ago that portion of the trail

system was graveled adding that it was still in good shape and that there are many different types of gravel that can be made as smooth as asphalt.

Ms. Oliphant stated that asphalt is what the County came up with to which Councilor Smith stated that may not be the best idea. Mayor Teske stated that graveled portion is not the Haul Road and may be more prone to washing out. Ms. Oliphant said it was not near the washout to which Councilor Smith said there are alternative surfaces that should be researched.

Ms. Oliphant informed the Council that the third thing needed was a letter stating who is responsible for maintaining the Haul Bridge and what maintenance is required to which Mr. Hammons added that the fencing is in need or repair. Councilor Smith suggested having Mr. Chisholm assist in the letter especially if it was possible to transfer the ownership of the bridge to the County.

Ms. Oliphant spoke to the fourth request for consideration beginning with the fact that the Grants would total \$96,000 and the County was donating \$102,000 in kind with labor and materials. It was then requested that the City add \$10,000 to the project from the Economic Development Fund. Ms. Oliphant added that if the total monies did not cover the benches that the Port Authority would fill the deficiency adding that the trail system has become an eyesore and that Grants should be received whenever possible.

Councilor Dufficy asked if the Port Authority was putting any financial support into the effort and if there was time to research different materials for the graveled portion of the project. Ms. Oliphant stated that the Port Authority was not financially participating and that if more time was needed that portion of the project would be cancelled. Councilor Smith asked if it was possible to still apply for the Grant and change the surface materials while completing the project to which Ms. Oliphant answered that there are ways but that rules had to be followed.

Councilor Smith explained that the two sides of the Creek differ as far as hardscape versus natural and that should be considered when deciding to gravel or pave certain surfaces. Ms. Oliphant mentioned that the parking lot should also be paved if possible because it is a muddy mess. Councilor Smith answered that a lot can be done with gravel.

Councilor Dufficy questioned where the \$10,000 dollar figure for the City portion came from. Mayor Teske stated that it was coming from a different fund, meaning the Economic Development Fund, and Ms. Oliphant said that the \$10,000 was simply calculated as roughly 10% of the project adding that the influx of cash would lower the Grant request to below \$25,000 making less paperwork required for the request. Mr. Dufficy asked if, hypothetically, the Council only approved \$5,000 could the project survive to which Ms. Oliphant answered no.

Councilor Smith **MADE A MOTION** to provide the support letters and commit the \$10,000 from the Economic Development Fund and Mr. Zimmerman **SECONDED**.

During discussion Mayor Teske asked how much was in the Fund to which Mr. Sikes answered a little over \$500,000. Councilor Williams was in favor of the motion only if there was assurance that the end of the trail on the bridge side would be the starting point ensuring it would be completed first.

Ms. Jennifer Nelson, 1026 Washington, approached the podium requesting that the Port Authority reconsider the positioning and design of the vault toilet questioning if it could be placed in the parking lot on 5<sup>th</sup> Street. Ms. Nelson asked about the width of the Haul Road trail adding that City funds would be better spent within the actual City limits preferring that the money be spent on such things as sidewalk installation by the Tennis Courts as \$10,000 could go a long way.

Mayor Teske asked how wide the existing trail was and Ms. Oliphant answered it was 8' wide and would receive a 2" lift with the asphalt.

Mr. DC Orr, 1117 Nevada, informed the Council that the area below the clay banks was engineered in the past so that runoff and erosion would not flow into the Creek then into the watershed. Ms. Oliphant responded that the trail was ditched on the side for catching the runoff agreeing that the vault toilet would be better on the other side of the Creek but due to current floodplains it could not be feasibly moved.

Ms. Jennifer Nelson asked if it was possible to move the vault toilet across the Creek to the corner of the Port Authorities land where the mini library was currently located on the West of the Creek just South of 5<sup>th</sup> Street. Mayor Teske stated that it would have to be engineered for future projects. Ms. Nelson requested that the motion be broken into two separate pieces with one for the letters and one for monies.

Mayor Teske asked if there was any interest in breaking the Motion up to which Councilor Smith said no adding that the sidewalks had been previously discussed and that this is exactly what the Economic Development Fund was built for.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve Resolution 1975 Supporting Adoption of the Revised Selenium Standards for Lake Kocanusa and the Kootenai River below Libby Dam.**

Mr. David Hadden (via Zoom), Big Fork Montana, read over the resolution stating that Montana had adopted the current Selenium standards after years of research in cooperation with Officials from British Columbia adding that the Selenium contamination was coming from the Elk River Valley in Canada.

Mr. Hadden went on to discuss the history of the data collection and levels from water samples collected since the State of Montana adopted acceptable Selenium levels five years ago concerning Lake

Koocanusa and the Kootenai River. Also discussed was the effort between four States and Canada with the Department of Environmental Quality (DEQ) over future sampling and Selenium levels that would be revisited every three years as part of an International Agreement.

Councilor Dufficy asked who the scientists were, and Mr. Hadden said it was Jim with Fish, Wildlife and Parks (FWP) and Mr. Greg Hoffman with the Army Corps of Engineers and USGS were involved and was unsure of the exact other scientists involved. Mr. Hoffman (via Zoom) attested to the quality of the Montana Scientists and their work over the last 6 years adding that the elevated Selenium levels was a local issue that was not going away so it is important to have the most accurate numbers possible through proper testing.

Councilor Smith requested information on how Montana could be affected by Idaho and what that meant to which Mr. Hadden explained that Idaho could give notice to Montana that the Selenium numbers were too high, and that Montana is responsible. Mr. Hadden went on to explain that this Resolution would, if approved, help in discussions with British Columbia in reducing the pollution load in the Kootenai.

Councilor Dufficy asked about liability factors and how Montana could be liable when the problem started in Canada to which Mr. Hadden pointed out the acceptable Selenium standards that were the same in Idaho and Montana adding that this Resolution could give Montana a chance to get more compensation as International negotiations were difficult. Mr. Hadden added that the Trump Administration has been doing well for the last 3 years and Montana, with three other States, were now going before Congress to have Canada either provide enhanced mitigation measures or financial support for the effected communities. Also mentioned was that the current standards and future collected data will be critical to the Governor of Montana in its presentation to Canada.

Councilor Beach asked Mr. Hoffman If operations were technologically available to treat the waters by dates Canada specified which Mr. Hoffman answered that there were no dates for treatment deadlines as of now and that some treatment technologies were successful, and some were not. Mr. Hadden added that microbiology was now also being used to treat the Selenium issue.

Councilor Beach asked if the Selenium numbers were going up or down and Mr. Hoffman responded that saturated rock fill was an experimental design and that exact numbers were not readily available. Mr. Hoffman added that, to his recollection, that targeted treatment technology was still years away and if it worked on a smaller level it would then be upscaled and that the EPA was working on the issue and had already made financial commitments so that hopefully the numbers could be rectified in the next few years.

Mr. Taylor requested the current Kootenai River and Lake Koocanusa Selenium numbers. Mr. Hoffman informed the Council that the exact number would differ at different places depending on seasonal flow concerning volume.

Mr. Hoffman added that there was a lot of physics and dynamics involved when it comes to the exact Selenium numbers which show elevated numbers closer to Rexford, where the reservoir floor is more

conducive to holding Selenium, and lower numbers collected from fish samples around Whitefish due to igneous rock not holding Selenium.

Councilor Beach requested information on the natural Selenium levels above the Elk River Valley Mine. Mr. Hadden stated that 95% of the Selenium contamination came from the mine with 5% coming from the indigenous rock adding that these were the numbers presented to Congress. Councilor Beach went on to ask how many sample cycles were completed to which Mr. Hadden stated the US Corps of Engineers, DEQ and Native American tribes had completed studies, but numbers were unavailable at this time.

Councilor Smith applauded everyone, meaning the Scientists, USGS and DEQ, for their hard work stating that Lincoln County is paying the ecological price that would continue to affect families long into the future.

Councilor Smith **MADE A MOTION** to adopt Resolution 1975 and Mr. Dufficy **SECONDED**.

Councilor Beach commented that he, himself, has attended meetings, researched Selenium, and is an avid outdoorsman, wondered how much of a difference this Resolution would have questioning aloud if an Environmental Impact Study (EIS) had even been completed.

Mr. DC Orr, 1117 Nevada, commented that the Resolution was basically just patting the State on the back because basically everyone else is handling the issue and it is "way over the City's paygrade."

Mr. Dufficy and Ms. Smith voted **FOR**, Mrs. Williams, Mr. Beach, Mr. Taylor, and Mr. Zimmerman voted **AGAINST**.

#### **MOTION FAILED.**

Mayor Teske read through Ordinance 1972 for Golf Cart use in City Limits, which had died on the floor with no motions, asking the Ordinance Committee if there was anything to present. Councilor Williams stated that the Committee had nothing to report and that it was up to the Council to move forward. Councilor Smith **MADE A MOTION** to approve the Ordinance in the Affirmative and Councilor Zimmerman **SECONDED**.

Councilor Zimmerman commented that, after going through the Ordinance, there was no benefit for most of the public in Libby adding that the cart creating the desire for the Ordinance looked like a jacked up 4WD so it would be better if that person simply purchased a Ranger or other legal option.

Councilor Beach questioned if the request for this Ordinance was due to a singular event or if there was more to it. Councilor Williams stated that it was a singular event agreeing with Mr. Zimmerman that there was no legal way to access the Golf Course from City limits legally anyway.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **AGAINST**.

**MOTION FAILED.**

**Approve Authorization for Mayor to sign an Engineering Agreement.**

Mayor Teske read through the Engineering Grant and Funding request. Councilor Zimmerman **MADE A MOTION** to approve and Councilor Beach **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve all New Business licenses received to date.**

Mayor Teske read through the license request for Big Sky Sprinklers. Councilor Smith **MADE A MOTION** to approve and Mr. Taylor **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve all liquor licenses received to date.**

Mayor Teske read through the four licenses. Councilor Beach **MADE A MOTION** to approve and Mr. Dufficy **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Mr. Taylor, And Mr. Zimmerman voted **FOR**, Ms. Smith abstained due to ownership of one of the businesses.

**MOTION PASSED.**

**Approve all coin operated licenses received to date.**

Mayor Teske read through the license request. Councilor Dufficy **MADE A MOTION** to approve and Mr. Taylor **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, and Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Unfinished Business:**

**City of Libby Wildlife Management Plan.**

Councilor Taylor informed the Council that an email is due within the next week setting up a meeting time for the approval of the plan. Mr. Taylor informed the Council that 10 animals had been harvested this year so far adding that all the animals tested negative for Chronic Wasting Disease (CWD) and were currently being processed by the food pantry.

**IP Negotiations.**

Mayor Teske informed the Council that there have been conversations with Mr. Payne who had went through the proposal line by line to correct any errors and was now sending a list of errors to IP.

Councilor Dufficy questioned what the City wanted when the whole litigation was settled. Mayor Teske answered that it was proposed that the settlement payment be looked yearly but that the City recommended a 10 year review but would settle for a 5 year settlement.

**Approve (tabled) location for vault toilet at the Cross-Country Ski Course.**

Mayor Teske informed the Council that Mr. Petrusha was working on the vault's structural plans with Mr. Fraser and would get back with the Council.

**Approve (tabled) Inter-local agreement for upkeep and improvement of the Libby Community Tennis and Pickle Ball Courts.**

Mayor Teske asked if the Council had gotten all the questions answered adding that Mr. Chisholm had discussed last meeting that there was not a requirement for U-serve to carry insurance per the previous agreement.

Councilor Dufficy questioned if there was a need for U-serve to have insurance for events which received no response.

Councilor Smith **MADE A MOTION** that, since the City Attorney saw no legal problems with the Agreement, that it be approved to which Mayor Teske added there would be one change to add U-serve as a signature. Councilor Beach **SECONDED**.

Councilor Williams pointed out that this agreement raised the costs \$500 a year and the Mayor agreed that if it were raised in the contract then it would cost more. Councilor Dufficy questioned if the \$500 increase was a typo and Mayor Teske answered no while Councilor Zimmerman added that costs go up.

Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, and Mr. Zimmerman voted **FOR** and Mrs. Williams voted **AGAINST**.

**MOTION PASSED.**



**General Comments from Council:**

Councilor Smith stated her feelings about the Selenium Resolution failure and Councilor Dufficy commented on the finances in the Interlocal Agreement while Mayor Teske spoke to amount of time some requests are before the Council for action.

**Adjournment:**

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

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

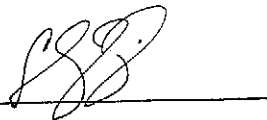
**MOTION PASSED.**

Meeting adjourned at 8:53 pm.



Mayor Brent Teske

Attest;



Clerk/Treasurer Samuel Sikes