

APPROVED MINUTES

The City Council held meeting #1562 on Monday, February 1, 2021, in the Council Chambers at City Hall.

Call to Order:

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

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

Mayor Teske welcomed all, and the prayer was offered by Mr. Rajan Zed.

Approve City Council Meeting minutes for #1561 dated 19 January 2021. Councilor Dufficy **MADE A MOTION** to approve and Councilor Beach **SECONDED**.

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

MOTION PASSED.

Announcements:

No announcements were offered.

Committee Reports:

City Administrator's Report: Mr. Hammons reported on the effects from the windstorm that swept through Libby. The City lost 4 trees and the Wastewater Treatment Plant handled the influx of storm water turbidity well, never going out of acceptable levels. Mr. Hammons noted that the City has yet to have plowed this winter. Councilor Dufficy questioned what was meant by turbidity to which Mr. Hammons answered that it was basically dirty water that was coming in from Flower Creek from the freshwater intake.

Fire: Councilor Zimmerman reported that there were 20 calls for service in January of 2021 which consisted of 5 calls within the City, 13 calls in the Rural Fire District, and 2 calls outside the City or RFD. Mr. Zimmerman went on to inform the Council of the deteriorated condition of the apron in front of the Fire Department and explained that the Lincoln County Rural Fire District was again requesting for a Grant to replace the SCBA's (breathing apparatuses). Mr. Zimmerman also informed the council that if the Grant were not successful, the City and Rural Fire Department would be responsible for half of the \$200,000 total replacement costs each.

Councilor Smith asked Councilor Zimmerman to confirm the amount that the City would be responsible for to which Mr. Zimmerman answered \$100,000.

Police: Libby Police Chief Kessel reported 267 calls for service in January as opposed to 299 last year. Of the calls 13 resulted in arrest and 40 in citations whereas last year it was 25 arrests and 47 citations. Chief Kessel again stated that the numbers of arrests are still lower due to the jail only accepting violent offenders. Councilor Smith asked Chief Kessel if the people being released were being given monitors to track their location to which Chief answered no, adding that until the court date the person would not be seen again.

Chief Kessel continued with the example of a person being picked up for a DUI. He explained that upon someone being arrested for a DUI they would be booked, no bond would be posted, and then the person would be released to a responsible person. There is not a stop gap measure and there is also nothing stopping the "buddy" of the person from dropping them off at the vehicle and driving off. Chief said that the Police do not have control over that.

Councilor Dufficy asked Chief Kessel what the fine was for a first offense of open container, referring to an alcoholic beverage, to which Chief answered around \$50. Councilor Dufficy asked if the person ticketed could just pay the fine and Chief Kessel answered that the fine could either be paid or be brought before the court asking Councilor Dufficy if this question were pertaining to the Ordinance that would be discussed later in the meeting. Mr. Dufficy responded that this question had nothing to do with Ordinance 1972 and that it was just a question.

Mr. Dean Chisholm joined the conversation adding that the citation, and corresponding fine, could be either paid or taken to court and that the amount of the fine would depend on multiple factors such as how many offenses the ticketed person had in the past. Mr. Chisholm added that some jurisdictions have the option to log into a website and pay the fine. Chief Kessel added that Libby does not have that ability and Mr. Dufficy commented that the understanding is that fines are paid in open court just like a speeding ticket.

Resolution/Ordinances: Mrs. Williams announced nothing except for Ordinance 1972 which is on the Agenda.

Lights/Streets/Sidewalks: None

Building: None.

Water/Sewer: None.

Zoning Commission: Councilor Smith reported that the Committee met last Monday to work on Residential District and was looking into how other towns handled zoning issues adding that the next meeting would be on the 22nd. Ms. Smith informed the Council that Planning had also met and were continuing to pursue another application to be on the Committee. Mayor Teske asked Mr. Hammons if he was working on the application to which Jim answered yes.

Cemetery/Parks: None.

Finance: Mr. Sikes informed the Council that the Alcohol and Coin Operated Licenses were completed, except for Rosita's and The Quick Stop. All would be sent out on the 2nd of February.

KRDC: Councilor Smith reported that the Committee had met with the Port Authority to discuss the trail system announcing that the KRDC was going to contribute to the improvements to lower the costs.

City-County Board of Health: Mayor Teske reported that the City had received one application to date for the open position then confirmed with Mr. Hammons that the application deadline was Friday adding that he hoped that more names would be submitted.

Park District Manager: Mayor Teske reported that Mr. Petrusha called asking what requirements were needed for the vault toilet to which the Mayor pointed him to Mr. Fraser for the engineering.

Public Comment on Non- Agenda Items:

DC Orr, 1117 Nevada, commented that he had been watching the minutes from the Council meetings noticing that the 1.4 Million dollars loaned to the Golf Course never came up. Mayor Teske stated that the topic was still being discussed and was not let go. Mr. Orr stated that the Golf Course was still selling lots and had the money to sub-divide adding that if the sub-division was not approved that fraud charges should be investigated.

Mayor Teske stated that contact would be made with Mr. Mercer. Mr. Zimmerman informed the Council that Mr. Mercer has been raising money for the required \$48,000 in engineering costs adding that the Golf Club was also attempting to sell all the land, for just under 3 Million, to let the buyer complete the development and repay the City loan.

New Business:

Approve Ordinance 1972 – Establish civil fines pertaining to the use, possession, and cultivation of Marijuana.

Mayor Teske read over the Ordinance and asked Councilor Williams to explain the recommendations. Councilor Williams explained that in November of 2020 the people of Montana voted to approve I-190 on Marijuana adding that the language in the new law is what is contained within Ordinance 1972. Mrs. Williams stated that the exact language is currently being settled by State Legislatures and the Courts adding that this Ordinance is only an interim fix until the law is finalized.

Mr. Dean Chisholm added that the Marijuana Initiative was lengthy. The State is trying to figure out how to decriminalize personal growth and use of the drug, not to mention, how to tax and regulate it starting 1 January 2022. Mr. Chisholm stated that no rules on Marijuana have been codified anywhere so the language in this ordinance was taken directly from the Initiative adding that 50 to 60 marijuana bills were currently pending in Montana at the State level. Mr. Chisholm explained that this Ordinance will allow the police to regulate the use until the Laws are passed.

Councilor Williams informed the Council that this ordinance focused on what the definition of a “public place” is. Mr. Chisholm added that, since the law did not define a public place, the Ordinance Committee

and City Attorney crafted Ord. 1972 to avoid confusion by labeling public places as any City owned areas and any public parking lots.

Councilor Zimmerman **MADE A MOTION** to adopt Ordinance 1972 and Mr. Beach **SECONDED**.

Councilor Dufficy asked Mr. Chisholm about civil fines, questioning if there was a sliding scale up to the \$200 maximum fine or if there was just the maximum fine. Mr. Chisholm explained that fines depend on the language of the Initiative, adding that a majority of civil and criminal laws cite a maximum fine or jail sentence leaving the actual punishment up to the courts.

Councilor Dufficy questioned, if someone were cited, if the requirement was to go to the court or could the fine just be paid. Mr. Chisholm responded that punishment would be up to the discretion of each court adding that the judge would decide on appearing before the court or just paying a fine. Mr. Chisholm explained that, in general, once a ticket is issued the offender will make an initial appearance where the rights are read, and a plea is made. Once the plea is made, if pleading guilty, one can then simply pay at the desk.

Chief Kessel, using the example of receiving a ticket for an open container, explained that the law states that no fine shall exceed \$300 adding that Libby writes the ticket for \$50 and the judge raises or lowers the amount when the offender goes to the court.

Councilor Dufficy questioned if marijuana use was a misdemeanor and Mr. Chisholm answered that it was not adding that marijuana was now a civil penalty whereas a misdemeanor includes a criminal penalty. Councilor Dufficy asked what fine the Chief would charge under the marijuana ordinance which Chief answered \$50. Chief Kessel went on to explain that last year only 3 tickets were given for open container.

Chief Kessel went on to explain that the Libby Police Department has the overall goal to educate first rather than to punish by fines adding that Libby's Police want to educate the public that marijuana cannot be used in public places or areas. Councilor Dufficy stated that his earlier questions were a lead in to this Ordinance.

Mrs. Williams, Mr. Dufficy, Ms. Smith, and Mr. Zimmerman voted **FOR**, Mr. Beach was absent as his internet connection was lost at 7:31 pm and Mr. Taylor was absent.

MOTION PASSED (FIRST READING).

Approve all business licenses received to date.

Mayor Teske read through the applications for; Cook Clean and Care home Services, Fuller Elektrik, and Morozzo Plumbing and Heating. Councilor Smith **MADE A MOTION** to approve the licenses and Mr. Dufficy **SECONDED**.

Mrs. Williams, Mr. Dufficy, Ms. Smith, and Mr. Zimmerman voted **FOR**. Mr. Beach was absent as the internet connection was lost at 7:31 pm and Mr. Taylor was absent.

MOTION PASSED.

Approve claims and payroll for January of 2021.

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

Mrs. Williams, Mr. Dufficy, Ms. Smith, and Mr. Zimmerman voted **FOR**. Mr. Beach was absent as the internet connection was lost at 7:31 pm and Mr. Taylor was absent.

MOTION PASSED.

Approve all liquor licenses received to date.

Mayor Teske read through the license for Cabinet View Golf Club. Councilor Smith **MADE A MOTION** to approve and Mr. Dufficy **SECONDED**.

Mrs. Williams, Mr. Dufficy, Ms. Smith, and Mr. Zimmerman voted **FOR**. Mr. Beach was absent as the internet connection was lost at 7:31 pm and Mr. Taylor was absent.

MOTION PASSED.

Unfinished Business:

City of Libby Wildlife Management Plan.

Councilor Dufficy informed the Council that the committee is still waiting to receive the accepted draft from the FWP adding that "40 something" deer have been harvested to date with the 14 that were confirmed CWD negative awaiting butchering at the Food Bank.

Mayor Teske asked if the deer were being trapped to which Mr. Dufficy answered yes and the Mayor stated the deer trapping was Phase I and turkeys were Phase II.

IP Negotiations.

Mayor Teske stated that the Councilors were sent a Confidential e-mail and asked if there were any questions to which none were offered.

Mr. DC Orr, 1117 Nevada, voiced his agreement in receiving revenue and protecting what the City has but questioned as to the reasoning why the e-mail was not publicly posted. Mayor Teske responded that it was not posted as it concerns ongoing sensitive litigation and thus, confidential.

Mr. Orr went on to offer his opinions towards Mr. Payne as they relate to past dealings with the City, former Council Members and Mayors. Mr. Orr finished, as Councilor Zimmerman pointed out the 3 minute rule, that the City should publicly post all IP negotiations or hire another person for Mr. Payne's position.

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

Mayor Teske reported that Mr. Petrusha called asking what requirements were needed for the vault toilet to which the Mayor pointed him to Mr. Fraser for the engineering.

General Comments from Council:

Councilor Beach rejoined the meeting via zoom with a phone at 7:38 pm.

Mr. Dean Chisholm, speaking to Mr. Orr's comments, suggested that the Mayor and Council preserve the Attorney-Client privilege adding that parts of the litigation could be released while still maintaining privileged information.

Adjournment:

Councilor Dufficy **MADE A MOTION** to adjourn and Councilor Williams **SECONDED**.

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

MOTION PASSED.

Meeting adjourned at 7:43 pm.



Mayor Brent Teske

Attest;



Clerk/Treasurer Samuel Sikes