

APPROVED MINUTES

The City Council held meeting #1567 on Monday, April 5, 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, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, Mr. Zimmerman, City Administrator Mr. Hammons, and City Clerk/Treasurer Mr. Sikes.

Mayor Teske welcomed all and prayer was offered.

Approve City Council Meeting Minutes for #1565 dated 15 March 2021. Councilor Beach **MADE A MOTION** to approve, and Councilor Zimmerman **SECONDED**.

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

Announcements:

None.

Committee Reports:

City Administrator's Report: Mr. Hammons reported that the City was gearing up for spring and work has commenced on the Boulevard by adding a sprinkler system, planting trees, and adding sod. Work has been completed next to the tennis courts by trenching and adding the new wiring for power.

Fire: Councilor Zimmerman reported 6 calls in March with 3 in the City and 3 in the Rural areas. 2 were for structures, 2 for chimneys, 1 for mutual aid, and 1 for miscellaneous reasons. Mr. Zimmerman continued to explain that the front apron was still an issue and informed the Council that Grants have been requested for the County and City, of \$100,000 each, to replace the 20 year old SCBA's.

Police: Chief Kessel reported 230 calls for service in March ending in 8 arrests and 31 citations whereas last year was 288 calls for 19 arrests and 34 citations. Libby Police has been, and is implementing, a new records system that will make reporting statistical data much easier. Libby was selected as one of two small departments in the State to receive the new system.

Resolution/Ordinances: None.

Lights/Streets/Sidewalks: None

Building: None.

Water/Sewer: None.

Zoning Commission: Councilor Smith reported that the next Zoning Meeting would be on the 26th of April at 6 pm in the City Council Chambers of City Hall and will hopefully finish Residential A.

Cemetery/Parks: None.

Finance: Mr. Sikes reported that the Insurance Policies for the City were being almost completed along with the City's Property lists. Thanks to Tracy Rebo of Troy, Mr. Sikes reported that an IRS 457 deferred compensation fund or Roth IRA will soon be available to the City employees. A budget meeting is set for Wednesday the 7th of April at noon in the Council Chambers.

KRDC: None.

City-County Board of Health: Mayor Teske reported that the Board had not met so a report would be available at the next meeting.

Park District Manager: None.

Public Comment on Non- Agenda Items:

Oliver Orak voiced displeasure with the Council by not passing the Ordinance on Golf Cart use in City limits. Mr. Orak explained that golf carts are the only device that allow the freedom to movement and travel for many disabled people and stated that the Americans with Disability Act (ADA) allowed the disabled person to choose any vehicle to utilized. Mr. Orak vowed to be driving the cart tomorrow regardless of the law since it has been over a year that the Ordinance was first proposed to the Council adding that the City is hindering free movement and that a lawsuit will be next if no action is taken. Oliver Orak made it clear that a lawsuit it not the desired outcome for either side but will be the only option without City action.

Mayor Teske informed Mr. Orak that the ADA documents were sent to the appropriate committee and that further information would be available at the next meeting following research into the matter from an ADA viewpoint. Mr. Teske added that the original Ordinance was to allow all golf carts with special crossings within the City and not looking at the ADA standing.

Councilor Zimmerman questioned why Mr. Orak could not use a mobility device that was already authorized by law to which was answered that the ADA allows the disabled person to choose any device wanted.

Mayor Teske read through portions of the ADA then Councilor Zimmerman brought up side by side vehicles questioning why Oliver could not to use one.

Ken Crandell, 3377 Bobtail Road, explained that a side by side would not work because of the height and ease of use stating that certain disabilities will not allow easy access to get into the vehicles. Four wheelers are also out due to steering, and the cart in question was specially adapted to Mr. Orak.

Mayor Teske requested that Mr. Orak wait until the 19th of April to drive to allow the Council time to research the ADA standpoint as to the issue adding that permission can not be given to drive the cart as it is now illegal to do so.

Mr. Chisholm stated that the ADA was a very tricky and fact specific, article adding that it was not true that whatever vehicle the disabled person chose was legal. Mr. Chisholm explained that Mr. Orak could not drive tomorrow without police involvement stating that precedent had been set in other states, and requested that time be given to look at the issue from the ADA viewpoint.

Mayor Teske reminded everyone that a timeframe had been established for discussion and debate on the golf cart issue for the 19th of April while reminding all that the limit is 3 minutes before the Council.

Derek Williamson, 514 East 8th St., spoke of the Supreme Court and precedent as to common rights so long as conducted safe and orderly.

DC Orr, 1117 Nevada, trying to understand the issue better, asked why the issue had not been looked at from the ADA viewpoint a year ago. Mayor Teske explained that a decision had been made which was no. Mr. Orr asked if the Highway was the issue to which the Mayor stated that the original request was for the whole City with crossings on the Highway. Mr. Orr voiced the opinion that the ADA works for whatever the disabled person wanted adding that there is no reason to make someone decide what to drive.

Debbi Lynch, 1320 Cabinet Ave., stated that Oliver did not want to go crazy, just wanting to go to work, the store, home, and to be simply independent.

New Business:

Approve offer from Cabinet View Golf Course (CVGC) on loan repayment.

Councilor Dufficy stated that it was in the best interest of the public to negotiate for a fairer deal and **MADE A MOTION** to reject the offer in total.

Mayor Teske reminded the Council that the agenda stated to approve the offer adding that the vote to approve must be held prior to moving forward.

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

Mayor Teske opened the floor for discussion opting to go from left to right as the Councilors are seated.

Councilor Smith was equally concerned with the CVGC, community, and citizenry stating that this contract is a messy thing. Ms. Smith explained that most folks were not supportive of full forgiveness opting for a more appropriate amount while considering the factors and history of the fund.

Councilor Beach concurred with Councilor Smith on the CVGC being a great asset and project as a whole, adding that the comments received were concerning the amount offered and wanting to negotiate a different amount.

Councilor Williams concurred. Councilor Taylor offered support for the CVGC adding that the deal may not be in the best interest of the community. Over 250 constituents gave the recommendation to have the loan paid in full.

Councilor Dufficy, a member of the CVGC, stated support for the Golf Course but not the deal adding that the citizens want the money back. Mr. Dufficy explained that the Golf Course is a great asset while not accepting the ultimatum from the Club to take the deal.

Ann German, a Libby attorney, voiced her opinions starting with thanking previous generations for investing in Libby's infrastructure while questioning how Mr. Mercer could be so unprofessional and demanding of the City and Council. Ms. German explained how the City actually has a lien on the property, considered a mutual agreement, and should recover more money than offered as it was, and is, the City's money adding that the CVGC had to borrow from the City as it could not get a conventional loan.

DC Orr, 1117 Nevada, agreed with Ann German and Councilor Beach that it is best to proceed slowly with all the facts to make the best decisions possible. Mr. Orr stated that the CVGC is in default and is violating the loan contract adding that a third party coming in and taking money from the people's pockets is fraud.

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

MOTION FAILED. Mayor Teske announced the offer rejected.

Councilor Zimmerman **MADE A MOTION** to accept \$1,041,000 and waive the remainder of the \$1.54 million dollars and Councilor Smith **SECONDED**.

Councilor Williams questioned what the number was based on to which Councilor Zimmerman answered that the City would still recover seven digits and write off \$550k, which is easy math.

Councilor Smith asked for the City attorney's opinion which was that the parties are free to negotiate and, with no insight into the CVGC Board, the City has every right to make counter offers.

Councilor Taylor stated that if the CVGC were losing money the numbers would be different and added that the CVGC is still going to make money once full repayment is made. Councilor Dufficy agreed and added that the CVGC has had the loan interest free for 17 years and it is time the money was repaid.

George Mercer, 104 Willow Rd., thanked the City for looking at the offer, and countering, and highlighted that the City did not negotiate when forgiving the Grant made to itself.

Mayor Teske stated that previous Councils made the decisions at the time and now is not the time to make the same mistakes. Mr. Mercer stated that the Government always has the upper hand and Mayor Teske stated that this is not a take it or leave it situation adding that it is in the City's best interest to renegotiate.

George Mercer commented on the CVGC by stating everything is non-profit without any benefits to the members adding that all monies received go directly back into the CVGC. The books are open to any

person who would like to see them, and the CVGC needs a new Clubhouse and Maintenance shed. George added that the offer would be the largest payback adding that the community and CVGC would profit from the extra 70 homes that will be built around the back 9 asking the offer to be reconsidered.

DC Orr stated it is illegal to make a counteroffer giving away \$500k without putting it on the Agenda for public comment, adding that the money was given to the City with no strings attached and questioned who the third party was, and related to, in the deal.

Dan Roher, 123 Swede Gulch Dr., gave the opinion the original purpose of the \$8 million was economic development adding that 70 homes would benefit the area every year adding that all successful communities have amenities such as skiing and golf as the areas are more attractive and receive more money in return.

Jerry Mee, 373 Rustic, stated the desire to move forward with the opportunity to sell the land or wait for repayment longer because the City cannot foreclose on the CVGC due to the way the contract is written.

Councilor Smith asked George Mercer if the CVGC had construction plans for the new clubhouse and where the location would be to which was answered that the plans place the new building in the front of the property close to where a large burn pile currently rests.

Councilor Dufficy asked if the CVGC had considered selling the old Clubhouse as that would bring in a lot of money to which George Mercer answered, yes, adding that the old clubhouse location would become residential. Discussion continued with the purchasing of surrounding properties and boundary line adjustments to sell the property as a major versus minor area which affects the price ending with Ray Hollinsworth not receiving an offer yet on the property adjoining the CVGC.

Councilor Williams asked the City Attorney for an opinion. Dean Chisholm complimented the Council for the transparency adding that any vote would be legal but not necessarily binding as contractual changes and considerations would have to be completed.

Councilor Dufficy questioned if there was a motion on the floor, and if so, could the motion be tabled to which the Mayor stated that the motion was a counteroffer that should be given to the CVGC as a dollar amount allowing for open negotiations asking Councilor Zimmerman if the motion was still in effect. Councilor Zimmerman declined to pull the motion opting to move forward.

George Mercer offered appreciation to the Council and mentioned there was no relation to any party involved in the deal with the prospective buyer.

Councilor Beach expressed torn feelings between the economic benefit of 70 homes and the long term monies versus recovering more of the loan to be a better steward of the people's money adding the desire to see full repayment now with a Grant being awarded later to the CVGC.

Councilors Smith and Zimmerman voted **FOR** and Councilors Dufficy, Taylor, Williams, and Beach voted **AGAINST**.

MOTION FAILED. Mayor Teske announced the offer rejected.

Councilor Taylor **MADE A MOTION** that the CVGC repay the loan entirely but returning to the Council at a later date to be considered for a Grant, and Councilor Dufficy **SECONDED**.

Discussion occurred on the nonspecific grant amount and the desire to have further investigation to get the full picture. Mayor Teske informed the Council to ask the questions or have a different discussion now. Councilor Williams stated that both parties involved needed dollar amounts and assurances.

DC Orr gave the opinion the City could not compromise, stating, it was always the intention of Wayne Haynes, deceased, and the CVGC to develop the area and not bring in a third party. DC Orr added that previous Mayors and Councils had made it impossible to account for the full \$8 million dollars stating accountability should start now.

George Mercer explained the unawareness of where the Council was on the motions. Mayor Teske informed all that the current motion was to repay the loan in full and for the Club to return for a Grant in the future. Mr. Mercer stated that he would take the offer to the CVGC Board adding the meeting would have to be soon as there is a 14 May deadline.

Councilor Dufficy and George Mercer discussed the current Clubhouse and sheds that have passed the acceptable life span and thus could not be moved to a new location.

Councilors Zimmerman, Beach, Williams, Taylor, and Dufficy voted **FOR** and Councilor Smith voted **OPPOSED**.

MOTION PASSED. Mayor Teske stated that the information would be given to the Club and called for a 5 minute recess.

Adopt Resolution 1979 – Schedule of fees for specified water services.

Mayor Teske read the resolution.

Councilor Beach **MADE A MOTION** to adopt the resolution and Councilor Zimmerman **SECONDED**.

Councilor Smith expressed her confusion with the resolution as the Council was just trying to extract money from the CVGC and was now giving leeway to a developer questioning why the resolution had 20 hookups, asking if there were only 15 hookups would the person pay the full price.

Mayor Teske stated that the resolution had come out of committee as proposed, to which Councilor Smith stated it would set bad precedent moving forward, adding that hookups are just part of the development cost and the resolution would incentivize mobile parks as affordable housing.

Councilor Zimmerman tried to explain that a subdivision is different than a mobile park as the lots in a park could not be sold individually to recoup the fees adding that the resolution requires the developer of a mobile park to pay for all aspects of the water and sewer system including the materials, equipment, and labor, while also paying a \$500 per hookup fee. Councilor Beach stated that the \$500 fee was for supervision and inspection of the system installation by city personnel.

Councilor Smith stated that the resolution would not preclude individual lots for mobile homes adding that someone else could make a park, not paying the full fees, and sell the lots individually later.

Councilor Smith asked if Councilor Zimmerman had investigated what other municipalities had done to which was answered yes. Councilor Taylor agreed with Councilor Smith and Councilor Dufficy asked if the motion could be withdrawn and the resolution be tabled. Mayor Teske stated his opposition to the constant tabling of items and Councilor Beach stated willingness to table the resolution.

Councilor Smith stated that ample time had not been given to consider the resolution just as with the offer from the golf club. Councilor Beach requested that the committee and city administrator supply support documentation for the resolution.

Mayor Teske asked Council if the resolution was to be tabled or a voted upon to which Councilor Beach agreed to table the resolution.

RESOLUTION TABLED.

Adopt Resolution 1980 – Schedule of fees for specified sewer services.

Mayor Teske read the resolution.

Councilor Smith **MADE A MOTION** to table the resolution and Councilor Taylor **SECONDED**.

Councilor Dufficy requested transparency as the proposed park was in the county and Councilor Smith stated that the resolution was too vague and needed more specifics.

DC Orr voiced the opinion that the fees were impact charges due to the greater stress on the water and sewer systems.

Councilors Williams, Beach, Dufficy, Smith, Taylor, and Zimmerman voted **FOR**.

Mayor Teske directed City Clerk Sikes to bump both resolutions down into the unfinished business section of the Agenda.

RESOLUTION TABLED.

Approve Land Solutions to upgrade the City Growth Policy. Total not to exceed \$50,000.

Mayor Teske explained that four proposals were sent out with only one being returned thus restricting the options for awarding the contract.

Councilor Williams **MADE A MOTION** to approve the Contract and Councilor Smith **SECONDED**.

Mayor Teske stated the City already had most of the money in a \$37,500 Grant and \$8,000 already earmarked for the project.

DC Orr stated the product would be like the county product and voiced concern whether Councilor Smith would be subcontracted to complete the work and asked for a legal opinion. Dean Chisholm made

it clear that the City Attorney did not work for, or answer to, DC Orr adding that Councilor Smith could state for the record that she was not going to subcontract for the job.

Councilor Smith stated that she would not subcontract any portion of the Growth Plan.

Councilors Williams, Beach, Dufficy, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Approve all business licenses received to date.

Mayor Teske read through the applications for: Jones Services and Pats Tree Service.

Councilor Dufficy **MADE A MOTION** to approve the licenses and Councilor Beach **SECONDED**.

Councilors Williams, Beach, Dufficy, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Approve claims and payroll for March of 2021.

Councilor Williams **MADE A MOTION** to approve the claims and payroll and Councilor Dufficy **SECONDED**.

Councilors Williams, Beach, Dufficy, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Unfinished Business:

City of Libby Wildlife Management Plan - Deer.

Mayor Teske asked Dean Chisholm to explain if the plan was an Ordinance, Resolution, or Policy. Discussion was held, once again, over where the trouble areas were within the plan. Tanya from the FWP explained that 100 deer were trapped with 7 possible CWD and 89 given to the food pantry for processing.

Mayor Teske tabled the plan until a clear recommendation could be made and DC Orr was assured that the meetings on the plan would be public.

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

Mayor Teske reported no movement on the toilet.

General Comments from Council:

Mayor Teske expressed understanding in Oliver Orak's situation with the Golf Cart Ordinance and was pleased it was being revisited with the ADA point of view.

Adjournment:

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

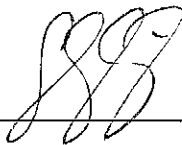
Ms. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, and Mr. Zimmerman voted **FOR**.

MOTION PASSED.

Meeting adjourned at 9:00 pm.



Mayor Brent Teske

Attest;  _____

Clerk/Treasurer Samuel Sikes