



## CITY OF LIBBY

952 E. SPRUCE | POST OFFICE BOX 1428

| PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

### REGULAR COUNCIL MEETING #1564

MARCH 1, 2021 @ 7:00PM

COUNCIL CHAMBERS – CITY HALL

#### CALL TO ORDER:

- Pledge of Allegiance
- Roll Call
- Welcome
- Prayer offered by Leona Mast
- Approve City Council Meeting Minutes for #1563 dated 16 February 2021.

#### ANNOUNCEMENTS:

#### COMMITTEE REPORTS:

- City Administrators Report
- Fire
- Police
- Ordinances
- Lights/Streets/Sidewalks
- Building
- Water/Sewer
- Zoning Commission
- Cemetery/Parks
- Finance
- KRDC
- City-County Board of Health
- Park District Manager of Projects

#### PUBLIC COMMENT ON NON-AGENDA ITEMS:

This is an opportunity for the public to offer comments related to issues that are not currently on the agenda that the council has jurisdiction over. **Public comment is limited to 3 minutes.**

#### NEW BUSINESS:

Each new agenda item will be introduced by the Mayor (or assigned liaison) with a description of the item and explanation for the recommended action. Following council discussion on each item will be an opportunity for public comment prior to any action taken. **Public comment is limited to 3 minutes concerning the agenda item being discussed only.**

1. Adopt Resolution 1975 – 2018 International Energy Conservation Code.
2. Approve new business licenses received to date.
  - a. My Hearing Centers, Partnership, 225 Commerce Way, Hearing Aid testing and sales.
  - b. Kootenai Chemical, LLC, 314 Montana Ave., Car Wash and Soap Distributor.
  - c. Rosita's Mexican Food (New Owner), LLC, 350 E. 9<sup>th</sup> St., Mexican Restaurant.
  - d. Wildflower Beauty and Boutique, Partnership, 228 Timber Ln., Retail Store and Shipping.
3. Approve claims and payroll for February of 2021.

**UNFINISHED BUSINESS:**

1. City of Libby Wildlife Management Plan - Deer.
2. Interview and Appoint a member to the Board of Health. (Tabled)
3. IP negotiations.
4. Approve location for vault toilet at the Cross-Country Ski Course. (Tabled)

**GENERAL COMMENTS FROM COUNCIL:**

**ADJOURNMENT:**

Notes:

The manner of Addressing Council:

- Each person, not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, unless further time is granted by the Council, **shall limit the address to the Council to three minutes.**
- All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.
- No personal remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.
- No person, other than the Council and the person having the floor, shall be permitted to enter any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.
- Any person making personal, impertinent, or slanderous remarks or who shall become boisterous or disruptive during the council meeting shall be forthwith barred from further presentation to the council by the presiding officer unless permission to continue by granted by a majority vote of the council.

ATTENTION:

To access this meeting electronically with ZOOM,  
Dial: 253-215-8782  
Meeting ID: 4042719951  
Password: 151041

Posted: 02/25/21

## UNAPPROVED MINUTES

The City Council held meeting #1563 on Monday, February 16, 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 (via Zoom), Mr. Dufficy, Ms. Smith, Mr. Taylor, Mr. Zimmerman, City Administrator Mr. Hammons, and City Clerk/Treasurer Mr. Sikes.

Mayor Teske welcomed all, and the prayer was offered.

Approve City Council Meeting Minutes for #1562 dated 1 February 2021. Councilor Beach **MADE A MOTION** to approve, and Councilor Smith **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, and Mr. Zimmerman voted **FOR**. Mr. Taylor abstained due to being absent for the meeting.

**MOTION PASSED.**

### Announcements:

No announcements were offered.

### Committee Reports:

**City Administrator's Report:** Mr. Hammons reported that, halfway through February, the City crew has yet to snow plow this year. Mr. Hammons informed the Council that the City is applying for a Grant to map the water system including the meters, lines, and shut-offs. This technology will use GIS and allow the crews to pull up layers of the water infrastructure up on a smart phone making the locating of the system shut-offs easier.

Mayor Teske voiced his approval due to institutional knowledge being lost when city employees retire, and Councilor Smith welcomed Libby into the 21<sup>st</sup> century. Councilor Dufficy asked Mr. Hammons when the new vacuum truck was going to arrive and was answered that it should be here next week.

**Fire:** None.

**Police:** None.

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

**Lights/Streets/Sidewalks:** None

**Building:** None.

**Water/Sewer:** Councilor Zimmerman reported that the Committee had a meeting where the water and sewer fee structure was discussed. After Mr. Chisholm goes over the legalities of the proposal on the fees, Mr. Zimmerman will report to the Council.

**Zoning Commission:** Councilor Smith reported that the Commission will meet next Monday to work on Residential District Zoning at 6 pm at City Hall.

**Cemetery/Parks:** None.

**Finance:** Mayor Teske reported that there was a Budget Expenditures Report put out for the public's information and asked Mr. Sikes why account 2821, GAS TAX HB 473, was in the negatives at 133% spending for the year. Mr. Sikes answered that the original appropriation was set to a lower amount because the State was unsure if the full funding amount would be collected due to COVID-19. Libby ended up receiving the full amount, which was over the appropriated amount and was spent on asphalt and will require a budget amendment at the end of the year to track the increase in revenue and spending.

Mr. Sikes also reported that the Annual Police and Fire Report was completed and sent to the State with the help of Fire Chief Tom Wood and that the Annual Municipal Financial Census was completed.

**KRDC:** None.

**City-County Board of Health:** None.

**Park District Manager:** None.

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

None.

**New Business:**

**Interview and Appoint a Board of Health Committee member.**

Mayor Teske mentioned the Board vacancy stating that there were 4 applicants until this morning when one decided to withdraw the application. Councilor Dufficy **MADE A MOTION** to table the appointment to re-open the application process to try to get more applicants. Councilor Smith **SECONDED**.

During discussion Councilor Dufficy reiterated that a larger pool of applicants was desired before filling the position. Mayor Teske offered a tentative date three weeks out to allow time for the application process stating that multiple e-mails had been received from the public requesting the same delay.

Councilor Beach echoed Mr. Dufficy's motion commenting on the numerous e-mails received from the public urging the finding of the correct candidate. Councilor Taylor questioned when the next Health Board meeting was and if a council member should attend. Mayor Teske responded that could happen but added that the councilor would only be able to observe with no voting rights.

Councilor Smith questioned if there were any criteria in the solicitation for applicants to which Mayor Teske and Mr. Hammons responded in the negative. Councilor Zimmerman asked if there were any specific criteria in the by-laws of the Health Board. Mrs. Jan Ivers, Chairwoman of the County Health Board, responded to the various medical disciplines in the by-laws all requiring no less than 10 years of education.

Councilor Smith asked Mrs. Ivers if the all the medical disciplines were covered by members currently serving on the Board. Mrs. Ivers answered that, in one form or another, they were.

Mr. DC Orr, 1117 Nevada, asked the Council if the current applications would still be valid or had to be resubmitted. Mayor Teske answered that the applications would remain valid for the entire process.

Councilor Smith thanked all the applicants that had submitted applications adding that the opening on the Health Board was extremely important and it is crucial to receive as many applications as possible.

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

**MOTION PASSED.**

Mayor Teske requested that Mr. Hammons reopen the application process until the 10<sup>th</sup> of March. Mrs. Ann German will reconsider her application submission while Mrs. Tracy McNew and Mr. DC Orr wanted to remain an applicant for the open Board position.

**Approve Ordinance 1972 – Establish civil fines pertaining to the use, possession, and cultivation of Marijuana. (Second Reading)**

Mayor Teske read over the Ordinance and Councilor Smith **MADE A MOTION** to approve. Councilor Zimmerman **SECONDED**.

Councilor Dufficy questioned Mr. Chisholm on the community service aspect of the possible imposed punishments for violating the ordinance stating that, upon reaching out to legal professionals, was advised to stay away from community service due to liabilities. Mr. Dufficy gave the example of a person shoveling snow from a roof who falls and is injured asking who would be responsible.

Mr. Chisholm stated that point would be moot as the Referendum, as passed, allows offenders to choose community service adding that the City cannot pass a more restrictive Ordinance. Mr. Chisholm went on to explain that liability is based on negligence stating that it would be difficult to make the City liable just as with private owners. If someone is injured due to negligence, that person would be responsible just like if a worker was put into an unsafe area or put in unsafe conditions.

Mr. Chisholm stated that the Court was going to handle this like a business license. If the offender pleads guilty, to the civil penalty, the fine could be paid and the case would be complete. If an offender is under the age of 18, the hearing would be set and the parents would have to attend, counseling or community service would be offered, or the violation would go before the Judge.

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

**MOTION PASSED**

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

Mayor Teske read through the applications: Bee Buzzin Beans, Clear Water Cleaning, Reve Exteriors, Sandi Sullivan Insurance, and the Blue Bear Variety Store. Councilor Beach **MADE A MOTION** to approve the licenses and Mr. Dufficy **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.**

Mayor Teske stated that Councilor Taylor had forwarded a draft copy of the Wildlife Plan and asked if the Committee was ready with recommendations. Councilor Taylor responded that the final plan would be ready soon adding that over 70 deer had been captured with 40 turned in to the Food Pantry, none testing positive for Chronic Wasting Disease. Trapping will cease in late February.

Mayor Teske requested that the plan be completed and put on the next agenda to which Mr. Taylor answered that it would be fixed tomorrow. Councilor Zimmerman questioned why the trapping would stop in February to which Mr. Taylor answered that regulations stop trapping due to the fawning cycle.

**IP Negotiations.**

Mayor Teske stated that Mr. Payne was still negotiating with IP.

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

Mayor Teske reported that Mr. Petruscha was still working on the subject.

**General Comments from Council:**

Mr. Zimmerman informed the Council that contact had been made with Mr. Mercer of the Golf Course. Mr. Mercer had stated that two options are being considered with the land surrounding the back nine holes and the monies owed to the City. The golf course is trying to raise the 25 to 48 thousand dollars to move forward with the sub-division and trying to sell the undivided land with no luck yet except for one showing and three inquiries. Councilor Dufficy asked the price for the whole thing and Mr. Zimmerman answered three million dollars.

Councilor Zimmerman proposed the idea of looking at City property as an asset that could be sold as the price of property steadily rises. Mr. Zimmerman stated that the City should consider selling some properties as many people have declared interest in purchasing. Councilor Dufficy agreed with Mr. Zimmerman who went on the state that it is understood that the City cannot get back the land once it is sold.

Mayor Teske commented that the process would have to be identified and realtors contacted. Mr. Hammons stated that the City would have to sell property at fair market value. Mayor Teske asked Mr. Hammons to contact Mr. Chisholm to ensure any legalities are identified and mitigated.

**Adjournment:**

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

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

**MOTION PASSED.**

Meeting adjourned at 7:33 pm.

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Mayor Brent Teske

Attest; \_\_\_\_\_

Clerk/Treasurer Samuel Sikes



# City Administrators Report

March 1<sup>st</sup>, 2021

## Projects

With winter finally winding down, it is time to put together a list of this year's projects. Most of these projects will be in addition to the crew's normal everyday work. We plan on doing some paving and a lot of chip sealing of the streets.

The triangle by the tennis courts will be finished with gravel for a parking surface. Curb and gutter will be placed on the Ninth Street side with a small island running the entire length next to the curb. There will be trees and grass planted. In the future, this area could be paved.

The last two islands on Lincoln Boulevard will be finished this summer. City crews will do most of the sprinkler system installation, but may have to have a contractor lay the trunk lines with a ditching machine. Once the sprinklers are installed, trees and sod will be planted to finish up the project.

Street lights on Commerce Way will be installed this year. Flathead Electric put together a plan for trenching the wire to the proposed locations of the three poles. City crews will trench the ditches to lay conduit for the wires. Flathead Electric will pull the wire to the pole locations to connect the lights.

Another trenching project will be for the tennis courts. Crews will trench along the sidewalk near Spruce Street for conduit to the concession stand. Once the wire is pulled through the conduit, U-Serve plans on having electricity in the concession stand and eventually, putting lights on the courts and bathrooms installed.

Once the weather improves and the new Vac-Truck arrives, the street crews are going to clean out the storm drain wells located on the corners throughout town. This has not been done in many years as the old sweeper can no longer handle this type of work. Along with cleaning the wells, the two storm basins, one by the hospital and the other by David Thompson Search and Rescue, will be dredged.

There are a couple of sewer and water main projects that need to be done this year. On the sewer side, there is a main in California by Pizza Hut that needs to be replaced. It has major problems that cause this section to back up and not drain properly.

Staying with the sewer, there are several manholes around town that need to have work done. For the past 7 years of paving around town, some of the manholes were missed when an overlay was put down on a street. When we pave and have crews available they try to place risers on the manholes to bring them up to street level. Sometimes the crew is too busy doing other things to get them all so now we will be going back to bring them up to grade.

On the water side, on 1<sup>st</sup> Street, west of Colorado, are three homes that have one  $\frac{3}{4}$  inch service line running around 350 to 400 feet from the nearest water main. This was done years ago and now the line is failing. The only way to properly provide water service to these customers is to place a new main down 1<sup>st</sup> Street from Colorado west to the homes.

Mike Fraser is engineering the new main, city crew will install it along with new services.

There will be other projects as time allows and things change. I would like to get the old bathroom at Fireman's Park campground repainted and cleaned up for the season. If things work out the seasonal may be able to accomplish this project.

## Departments

So far, we have been very fortunate to have not to plow snow this winter. Street Supervisor Corky Pape said in the twenty some years he has worked for the City he has never seen a year where they did not plow at least a couple of times. Although we are not out of the woods yet.

The streets crew were sweeping streets this last week, mild temps and rain made this a good time to sweep. The water and wastewater plants have been operating smoothly with no issues to report.

Jim Hammons

## Resolution # 1975

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA establishing latest codes referenced by Chapter 14.02 Building Codes

WHEREAS, the City of Libby desires to have regulations to prevent substandard buildings and structures for protections of its citizens; and

WHEREAS, the State of Montana adopts new versions of published building codes from time to time as they are updated by their respective professional organizations; and

Whereas, Ordinance 1955 streamlined the process for updating codes as they become available

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Libby, Montana;

That the latest codes in effect for the City of Libby are:

The 2018 International Energy Conservation Code

Passed by the City Council and approved on the 1st day of March, 2021.

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Brent Teske, Mayor

ATTEST:

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Samuel Sikes, City Clerk/Treasurer

## **Wildlife Management Plan - Deer**

### **City of Libby, Montana**

#### Overview

A healthy wild deer population is important to the citizens of Libby. Wildlife viewing is an aesthetic value which will be preserved. Deer hunting in areas surrounding Libby is of high value to area residents and visiting hunters. It further brings economic value to our local businesses.

However, generations of both resident and nonresident deer in high numbers within the city can create situations that threaten human safety, property damage, and destruction of the city's natural vegetation as well as deer health.

Chronic Wasting Disease (CWD) has been detected in Libby deer populations complicating deer management and raising concern for maintaining health populations.

#### History

Over the years, Libby residents have complained that the risk posed by deer to human safety, and increased levels of property damage, have grown to unacceptable levels.

#### Action Plan: Purpose and Scope

1. To reduce the negative impacts to people and property caused by the deer in the city limits of Libby.
2. To work with Montana Fish, Wildlife and Parks personnel to manage our deer population in the city.
3. Integrate the Libby Deer Management Plan with the FWP Libby CWD Management Plan to achieve common goals.

#### Specific goals

1. To eliminate individual deer that are aggressive and threaten safety
2. To eliminate specific deer which appear sickly
3. To reduce damage to property and native vegetation by lowering the deer numbers in the city
4. Through an education program, make a concerted effort to stop citizens of Libby from feeding deer (pursuant to MCA 87-3-130 it is a misdemeanor to feed deer)
5. Through an education program, inform citizens of Libby about proper carcass disposal in landfills

#### Deer Population

The deer population has two components:

- A. Deer that are generational and year-round Libby residents
- B. Transient deer which generally inhabit land immediately adjacent to the City of Libby boundaries, but move in and out of town using residential, business and industrial areas.

#### Note 1

Our tradition and state law recognize the importance of Montana's public wildlife legacy. Minor or occasional property damage caused by wild deer is a consequence of their presence that city residents must accept.

#### Note 2

Citizens who find dead deer in town or on their city property should notify City Hall and report their address. The City Road Department will remove the carcass and properly dispose of it at the land fill.

#### Note 3

Carcasses of deer that are trapped and removed as part of the FWP Libby CWD Management Plan will be given to our local food bank or other suitable charities if no CWD is detected and the carcasses are deemed suitable for consumption.

#### Note 4

Deer killed by vehicle accident in the city will be removed by the City Road crew and those killed by vehicle accident on a state highway within the city limits will be removed by the State Highway Dept. All dead roadkill carcasses will be disposed of at the landfill.

#### Deer Management Procedures

The City of Libby deer management Plan will be implemented using the following strategies:

Achieve Libby deer management goals by integrating the Libby City Deer Management Plan with the FWP CWD Management Plan. FWP has authority to manage deer populations utilizing hunting and deer culling efforts when CWD prevalence is above 5%. Surveys conducted during 2019-2020 estimated CWD prevalence within Libby City boundaries to be approximately 13%. Libby City has authority to manage deer within city limits pending a Fish and Wildlife Commission approved plan.

1. Assist FWP in conducting surveys to assess Libby deer numbers
  - a. Utilize City staff and volunteers to conduct transects.
2. Pending approval and funding of the FWP CWD Management Plan, FWP will be responsible for trapping and removing deer within the urban area in and around Libby.
  - a. Trapping efforts will occur from December through February.
  - b. Deer trapped will not be relocated due to high stress for the animal and high mortality rates after release.
  - c. FWP policy does not allow for relocating deer due to CWD and other disease concerns.
  - d. Sharp-shooting of deer may be considered where it is acceptable and can be done safely and effectively.
  - e. City and County staff will assist as available and appropriate.
3. The Libby City Police and FWP staff will be responsible to obtain permission slips to set traps on private property.
  - a. Libby City staff will help to identify deer removal locations and obtain permission.
  - b. Libby City Police may assist FWP with trapping efforts or if sharp-shooting should be conducted.
  - c. Libby City Police, in conjunction with FWP wardens, will determine if sharp-shooting can be done in a safe location.

4. Libby City Police will work collaboratively with FWP staff to remove and test sick and injured deer
  - a. Libby City Police have the training and capacity to safely shoot deer within urban settings.
  - b. Libby City Police will work with the FWP Libby area biologist and wardens to ensure CWD testing and proper disposal of carcasses.
5. Libby City staff will work with FWP and the local food bank to distribute meat from CWD negative deer removed by FWP.
  - a. FWP will track test results and determine meat that is suitable for distribution.
  - b. Libby City Staff will coordinate with FWP staff to distribute meat in compliance with game transfer laws.
6. FWP will provide, maintain and house a freezer used to store carcasses for the duration of the FWP and City operated plan in the future.
7. Libby City Police and FWP will work collaboratively to conduct educational activities to eliminate supplemental feeding and reduce "natural" attractants.
  - a. Libby City Police will notify anyone observed feeding deer of state laws, encourage them to stop feeding and provide educational material
  - b. Libby City Police will provide information to FWP wardens on feeding activities.
  - c. FWP will determine if feeding justifies further action (e.g., citation, etc.).
8. In the event that the goals of prevalence is met or CWD management plan is discontinued, FWP will assist The City of Libby in identifying costs, funding sources and determine if a City operated plan is sustainable in the future.
  - a. The FWP CWD Management Plan goal is to reduce CWD prevalence to below 5%. It will be evaluated after 5 years.
  - b. The Libby City Deer Management Plan will be reviewed and revised as needed and based on Commission recommendations

#### Monitoring and responsibilities

The City of Libby Police Department and Montana Fish, Wildlife & Parks will jointly monitor the effectiveness of this action plan and keep annual statistics.

The Lincoln County Sherriff's Office Dispatch will accept all deer complaint calls within the city limits and notify the appropriate agency to respond: City Police, Sherriff's Office, and FWP Wardens. No citizens are permitted to discharge a firearm to kill any deer in the city limits!

There could be situations in which the public may not be open to management actions to remove deer on their property. Questions and concerns can be forwarded to FWP to discuss alternative strategies like fencing.

#### Program Longevity

This program action plan for deer reduction within the Libby city limits will be effective upon authorization from Montana FWP and the Montana Fish and Wildlife Commission. The program will remain in effect until modified or terminated by City of Libby, Montana FWP, or the Montana Fish and Wildlife Commission.

### Overall authority and direction

FWP under 87-1-201 of the Montana Code Annotated (MCA) has the authority to “supervise all the wildlife, fish, game and non-game birds, waterfowl and game and fur-bearing animals of the state and may implement voluntary programs specifically”

As for FWP authority for granting permission to the city to implement their plans. 7-3-1105 MCA states “A city or town may adopt a plan to control, remove and restrict game animals as defined in 87-2-101 MCA within the boundaries of the city or town limits for public health and safety purposes. The plan from the city or town will be approved by FWP and the state game commission and any conditions of the same plan will apply.

FWP has the authority per 87-1-226 MCA to allow the city to distribute the meat to their food bank or other charitable institutions or persons as deemed by the city.