



## CITY OF LIBBY

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### REGULAR COUNCIL MEETING #1579

AUG 2, 2021 @ 7:00PM

COUNCIL CHAMBERS – CITY HALL

#### CALL TO ORDER:

- Pledge of Allegiance
- Roll Call
- Welcome
- Prayer offered by Marcus Girod.
- Approve City Council Minutes #1578 dated 19 July 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. American Legion Auxiliary #97 – Statue in cemetery repairs.
2. Adopt Resolution 1987 – Conduct Mail Ballot Election.
3. Approve all business licenses received to date.
  - a. Fix Coffee House, LLC, 512 Mineral, Coffee/drinks, and light meals.
  - b. ISU Stephen B. Marvin Insurance Agency, LLC, 120 W. 5<sup>th</sup> St., New owner of Sherri Kay Insurance.
  - c. Tina Inez Photography, LLC, 314 Colorado, Outdoor photography.
4. Approve Sick Leave donations past 120 hours for City Employee.
5. Approve payroll and claims for July 2021.

**UNFINISHED BUSINESS:**

1. IP negotiations.

**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 with no personal remarks allowed.
- 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: 07/29/21

## UNAPPROVED MINUTES

The City Council held meeting #1578 Monday, July 19th, 2021, in the Council Chambers at City Hall.

### Call to Order:

The meeting was called to order at 7:00 pm by Council President Peggy Williams.

The Pledge of Allegiance was completed, and Roll Call commenced. Present were Council President Williams, Councilors Dufficy, Smith, Taylor, Zimmerman, and City Clerk/Treasurer Samuel Sikes. Mayor Teske and Councilor Beach were absent.

Council President Williams welcomed all present, prayer was offered by Phillip Coblentz.

### Announcements:

Council President Williams announced that Mayor Teske send his regrets for not being able to attend the meeting.

Approve City Council Public Meeting Minutes for 21 June 2021. Councilor Zimmerman **MADE A MOTION** to approve as amended, and Councilor Dufficy **SECONDED**.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

Approve City Council Meeting Minutes for #1575 dated 21 June 2021. Councilor Zimmerman **MADE A MOTION** to approve, and Councilor Smith **SECONDED**.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

Approve City Council Meeting Minutes for #1577 dated 6 July 2021. Councilor Zimmerman **MADE A MOTION** to approve as amended, and Councilor Smith **SECONDED**.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

### Committee Reports:

**City Administrator's Report:** None.

**Fire:** Councilor Zimmerman reported 16 calls in June with 65 total calls for the year, adding that construction on the new concrete apron at the Fire Station should begin shortly and that there are now fire hydrants by the Venture Inn.

**Police:** None.

**Ordinances:** None.

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

**Building:** None.

**Water/Sewer:** Councilor Zimmerman reported that the Water System Improvements project was going well.

**Zoning Commission:** Councilor Smith reported that the commission had decided on recommendations for the Covent Senior Housing and would be presenting soon. The commission had taken a tour of the city to see some areas of concern and were questioning as to how and why many things were permitted. The commission recommends better enforcement and permitting. The next zoning meeting would be on the 24th of August at 6 pm in the City Council Chambers of City Hall to continue working on Residential A.

**Cemetery/Parks:** Councilor Smith reported nothing except for the action item on the agenda.

**Finance:** None.

**KRDC:** Tina Oliphant reported that the money and approval to start working on the 5<sup>th</sup> street trail system improvements has been received before asking for a special letter of support for a USDA Grant for the University of Montana and Montana Access Project to use Libby as a pilot program for a broadband study.

Discussion was held between Tina and the Councilors that ended with the understanding that the only thing Libby is requested to provide is a support letter for Montana Access. The Grant is for the College to complete a broad band study in the area that Libby does not have to comply with once it is completed.

Discussion continued as to every time Tina Oliphant comes in front of the Council there is an expedited expectation of something that must be completed right now. Tina agreed to send a draft letter to Samuel Sikes to get the mayor's signature.

Tina briefed the council on the 5<sup>th</sup> street trail system improvements speaking to the asphaltting, benches, and chip sealing of the trails.

Jennifer Nelson, 1026 Washington, requested that Tina have an example of the letter for the public to see prior to the mayor signing. Tina handed out documentation with information concerning the Grant and all groups involved.

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

**Park District Manager:** None.

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

None.

**New Business:**

**Approve Riverfront Blues Festival noise variance for 14 August 2021.**

Council President Williams read over an email request from Jonet Moreau requesting a noise variance. Jonet approached the podium and explained that the request would be until 1 am this year because of the closing down of the area and Council President Williams stated that the normal cut off is at midnight.

Councilor Smith **MADE A MOTION** to approve the noise variance on 14 August 2021 until 1 am and Councilor Zimmerman **SECONDED**.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**Approve Recommendations from the Parks' Committee on U-serve financial request.**

Council President Williams read over a memo provided from the zoning commission. Councilor Smith explained that the commission had met, at the mayor's request, and had submitted the recommendation that the city help with the \$400 deposit required with the understanding that the city will be returned the fee in a year once released by Flathead Electric.

Councilor Dufficy asked if the Council was voting on the money to which Council President Williams and Councilor Smith responded that the memo was an action item adding that the Council was voting on the Commission's recommendations. Council President Williams read over the exact recommendations.

Councilor Smith **MADE A MOTION** to approve the recommendations from the Commission and Councilor Dufficy **SECONDED**.

Councilor Taylor asked if there would be a plan in place for the money prior to paying the deposit and the Council President stated that the city would get the deposit back.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**Adopt Resolution 1985 – Source Water Protection Plan for Libby public water supply.**

Council President Williams stated that this plan has been around for a long time and is ready to be voted on.

Councilor Smith **MADE A MOTION** to adopt Resolution 1985 and Councilor Taylor **SECONDED**.

Council President Williams stated that the City Attorney, Dean Chisholm, had reviewed the Resolution.

Councilor Dufficy asked the City Engineer, Mike Fraser, if the plan had been reviewed. Mike Fraser informed the Council that Rural Water had written the plan.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**Adopt Resolution 1986 – Stage II Fire Restrictions.**

Council President Williams and Councilor Smith read over the Resolution with all the restrictions.

Councilor Smith **MADE A MOTION** to approve Resolution 1986 and Councilor Zimmerman **SECONDED**.

Jennifer Nelson, 1026 Washington, commented that the Resolution was in line with the County restrictions and clarified that Briquettes are banned while liquid fuel is authorized.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

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

Council President Williams read through the applications for; Affordable Excellence, Jacob O’Bleness, Rick’s Total Tree Service, and Yeti Yard Works.

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

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**Unfinished Business:**

**IP negotiations.**

Council President Williams reported nothing new.

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

Council President Williams introduced Tony Petrusa who reported that the vault toilet plans had been drafted by a Civil Engineer as proven by the stamp on the plans, which was the prerequisite of the Council for approval. Council President Williams confirmed that the location had not changed.

Councilor Smith **MADE A MOTION** to approve the construction and location of the toilet as stamped by the engineer and Councilor Zimmerman **SECONDED**.

Councilor Dufficy questioned City Engineer Mike Fraser who stated that the engineer stamp was all that was needed. Further discussion was held by the Council to ensure the construction was to be done in compliance with the engineered drawings.

Jennifer Nelson, 1026 Washington, questioned that since the item under the "Unfinished Business" section of the agenda if it was even actionable as the public would not know when the item would be voted on.

City Attorney gave the opinion that the internal procedure is in place and follows general law stating that "anything on the agenda can come up" adding that it is the prerogative of the Council to vote or not.

Jennifer Nelson, 1026 Washington, brought up transparency and the public knowing what was to be voted on and still having concerns as not to seeing Resolutions on the City leases yet.

Discussion continued as all supporting documentation is being provided with each agenda and how it was Mayor Teske's intention to vote on approval tonight. Included in the discussion was that the unfinished business section of the agenda was intentionally added so that any topic under it could be voted on at any meeting.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**Approve Mitigation construction on Flower Creek Dam spoils pile.**

City Engineer Mike Fraser gave the background that in 2016 the pile was graded to the current final slope and hydro seeded as mitigation that was approved by Street Supervisor Howard Pape and City Administrator Jim Hammons. Mike had provided the County with a grading plan to spread the pile to a three foot depth with a 1 – 3% slope while not disturbing the edges for less erosion. The engineer added that the pile consists of heavier sands and gravel that are not prone to runoff and thus contaminating the water system.

Councilor Taylor and Fraser discussed if mitigation is even required as any disruption may cause increased runoff but added that the SWP wanted the pile mitigated. The discussion ended with the City Engineer answering that the best practice is to leave the pile alone and let the silt fence to the West continue to block any runoff.

Tony Petrusha brought up that the East end of the pile that was disturbed needed to be addressed. Fraser suggested simply grading the small area out without disturbing the edges, placing rocks on the slope for a barrier, and hydro seeding the new work as proper mitigation.

Samuel Sikes explained the current state of the spoils pile and why it was placed to clear up the subject. Councilor Taylor and Fraser were in the opinion that the pile was best left alone. Discussion was held as to 50 and 100 year storms and the effect on the pile.

When Jennifer Nelson, 1026 Washington, asked what the original plan for the pile was and Council President Williams and Fraser both agreed that there was not an original plan because the pile was not planned in the first place.

Councilor Smith was pleased to hear of the pile's stability, except in a dramatic rain event, and would like to address the problem the next time the County is completing road work in the area.

Councilor Smith and Tony Petrusha discussed getting an estimate for completing work on the pile which Tony would not do without prior approval from the Council to use the area as a parking lot.

Councilor Zimmerman gave the opinion that the pile can be left alone with exception of the city crew cleaning up the East side disturbance.

Councilor Smith **MADE A MOTION** to leave the spoils pile unfinished in the current state and Councilor Dufficy **SECONDED**.

Councilors Dufficy, Taylor, and Zimmerman voted **OPPOSED**. Council President Williams and Councilor Smith voted **FOR**. Councilor Beach was absent.

**MOTION FAILED.**

Councilor Zimmerman **MADE A MOTION** to leave the spoils pile unfinished except for mitigating the disturbed East side by grading it to the appropriate slope percentage, armoring the edge with existing rocks, and vegetating the area and Councilor Smith **SECONDED**.

Mike Fraser and Councilor Zimmerman discussed what the "East Side" represented and what the larger plan was. Jennifer Nelson stated that part of passing the SWP was to mitigate the pile to start working on any issues that will come to be.

Councilor Zimmerman explained to Councilor Dufficy that it would not cost anything to have the city employees and equipment mitigate the disturbed East side of the pile.

Councilors Dufficy, Smith, Taylor, and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

**General Comments from Council:**

Councilor Zimmerman congratulated the Council on a great job by taking care of 2 of the 3 items in the unfinished business section of the agenda.

Councilor Smith stated that there are a lot of issues that need brought up for attention around the city such as vehicles parking illegally. Encouragement was given to the Councilors to push people to get building permits to follow the rules and keep Libby a beautiful city.



**Adjournment:**

Councilor Smith **MADE A MOTION** to adjourn, and Councilor Taylor **SECONDED**.

Councilors Dufficy, Smith, Taylor and Zimmerman voted **FOR**. Councilor Beach was absent.

**MOTION PASSED.**

Meeting adjourned at 8:17 pm.

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Council President, Peggy Williams

Attest; \_\_\_\_\_  
Clerk/Treasurer, Samuel Sikes

## Samuel Sikes

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**From:** [REDACTED] *TERRY PITCHER*  
**Sent:** Wednesday, July 28, 2021 9:08 AM  
**To:** samuel.sikes@cityoflibby.com  
**Subject:** Cemetery statue

Good morning again Sam! It was so nice talking to you. Here is where we are now...

The American Legion Auxiliary has taken on the needed task of refurbishing our aging angel statue at the Libby Cemetery. We are looking for your financial assistance.

We contacted Idaho Granite, and they met us at the cemetery to evaluate her and give us an estimate. After our conversation, he took many pictures. A few days later, Idaho Granite sent us a quote of \$6000. That includes taking her to their facility, working on her during the winter, and returning her to us before Memorial Day, 2022.

Thus far, we have raised \$500 (selling beautiful Military bracelets). The new base that she will stand on is completed, and will be installed in the ground when she leaves.

We have 2 major events coming up - Breakfast during Ignite the Nites, and our Hunters Ball in October. We will continue with other programs throughout the winter.

The Auxiliary is looking forward to working with the community in this restoration project, so that the angel may continue to look over our deceased Veterans and the hundreds of souls that have left us.

We are looking forward to addressing the Council, on Monday, August 2nd, at 7:00.

Thank you so much!  
Terry Pitcher - Sec/Treas American Legion Auxiliary #97  
[REDACTED]

## RESOLUTION NO. 1987

### A RESOLUTION OF THE CITY OF LIBBY, A MUNICIPAL CORPORATION OF MONTANA, REQUESTING THE LINCOLN COUNTY ELECTIONS OFFICE TO CONDUCT A MAIL BALLOT ELECTION FOR THE MUNICIPAL ELECTION IN 2021.

**WHEREAS**, the Lincoln County Election Administrator has requested the Mayor and City Council's approval to conduct a mail ballot election on 2 November 2021; and

**WHEREAS**, Title 13, Chapter 19 of the Montana Code allows for the conduct of elections by mail ballot; and

**WHEREAS**, 13-19-202 MCA allows a political subdivision, by resolution, to request the County Election Administrator conduct elections by mail ballot; and

**WHEREAS**, the Mayor and City Council have determined that a mail ballot is both economically and administratively feasible and wish to request such;

#### **NOW THEREFORE BE IT RESOLVED THAT:**

The City of Libby hereby requests the Election Administrator of Lincoln County, use mail ballots to conduct the City's election on 2 November 2021.

The City additionally requests the Election Administrator mail the ballots 15 – 20 days before the election.

**BE IT FURTHER RESOLVED THAT** the City Clerk is hereby directed to forward a certified copy of this resolution to the Lincoln County Election Administrator in accordance with the provisions of 13-19-202 MCA.

**BE IT FURTHER RESOLVED THAT** within 5 days of receiving this request, the Election Administrator shall respond to the Libby City Clerk in writing, state that this request is either granted or denied for reasons specified. If granted, the Election Administrator shall prepare a plan as provided in 13-19-205 MCA.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF LIBBY, MONTANA, THIS 2nd DAY OF AUGUST 2021.

ATTEST:

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Peggy Williams, Council President

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Samuel Sikes, City Clerk/Treasurer