

CITY OF LIBBY

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REGULAR COUNCIL MEETING #1626

APRIL 3, 2023 @ 7:00PM

COUNCIL CHAMBERS – CITY HALL

CALL TO ORDER:

- Pledge of Allegiance
- Prayer by Matthew Coblentz
- Roll Call
- Welcome
- Approve Public Hearing minutes dated March 20, 2023 and City Council meeting #1625 minutes dated March 20, 2023.

ANNOUNCEMENTS:

COMMITTEE REPORTS:

- City Administrators Report
- Fire
- Police
- Ordinances
- Lights/Streets/Sidewalks
- Building
- Water/Sewer
- Zoning Commission
- Cemetery/Parks
- Finance
- 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.

OLD BUSINESS: Each previous agenda item will be introduced by the mayor with a description of the item and explanation for the recommended action to be taken. Following council discussion on each item there will be an opportunity for public comment. Public comment is limited to 3 minutes concerning the agenda item being discussed only.

NEW BUSINESS: The mayor will introduce each new agenda item with a description of the item and an explanation for the recommended action to be taken. Following council discussion on each item, there will be an opportunity for public comment. Public comment is limited to 3 minutes concerning the agenda item being discussed only.

1. Ordinance #2004, First Reading, Amending section 14.24.010 2021 International Fire Code.
2. Approve construction of Chamber of Commerce storage shed.
3. Approve separation agreement with Libby Police Chief Scott Kessel.
4. Approve all claims received to date.
5. Approve all business license applications received to date.
 - a) BTH Retail LLC, 520 Mineral Ave., WA., LLC, Retail Clothing, Shoes, Accessories, Ect.
 - b) Wesson Moving LLC, 1305 Washington Ave., LLC, Packing and Moving for Household and Business.

UNFINISHED BUSINESS: Each item will be introduced by the mayor (or assigned liaison) with a description of the item. Following council discussion on each item, there will be an opportunity for public comment. No action will be taken. Public comment is limited to 3 minutes concerning each item.

GENERAL COMMENTS FROM COUNCIL: Public comment will not be taken during this portion of the meeting.

ADJOURNMENT:

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 is 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: 3/30/23

UNAPPROVED MINUTES

Libby City Council held a public hearing Monday, March 20, at 6:30pm in Council Chambers at City Hall to review and solicit public comment on replacing three sewer mains on California Between 9th and 10th St., from Balsam Street south between Custer Avenue and Gallatin Street, and on Flower Street West of Nevada and a new control system for the wastewater treatment plant. .

CALL TO ORDER:

Mayor Williams called the meeting to order at 6:30 pm.

The Pledge of Allegiance was completed and Roll Call commenced. Present were Mayor Peggy Williams, Councilors Gary Beach, Zach McNew, Hugh Taylor, Brian Zimmerman, Administrator Samuel Sikes, City Clerk-Treasurer Leann Monigold and (via Zoom) Councilor Kristin Smith. Councilor Melissa Berke was not in attendance.

City Engineer Mike Fraser explained that one source of funding for the project is federal funding and requires the city to comply with the National Environmental Protection Agency. A small portion of the project at the treatment plant is in the floodplain requiring the project to go through the floodplain process.

The floodplain extends to the southeast corner of the plant control building to the influent pump station and conduit will be run through that area for part of the control system. Conduit will be 30 inches deep, 1 ¼ inch in diameter, and restored. That is the impact to the floodplain, the rest of the project is outside the floodplain. Because constant monitoring is needed, there has to be hardware to the system, there are no other alternatives.

PUBLIC COMMENTS: Dan Torgison, previous owner of the Switchback, inquired who was paying for the new sewer line. Mayor Williams informed Mr. Torgison a portion of the project is being paid for by CDBG grant. Mr. Fraser informed Mr. Torgison no city funds were being used for this project. Mr. Torgison asked why the city is doing this project but wouldn't do the Switchback and if Les Schwab was in the city limits, Mr. Sikes explained they were being annexed. Mr. Torgison asked why Les Schwab is getting a new sewer line but Switchback had to pay for theirs. Receiving no answer, Mr. Torgison said, "I will see you in court."

COUNCIL COMMENT: None.

ADJOURNMENT:

Mayor Williams adjourned the meeting at 6:38 pm.

Mayor, Peggy Williams

Clerk-Treasurer, Leann Monigold

UNAPPROVED MINUTES

The City Council held Council Meeting #1625 on Monday, March 20, 2023, in the Council Chambers at City Hall.

Call to Order:

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

The Pledge of Allegiance was completed, prayer was by Mark Smith, and roll call commenced. Present were Mayor Williams, Councilors Gary Beach, Melissa Berke, Zach McNew, Hugh Taylor, Brian Zimmerman, Administrator Sam Sikes, Clerk-Treasurer Leann Monigold, and (via Zoom) Councilor Kristin Smith and City Attorney Dean Chisholm.

Mayor Williams welcomed all present.

Approve City Council meeting #1624 minutes dated March 6, 2023:

Councilor Zimmerman **MADE A MOTION** to approve City Council meeting #1624 minutes dated March 6, 2023, and Councilor Berke **SECONDED**.

Councilors Beach, Berke, McNew, Smith, and Zimmerman voted **FOR**. Councilor Taylor abstained.

MOTION PASSED.

Announcements: None

Committee Reports:

Administrator: Administrator Sikes reported there were no building permits sold in February. For the fiscal year, there have been 19 roofs, 1 garage, 2 house sidings, 1 fence, 5 buildings, and 2 remodels for residential permits, 1 truck bay, and 1 remodel for commercial permits, for a total of \$25,247, compared to this time last fiscal year a total of \$18,223 was received.

Fire: Councilor Zimmerman reported 9 calls for the month of February, 3 City, 5 Rural, and 1 outside of City or Rural District. 1 structure, 1 chimney, 3 mutual aid with Libby Ambulance, 1 false alarm, 1 power line, 1 electric and 1 miscellaneous that was a carbon monoxide call, for a total of 12 calls for 2023. The Lincoln County Rural Fire District is assisting with financial support to purchase \$600 worth of flags to attach to fire hydrants.

Police: City Attorney Dean Chisholm stated a response has been received from the independent investigator regarding the situation at the police department and in the process of reviewing the report. He has been in touch with the City's insurer, in touch with council for parties that may be involved in the situation and there was a meeting related to personnel items last week. The City is looking to conclude the situation as soon as possible but several parties are involved so the City is not in control of the timing but looks forward to putting this matter to bed as soon as we can.

Zoning/Planning: Councilor Smith announced the Zoning Commission has a meeting scheduled March 27th at 6pm in Council Chambers.

Public Comment on Non-Agenda Items:

DC Orr, 1117 Nevada Ave., commented that Councils is responsible for law and order and public welfare expressing his opinion on the current investigation and inquired why IP Settlement was removed from the agenda.

New Business:

Approve all claims received to date:

Councilor Zimmerman **MADE A MOTION** to approve all claims received to date and Councilor McNew **SECONDED**.

Public Comment:

DC Orr, 1117 Nevada Ave., commented there was another \$10,000 claim for the investigating attorney, asking if Mr. Chisholm was charging extra, and if there was an attorney in mind to handle a criminal investigation. Mr. Chisholm responded that his billing is public, that he has not billed the city anything through the last several months for the difficulty in the police department and noted after having an independent investigation, including a review of criminal charges, had there been any indication from the independent review of criminal charges, we would have been required to submit that to the Attorney General. That has not been done and has not been done for a reason.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Approve all business license applications received to date:

MNTNCAT Massage LLC.

Councilor Zimmerman **MADE A MOTION** to approve all claims received to date and Councilor Beach **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Unfinished Business: Mayor Williams explained the IP Settlement had been removed from the agenda because there has been no movement on it.

DC Orr, 1117 Nevada Ave., commented on the removal of the IP Settlement from the agenda.

General Comments from the Council:

Councilor Smith commented on the signage out front of City Hall in the grass area being in poor shape and suggested a new sign be made that is in keeping with other wayfinding signs and use the Community Development funds to pay for it.

Adjournment:

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

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Mayor Williams adjourned the meeting at 7:14 PM.

Mayor Peggy Williams

Clerk-Treasurer Leann Monigold

ORDINANCE NO. 2004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA AMENDING THE LIBBY CITY CODE TO REFERENCE THE 2021 INTERNATIONAL FIRE CODE, WITH ADDITIONS AND AMENDMENTS AS ADAPTED BY THE STATE OF MONTANA ARM 23.12.601

WHEREAS, the City of Libby desires to have regulations governing conditions hazardous to life and property from fire; and

WHEREAS, the City of Libby may incorporate technical codes by reference according to Mont. Code Ann. § 7-5-108 and § 7-5-4202.

NOW, THEREFORE, be it ordained by the City Council of the City of Libby, Montana as follows:

Section 1: Libby City Code Section 14.24.010 is hereby modified with the subsections shown below:

14.24.010 Adoption of Codes

1. The International Fire Code, 2021 Edition, will replace the International fire Code 2012 Edition.

Section 2: This Ordinance modification shall take effect thirty (30) days after its adoption by the City Council of the City of Libby, Montana, and signing by the Mayor thereof.

FIRST READING and approved by City Council on the 3rd day of April 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA on this 17th day of April 2023.

Attest:

Peggy Williams, Mayor

Leann Monigold, Clerk/Treasurer

Chamber of Commerce Lease Agreement

BY THIS INDENTURE, made this 2 day of Oct, 2017, the **City of Libby, Montana**, a municipal corporation, hereinafter referred as the **Lessor**, does lease unto the **Libby Area Chamber of Commerce/Visitor's Information Center** hereinafter called the **Lessee**, subject to the reservation hereinafter made, that certain land, a one (1) acre parcel and building belonging to the City of Libby, Lincoln County, Montana, and primarily designed and used as a visitors information center, located near Fireman's Park.

TO HAVE AND HOLD the same unto the said Lessee for the primarily for the purpose of being a visitors information center, for the term beginning 10/2, 2017 and ending May, 31st 2027, at a yearly rental of one dollar (\$1.00). The parties agree to renew the lease there after on mutually agreeable terms, unless the lease is otherwise terminated by the Lessor.

NOW THEREFORE in consideration of the premises and mutual covenants and agreement herein contained, it is agreed as follows:

1. The Lessee shall use and permit the use of the leased premises primarily as a visitors information center and to keep the premises in a clean, safe, and proper condition for such use of all times.
2. The Lessor shall require all authorized user of the premises, as applicable, to provide evidence of a one million dollar (1,000,000.00) liability insurance policy.
3. The Lessee will be responsible for and will indemnify, save harmless, and defend the Lessor against and form any and all claims and suits for, and any and all liability, loss, or expense arising from, incidental to, or in connection with damage to or loss of property of the Lessor, the Lessee or of agents, servants, licensees, contractors, invitees, or employees of either, or of any other person, and against and from any and all claims and suits for, and any and all liability, loss, or expense arising from, incidental to, or in connection with injury to or death of persons including agents, servants, contractors, licensees, invitees, or employees of the Lessor or of the Lessee, or any other person which the damage, loss, injury, or death shall arise in any manner, directly or indirectly out of, incidental to, or connection with this lease, the demised premises, or the use or occupation. The Lessee

specifically agrees to relieve the Lessor of any and all liability for damage to contest of demised premises owned by or in the custody the Lessee or improvements therein owned by or in the custody of the Lessee, whether damaged by fire and extended coverage perils.

4. The Lessee shall permit the Lessor, its successors and assigns, and all persons from time to time designated by it, at all times to have free and unobstructed access to such portions of leased premises as shall be necessary or convenient for the proper conduct of their operations on the leased property.
5. The Lessee shall be responsible for and shall provide all proper upkeep, maintenance and repair of the premises, buildings located thereon, and all other improvements. The Lessee shall also pay promptly when due all cost of any and all utilities utilized and located on the leased premises.
6. The Lessee shall not assign this lease or underlet the whole or any portion of the leased premises without the prior written consent of the Lessor in each instance obtained and that upon any such assignment or under letting, whether voluntary, by operation of law, or by bankruptcy, this lease shall, at the written option of the Lessor exercised within sixty (60) days after notice of the facts, cease and determine forthwith.
7. The Lessee shall not erect or install buildings, structures, or other facilities and shall not make changes in or on the premises without the prior written consent of the Lessor.
8. The Lessee shall have the option to extend and renew this lease only with the written consent of the Lessor, and under conditions and covenants mutually agreed upon by the parties, provided the Lessee shall give to the Lessor written notice of its intent to

extend and renew this lease sixty (60) days prior to the termination of this lease.

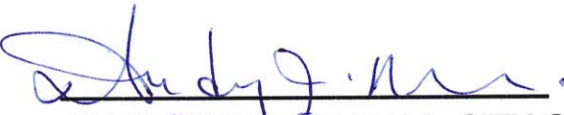
9. The Lessee shall obey all federal, and State laws.

LESSOR:

CITY OF LIBBY, MONTANA

By: 
BRENT TESKE, MAYOR

ATTEST:


AUDREY MC COLLUM, CITY CLERK

LESSEE:

LIBBY AREA CHAMBER OF COMMERCE

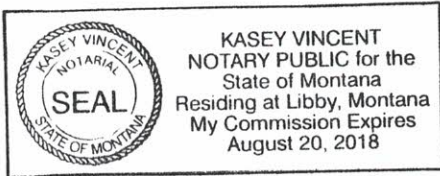
By: 
President, Libby Chamber of Commerce

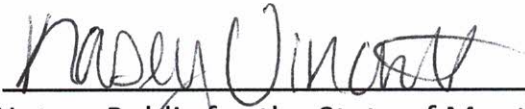
STATE OF MONTANA)
):S
County of Lincoln)

On this 2nd day of October, 2017, before me, a Notary Public for the State of Montana, personally appeared Brent Teske and Audrey Mc Collum, known to me to be, respectively, the Mayor and

City Clerk of the City that executed the within instrument and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand affixed my Notarial Seal and the day and year first above written.





Notary Public for the State of Montana
Residing at Libby, Montana
My Commission Expires 8-20-18