



CITY OF LIBBY

952 E. SPRUCE | POST OFFICE BOX 1428

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REGULAR COUNCIL MEETING #1598

FEBRUARY 7, 2022 @ 7:00PM
COUNCIL CHAMBERS – CITY HALL

CALL TO ORDER:

- Prayer led by Bill Sonntag
- Pledge of Allegiance
- Roll Call
- Welcome
- Approve City Council Minutes #1597 dated January 18, 2022

ANNOUNCEMENTS:

COMMITTEE REPORTS:

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

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: Each new 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

1. Introduction KPLF Building Addition request (no action)
2. Introduction to Adult-Use Marijuana Tax and Code Changes (no action)
3. Approve all claims received to date.
4. Approve all business license applications received to date.
 - a. Eagle Outfitters of Montana, 214 Mineral. Ave., Individual, Retail hunting, outdoor, flags, and novelty items.
 - b. Happy Homes Cleaning Services and Supplies, 310 E. 9th St, LLC, Provide cleaning, housekeeping, janitorial services, and retail cleaning supplies.
 - c. Next Home Premier Realty, 447 Cabinet Heights Rd., LLC, Real estate transactions.
 - d. Mobile Massage Therapy By Alicia, 203 Idaho Ave, Individual, Mobil massage therapy.
 - e. Yashar Bookkeeping, 102 Cross Roadway, LLC, Bookkeeping, payroll, and consulting.

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.

1. IP negotiations.

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 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: 2/3/22

UNAPPROVED MINUTES

The City Council held Council Meeting # 1597 on Tuesday, January 18, 2022, in the Council Chambers at City Hall.

Call to Order:

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

Prayer was led by Tom Cole, the Pledge of Allegiance was completed, and Roll Call commenced. Present were Mayor Peggy Williams, Councilors, Melissa Berke, Zachariah McNew, Hugh Taylor, Brian Zimmerman, City Administrator Sam Sikes, and Clerk/Treasurer Leann Monigold. Councilors Gary Beach and Kristin Smith were not in attendance.

Mayor Williams welcomed all present.

Approve City Council Minutes #1596 dated Monday, January 3, 2022.

Councilor Zimmerman **MADE A MOTION** to approve, and Councilor McNew **SECONDED**.

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

MOTION PASSED.

Announcements: None

Committee Reports:

Fire: Councilor Zimmerman reported LVFD responded to four calls: 1 call in the City and 3 calls in the Rural Fire District for December 2021. Two of the calls were for mutual aid with ambulance, and two were for chimney. Zimmerman announced that the new SCBA equipment was now service and thanked everyone who helped make it possible.

Councilor Zimmerman read the 2021 annual report. 127 calls where received by year end, 5:58 minutes average turnout time, 10:57 minutes average response time, 49:37 minutes was the average time spent on scene. Average personnel responding to calls were 15.1 members, 2308 total training hours for all members, total time spent on incidents were 882 hours. Incident + training time was 3,190 hours figured and \$25 pr hr equals out to \$79,750 donated to Libby by LVFD.

Councilor Taylor inquired about the number of calls received by the City, County, and Out-of-District. Councilor Zimmerman responded there were 30 calls in the City, 74 in the County, and 23 Outside-of-District.

Water/Sewer: Councilor Zimmerman announced there was no report but a committee meeting will be held Friday, January 21st at 12:00pm.

Public Comment on Non-Agenda Items:

Dr. Ben Scott, 252 Woodland Heights, President of the Cross Country Ski Club, thanked the City and Administrator Sikes for granting permission to fix 2 of 4 mislabeled way-finding signs headed up to the ski course that were purchased with a grant. Dr. Scott announced the Forest Service kindly put both signs up after they were fixed. Councilor Zimmerman asked if there was any cost in the repairs and who did the work that needed to be made. Dr. Scott replied the Ski Club and Twisted Turtle did the repairs and the cost was just under \$400 due to the special reflective material on the sign that needed to be carefully removed and put back on.

D.C. Orr, 1117 Nevada Ave, inquired if the City Attorney attended Council meetings in Libby as part of his contract. Mayor Williams informed Mr. Orr that Attorney Chisholm attends meetings via Zoom. Mr. Orr asked if that was acceptable in the Attorney's contract or was he was required to be present. Mayor Williams said she would look at the contract.

Mr. Orr addressed public comments he has heard regarding snow removal ordinance for businesses along HWY 2 and inquired about the absence of committee reports.

Tom Cole, 747 Flower Creek Rd., volunteered his time to remove snow around fire hydrants if help was needed.

Dave Kemmerer, 124 Pioneer, volunteered his time and snow blower for snow removal on sidewalks and walkway if help was needed.

Old Business:

Approve Support Letter for Historic Hotel Libby Rehabilitation Project:

Owner Gail Burger is seeking a support letter for the Historic Hotel Libby Rehabilitation Project. Mayor Williams informed the Council a new version of the letter was drafted per Ms. Burger's request striking the last portion of the final sentence. Ms. Burger, via Zoom, thanked Mayor Williams and Council members for the approval and informed council the upcoming grant was for a roof project and there would be no environmental impact.

Councilor McNew **MADE A MOTION** to approve the support letter for the Historic Hotel Libby Rehabilitation Project and Councilor Zimmerman **SECONDED**.

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

MOTION PASSED.

New Business:

Approve AE2S Engineering for a Preliminary Engineering Report:

Councilor Zimmerman noted two reports were reviewed by Councilor Beach, Administrator Sikes, and himself. After analyzing both reports it was determined that AE2S Engineering was the better report and more cost effective than TD&H Engineering.

Councilor Zimmerman **MADE A MOTION** to approve AE2S Engineering and Councilor Berke **SECONDED**.

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

MOTION PASSED.

Approve support letter for Libby Creek Water Improvement:

Mayor Williams described the project's location and how the trailer park community will be connected to the City's water lines to avoid contaminated wells. Mayor Williams stated they are working with WGM out of Missoula to put together grant applications through ARPA funds to get connected. Part of the grant is to have 20 hours of engineering costs covered. Councilor McNew asked to recuse himself from the vote due to the fact he manages the co-op for the trailer park. Mayor Williams informed all that with Councilor McNew's recusal there would not be a quorum vote and the approval would be tabled until the next meeting. Councilor Taylor asked if a copy of the improvement would be available. Mayor Williams stated that a copy is not currently available, but that Mike Fraser is working with WGM to facilitate them.

Approve all business licenses received to date:

Mayor Williams read the businesses to be approved:

Granite Concrete Products, Heather Lee Lee individual housekeeping, and Next Home Premier Realty.

Mayor Williams had a question about zoning in Cabinet Heights for the approval of Next Home Premier Realty to work out of their home. Mayor Williams suggested tabling that business license for approval until further investigation is conducted to see if zoning will permit that business to be run out of the home.

Councilor Taylor **MADE A MOTION** to approve Granite Concrete Products and Heather Lee Lee and Councilor Zimmerman **SECONDED**.

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

MOTION PASSED.

Approve all liquor licenses received to date:

Mayor Williams read the liquor licenses to be approved:

American Legion, Black Board Bistro, Cabinet Mountain Brewing, Cabinet View Country Club, Crosscut Casino, Empire Foods, Gold Pan Casino, Harold's Casino, Libby Quick Stop, Lucky Lil's Casino, Lucky Logger's Casino, Maggie's 2 Casino, Mint Bar, Pastime Bar, Rosaurers, Switchback, Town Pump, and VFW.

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

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

MOTION PASSED.

Approve all Coin Operated Licenses to date:

Mayor Williams read the liquor licenses to be approved:

American Legion, Mint Bar, Pastime Bar, and VFW.

Councilor Zimmerman **MADE A MOTION** to approve all Coin Operated License received to date and Councilor McNew **SECONDED**.

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

MOTION PASSED.

Unfinished Business:

IP negotiations: Councilor Taylor noted an email was received from Mr. Payne stating they are going to request an audience with the EPA to discuss our grievances and lack of movement with International Papers and currently waiting to receive the date of the meeting.

Public Comments:

D.C. Orr, 1117 Nevada Ave., discussed an article he found about Mr. Payne and requested a full accounting report of IP money disbursement.

General Comments from the Council:

Councilor McNew asked if there were any updates with S&D carwash. Mr. Sikes responded S&D was currently being handled by Chief Kessel and Attorney Chisholm.

Councilor Zimmerman mentioned Mr. Sikes reached out to Kip Nixon with the State as a reminder about plowing snow to the center along Hwy 2 in the City business district. Mr. Sikes stated he did talk to Mr. Nixon and the State is currently understaffed and having a hard time keeping up with demand for snow plowing and, at this time, are unable to provide the courtesy of plowing to the center along Hwy 2. The State did plow to the center along California Ave./Hwy 37. The City and State worked together to remove all of the center snow berms in the downtown area.

Councilor Taylor announced Fish and Game is trapping for CWD within the City limits and is looking for landowners interested in traps being placed on their property. Any landowners interested in helping with the study can contact Tony with Fish and Game. Councilor Zimmerman inquired if anything was going to be done about the wild turkey population in town. Councilor Taylor replied there are no plans to control the population.

Councilor McNew thanked Chief Kessel and his officers for taking the time to remind businesses along Hwy 2 to keep the sidewalks cleared of snow for pedestrians.

Councilor Zimmerman inquired about any updates from Tony Petrusha, if his contract was being met and if he was working on getting the funding.

Adjournment:

Councilor McNew **MADE A MOTION** to adjourn and Councilor Taylor **SECONDED**.

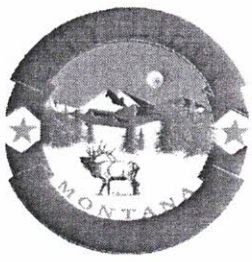
Councilors Berke, McNew, Taylor, and Zimmerman voted **FOR**.

MOTION PASSED.

Mayor Williams adjourned the meeting at 7:31 PM.

Mayor Peggy Williams

Clerk/Treasurer Leann Monigold



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MEMO

DATE: January 29, 2022
TO: Council Members
FROM: Kristin Smith, Chair, Ordinance Committee
RE: Adult-Use Marijuana Tax and Code Changes

SUMMARY

In November 2020, the citizens of Libby voted in 63% in favor of Initiative 190 which made the sale and cultivation of marijuana legal for adult use. Said sales have taken effect January 1, 2022. Businesses currently holding Medical Marijuana licenses are the only ones eligible to apply for an Adult Use (Recreational) license from the state. The City of Libby did not authorize the sale of Medical Marijuana inside the City Limits.

Municipalities have limited taxing authority in order to generate revenue for growing and maintaining municipal services. As such, the committee recommends the City request the Lincoln County Board of County Commissioners execute a mail-in ballot to solicit support for said tax on Adult Use Marijuana as authorized by HB701, Section 96.

The Ordinance Committee met on December 7, 2021 and January 10, 2022 to discuss this matter and recommends changes to the city's code as well as pursuit of the tax available via the County.

RECOMMENDED MOTIONS:

1. *Authorize the Mayor to sign and deliver a letter to the County Commissioners requesting a countywide mail-in ballot soliciting input on a 3% tax on the sale of marijuana.*
2. *Contribute proportionate share of cost to prepare ballot.*
3. *Initiate the process to change the zoning ordinance and appurtenant codes to implement the authorization of Adult Use Marijuana dispensaries inside the city limits.*

ATTACHMENTS:

Draft letter to Commissioners
Draft Ordinance Changes



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8 February 2022

Lincoln County Board of County Commissioners
512 California Ave.
Libby, MT 59923

RE: Recreational Marijuana Excise Tax – Ballot Request

Dear Commissioners,

As you know, in November 2020, Lincoln County residents voted in support I-190 permitting the sale and cultivation of marijuana. In Libby precinct, the initiative passed 63% in favor. The legislature codified this initiative into HB701 in 2021 and in doing so authorized county governments, by resolution, to initiate a ballot of county electors concerning the question of applying a tax on the retail value of marijuana and marijuana products sold as Adult-Use Dispensary or Medical Marijuana Dispensary; capped at 3%.

The City of Libby requests that the Lincoln County Commission approve a resolution initiating a ballot as described above with a rate of 3% to be conducted by a special mail-in ballot in the first quarter of 2022. Likewise, the City of Libby agrees to participate in the cost of said mail ballot election on this question, according to the same pro-rata formula used for distributing any tax revenue that would result from the imposition of this tax. Estimating the cost of a special mail ballot election to be _____, the City of Libby's proportional share would be _____

As you know, municipalities have limited income generating avenues and capturing revenues from the sale of recreational marijuana would allow us to meaningfully invest in the city.

The City of Libby appreciates your willingness to collaborate with local incorporated communities in addressing this issue.

Sincerely,

Peggy Williams, Mayor

ORDINANCE NO. 1998

An Ordinance of the City Council of the City of Libby, Montana, amending Title 17, Zoning Regulations, Chapter 17.04 – Definitions, Chapter 17.24 – Downtown District, Chapter 17.25 – Highway Commercial District; and Title 5, Business Licenses, Chapter 5.04 – General Provisions, of the Libby City Code.

WHEREAS, in 2020 the citizens of Montana passed I-190 legalizing recreational marijuana for adult use, and the citizens of Libby supported the initiative with 63% in favor; and

WHEREAS, the legislature subsequently passed HB 701, further refining the program; and

WHEREAS, it will be in the best interests of the City of Libby and its inhabitants to adopt the proposed amendments to the zoning regulations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Libby, Montana, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The amendments to Title 17, Zoning Regulations, as provided in Exhibit A are hereby adopted.

Section 3: This Ordinance 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.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA, THIS _____ DAY OF _____ 2022.

Peggy Williams Mayor

ATTEST: Leann Monigold, City Clerk

- A. All permitted or conditionally permitted marijuana retail establishments must be sited and operated in full compliance with Montana law as well as all zoning and building code requirements, parking standards, and any conditions of approval. Marijuana facilities may not be operated as a home occupation
- B. Commercial marijuana cultivation is not permitted in the city limits.
- C. No marijuana retail facility is permitted from locales within 500 feet of and addressed on the same street as a building used exclusively as a church or public school pursuant to state law, or a public park. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the marijuana sales premises. A lawfully operating facility shall not be rendered in violation of these provisions by the subsequent location of a church or public school.
- D. Marijuana dispensaries must have a building façade that visually blends in with the design, style, and appearance of adjacent storefronts, including signage, security measures, and lighting, and must be reviewed and approved by the Zoning Commission when required.
- E. Window signs on marijuana dispensaries are limited to a maximum window sign coverage of 20% of the window area, and otherwise no window shall be covered or made opaque in any way. No security bars, metal screens, grates, or other visible security devices other than door locks and recessed or otherwise discrete security cameras are permitted on the storefront exterior unless required by State law.
- F. If the applicant is not the property owner, a notarized authorization executed by the property owner authorizing and consenting to the proposed use of the property as a marijuana facility is required.
- G. Marijuana dispensaries must at all times be operated in such a way as to ensure the health, safety, and welfare of the public and workers. They must not create a public nuisance or adversely affect the health or safety of the nearby residents, businesses, or its employees by creating dust, glare, light pollution, heat, noise, noxious gasses, odor, vibration, unsafe conditions, or other impacts, or be hazardous due to the use or storage of materials, processes, products, and runoff of water, pesticides, or wastes.
- H. All marijuana dispensaries must have sufficient security systems, including surveillance cameras, alarm systems on doors and windows, deadbolt locked exterior doors, and safes to store cash and retail marijuana products when closed
- I. Marijuana remnants and byproducts must be secured and properly disposed of and not be placed within the facility's exterior refuse containers at any business operating pursuant to this section unless rendered unusable. Outdoor storage of marijuana merchandise, raw materials, or other marijuana materials associated with the production of marijuana is prohibited
- J. All signage must meet state licensing requirements as well as any Sign Regulations found in the City's Municipal Code.

EXHIBIT A

Business Licenses

5.04.030 Unlawful activities not licensed.

To the extent permitted by relevant law, No provision contained in Sections 5.04.020 through 5.04.190 shall be construed so as to license any trade, business, occupation, vocation, pursuit, profession, or entertainment prohibited by any law of the United States, of the State of Montana, or prohibited by the provisions of this code or other ordinance of the city.

(Ord. 751 § 1.02, 1973)

Zoning Districts

17.24 Downtown Business District

17.24.050 Conditional uses.

A. Adult-Use Marijuana Dispensary

1. Window signs on marijuana dispensaries are limited to a maximum window sign coverage of 20% of the window area, and otherwise no window shall be covered or made opaque in any way. No security bars, metal screens, grates, or other visible security devices other than door locks and recessed or otherwise discrete security cameras are permitted on the storefront exterior unless required by State law.

2. Marijuana dispensaries must have a building façade that visually blends in with the design, style, and appearance of adjacent storefronts, including signage, security measures, and lighting, and must be reviewed and approved by the Zoning Commission when required.

A. Drive-through Facilities. Drive-through facilities for restaurants, financial institutions, pharmacies, etc. are allowed as conditional uses in the DBD subject to the following conditions:

1. The drive-through facility shall not interfere with pedestrian traffic.
2. The drive-through facility shall be positioned at the side or rear of the primary structure.
3. Access to the drive-through facility shall be via an alley or side street, and access from Mineral Avenue or California Avenue is not permitted.

B. Outdoor Storage. Outdoor storage shall be located behind buildings and screened so as not to be visible from adjacent properties, public streets and sidewalks. Temporary storage as defined in this chapter is also permitted.

C. Parking Lots and Residential Parking.

1. Parking lots, for the intended purpose of providing parking spaces as a commercial enterprise to the general public, must be paved and must contain a minimum of ten (10) percent landscaping within its borders.

2. Parking lots integrated into the design of a building shall be located in the rear of a building and must be paved.

3. Parking for upper-story residential uses must be located in the rear of the building.

D. Residential Uses on the Ground Floor.

1. Residential uses on the ground floor are not permitted at the street-front on Mineral Avenue and California Avenue.

2. Ground-floor residential space must be located in the rear of buildings.

3. Parking for any such use must be located in the rear of the building.

(Ord. No. 1963, 7-20-2020)

17.25 Highway Commercial District

17.25.030 Use.

Prohibited:

A. Single-family (including manufactured and mobile homes), duplex, and tri-plex residential uses.

B. Mobile, manufactured homes sales.

C. Cell/wireless towers.

D. Cemeteries.

E. Crematoriums.

F. Commercial storage units as primary use.

G. Correctional facilities.

H. Fuels storage, bulk.

I. Inpatient or emergency health care facilities (excluding urgent care facilities).

J. Kennels.

Conditional:

A. Multi-family. Multi-family structures are permitted in the Highway Commercial District only when the first floor is restricted to commercial uses ancillary and complementary to residential uses, i.e., coffee shops, restaurant, laundry, salons, etc.

B. Auto Repair. Auto repair facilities are permitted in the Highway Commercial District when the following conditions are met:

1. Areas for the temporary parking of cars waiting service shall be located in the rear of the building. When the rear of the building is not available, the parking area shall be screened at seventy percent opacity (70%).

2. Service bays shall be designed so as to approach from the side of the building; or when located on a corner lot, from the lower classification street.

C. Adult-Use Marijuana Dispensary

1. Window signs on marijuana dispensaries are limited to a maximum window sign coverage of 20% of the window area, and otherwise no window shall be covered or made opaque in any way. No security bars, metal screens, grates, or other visible security devices other than door locks and recessed or otherwise discrete security cameras are permitted on the storefront exterior unless required by State law.

2. Marijuana dispensaries must have a building façade that visually blends in with the design, style, and appearance of adjacent storefronts, including signage, security measures, and lighting, and must be reviewed and approved by the Zoning Commission when required.