



Livingston City Commission Minutes

June 28, 2022

5:30 PM

VIA ZOOM

<https://us02web.zoom.us/j/83885030837?pwd=dTFQRWlpc2tOQkFVNTVmMVplSDFpdz09>

MEETING ID: 838 8503 0837 **PASSCODE: 726257** CALL IN: 669-900-6833

1. Call to Order

2. Roll Call

In attendance: Chair Nootz, Vice-Chair Kahle, Commissioner Friedman, Commissioner Schwarz, Commissioner Lyons. Staff present: Interim City Manager Lisa Lowy, Public Works Director Shannon Holmes, Finance Director Paige Fetterhoff, and Recording Secretary Faith Kinnick.

3. Public Comment- None

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

4. Consent Items 5:33 (00:02:50)

A. APPROVE MINUTES FROM JUNE 7, 2022, REGULAR MEETING.

B. RATIFY CLAIMS PAID 05/18/2022-06/13/2022.

C. ACCEPT CITY COURT FINANCIAL REPORT FROM APRIL 2022.

D. APPROVE BOARD RECOMMENDATION TO APPOINT SHEILA ELWIN TO THE LIBRARY BOARD OF TRUSTEES TO SERVE A 5-YEAR TERM.

E. APPROVE BOARD RECOMMENDATION TO APPOINT HEIDI JOHNSON TO FILL A VACANCY FOR THE UNEXPIRED TERM ON THE LIVINGSTON TREE BOARD.

F. APPROVE BOARD RECOMMENDATION TO APPOINT LISA GARCIA TO FILL A VACANCY FOR THE UNEXPIRED TERM ON THE LIVINGSTON URBAN RENEWAL AGENCY.

- Motion by Schwarz, second by Friedman
 - Nootz disclosed she would abstain due to conflict with an item pertaining to the library
- All in favor, passes 4-0, Nootz abstains.

5. Proclamations

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances 05:34 p.m. (00:03:51)

A. ORDINANCE NO. 3034: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED OFFICIAL ZONING MAP OF THE CITY OF LIVINGSTON BY ZONING PROPERTY LEGALLY DESCRIBED AS LOT 1 OF SUBDIVISION 183 IN SECTION 14, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), AS PUBLIC (P).

- Lowy presented item
 - Nootz asked process question
 - Schwarz asked clarifying question
 - Lyons made comments
 - Kahle made comments
 - Motion to approve by Schwarz, second by Lyons
 - No public comment
 - Lyons made comments
 - Schwarz made comments
 - Friedman made comments
 - Kahle made comments
 - Nootz made comments
- All in favor, passes 5-0

9. Resolutions (6:03 p.m) (00:32:10)

A. RESOLUTION NO. 5044: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM.

- Lowy presented item
- Lyons asked if Holmes had anything to add
- Holmes answered
- Nootz made comments
- Schwarz made motion to approve, second by Friedman
- Nootz asked clarifying grant questions
- Patricia Grabow gave public comment
- Leslie Feigle gave public comment
- Kahle made comments
- Lyons made comments and asked clarifying question of Holmes
- Holmes answered
- Schwarz made comments and asked clarifying questions of Nootz
- Friedman made comments
- Nootz made comments
- Alexa Svenson interrupted Chair Nootz (01:01:48)

- Kahle made comments and asked questions of Holmes
 - Jacob Salisbury flashed pornographic video (01:03:38) staff removed from meeting, reported offending email to Zoom.
 - Alexa Svenson interrupted Holmes (01:06:44) staff removed from the meeting.
 - Holmes continued...
 - Schwarz made additional comments
 - Nootz reopened public comment
 - Johnathan Hettinger made public comment
 - Leslie Feigle made additional comment
- All in favor, passes 5-0

B. RESOLUTION NO. 5045: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WASTEWATER SYSTEM. 6:48 p.m. (01:16:32)

- Lowy presented item
- Kahle asked clarifying questions
- Lyons asked clarifying questions
- Lowy answered
- Lyons made additional comments
- Schwarz made motion to approve, second by Friedman
- Leslie Feigle made public comment
- Johnathan Hettinger made public comment
- Nootz asked clarifying question of Lowy
- Schwarz made comments
- Lyons made additional comments
- All in favor, passes 5-0.

5-minute recess 7:05 p.m. (01:35:00) Reconvened at 7:11 p.m.

C. RESOLUTION NO. 5046: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE RATE FOR COLLECTION AND DISPOSAL OF SOLID WASTE IN THE AMOUNT OF 20% PER MONTH FOR RESIDENTIAL CUSTOMERS AND 20% FOR COMMERCIAL CUSTOMERS TO BECOME EFFECTIVE JULY 2022 AND CALLING FOR A PUBLIC HEARING.

- Lowy presented item
- Lyons asked clarifying questions
- Fetterhoff answered
- Motion by Schwarz, second by Friedman
- No public comments

- Schwarz asked clarifying question of Holmes
 - Nootz made comments
- All in favor, passes 5-0.

D. RESOLUTION NO. 5047: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE INTERIM CITY MANAGER TO SIGN AN AGREEMENT WITH FOUR CORNERS RECYCLING, LLC FOR RECYCLING SERVICES. 07:24 p.m. (01:48:58)

- Lowy turned presentation over to Holmes
 - Holmes gave presentation
 - Schwarz asked clarifying question
 - Holmes answered
 - Lyons asked clarifying questions
 - Kahle asked clarifying question
 - Lawellin shared the corrected General Services Agreement
 - Holmes apologized for not having the update version in the packet
 - Schwarz made comments
 - Lyons made comments
 - Friedman made comments
 - Nootz asked clarifying question of Lawellin
 - Lawellin made comments
 - Kahle made comments
 - Schwarz made motion to approve, second by Friedman
 - Johnathan Hettinger made public comment
 - Schwarz stated comment was not germane to topic
 - Schwarz made additional comments
- All in favor, passes 5-0

E. RESOLUTION NO. 5048: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON MONTANA, AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TD&H ENGINEERING, FOR CONSTRUCTION ADMINISTRATION SERVICES FOR THE CIVIC CENTER SEWER PROJECT, AND AUTHORIZATION TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY. 7:46 p.m. (02:10:59)

- Lowy presented item, before turning over to Holmes
- Holmes made comments
- Schwarz made motion to approve, second by Kahle
- No public comments
- Schwarz made comments
- Nootz made comments
- Lyons made comments

All in favor, passes 5-0.

10. Action Items 7:54 p.m. (02:19:04)

A. DISCUSS/APPROVE/DENY: LIVINGSTON-PARK CO. REVOLVING LOAN FUND POLICIES AND PROCEDURES EMERGENCY AND DISASTER AMENDMENT.

- Lowy presented item, before turning over to MaryAnne Keyes
- MaryAnne Keyes of MSU Economic Development gave overview
- Kahle asked clarifying questions
- Motion by Kahle and second by Friedman
- No public comments
- Schwarz made comments
- Kahle made comments
- Nootz made comments
- All in favor, passes 5-0.

B. ACTION ITEM: APPROVING ORDINANCE WAIVER FOR PBR AFTER-PARTY HOSTED BY THE OWL LOUNGE. 8:01 p.m. (02:36:34)

- Lowy presented item
- Nootz asked clarifying questions of Lowy
- Lowy turned to Lawellin
- Lawellin answered
- Schwarz made motion to approve action item B
- Kahle made comments
- Nootz made comments
- All in favor, passes 5-0

C. DISCUSS/APPROVE/DENY: 2021 HOUSING ACTION PLAN, AND INTENT TO ADOPT AS APPENDIX TO LIVINGSTON GROWTH POLICY. 8:11 p.m. (02:36:15)

- Lowy presented item before turning over to Lila Fleishman
- Lila Fleishman gave presentation
- Nootz asked clarifying questions of Lowy
- Lyons asked clarifying questions of Lowy
- Lyons asked clarifying question of Ms. Fleishman
- Motion by Kahle, second by Lyons
- Mathieu Menard made comments
- Johnathan Hettinger made comments
- Bill Zanoni made comments
- Lyons made comments
- Kahle made comments

- Schwarz made motion by to extend the meeting, second by Friedman (02:58:33)
- Schwarz made motion for 5-minute recess, resumed 8:39 p.m. (03:05:01)
- Schwarz made comments
- Friedman no comments
- Nootz made comments
All in favor, passes 5-0

**D. DISCUSS/APPROVE/DENY - RECRUITMENT PROCESS FOR THE INTERIM CITY MANAGER.
8:44 p.m. (03:08:47)**

- Nootz shared information with the Commission she received from Dan Clark regarding best practices, and the 3 options moving forward.
- Kahle made comments
- Schwarz asked clarifying questions
- Friedman asked clarifying questions
- Lyons made comments
- Lowy asked clarifying questions
- Schwarz made motion to appoint Lisa Lowy as interim city manager, asked Nootz to reiterate her options
- Nootz made additional comments
- Lyons made clarifying comments
- Friedman made additional comments
- Nootz made additional comments
- Lyons made additional comments
- Lawellin reminded Commission Schwarz made motion to appoint Lowy
- Nootz made comments
- Schwarz made additional comments
- Kahle made additional comments
- Friedman made additional comments
- Lyons made additional comments
- Schwarz reiterated his previous motion, asked Nootz to call for a second, seconded by Friedman
- Nootz made additional comments, expressed concern about conflicts
- Lyons asked clarifying question
- Kahle asked clarifying question
- Lawellin made clarifying comments about following the modified Robert's Rules of Order as we always do, reviewed options Nootz presented earlier
- Nootz made additional comments

- Lyons made additional comments
- Nootz opened to public comment
- Shannon Holmes gave public comment
- Jeff Lowy gave public comment
- Paige Fetterhoff gave public comment
- Schwarz made additional comments
- Lyons made additional comments
- Kahle made additional comments
- Friedman made additional comments
- Schwarz made a motion the call to question, failed to get a second
- Nootz made additional comments
- Schwarz made additional comments
- Lyons made comment
- Lawellin made additional comments
- Friedman made comments
- Nootz made additional comments, wants to have Jordan Commissions retained attorney draft a contract
- Nootz asked if Lowy is comfortable to continue to serve as interim City Manager.
- Staff will bring contract to the next meeting.
- Nootz asked Lawellin a questions about process
- Lawellin answered
- Nootz asked for Recording Secretary to read the motion on the floor.
All in favor, passes 5-0.

*5-minute recess, reconvene at 10:17 p.m.

**E. DISCUSS/APPROVE/DENY: HAVING THE INTERIM CITY MANAGER SIGN AN ENGAGEMENT LETTER WITH RECRUITING CONTRACTOR FOR THE CITY MANAGER RECRUITMENT.
10:17 p.m. (04:42:30)**

- Lowy presented item
- Schwarz made comments
- Nootz made comments and asked clarifying questions
- Kahle asked clarifying question
- Schwarz made motion for GMP Consultants, second by Friedman
- Jeff Lowy made public comment
- Kahle made comments
- Nootz asked clarifying questions
- Lowy answered
- Nootz made additional comments

- Schwarz made additional comments
- All in favor, passes 5-0.

F. DISCUSS/APPROVE/DENY: SETTING A DATE TO RETURN TO IN PERSON CITY COMMISSION AND BOARD MEETINGS.

- Lowy suggested due to the late hour, we can table item to a future meeting.
- Schwarz made motion to place item on the next agenda, second by Friedman & Lyons.
All in favor, passes 5-0.

G. CLOSED SESSION: LITIGATION UPDATE AND PERSONNEL ISSUE 10:45 p.m. (05:11:59)

11. City Manager Comment 11:14 p.m. (05:12:32)

12. City Commission Comments 11:16 p.m. (05:13:59)

13. Adjournment 11:22 p.m. (05:20:24)