



Livingston City Commission Minutes

December 05, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/81443496301?pwd=bEkwSjN4UHVHQ2pEZmVZQTUvQis4QT09>

Meeting ID: 814 4349 6301

Passcode: 599622

1. Call to Order

Chair Nootz called the meeting to order at 5:31p

2. Roll Call

City Commission in attendance at start of meeting: Chair Nootz, Vice-Chair Kahle, Commissioner Friedman, and Commissioner Lyons.

Staff in attendance: City Manager Grant Gager, City Clerk Emily Hutchinson, Policy Analyst Greg Anthony, Acting Chief Wayne Hard

3. Public Comment

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)

Public Comment was offered by:

- Lindie Gibson hopes the City keeps the current logo and just makes it one color.

4. Consent Items

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| A. APPROVAL OF MINUTES FROM NOVEMBER 21, 2023, REGULAR CITY COMMISSION MEETING | PG.4 |
| B. APPROVAL OF CLAIMS PAID FOR 11.16.2023 to 11.29.2023 | PG.20 |
| C. CONSIDERATION OF AGREEMENT 20048 | PG.27 |

Motion to approve all consent agenda items was made by Vice-Chair Kahle and seconded by Commissioner Lyons. The motion passed unanimously by the four members present.

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

A. ORDINANCE 3048: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GENERALLY REVISING THE PROVISIONS THEREOF. PG.42

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this is the second reading of this ordinance and several changes were made to the ordinance based on the first reading. Topics updated included size and composition, and clarification and specificity was added into the types of work around the topic of the board delegating to staff.

Commissioner Lyons asked about background information on pg. 42 referencing 9 members of the board. The City Manager stated we are actually operating under section 4A on pg. 42 not 4B.

Chair Nootz asked about ministerial acts on pg. 56 and referenced "the board shall delegate to staff" and feels the wording here is potentially problematic. And would like clarity on exactly what that means. The City Manager stated it means the board will not be publicizing notices, creating meeting minutes or filing documents. Chair Nootz expressed that she ultimately doesn't want board member telling staff what to do and when. She wondered if they ways this is worded will help avoid that happening. The City Manager felt with the way this is written it wouldn't be leading board members to direct staff. He stated they would adopt by-laws for this board that would include more specificity as well.

Vice-Chair Kahle wondered who would vote to pass those by-laws. The City Manager stated it is the Commissions responsibility to adopt by-laws. He clarified those by-laws will come to them in January.

Chair Nootz asked for clarification on the process for by-laws and application process. The City Manager stated that on 12/6/23 community members will be able to download and submit an application for this board. This will be open for one month and applications will go through an internal review process then brought before the Commission with final candidates. Montana League of Cities and Towns has some training the new board members and members of the Commission will be able to attend. The training will be a half day training and half dedicated to procedure and the other half dedicated to a presentation by a Planner who is with The League.

Commissioner Lyons moved to approve the ordinance and Vice-Chair Kahle seconded the motion

Public Comment was offered by:

- James Willich expressed thoughts about section 27.3 stating he feels one of the resident seats be reserved for a non-free hold resident. He felt it's an important view point this board should have.
- Patricia Grabow is not sure who decided to combine this board. She feels the public get more engaged when they can get involved in a zoning or planning board.

The City Manager answered the question about who decided to consolidate the boards stating the Senate Bill 130 that was recently passed allowed for the consolidation of membership. The City Manager reminded he did initiate this conversation with the Commission. He also reminded this consolidated board has existed in the City of Livingston before, and stated there is a link in work between the Zoning Commission and Planning Board. In talking with both boards there was a level of frustration about their limitation as stand-alone boards, so the thought to consolidate them is encouraging.

Commissioner Lyons understand the comments made about possible lack of public engagement and feels that was his initial hesitation in consolidating these boards, but also understands the benefits of having these combined as it reduces their limitations as individual boards.

Vice-Chair Kahle agrees with Commissioner Lyons and clarified her thoughts on individual boards struggling to have quorum and how that has impacted decision making processes for the Commission. She addressed a public comment referencing non-freeholder and expressed her thoughts on this term and felt it should be removed which leaves this board open for any resident to apply by not limiting who can be appointed to certain seats.

Chair Nootz agrees with Commissioner Lyons and Vice-Chair Kahle. She also stated having witnessed having this board both ways she has seen that having them separate has limited process moving forward at times.

Commission Friedman thanked the City Manager for bringing this topic up for discussion. He feels that talking openly about this subject is important.

Commissioner Lyons wanted to include his last concern about a combined board and that being the amount of effort required of citizen volunteers. He feels the best way to make sure these boards are successful is through staff support.

The item was approved unanimously by the four commissioners present.

9. Resolutions

- A. RESOLUTION 5123: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965. PG.60**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item is the second reading and is the last action of the FY 22/23 budget and is a result of unanticipated funds related to the regional sewer project in Green Acres and the corresponding expenditure of those funds as well as some emergency and disaster funds related to flood a year and half ago.

Vice-Chair Kahle moved to approve the resolution and Commissioner Lyons seconded the motion.

The item was approved unanimously by the four Commissioners present.

10. Action Items

A. CONSIDERATION OF THE 2024 REGULAR MEETING SCHEDULE OF THE LIVINGSTON CITY COMMISSION **PG.63**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item is in preparation for the coming calendar year and a calendar has been prepared showing both City Commission Meetings and City Holidays. Two recommended anomalies are listed in the staff report as July 2, 2024, which is a busy day here in Livingston for the parade, so it is recommended that if a special meeting is required later in the week the Commission can hold that. The next date is the first Tuesday in November, which is a state holiday in Montana, and it is recommended that they do not hold a City Commission meeting on Tuesday, but postpone to the following day November 6th.

Vice-Chair Kahle moved to approve action item A and Commissioner Friedman seconded the motion.

Chair Nootz thanked the City Manager for adding the holidays to this calendar.

The item was approved unanimously by the four Commissioners present.

B. CONSIDERATION OF UPDATES TO THE CITY COMMISSION HANDBOOK **PG.67**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item is an update to the Commission Handbook. It was last updated in December of 2019 and he has made some light adjustments to remove outdated information and more accurately reflect some current aspects of City operations. He said he has left large portions of the handbook intact, specifically the areas that provide statutory citations of Livingston Municipal Code or otherwise. While editing this document he realized this document is for Commission use and wanted to check in with the Commission before making substantial changes. He referenced the appendices and wondered whether to remove them or add a hyperlink to the online LMC. He would like feedback from the Commission on how they use the handbook and find out what updates and edits they would find helpful. In the handbook the City Manager is recommending a small change to the agenda format. The change is in hope to consolidate ordinance and resolutions all under action items.

Public Comment was offered by:

- Patricia Grabow expressed that some parts of this handbook should be looked over by the American Civil Liberties Union and gave her brief history recollection of the handbook.
- James Willich referenced pg. 178 with a grammatical error. He also commented on pg. 198 the application stating 30 residency and stated the MT Dept. of Revenue counts 180 days for residency and wondered why our 30 day residency is not in line with that.

Vice-Chair Kahle and Chair Nootz asked for clarity on the 30 day residency.

The City Manager stated he will do some research on this question, but suspects it comes from Montana Code Annotated.

Chair Nootz stated she looked back at previous handbooks from 1991 to today and found that things were just added over the years and nothing was really corrected or removed. So the handbook they have today is really the original handbook plus most of the items that have been added over the years. She would like to see a handbook that is usable by the Commission and not something that only references State Code. Summaries of State Code with hyperlinks would be preferred. It was suggested to remove executive functions from the handbook, examples include snow routes and benefits packages. Chair Nootz would like to see this reviewed by ACLU to make sure the handbook would not restrict any rights of Commissioners. Different processes were brought up such as sign-up sheet process, interaction between Commissioners about being absent for a meeting, and accountability amongst Commissioners.

Vice-Chair Kahle felt that snow removal and sanding should be removed. She agrees with Chair Nootz about having the code of conduct reviewed by ACLU, and removing the word man as the ends of Chair and Vice-Chair throughout the document. She felt the remote participation section should really be looked through as she was not sure if it is correct. She questioned the agenda section stating she didn't see a public hearing section.

Chair Nootz wondered if the public hearing would just be attached to the ordinance or resolution.

The City Manager stated yes, that was the intent.

Commissioner Lyons questioned pg. 71 the population listed at 8,790 and where that came from, stating that 8,110 is the most current data from the 2021 American Community Survey five year estimate.

The City Manager stated he went on the ACS website that was the data he found. He will go back and double check.

Commissioner Lyons wondered if there was an opportunity to add to the vision and goals that were already set by the strategic planning ad hoc committee.

Chair Nootz asked for clarification on how the strategic plan was passed.

The City Manager stated the Vision and Goals were adopted by the Commission on November 1st 2022. At a staff level they have been using those as their guide. He believes that will be revisited in the future in a staff and Commission meeting.

Commissioner Lyons referenced pg. 72 the first goal he would like to change the word develop with promote, and under transportation infrastructure the part that reads "improve connectivity including for pedestrians to and from the north side" he would add " in a manner that minimized sprawl.

Commissioner Friedman wondered what is being asked of the Commission for this topic.

Chair Nootz clarified that the City Manager started to edit the handbook and realized there was a lot to edit and wasn't sure which direction to go, so he wanted to ask the Commission for that direction and what they were looking for in the handbook.

Commissioner Lyons added that updating this handbook for new commissioners and the public will benefit in ways to transparency and understanding expectations.

Vice-Chair Kahle feels this handbook has a lot of meat and would like to cut it back making it a little more useful.

Chair Nootz stated she does not reference this handbook often because she has found it not to be helpful, she mostly uses Montana Code Annotated or the Montana Municipal Officials Handbook. She felt a standard for communication between Commissioners would be helpful, having the basic motions all laid out, including FAQ's, describing a walking meeting, and summarizing the critical code so that a Commissioner can read and understand it. She would like to see board appointment included as well.

The City Manager stated there is a small section in there that they are updating based on the results of earlier this evening. He thanked the Commission for their direction on this topic.

Chair Nootz expressed excitement about the edits to the handbook.

The City Manager stated he would like to include an initial disclosure form for a new Commissioner to fill out upon taking office to help disclose potential conflicts or trouble spots.

Chair Nootz likes the idea of doing this and found it is common practice for Commissioners in other cities.

Vice-Chair Kahle feels that disclosure would be very helpful.

Chair Nootz brought up the topic of Commissioner remoting in to a closed session and wondered if that was legal or allowed. She asked the City Manager if he could see what other cities are doing or what The League recommends.

The City Manager stated yes, he will look into this.

C. CONSIDERATION OF AGREEMENT 20049 WITH HRDC FOR OPERATION OF A WARMING CENTER **PG.278**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item was included in the budget they adopted this summer, which is funding for a warming center. They now know that HRDC does intend to operate their warming center in Livingston this winter. They are the only operator of a warming center in Livingston and he recommends the Commission approve this item.

Vice-Chair Kahle disclosed that she does have a family member that works for HRDC, but in talking to the City legal counsel she does not have a direct or indirect conflict because this funding doesn't fund her family member's position, so she will be voting on this topic tonight.

Commissioner Lyons stated he also has a partner at HRDC, but is not sure how this relates to the funding for their position, so he intends to abstain from the discussion as he has not done the background work research.

Chair Nootz asked Commissioner Lyons if he wanted to check with the City Manager.

Commissioner Lyons said, no he will be abstaining from this discussion.

Vice-Chair Kahle moved to approve action item C and Commissioner Friedman seconded the motion.

Public Comment was offered by:

- Nicole Maher expressed concern that giving money to HRDC in Livingston will not be used for Livingston it will be used at their Bozeman location. She feels there is a lack of transparency with HRDC and she is very concerned about this large amount of money being given to them. Ultimately she would like to be able to see what that money will be used for.
- James Willich agrees with Nicole that seeing line items of where this money is going and what it is used for would be very helpful.
- Patricia Grabow shared the same concern about lack of visual to see where the money is going or what it will be used for. She also expressed concerns about the warming center closing from 7am to 7pm stating these folks will freeze during the day as well as at night.
- Angela Devani expressed feelings that if the City of Livingston is going to provide money for the Livingston warming center that it will actually be used here in Livingston. She also shared the concern about the warming center closing at 7am and people are kicked out.

7:06PM Chair Nootz motioned for a 10 minute break seconded by Vice-Chair Kahle.

Unanimously approved.

(Starts at Video Mark 1:38:39)

Public Comment was offered by:

- Nancy Adkins feels that HRDC is very helpful and feels we should be working with the Bozeman location and feels the City should be giving money to HRDC.

Chair Nootz in trying to answer some of the question during public comment asked about clarity for the community and ensuring that the money they are giving to HRDC is going to Livingston and not just HRDC in general, and some financial accountability so they are able to see how public funds are spent. She also asked for clarity on months and hours of service, does HRDC truly need this funding, and without HRDC being present tonight has there been correspondence from them about the warming center.

The City Manager stated he has talked to the president of HRDC and the person who is responsible for operating the warming center and did express regrets about not being able to attend the meeting tonight. In talking with HRDC they have been expecting these funds and referenced pg. 286 in the packet that reviews the scope services for the contract, which states the contractor shall be responsible for operating a warming center in the City of Livingston during the cold weather during the period of December 15, 2023 – March 15, 2024. He explained that HRDC does operate the warming center, but they also partner with other entities within the City that provide human and social services during the day to clients of the warming center. There is a soft hand off in the mooring for certain folks that stay at the center that can then get services during the day, recognizing that not all users of the warming center desire other services. He stated the scope of services is laid out clearly that these funds are to be use for operating the warming center in the City of Livingston, and that is the understanding that HRDC has as well. The City Manager stated he is happy to add a financial report on actual dollars spent if the Commission wishes to have the information included.

Vice-Chair Kahle discussed while asking the City Manager that during the budgeting process they had several groups submit proposals, and it was then that the approved the budget for HRDC, and questioned if tonight they were just approving the contract.

The City Manager clarified that when the budget was approved the funding was allocated for the operation of a warming center, but the operator of the warming center was not specified in the budget.

Vice-Chair Kahle addressed that the community needs a warming center, and reminded that it is a warming center not a homeless shelter, and they are giving folks a warm place to sleep at night, and he hope is they are out getting help during the day. She feels strongly that they cannot sit by and do nothing, so she stands for opening and funding this warming center.

Chair Nootz recalled the impact for First Responders if people have a safe place to sleep or not, and asked the City Manager if he has insight on the impacts from City Police and Fire. The City Manager recalled that the City did not provide support to the warming center last year and some issues the City dealt with last winter were folks they were unhoused overnight in Depot Park who were building warming fires, and on more than one occasion started a small brush fire in Depot Park.

Chair Nootz liked the idea of adding some level of fiscal transparency and budget reporting.

The City Manager stated he is able to add that into the scope of service.

Chair Nootz asked if they needed to make a motion to amend.

The City Manager stated yes, and amended language should state after the final word utilized he would add", and also the actual cost of operating the facility."

Vice-Chair Kahle moved to amend the last page of the contract in action item C and Commissioner Friedman seconded the motion.

The amendment of this item was approved by Chair Nootz, Vice-Chair Kahle and Commissioner Friedman with Commissioner Lyons abstaining.

The item was approved by with amendment by Chair Nootz, Vice-Chair Kahle, and Commissioner Friedman with Commissioner Lyons abstaining.

11. City Manager Comment

The City Manager thanked the Commissioners for their hard work tonight.

12. City Commission Comments

Commissioner Lyons is read for snow.

Chair Nootz has been reflecting on the last meeting about the logo and would like bring back the topic of the logo back to the Commission reminding that we have already allocated funding and we have public input and staff input. Chair Nootz asked the City Manager about the logo that was preferred by the community and if corrections could be made to could they bring it back before the Commission.

The City Manager clarified the community preferred option 2 and recalled the issues relating to color and spacing of the word Montana, and he feels both of those issues are something they can bring back to the design team to address.

Chair Nootz expressed color being ADA website color friendly is important. She knows community members love the current City logo and would love for it to still be available to the community in some way, at the same time recognizing it is not easily usable by staff.

Vice-Chair Kahle asked the City Manager where he was at after the last meeting with the logo and what he took the direction to be.

The City Manager reminded that two Commissioners favored option 1 and two Commissioners that favored option 2 and the fifth Commissioner didn't favor either. After that meeting there was no direction on how to proceed, but he has talked with the contractor and they are aware of the general issues, and he has asked them to take a pause for the time being.

Chair Nootz expressed thoughts about bringing this item back and money spent and the public engagement how they've been talking about this logo for a long time now. She really wants to bring it back to the Commission.

Chair Nootz moved to bring the logo back for the next agenda seconded by Commissioner Friedman.

13. Adjournment

7:48pm Commissioner Lyons motioned to adjourn the meeting seconded by Commissioner Friedman. Unanimously approved.

Calendar of Events

Supplemental Material

Notice

- **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
- **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
- **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.