



Livingston City Commission Minutes

August 15, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/89320381974?pwd=cm1BcGFQOFRjVHd2Y05lZ3FZYXJjdz09>

Meeting ID: 893 2038 1974

Passcode: 011573

1. Call to Order

Vice Chair Kahle call the meeting to order at 5:32pm

2. Roll Call

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

Staff in attendance: City Manager Grant Gager, Interim City Attorney Jon Hesse, Detective Jordan Brummel, Sergeant Jason Gunderson, Finance Director Paige Fetterhoff,

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)

- Jay Keifer expressed concerns about funding the Park County Health Officer, upcoming street closure event, and the City recycling program.
- Patricia Grabow clarified what the final sketch would look like for the Warren McGee statue at The Depot would look like.

4. Consent Items

- A. APPLICATION FOR KATHERINE LABOUNTA FOR SPECIAL PARKING SPACE FOR RESERVED FOR DISABLED PERSONS ON A PUBLIC STREET.**
- B. CONSIDERATION OF AGREEMENT 20031 WITH SHANE LALANI CENTER FOR THE ARTS**
- C. CONSIDERATION OF AGREEMENT 20032 WITH WINDY CITY OUTLAWS INCORPORATED**
- D. CONSIDERATION OF AGREEMENT 20033 WITH LIVINGSTON DEPOT FOUNDATION**
- E. APPOINTMENT OF CHRIS PETTIT TO LIVINGSTON TOURISM IMPROVEMENT BOARD OF TRUSTEES**
- F. APPROVAL OF MINUTES FROM AUGUST 1, 2023, REGULAR CITY COMMISSION MEETING**
- G. RATIFICATION OF CLAIMS PAID 7.27.2023 TO 8.9.2023**

Vice Chair Kahle asked if items were okay for approval. The City Manager stated he received notice from the Depot and was asked not to act on Consent Item D. Consideration of Agreement 20033 with Livingston Depot Foundation as the Depot had some organizational issue pop up. This item will be brought back to the City Commission 9/5/23.

Motion to approve consent agenda items A, B, C, E, F, and G was made by Commissioner Schwarz and seconded by Commissioner Lyons. The motion passed unanimously by the four members present.

5. Proclamations

6. Scheduled Public Comment

A. DOWNTOWN MASTER PLAN CONSULTANT PRESENTATION

Vice Chair Kahle called on the City Manager to introduce this item. The City Manager then introduced the Crescendo Planning team allowing them to discuss the Downtown Master Plan. Andy Rutz introduced himself and shared his excitement for this project. Team member Matt Prosser introduced himself as a principal economic planning systems. The team is joined by Robert Peccia and Associates who are primarily focused on transportation accountability and they have worked well with Andy and Matt on past projects. Andy discussed engagement this process, stating how important community input is and various ways to reach the community. The Master Plan is intended to provide the City with recommendations around land use, mobility, parks and public spaces around downtown, and going into more detail around a streetscape improvement plan. The project will last roughly from now until May 2024.

Vice Chair Kahle thanked Andy and his team for attending and presenting their project.

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)

A. CONSIDERATION OF COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS FOR 2023

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager clarified this public hearing was to gather community input on possible projects that may be funded by a Community Development Block Grant. The Montana Department of Commerce is taking applications for planning and construction in November 2023. The City will have two public hearings.

Vice Chair Kahle clarified internal process and opened up to Commission questions. Commissioner Schwarz asked for the dollar amount for the grants. The City Manager stated there are different thresholds, but the limit for the planning grant is \$50,000 in reimbursement and the construction is much higher limit of \$7 million. Commissioner Lyons clarified the purpose of the public hearing is to gather ideas from the public for ideas on what these grants could be used for. Vice Chair Kahle asked how many grants planning and construction can have per year. The City Manager clarified it's one of each per cycle.

Public Comment was offered by:

- Danielle Maiden the Cooperative Housing Director at Neighborworks Montana introduced herself and her the company she works for. She indicated 2 projects that could utilize these grants one being View Vista Community and the other is Sleeping Giant Community. The Sleeping Giant Community could potentially utilize the planning grant for a preliminary engineering report that is needed for the water and sewer connection. View Vista has a

failing water and sewer system and a failing lift station which Neighborworks would like to apply for CDBG funding of \$750,000 for this project.

- Patricia Grabow agreed with Danielle Maiden and supports both of these projects.

Commissioner Lyons asked the City Manager if the City is going to do additional outreach outside public hearings. The City Manager stated yes, through public notice, newsletter and additional channels. Commissioner Lyons really liked what Neighborworks had to say and their project ideas. Vice Chair Kahle expressed gratitude for Neighborworks and their work in the City and County and agreed these projects are good ideas and realizes these communities' needs some assistance.

8. Ordinances

9. Resolutions

A. RESOLUTION 5098: APPROVING AND ADOPTING THE FINAL FY 2024 BUDGET

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated this is the final budget with 2 additions that came after the original budget in May. These include \$15,000 for election administration and possible in-person election related to the possibility of the creation of a special district, and \$20,000 for a consultant for the energy action plan. Both additions were requested by the City Commission.

Commissioner Lyons moved to approve the resolution and Commissioner Schwarz seconded the motion.

Commissioners thanked the City Manager and Finance Director for their hard work on this budget.

The item was approved unanimously by the four Commissioners present.

B. RESOLUTION 5099: FIXING THE TAX LEVY FOR FY 2023-2024

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated this item is the fix the tax levy for FY 2023-2024 and that the Finance Director provided analysis in the staff report. Many factors were assessed, but mainly the state's revaluation the total number of mills levied by the City of Livingston will decrease. This is due to the revaluation and new construction that has come onto the tax rolls. The tax impact on various residences has decreased as well.

Commissioner Schwarz moved to approve the resolution and Commissioner Friedman seconded the motion.

The item was approved unanimously by the four Commissioners present.

C. RESOLUTION 5100: INCREASING ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated this item was recommended by staff to move to a tiered water rate system. Further breakdown was explained that the first 10,000 gallons the rate increased by 3%. 10,000-30,000 gallons will increase by 5%. 30,000 -70,000 gallons will increase by 7%. Anything above 70,000 gallons will increase by 10%.

Commissioner Lyons asked the City Manager what the average residential consumption is. The City Manager clarified that 84% of users in the City of Livingston are in that first tier.

Commissioner Schwarz moved to approve the resolution and Commissioner Friedman seconded the motion.

Public Comment was offered by:

- Linda Maher questioned annexation of areas outside City limits such as Green Acres mainly how residents are having to hook to water/sewer, the fee associated with that, and would like to know the financial gains or losses to the City by having additional residents hooked to the City water/sewer.
- Patricia Grabow supports the increase in water and sewer rates and likes the tiered increase.

The City Manager clarified the questions brought up by Ms. Maher and stated the more users on City water/sewer really does help decrease the overall monthly cost of operating per user. It was further discussed that Green Acres is on City water, but was never required to hook up to wastewater which has caused concern since some systems are close to the Yellowstone River and the age was the wastewater systems were quite old. The City Manager stated for both of those reasons it made sense for the City to include those users in both water and sewer

The item was approved unanimously by the four Commissioners present.

D. RESOLUTION 5101: INCREASING ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WASTEWATER SYSTEM

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated that staff is recommending a flat increase of 5% to all users of the wastewater system. They expect the average residential user's bill will approximately increase \$1.01. Some users may see increases of up to \$5.01 per month. It was further clarified that the sewer fund is short on resources resulting in the cancelation of capital projects.

Commissioner Lyons moved to approve the resolution and Commissioner Schwarz seconded the motion.

The item was approved unanimously by the four Commissioners present.

E. RESOLUTION 5102: INTENT TO SPECIFY THE ASSESSMENT OPTION FOR STREET MAINTENANCE AND IMPROVEMENTS DISTRICT NO. 1 FOR FY 2023-2024

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated this item is to fix the street maintenance assessment for the year and reminded the City is not looking to increase the street maintenance assessment for FY 2024. With property taxes and growth of tax rolls the assessment received by each household will decrease approximately from \$275 to \$255.

Commissioner Lyons moved to approve the resolution and Commissioner Schwarz seconded the motion.

The item was approved unanimously by the four Commissioners present.

F. RESOLUTION 5103: INTENT TO ESTIMATE THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR FY 2023-2024

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager stated this assessment decreased by 33% resulting in residential and commercial residents seeing a decrease in their light assessments for the coming year. The estimated evaluation will decreased from \$31.09 to \$19.30.

Commissioner Schwarz moved to approve the resolution and Commissioner Friedman seconded the motion.

Public Comment was offered by:

- Linda Maher expressed good job to the commission
- Patricia Grabow is excited about decreases and thanks to City Manager and City Commission

Commissioner Lyons brought up a few pros and cons to being a growing City and appreciates the thanks from the public.

The item was approved unanimously by the four Commissioners present.

G. RESOLUTION 5104: INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHT DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES FOR FY 2023-2024

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager indicates a 33% decrease. The estimated evaluation will decreased from \$31.09 to \$19.30.

Commissioner Lyons moved to approve the resolution and Commissioner Schwarz seconded the motion

The item was approved unanimously by the four Commissioners present.

Commissioner Schwarz motioned for a 10 minute break seconded by Commissioner Lyons. Unanimously approved.

(Starts at Video Mark 1:14:50)

10. Action Items

A. COSIDERATION OF SPECIAL EXCEPTION PERMIT FOR PROPERTY LOCATED AT 5576 US ROUTE 89

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager invited the Planning Director to discuss this item. This special exception permit is proposing an amphitheater being built and utilized for outdoor concerts, as well as use of the adjacent lot that will be used as a parking area for attendees of the outdoor concerts. The proposed event space will have a max capacity of 250, events will go from May – September with a limit of 2 -3 events a week, ending no

later than 11pm. The parking area will hold 100 vehicles and 10 bike parking spaces will be available on the KPRK property.

Commissioner Lyons questioned not having an agreement yet with MRL for the parking area. The Planning Director stated that is one of the conditions of the approval that the owners of KPRK property present a signed agreement with MRL for use of the lot for a parking area. Vice Chair Kahle wondered about bathrooms and expressed concerns that they will be located on the site plan for the leased area. The City Manager clarified it is a condition of approval for bathrooms to be provided at events and stated page 214 is where portable toilets are talked about. Vice Chair Kahle expressed concerns about environmental issue with this property and earth moving in this location. The City Manager related this property to a similar situation at the Katie Bonell Park and clarified that DEQ does have requirements for properties, in and around superfund sites that are disturbing soil or other activities. This process is done during the process of obtaining a building permit.

The applicant, Andrew Feltenstein, shared his intentions with the property and why he chose that location. Music is something he loves and creates and wants to restore the KPRK building and create a revenue stream for himself to do so in way that the community can benefit from. He intends to lift the KPRK and back fill underneath and restore the old radio station, and he feels the amphitheater will bring fun to the community while preserving history all in one location.

Public Comment was offered by:

- Josh Teitelbaum expressed concerns about the amphitheater and would like the Commission to postpone decision until more residents can give public comment. He stated him and neighbors didn't have adequate time to prepare comment and attend this meeting to discuss concerns for surrounding neighbors.
- Melanie Majanias shared her support of this amphitheater and is excited to see KPRK resorted. She would like to see this approved.
- Patricia Grabow likes the idea of restoring KPRK, but expressed concerns about carcinogenic plume, and would like City Commission to be absolutely sure it is carcinogen free before approving this special exception permit.
- Kris King likes the idea of looking at environmental impacts and public safety. She does like the idea of this project and thinks the venue is a great location in a part of town that is not really developed commercially. The restoration of KPRK sounds exciting and thinks the community will benefit from having a local radio station. These shows could really bring revenue for local businesses which is good for Livingston.

During deliberation Commissioner Lyons recapped issues that were discussed; parking, bathrooms, floodplain/flooding, noise and past environmental issues. Understanding that the East end of Park Street is fairly traffic free, this location is a good one with the condition of obtaining parking and Commissioner Lyons expressed that parking is a critical part of the amphitheater being successful. Commissioner Schwarz likes the concept of this project and likes the location. He mentioned some concern around raising the building, but knows the owner will obtain a building permit and acquire proper testing, to eliminate any health and safety risk. Overall Commissioner Schwarz expressed support of this project. Commissioner Friedman didn't feel there was much negative to this project except the concerns around the floodplain and flooding, but overall showed support for this project and likes the location. Vice Chair Kahle lead with concerns about noise level and referenced noise ordinance sec. 10-5.C suggesting the cut off time for concerts should be 10pm to stay consistent with past special exception permits. It was brought up as a worry about movement of earth at this location and the importance of utilizing DEQ to help ensure the location remains safe. Vice Chair Kahle questioned to the Planning Director about potential risk for flooding at surrounding properties that are considered outside the floodplain. Will this project put that at risk for flooding? The Planning Director stated in order to get a floodplain development permit a project

cannot cause flooding anywhere else. Vice Chair Kahle would like to add a clarification to the parking condition that they will somehow always provide parking for events even if not utilizing the MRL lot adjacent to the property and that they will need to notify the City of parking arrangements should the lease will MRL dissolve or expire. The City Manager clarified the modified and added conditions that have been discussed. Vice Chair Kahle would like to add the 10pm cut off time for events and it was discussed between all Commissioners and comparison between this special exception permit and a previous special exception permit were talked about to see if the 10pm cut off fit for this application. Vice Chair Kahle also questioned if applicant wants to host more people than what was stated in this application if they would have to received approval or notify the City. Planning Director Severson responded yes, it is in their initial application agreement to monitor attendance and gain approval before hosting larger events. Changes include always have sufficient parking, DEQ is involved in project process. Vice Chair Kahle asked the applicant if he has any questions or concerns about these conditions. The applicant was brought back up to address the additional conditions, he expressed understanding of the previous special exception permit and stated the ways his venue is different and is built to absorb sounds and asked for one Saturday a month that can have a 11pm cut off time. Deliberation continued about the limit of shows to 2-3 per week that the applicant stated on his application.

Commissioner Schwarz motioned to extend the meeting seconded by Commissioner Lyons. Unanimously approved.

It was discussed best course of action since they are voting on what the applicant submitted

8:51P.M Commissioner Schwarz motioned for a 10 minute break seconded by Commissioner Freidman. Unanimously approved.

(Starts at Video Mark 2:58:41)

The question still stands if the applicant wants to amend the original application and continue this at the next City Commission meeting or put it up for vote tonight with Commissioner's added conditions. It was calculated that 3 shows a week would be 48 shows in the season and the applicant was okay with an additional condition from the Commission capping shows at 50 for the season.

Vice Chair Kahle motioned to approve the application with the staff recommended conditions as well as the following additional conditions: parking must always be available, DEQ requirements must be met, and cap of 50 shows per year. Seconded by Commissioner Lyons.

Public Comment was offered by:

- Josh Teitlebaum expressed the difference in living area at the Shane Center vs. the KPRK location and still really feels this will negatively affect the neighborhood.
- Rae Stevenson felt the noise disruption from the location will negatively affect her home life and nearby hiking trail that is between this location and the hospital.

The item was approved unanimously by the four Commissioners present.

B. CONSIDERATION OF REQUEST FOR ZONING VARIANCE AT THE ROSEN PROPERTY ON NORTH L STREET

Vice Chair Kahle called on the City Manager to introduce the item. The City Manager turned over presentation of this item to Planning Director Severson. They are requesting a variance for the

required front street setback from 25 feet to 18 feet. The Planning Director cited City Code Zoning Variance Sec 30.74 and reviewed all the criteria.

Commissioner Schwarz asked to see a map of the location. Commissioner Lyons wondered when the original structure was put in.

Mr. Rosen bought the property and stated the original mobile home has been there for about 15 years.

Commissioner Schwarz moved to approve the item and Commissioner Lyons seconded the motion.

The Planning Director clarified from Google Earth that the original mobile home has been on the property since at least 2005.

The item was approved unanimously by the four commissioners present.

11. City Manager Comment

The City Manager gave thanks to staff and Commissioners for implementing the budget. The City Manager reassured that even though the special commission meeting that was scheduled was canceled due to the County not pushing through the Wellness Center, he and the staff are looking at all available options to continue with this project for the community.

12. City Commission Comments

Commissioner Lyons thanked Vice Chair Kahle for leading an efficient meeting. Commissioner Schwarz commented on the wedding happening downtown in September and the negative comments it's receiving and clarified it is not costing tax payer dollars and a wedding is just a wedding and a celebration those being married. Commissioner Friedman thanked the audience for patience. Vice Chair Kahle thanked fellow Commissioners and touched on the young folks that went to trial in Helena for climate change and shared how proud she is of the youth in Livingston.

13. Adjournment

9:24pm Commissioner Friedman motioned to adjourn the meeting seconded by Schwarz.

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.