



Livingston City Commission Minutes

April 16, 2024

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/84779188407?pwd=VThNbnBCSVc0cHdzMENqTW8xYW85UT09>

Meeting ID: 847 7918 8407

Passcode: 254278

1. Call to Order

Chair Kahle called the meeting to order at 5:36 PM

2. Roll Call

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

Staff in attendance: City Manager Grant Gager, Chief of Police Wayne Hard, Policy Analyst Greg Anthony, Code Enforcement Helen DeLaHunt, and Planning Director Jennifer Severson.

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)

- Lindie Gibson expressed thoughts about keeping the current City logo, and expressed concern about the signs around the Lagoon not being correct.
- Chuck Tanner spoke about the Special Event Permit for the Car Show and would like to see the Car Show on Main St.
- Dustin Fanning the President for the Livingston Wheels Motoring Club clarified he did speak with the City Manager about change in location, and the decision is not just his to make but his club as a whole. He spoke about their events and what they do. He would like to see a positive outcome for the Car Show.

Chair Kahle asked the City Manager respond to the comments about the Car Show.

The City Manager clarified that neither he nor staff has said that the Car Show would not be downtown this year, and at no point did he ban the Car Show from Livingston. He acknowledged he has been speaking with the club about the event, and wants it to also have a positive outcome for community.

- Peter Kovago expressed thoughts and asked questions about the Wellness Center.
- Joseph Kopenhaver is part of the car club group and expressed thoughts about keeping the car show the way it's been.
- Leslie Feigel updated that they received their 3rd Film Community of the Year award for Livingston Montana. She expressed strong feelings about the Car Show location and application process.
- Patricia Grabow expressed thoughts about consistency in process.

- Chuck Tanner clarified that he wants to see the car show on Main St. not just somewhere downtown.
- Jay Keifer expressed his thoughts on the Car Show.

Chair Kahle asked the City Manager for clarification on the Special Event's process.

The City Manager stated that not much has changed, but there is more of a collaborative review process. He stated the process goes through Public Works, Recreation, Police and Fire for review and approval, and further stated this was the process used for the Car Show. The Manager also noted that the application was submitted without any verification from downtown business owners that they had been surveyed related to the event. The application was submitted on March 1st and with lack of signatures from business owners it somewhat delayed the event approval process.

4. Consent Items

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| A. APPROVAL OF MINUTES FROM APRIL 02 2024, REGULAR MEETING | PG.4 |
| B. APPROVAL OF CLAIMS PAID 3/28/24 - 4/10/24 | PG.23 |
| C. 208 LLAMA LANE FEE IMPACT WAIVER REQUEST | PG.35 |

Motion to approve all consent agenda items was made by Vice-Chair Nootz and seconded by Commissioner Lyons. The motion passed 4-1 with Kahle, Nootz, Lyons, and Willich voting for and Schwarz voting against.

Commissioner Willich moved to revisit item 4C on the agenda second by Commissioner Schwarz. Unanimously approved by the five Commissioners present.

Chair Kahle called on the City Manager to introduce this item.

The City Manager stated this item is for exemption from development impact fees for a project at 208 Llama LN, and the this property is not within the City limits. He stated the City spoke with the County about projects and the County brought a subdivision in their jurisdiction to the City's attention because it was within 500 ft. of City utility systems, and State law indicates that it does allow the City to mandate certain connections to our utility system for properties that are outside of our boundaries. He stated they had worked with the property owner and applicant on the process over the last year and half and he was recently provided a letter from the owners engineer requesting a waiver of impact fees for this property. As this was reviewed internally it was decided this would not qualify for an exemption for several reasons, therefore it was recommended to the Commission not to grant an exemption from impact fees for this project.

Vice-Chair Nootz asked what the distance was from existing City infrastructure.

The City Manager stated less than 500 ft.

Vice-Chair asked if this went through PUD process since it's a County resident.

The City Manager stated no, this has not gone through any City or City staff approval process.

Commissioner Willich asked how the County Health Dept. approves on-site water and then a month later rescind that?

The City Manager stated the Health Dept. does not fall under his management and he does not have insight into their decision making process.

Public Comment was offered by:

- Garrett Schultz is with Headwaters Engineering in Bozeman and is representing the applicant Karen Schneider. He gave a brief history of the project and expressed that fees should be waived or reduced.
- Karen Schneider gave a personal history of the 208 Llama LN location and feels the fees are too much.
- Keisha Gilbert is the School Administrator for The Way Christian School located at 208 Llama LN and has requested the impact fees be waived.
- Marc Graham an employee at The Way Christian School read a letter on behalf of Daryl Brunson with Expedition Church.
- Suzy Barnett is a renter of Karen's and spoke about her kindness and asked that the fees be waived.
- Gary Boone feels the City has already made their decision and would like to see the fees waived.
- Matt Skever is the general contractor for the duplexes and would like to see the fees waived.

Commissioner Willich asked for clarification on how a motion would work.

The City Manager stated it would need a motion and a second.

Commissioner Schwarz wondered when the sewer project was going on at this location and why the County had denied this to begin with.

The City Manager stated the timing of the Green Acres sewer project started with approval of the SID on November 1, 2022.

Commissioner Lyons asked the City Manager to clarify the process for someone building a residential subdivision.

The City Manager stated a subdivision that moves through the cities approval process is required to install water, sewer, roads, and storm water. Impact fees are charged to pay for the capacity that exists within the city's utility systems.

Vice-Chair Nootz asked if the roads that keep being mentioned are City roads.

The City Manager stated a portion of Tana Ln. is City.

Vice-Chair Nootz asked who maintains the infrastructure.

The City Manager stated that the City of Livingston does and its employees.

Vice-Chair Nootz asked what specific infrastructure will be maintained by the City.

The City Manager stated the water and sewer and any road segments that fall in City limits would be maintained by City as well.

Vice-Chair Nootz asked how City staff is paid.

The City Manager stated by property taxes or assessment so property tax bills.

Vice-Chair Nootz asked whose property tax.

The City Manager stated residents and property owners of the City of Livingston.

Vice-Chair Nootz asked if this property has been asked to annexed.

The City Manager stated that there has been no request for annexation.

Vice-Chair Nootz questioned why impact fee was not discussed upfront.

The City Manager reminded that this did not come through any City approval process because it is not in the City.

Commissioner Willich motioned to reconsider this item with no second.

Chair Kahle closed the item.

5. Proclamations

A. PROCLAMATION CELEBRATING LOCAL PERSONAL RIGHTS IN DEFENSE AND EDUCATION (PRIDE) EVENTS

PG.42

Chair Kahle read the proclamation.

Chair Kahle thanked everyone for attending tonight and stated she sat through a terrible County Commission meeting that morning and further stated she is very proud of the people in the room tonight. She stated she is tired of the hate activity and the hate speech and stated she will stand up against anyone who will intimidate this group of people. She stated we will not allow those people to come into our community and intimidate us. She stated she will see everyone there Saturday night.

The City Manager stated he aligns himself with comments of the Chair and let everyone know he and City staff will be there ensuring the safety of all community members.

Commissioner Lyons stated he appreciates the proclamation tonight. He appreciates the work of those standing in the room and wish it wasn't so contentious because it's simply in support of their right to be who they are and he thanked everyone and stated he supports them.

Commissioner Schwarz stated he stands with everyone.

Vice-Chair Nootz stated she is very impressed with what Livingston Pride does and organizes. She thanked them for all they do and making the community a safer place to grow up in for kids.

Commissioner Willich stated he supports them for who they are.

7:18pm Commissioner Schwarz motioned for a 10 minutes break seconded by Vice-Chair Nootz. Unanimously approved.

(Starts at Video Mark 1:43:25)

6. Scheduled Public Comment

A. MONTANA STATE UNIVERSITY EXTENSION

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

The City Manager introduce Maryanne Keys who is with the Park County Extension Office to present their work. He reminded that the City of Livingston funds some work of the MSU Extension Office through City budget.

Maryanne stated she is the Community Vitality and Economic Development Extension Agent with Montana State University, and was contracted to work in Park County and City of Livingston. She gave a brief presentation on what she does in this position and what is does for the community.

Commissioner Schwarz thanked Maryanne for all she and her team does in the community.

Vice-Chair Nootz is happy that the work they do is consistent for the community.

Commissioner Lyons shared his appreciation for what her and her team does.

Commissioner Willich stated he is excited to see the projects this team does.

Chair Kahle thanked her for all that they do in the community.

7. Action Items

A. RESOLUTION 5129: A RESOLUTION OF THE CITY OF LIVINGSTON CITY COMMISSION PROVIDING AN EXEMPTION FROM DEVELOPMENT IMPACT FEES FOR THE PARK COUNTY FAIRGROUNDS

PG.44

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

The City Manager stated this item is granting an exemption from impact fees for work performed at the Park County Fairgrounds. The Fairgrounds has been connected to the City water system for a long time, and recently they have worked with the Fairgrounds to rationalize that system. Due to growth down at the Fairgrounds there has been an upsize in their pipes, so the Fairgrounds have asked for a waiver of impact fees.

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

Public Comment was offered by:

- Leslie Feigel expressed that this is great project that supports city and county.

Commissioner Willich asked if they were unmetered before.

The City Manager stated yes, the meter will help with accurate water consumption.

Commissioner Schwarz asked what the impact fee amount.

The City Manager stated they are approximately \$7500.00.

Vice-Chair Nootz expressed this feels like a much different project than others for impact fees as it serves the public and is in line with Livingston Municipal Code.

Commissioner Lyons stated he thought charging the County for impact fees was like taking from one pot and putting it into another, and there inefficiencies in that process. So he likes the waiver of fees.

The item was approved unanimously by the five Commissioners present.

B. RECONSIDERATION OF A SPECIAL EXCEPTION PERMIT FOR THE SHANE LALANI CENTER FOR THE ARTS **PG.50**

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

The City Manager stated this item is a re-visitation of a process that was conducted last May and June when they awarded a Special Exception Permit to the Shane Center. The City staff has been working with the Shane Center. The City provided a foundation building permit to allow to proceed with certain aspects of the project even when they hadn't presented full building plans for a full building permit. In late February submitted their final material necessary to obtain a building permit and when staff reviewed the material they noticed the plans that were presented included some phasing of the project that was not originally contemplated by the Commission or discussed in the application process. Staff provided a building permit for vertical construction, but advised the Shane Center that all the phased elements would be required to be constructed before a final certificate of occupancy would be issued. Late yesterday afternoon around 3:30pm the Shane Center provided some supplemental material to the Commission directly. The packet was updated to include the sound analysis that was submitted by the Shane Center. He stated that he and the Planning Director have not had sufficient time to review and analyze the documentation.

Chair Kahle confirmed they did receive the additional documentation and she has not had an opportunity at this point to read through it. She expressed wanting to move this item to the next meeting so they all have time to process the new documentation.

The City Manager stated when the Commission acts to grant a Special Exception Permit the Commission is acting in a quasi-judicial way, so he advised Commission to voice ex parte communications they have had with the Shane Center.

Commissioner Willich stated he had a conversation with Erika Adams the day before and also he lives in the 250 ft. zone of influence and received some tickets from the Shane Center for the dueling pianos and isn't sure if he should keep them.

Vice-Chair Nootz clarified process for ex parte stating they have to say who it was, what the conversation was, and questioned receiving gifts.

Commissioner Willich stated the conversation was Erika thanking everyone in the zone and was looking forward to the meeting tonight. He clarified staff member Devon was with Erika.

Chair Kahle stated they did received written public comment from some of these folks. She clarified she is feeling like they need more time to process the additional documentation and could see them moving this item to the next meeting. She would like Commissioners to ask questions to City Manager for him to review and bring back at the next meeting.

Vice-Chair Nootz asked for clarification on when items have to be submitted to be considered in the agenda.

The City Manager stated in the Commission Handbook states the City Manager typically will have the agenda settled one week before a meeting, and it has been established that noon the prior day to the meeting is when materials are due to come into the packet. Public comment is allowed up until noon on the day of the meeting.

Vice-Chair Nootz asked if this additional information from the Shane Center was intended to be public comment, or additional material to be considered by the Commission.

The City Manager stated the email received by the Shane Center referred to it as supplemental materials.

Vice-Chair Nootz expressed without being able to review the information provided yet she is unable to come up with questions to be addressed at the next meeting. She expressed concerns for other City needs by putting this to another meeting, and prioritizing or putting on hold other City items that need to be dealt with by having to see this item on another agenda.

Chair Kahle asked for clarification on agenda availability.

The City Manager stated the City is working through growth policy implementation and the City is working its way to budget season. He stated it does seem they could accommodate this item at the next meeting with minimal disruption to the flow of business.

Commissioner Schwarz stated he thought these things were supposed to be in place before opening, but realizes they had events without the pavilion before, but is not sure without the proper structure if it will just amplify the sound more. He hopes this will be addressed.

Chair Kahle motioned to move this item to the May 7th meeting seconded by Commissioner Schwarz.

Public Comment was offered by:

- Russell Lewis stated at this he wishes to withdraw their request for the City Commission to consider a temporary occupancy permit given the time frame they are going to push forward and try to have everything complete by when they plan on starting their programming. He stated they cannot wait 2 weeks or a month for approval.
- James Nave stated he supports the project going on at the Shane Center.

Chair Kahle asked for clarification on process.

The City Manager stated that with a verbal withdraw a motion is not necessary nor is a vote stating they are welcome to the close the item.

Commissioners expressed their positive feelings about the Shane Center and the project.

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

The City Manager stated this is the second reading of this item and it does modify the parking provisions of the Livingston Municipal Code primarily removing any references to fess which are now set by resolution. They have taken the time to provide some additional clarifications on parking in the City of Livingston including it is inappropriate for the operator of a vehicle to stop, stand or park on a sidewalk. In the first reading typographical errors were identified for correction, and add that drivers must be responsive to operators of emergency vehicles other than law enforcement personnel.

Vice-Chair Nootz asked what City plans are to educate the public about these changes.

The City Manager stated ordinances do not take effect until 30 days after their second reading so over the next 30 days the City will undertake an education campaign and some signage changes will occur. Parking Enforcement has discussed flyers that could be posted.

Vice-Chair Nootz moved to approve the ordinance and Commissioner Willich seconded the motion

Public Comment was offered by:

- Patricia Grabow expressed her thoughts about parking that she thought was passed years ago at the Grabow building.
- Leslie Feigel expressed that she felt a parking pass permit would work best for extended parking.

Chair Kahle asked for a motion to extend the meeting

Vice-Chair Nootz motioned to extend the meeting second by Commissioner Schwarz. Unanimously approved.

- Angela Devani wondered about parking in front of a driveway and wondered if she can park in front of her own driveway. Also wondered about people parking so close to stop signs at inner sections.

The City Manager stated parking in front of driveways may be a little difficult from an enforcement standpoint because it is difficult to tell if the vehicle has been permitted by the owner to park blocking the driveway.

Commissioner Lyons recalls discussing the need for jail time and asked for clarification from the City Manager.

The City Manager stated 9-254 section is current law in the City Livingston and is not up for changes at this time. It reference unauthorized release of an immobilized vehicle.

Commissioners expressed their understanding of the jail time in the code and realize parking in front of driveways will be hard for one staff member to monitor all driveways.

The item was approved unanimously by the five commissioners present.

Chair Kahle motioned to enter closed session seconded by Vice-Chair Nootz. Unanimously approved.

D. CLOSED SESSION PURSUANT TO 2-3-203(3) TO DISCUSS A MATTER OF PERSONAL PRIVACY

E. CLOSED SESSION PURSUANT TO MCA 2-3-203(4)(B) TO DISCUSS LEGAL STRATEGY

(Starts at Video Mark 3:06:18)

8. City Manager Comment

The City Manager thanked the Commission for the meeting tonight.

9. City Commission Comments

Commissioner Willich thanked everyone for the meeting.

Commissioner Lyons thanked the Chair for the Proclamation tonight.

Commissioner Schwarz expressed the uncertainty of the Car Show being spread around through social media is not okay and wishes the community could all work together on items like the Car Show.

Commissioner Nootz had no comments.

Chair Kahle thanked the Commission for the meeting and wants everyone to work together.

10. Adjournment

9:26pm Commissioner Lyons motioned to adjourn the meeting seconded by Commissioner 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.