



Livingston City Commission Minutes

May 20, 2025 — 5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/83765552211?pwd=q5zldvbfDb3D6tEc9WGpVub0079BW.1>

Meeting ID: 837 6555 2211

Passcode: 256972

1. Call to Order

Chair Schwarz called the meeting to order at 5:35pm

2. Roll Call

- Chair Schwarz
- Vice Chair Nootz
- Commissioner Kahle
- Commissioner Lyons
- Commissioner Willich

City Staff Present

- City Manager Grant Gager
- Chief of Police Wayne Hard
- Public Works Director Shannon Holmes
- Public Works Administrative Assistant Faith Kinnick
- City Engineer Adam Ballew

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:

- Jeff Schlap shared thoughtful and kind words about Coach Dickerson. He requested a future proclamation to celebrate him.

Livingston, Montana



4. Consent Items

- A. APPROVAL OF MINUTES FROM MAY 06, 2025, REGULAR MEETING**
- B. APPROVAL OF CLAIMS PAID 5/1/25 - 5/14/25**
- C. AGREEMENT 20183 WITH THE AMERICAN RED CROSS FOR EMERGENCY FACILITY USE**
- D. APPROVAL OF AGREEMENT 20185 WITH TD&H FOR MONTANA STREET RECONSTRUCTION PROJECT DESIGN SERVICES**

Commissioner Willich motioned to approved Consent Items A-D seconded by Commissioner Lyons. Unanimously approved.

5. Proclamations

- A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING MAY 18 - 24 AS NATIONAL EMS WEEK IN LIVINGSTON, MONTANA.**

Chair Schwarz read the proclamation.

The City Manager expressed support and appreciation for Livingston Fire & Rescue, and thanked them for serving the City and Park County.

Chair Schwarz expressed appreciation for Livingston Fire & Rescue.

Commissioner Willich thanked them for their service.

Commissioner Kahle thanked them for their services and all their work in search and rescue as well.

Vice Chair Nootz acknowledged they have a new City Facebook page that shows updates for folks that want to follow them and see what they are up to.

- B. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING MAY 18 - 24 AS NATIONAL PUBLIC WORKS WEEK IN LIVINGSTON, MONTANA.**

Chair Schwarz read the proclamation

The City Manager expressed appreciation for the Public Works Department and thanked them for all of their hard work.

Chair Schwarz acknowledged they are working very hard updating our aging infrastructure.

Commissioner Willich expressed they do a great job.

Commissioner Lyons expressed excitement every time there is a presentation from Public Works, and stated it is a highlight of being a commissioner for him.



Vice Chair Nootz recognized the Public Works employees in the room and thanked them for all they do.

6. Scheduled Public Comment

A. PRESENTATION FROM PARK LOCAL DEVELOPMENT CORPORATION REGARDING REVOLVING LOAD FUND

The City Manager introduced Trent Belestri from Park Local Development Corporation who administers the joint City and County revolving loan fund in support of small businesses.

Vice Chair Nootz stated she has a possible conflict since she works for MSU, and removed herself from the room for this portion of the meeting.

He gave a brief presentation on economic development.

Commissioner Kahle thanked him for his presentation and his work in the community for small businesses.

Vice Chair Nootz entered the room rejoin the meeting.

7. Action Items

A. CONSIDERATION OF SACAJAWEA PARK FLAG INSTALLATION

Chair Schwarz addressed the room with guidance those participating in this specific item on the agenda and asked that everyone please follow the rules set in place.

The City Manager introduced this item and stated this item is a discussion and consideration of the flagpole that was recently installed in Sacajawea Park. He stated that at one time the triangle at the intersection of Yellowstone Street and River Drive did have a flagpole. He reminded that the City currently is working on a Parks Master Plan, and that contract was awarded last summer. He stated the Commission received comments at the April 15th City Commission meeting about the triangle, and City staff observed on May 8th during the day that a new flagpole had been installed. Based on what was seen online the persons that installed the flagpole were from the local VFW, and did appear to claim responsibility in a news article. On Friday, May 9th he reached out to state VFW office, as well, as attempted to reach out to the local VFW. He spoke with the top administrative official of the VFW in Helena, and had a conversation with him. The flagpole being placed does present operation concerns, but also, and more largely some legal concerns. He pointed out a few issues with the flagpole currently, such as it was not lowered on Peace Officer Memorial Day, it's not lit up a night, and it is not



secured, which means that anyone at any time could remove the flag or replace the flag without permission. He gave a brief presentation on this topic and highlighted a case similar called Shurtleff V. City of Boston.

Vice Chair Nootz motioned for a five-minute break seconded by Commissioner Kahle. Unanimously approved.

Chair Schwarz reminded the room of the expectations of rules set in place and that the City Manager is addressing the City Commission, but sharing with the public, and the public will address the Chair of the City Commission and with share with the City Manager. He reminded that meeting disruptions will not be tolerated.

The City Manager continued his presentation.

Chair Schwarz asked the City Manager some questions. First one being is this location in the flood plain.

The City Manager stated this location is in the 500-year flood plain.

Chair Schwarz asked about requirements to dig in the flood plain.

The City Manager stated they do require coordination with the City's flood plain manager.

Chair Schwarz asked if locates were called, such as 811.

The City Manager stated to the best of his knowledge, no calls were for utility locates were made because the City water and sewer department were not notified of a dig.

Chair Schwarz asked if there is public infrastructure in that area of the park?

The City Manager stated yes, there is a sewer line in River Drive that runs right by there that is only about four feet below the surface.

Chair Schwarz asked about requirements for posts in the streets for flagpoles or stop signs and things like this. Does this flagpole meet those standards?

The City Manager stated that installations in the right-of-way are guided by the manual and uniform traffic control devices, and the manual does have provisions that require or recommend breakaway devices for signs and fire hydrants. Upon inspection this pole does not appear to have a breakaway device. Per the newspaper article it states it's actually been welded to the sleeve.

Chair Schwarz asked if the VFW maintains the flag.

The City Manager stated he has not had any conversations with the local VFW about the flag or their plans to maintain the flag.



Chair Schwarz asked if the City Manager attempted to have a meeting with the VFW because he and Vice Chair Nootz would have welcomed a conversation with anyone about this.

The City Manager stated he attempted several numbers that he could find for the local VFW and was unable to reach anyone, but was able to speak with Jeff from the VFW in Helena. He was able to speak with community members affiliated with the local American Legion who had given him a contact for someone local with VFW, but was not successful in reaching him for a conversation.

Chair Schwarz asked if there is appropriate lighting on the flagpole.

The City Manager stated the pole is lit by street lights in the vicinity, and has walked by in the evening and saw the flag was unlit at night.

Chair Schwarz asked if the flag was half-staff on National Peace Officers Day.

The City Manager stated no it was not.

Chair Schwarz asked who is liable if the Commission allows the process for a flag that is not up to code.

The City Manager stated at this point it is on our property so it would fall on the City.

Chair Schwarz asked what if the infrastructure is damaged?

The City Manager stated it would depend on what infrastructure is damaged. If it was water and sewer that would be City, but electric or gas would Northwestern Energy.

Chair Schwarz asked what happens if the flagpole injures someone.

The City Manager stated the City would likely be sued. He stated in speaking with MMIA they would likely attach anyone associate with the pole to the lawsuit in the defense.

Chair Schwarz asked whose responsibility is it for lowering and raising the flag and maintaining it.

The City Manager stated that flagpoles on City property would be maintained by him and City staff.

Chair Schwarz reminded that the flag is not secured and wondered what happens if someone changes the flag that is there.

The City Manager stated this is the crux of the matter and stated if somebody does go and change the flag and City staff attempt to remove the new flag, we could very well be violating somebody's free speech right because they have allowed one private organization to fly a flag.

Chair Schwarz stated that the day this flagpole went up that he, Vice Chair Nootz and the City Manager were having a discussion about what they can do temporarily waiting for the completed Parks Master Plan.



Commissioner Willich asked what was in the triangle prior to 1991.

The City Manager stated he was not around during that time and is not sure.

Commissioner Willich asked if in 1991 when the memorial was put in place was it the City who was supposed to care for it.

The City Manager stated yes.

Commissioner Willich asked why the flagpole came down in 2020.

The City Manager stated there was a safety concern with the pole and some corrosion, and was decided by City staff and the City Manager at that time to remove the pole.

Commissioner Kahle asked if they allow this flagpole to stay, and another group placed another structure in another location on City property, would the City have to allow that structure to stay without getting us into litigation.

The City Manager stated this is what is as the heart of the public forum that was noted in some of the legal opinions. By allowing a flagpole that has been erected by a private organization to fly their flag, we have created a public forum and a forum for private speech to be disseminated. So, for the City to enter that forum and start regulating private speech is very problematic, and would not be some the City should do.

Commissioner Kahle asked for clarification on the breakaway devices that are required and asked if they are there in case a vehicle hits the structure it will breakaway instead of come right through the center of a vehicle.

The City Manager stated yes, that is the purpose.

Commissioner Kahle acknowledged where his structure is located it's frequently driven by high school students on their way to school.

The City Manager stated yes, and there are approximately 1100 vehicles that travel River Drive per day.

Vice Chair Nootz questioned if this flagpole is allowed then what if other decided to put up anything they want on City property.

The City Manager reminded this would be pretty problematic for the City, but noted that there is a process for folks who want to place things on City property. He reminded of a pavilion that was donated to the City and placed in Sacajawea Park.

Vice Chair Nootz asked him to clarify the process.

The City Manager stated the best avenue is to contact the City directly or stop in at City Hall or the Public Works Office.



Vice Chair Nootz asked the City Manager to explain plans and why they are important.

The City Manager stated that plan make obtaining of state and federal dollars easier because that is usually one of the first questions asked is if this is a project reflected in an existing plan for the City. The planning process is designed to achieve public input in a process. These spaces are public spaces entrusted to the City to care for and it's the responsibility of the elected officials to represent the voters and community, and it's his job to enact those policy priorities that the Commission has laid out based on their input from the voters in the community. He stated during these planning process they do gather public input in multiple stages of planning. He described the Parks Master Plan process that started last August and the multiple levels of public feedback and input.

Vice Chair Nootz expressed thanks and is happy that engagement with the public has increased and seems easier to do with this current City Manager. She asked for a recap of the process for this flagpole previously and budget.

The City Manager stated after discussing with Public Works Director Holmes he learned the previous flagpole was taken down in late 2020. In March of 2021 the City Manager, at that time, brough forward a proposal for a replacement flagpole that was much larger, and that came through the FY22 budget development process. In the FY22 budget \$38,000 was appropriated for flagpoles. Of the \$38,000 there was \$20,000 allocated to a flagpole in the triangle in Sacajawea Park and another \$18,000 for use at the newly purchased City Hall at that time. The City Manager at the time abandoned the larger flagpole in triangle due to some issues, and \$23,000 was spent in procurement of the poles at City Hall. Staff resources were used to set those poles, and get them operational. In spring of 2023 the City had an issue with lighting on the center pole at City Hall, and issue on the Eastern flagpole and \$11,000 was spent between materials and electrical services. The halyard on the center and Eastern poles have become non-operational, and leaves only the Western pole to fly the American flag and POW. He stated the City has spent more than \$4,000 on flags since the poles had been installed. He stated the breezes in Livingston are not kind to flags, and confirmed that the City has spent more than the allotted \$38,000 for flags and flagpoles.

Commissioner Kahle asked if there is another flag in Sacajawea Park.

The City Manager stated yes, there is an armed forces memorial approximately 80 yards North of the triangle. That was erected by family members of residents who were away at Desert Storm.

Commissioner Kahle asked if was secured and lit at night.

The City Manager said yes, though, the light is not operational at this time.

Commissioner Willich asked how old the current Parks Master Plan is.

The City Manager stated it was approved in 2011.

Commissioner Willich asked if the triangle was discussed in that plan.



The City Manager stated yes.

Commissioner Willich asked if the triangle is compliant with the manual traffic control devices.

The City Manager stated no.

Commissioner Willich asked if the Silver Jackets study to extend toward the park from 9th Street bridge downstream.

The City Manager stated the City is working with the Army Corps of Engineers and the Montana Department of Natural Resources and Conservation on a national inter agency flood management project, known as a Silver Jackets project that is evaluating breaches in the levy. He stated the levy is not a certified levy and when the Army Corps looks at the levy, they take top road as base elevation, so it is as of right now in the 500-year flood plain.

Commissioner Willich asked when we would see their recommendations.

The City Manager stated the draft maps are anticipated 11 months from now, then they would go out for a public comment process.

Vice Chair Nootz expressed concern about possible violation of the public process for the Parks Master Plan because they haven't voted on it, and expressed additional concern about things acted on before the public has a chance to give input. She wanted to know about potential process violations and if we had any information on that from legal or MMIA.

The City Manager stated he has discussed this with the City Attorney and City Prosecutor and he does genuine concerns. He stated the City general fund is responsible for all the claims upon the City.

Vice Chair Nootz asked to reclarify the General Fund budget vs. overall budget.

The City Manager stated the General Fund budget is approximately \$8 million and overall budget is approximately \$29 million.

Vice Chair Nootz motioned for a 10-minute break seconded by Commissioner Kahle. Unanimously approved.

Chair Schwarz asked how it would affect the City General Fund if sued.

The City Manager stated we do have liability insurance with a cap. MMIA will cover the first half million of liability coverage, then the City is responsible for judgements beyond that.

Commissioner Willich suggested the VFW give the flagpole to the City, and the City take over the pole and maintenance in the interim until the Parks Master Plan is completed.

Vice Chair Nootz expressed concern about accepting a pole that is not up to code, and does the City want to accept liability for this. She really wants the Commission to think about policy and understands that MMIA has suggested they set in place a flag policy.



Commissioner Kahle reminded their number one job as Commissioners is health and safety for the community. She has great concern about a teenage driver driving into that flagpole. She is looking forward to the Parks Master Plan and what kind of a memorial it will bring for our community. She expressed concern about the pole not being lit and staff having to take the flag down and put it up each day and take it down in a wind events. She feels the flag just north is the solution until the Parks Master Plan is complete.

Chair Schwarz stated he is also most concerned with health and safety of the community and has a responsibility to take care of the City budget.

Public Comment was offered by:

- Bob Meechum, an officer with the American Legion, not affiliated with the VFW, but an officer. He spoke with the City Manager where they discussed who the City Manager would need to talk to. He agreed with Commissioner Willich's idea with using this flagpole as interim. He stated the flagpole is lit now.
- John Yeager, he is the outgoing commander of the American Legion Post 23, and member of VFW Post 2154. He expressed disappointment that the flagpole was taken down and then nothing was done with it in 5 years. He agreed with the plan that Commissioner Willich suggested.
- Darren Bergsing is a local Veteran and expressed agreement with Commissioner Willich's suggestion and would like to see the flagpole stay where it is.
- Paul Bradley is a local Veteran, and he expressed agreement with Commissioner Willich to leave that flagpole up in the interim.
- Darcy Feigel is a US Veteran and expressed her thoughts on the importance of having a flag there before Memorial Day and 4th of July.
- Eric Bradely is the current Commander of the VFW, Post 2154 here in Livingston. He stated the light has been fixed on the pole and it is secure. He is happy to give the keys to the City. He expressed dissatisfaction with waiting 5 years for a new flagpole to be placed. He agreed with Commissioner Willich's suggestion to leave this in place in the interim.
- ED Gilbert is a Vietnam Veteran and expressed his thoughts on keeping that flag where it is.
- Kemp O'Neill has family that are Veterans and expressed strong thoughts on the importance of the American Flag, and agrees with Commissioner Willich's suggestion.
- Jay Keifer expressed disappointment with a local news group.
- Heather Bergsing asked what the difference is between having the flags out for Memorial Day and a flag that stays stationary.



- Donald Wood expressed that he thinks no one will drive into that pole at the triangle, and expressed his respect for the American Flag.
- Clark Kelly stated he understand the meeting is not about the American Flag it's about the liability of where the flagpole is, and would like to just seen the flagpole brought up to code and it solves the liability issue.
- Nicole Maher expressed not liking to hear the example of teenagers running into the flagpole.
- Melody Mount expressed agreement with several other commenters, and stated she has previously spoken to the City Manager about this issue.
- Jackie Feigel expressed support to leave the flagpole up and agreed with Commissioner Willich's idea to leave it as an interim solution.
- Jami Rebsom addressed the resolution that was approved in 1991 that designated this location to Veterans, and feels this is just a replacement flagpole.
- Julie Riley expressed thoughts that this is a replacement flagpole and they are not introducing something totally new in that location.
- Carey Yeager expressed wanting to keep the flag at that location, and feels putting it off for 5 years is not right, and reminded they have asked for this several times.
- Peggy O'Neill expressed her respect for the flag, and asked that the flag stay where it is.
- John West expressed a strong appreciation for the American Flag. He stated they reach out to have City employees attend services and they don't, and he feels that is wrong.
- Chuck asked to hear more than one solution to this issue.
- Kelly Bonnell Bishop expressed frustration with the Wellness Center location and is upset to see the flagpole was removed and not replaced timely, and asked for the Commission to find solutions.
- Leslie Feigel expressed importance of memorials and understands there is a Parks Master Plan and she advocated keeping the parks the way they are.
- Tammy Lewis asked the Commission to allow this flag to fly until the Parks Master Plan is completed.

Vice Chair Noot motioned for a 10-minute break seconded by Commissioner Kahle. Unanimously approved.

Chair Schwarz confirmed the previous pole taken down due to safety concern, and addressed that the new pole is in a road, as was the old pole, but the new one does need to be a breakaway. He asked



the City Manager to clarify the difference in the flagpole at the triangle and avenue flags places on River Drive.

The City Manager stated they are similar liability wise because a private organization places those flags out, and we have not had another organization ask to use it for other flags, so it would be good if they created a policy for the avenue flags as well.

Vice Chair Nootz asked what it would take for the pole erected to be in compliance.

The City Manager stated he is happy to have a conversation with the City engineer on how to get the pole more compliant.

Vice Chair Nootz asked if this is a new item or just a replacement based on a previous resolution passed by the City.

The City Manager stated reminded that local laws are not done through resolution they are done through ordinance, and those ordinances are codified in the municipal code after two readings and 30 days. Resolutions are more statements of intent or statements of a governing body in the state of Montana. The City is aware of the 1991 resolution and stated there had been no action by the City Commission or City Manager to replace the pole after it was removed in 2020.

Vice Chair Nootz stated it wasn't that they didn't want to replace the pole, they just couldn't do it with the 100-foot pole that was suggested. She expressed frustration at learning the money they had allocated for the flagpole at that location had been used on something else, but is interested in what they can do moving forward. She then asked about the National Park Historic Registry.

The City Manager stated the parks were added to the registry in 2023, and the flag was not listed as a contributing structure in the application or designation.

Vice Chair Nootz asked if the flagpoles at City Hall are up to code.

The City Manager stated yes, those poles do have lighting mechanisms, and they have been replaced once in his time as City Manager.

Vice Chair Nootz asked about breakaway devices on those poles and asked for some clarity in that area.

The City Manager stated that the flagpoles at City Hall do have their own issues, and did acknowledge that they are not breakaway poles.

Commissioner Kahle asked for some detail about the memorial just north of the triangle.

The City Manager stated that pole was erected by a private organization and our documents do not show a resolution similar to the one at the triangle, so there is no record of the City accepting that memorial donation.



Commissioner Kahle asked who constructed or installed the previous pole in the triangle.

The City Manager stated the City records did not provide this information.

Chair Schwarz stated this whole thing is not about the American Flag, it's about the pole, and he stated he has family that are Veterans going back to the Revolution, and the flag means a lot to him, too. He expressed that with the pole, people can't just go about taking things into their own hands. He acknowledged that flagpole concerns were brought up at a meeting in April, and since that meeting, he hasn't a single phone call or email regarding what the City Commission can do to put something in there temporarily, the only comments he received were from folks asking to not remove the memorial. He reminded his cell phone numbers are on the website for anyone to reach out to him.

Commissioner Kahle has family that are Veterans and shared that the flag is really important to her and her family. She expressed being upset when the flagpole went up and it was not lit and then when it wasn't lowered on a federal holiday, and shared the importance of having it secured. She wants to find a solution to rectify this situation, and expressed because folks raced to get it up with no notice to the City and not follow proper process, it really puts the City in a bad situation. She reminded this is not about the American Flag, it's about the construction of a flagpole.

Vice Chair Nootz thanked everyone for coming and thanked the community members in the room for their service, and expressed how important the American Flag is to her. She specifically thanked Clark Kelly for his comment. She would like to see a policy moving forward. She offered to meeting anyone from the VFW, if they were interested, and encouraged them to reach out to the City Manager to facilitate that meeting. She expressed it would be great for community healing after this and hopes the City and VFW can work together to maintain the flagpole.

Commissioner Lyons expressed understanding of frustration waiting for something that is so important, and he understand that is how and why the flagpole was put up. He doesn't support going outside of process, but he does understand why it happened. He stated that the Commission is not interested in taking down the flagpole, they are interested in securing the safety and financial liability of the City, and all of the concerns they have are coming from that, not as a desire to disrespect the flag or take down and poles. He doesn't think they are headed in the direction of taking down the pole, but he senses that the community members in the room think that is what is going to happen.

Commissioner Willich expressed appreciation for the Veterans in the room. He stated the whole intersection is out of compliance, and they have to move forward with it. He would like to see the flagpole stay where it is, have the City Engineer take a look and see what it would take to make it safer, and then look at other safety improvements. He understands that whole roundabout needs to be brought up to compliance with our insurance and traffic laws.

Commissioner Lyons asked about what can be done to satisfy our liability concerns related to speech issue, traffic safety, and to precedent.



The City Manager stated the most immediate concern is about ownership of the pole and the liability that arises from that pole, and they need to include the avenue poles. He recommends that whoever installed the pole and the City come to an agreement and transfer ownership of the pole to the City, and that could happen quickly. He will work with City staff on a policy about flying flags on City property, and is able to bring both of these things to the next meeting. He will also discuss with the City Engineer about the structure of the pole, and find a solution to make it a breakaway pole. The Parks Master Plan does show a memorial location that they might be able to get a jumpstart on, and open up a public comment section and bring that to the Commission.

Vice Chair Nootz expressed disappointment and embarrassment about two of the 3 large flagpoles at City Hall that don't work, and would like to see that situation corrected and to move forward.

The City Manager expressed agreement that it is embarrassing that 2 of the 3 are non-operational, and really regrets the large amount of public fund that have been used on these flagpoles. He stated that he and other staff members have been figuring out a plan and solution for the broken ones.

Commissioner Kahle reminded that the City Manager Gager has inherited these flagpoles and has been trying to make them work. She also expressed the importance of having a memorial that is worthy of our Veterans, and wants to work together to create an appropriate memorial for our Veterans.

Chair Schwarz stated they have to work on the ownership policy and what to do to bring the flagpole compliant for the short interim. He would like to see this on the next agenda.

The City Manager stated he will work with the VFW in the coming weeks on transfer of ownership, and will also bring a policy related to the display of different flags on public property. He will also work with the City Engineer to identify improvements of the pole, which may increase its compliance and level of safety. He will also work expedite some parts of the Parks Master Plan process, specifically the intersection of Yellowstone Street and River Drive to see about getting the memorial to its new location.

B. AGREEMENT 20172 WITH FERGUSON WATERWORKS FOR METERS

The City Manager stated this item is back before the Commission after being presented at the prior meeting, and there were community members who gave public comments on the functionality of these meters, specifically their transmission to a central base station. He has made note of those comments in the staff report and proved the Commission with some background information on safety of these meters. Included is a report from the California Council on Science and Technology related to a 2011 deployment of these meters in the state of California. He stated there is also a report from Sensus, and it states the meters broadcast an average 1.2 seconds at a time, and their most intensive period of broadcast is in the commissioning phase. The distance from the center of the antenna where the peak radiation occurs, on the end point would need to be .65 inches away from a



person to expose them to the max level of permissible exposure, and he stated the house is actually .66 inches. So, for a human to achieve the FCC's max permissible level of exposure, they would need to be inside of the housing of the meter during the commissioning period. Outside of those periods it does not transmit at a level that would make someone susceptible to that. He showed a slide on smart meter output show these meters do not pose a danger to users. He stated an opt out policy is possible if the Commission decides that, but ultimately folks may be opting out to a very similar technology that is transmitting to a remote base station.

Public comment was offered by:

- Karen Stenseth is licensed naturopathic physician and asked the City Commission to reconsider installing these smart meters, and shared some information about effects on the body.
- Bob Meechum is a RF Engineer and he understands they are wanting an opt out system, and suggested that folks are given that option, but have a condition that once a house sells that it be required to have a new smart meter installed.
- Linda Maher thanked the Commission for looking into this and bringing it back, but did question the data in the report that was brought tonight.
- Jay Keifer expressed that the City should rethink using smart meters
- Kelly Bonnell Bishop expressed her thoughts that these smart meters will negatively affect the community members in Livingston. She supports having an opt out options.
- Donald Wood stated that Billings had enormous water bills and wondered if it had to do with smart meters, and suggested the Commission look into research done by Greg Breaden.
- Arlene de Feltrae expressed concern about short life span for these due to technology advances, and has researched about analog meters and found no issue to the public using those.
- Jesse Lucero stated he is in support of having an opt out program.

Commissioner Willich talked about the lithium thionyl chloride batteries used in these and they are same used in pace makers and watches. He showed a website <https://tadiranbatteries.de/lithium-thionyl-chloride/> with this information. He also showed <https://www.cancer.org/cancer/risk-prevention/radiation-exposure/smart-meters.html> and cancer society stated the batteries are safe. He suggested rolling them out to businesses first rather than homes, and does like the idea of an opt out program.

Commissioner Kahle asked for clarification on how these meters would be rolled out.

The City Manger stated that the meters will be rolled out to residents as theirs go bad, and to properties that need other improvements, but failure would be the most common change out. He



stated this purchase order is before the Commission because it exceeds his purchase order authority of \$50,000, and these are not the first meters that have been purchased by the city.

Commissioner Kahle expressed it might be hard to just give these to businesses because it seems the system is to use them when meters fail. She does like the option of an opt out program and wants the community to be able to make those choices for their home.

Vice Chair Nootz agrees with having an opt out program.

Chair Schwarz also agrees with having an opt program, and he stated he has one of these new meters.

Commissioner Lyons supports having an opt out program.

Commissioner Kahle liked the recommendation from the public commenter about when folks sell their homes to get the new smart meter installed.

Vice Chair Nootz motioned to approve this PO and develop and opt out program seconded by Commissioner Kahle. Unanimously approved.

Commissioners discussed and decided to move Items C, D, and E to the next meeting.

C. DIRECTION TO STAFF REGARDING 2025 SUMMER COMMISSIONER LISTENING SESSIONS

D. CITY OF LIVINGSTON BOARD AND COMMISSION HANDBOOK UPDATE

E. CITY OF LIVINGSTON BOARD AND COMMISSION BYLAW UPDATES

F. RESOLUTION 5160: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACCEPTING A UTILITY EASEMENT GRANTED BY KRISTEN GALBRAITH AND AUTHORIZING CITY MANAGER TO SIGN ASSOCIATED DOCUMENTS.

The City Manager stated this item is before the Commission because in the I&I Project during site title opinion and confirmation of easements and right-of-way, they discovered that in 1922 when the City laid the sewer main across the property there was no easement that was recorded at the time. In order to proceed with the project that is Federally funded we do need to straighten out utility easements.

Commissioner Lyons stated they received an email from the property owner about order of operations.

The City Manager stated this granting of the easement goes in conjunction with the boundary line adjustment that was requested. A boundary line adjustment is an administrative action under MCA.



However, agreements and easements are reserved for the City Commission. The actions go hand in hand, but there are different groups to approve and move forward each action.

Commissioner Kahle asked if this is first time they have seen in a resolution a payment to the property owner.

The City Manager stated it is rare to see, but this property owner was interested in being compensated for this easement.

Vice Chair Nootz asked if the property owner knew there was infrastructure running through their property.

The City Manager stated the property owner has previously tied into the sewer main for a residential construction project that they've had in their time of owning the property. Payment is to compensate the homeowner for expenses incurred for their private attorney who has managed this process for them with the City.

Vice Chair Nootz asked if that is typical.

The City Manager stated in his career it is not, but has seen agreements with the railroad like this.

Vice Chair Nootz asked what happens if they are in favor of the resolution, but not the payment portion of it.

The City Manager stated he and the City Attorney did discuss this and there is a quiet title action the City could very likely pursue because the lines have been in place for over 100 years, and the City very clearly has a prescriptive easement. A prescriptive easement is not allowed in all circumstances in the state of Montana, but utilities are one of them. The quiet title action would cost more than \$1500 in legal fees so, this resolution is the path of least cost to taxpayers.

Vice Chair Nootz wondered if these property owners are wanting to be de-annexed as well as wanting to be paid by the City. She stated it feels very complicated and wonders if this brings closure or will it keep coming up.

The City Manager stated it is their hope that the granting of this easement will bring closure to this specific situation. He understands the annexation is not universally accepted in that area and this homeowner has expressed their desire to de-annex from the City.

Commissioner Willich asked where this property was and would they be disrupted by process.

The City Manager stated it way at the end of East Lewis and would minimal impact other than the manhole areas.

Commissioner Kahle stated she understands a quiet action title would be more, but is not fully onboard with payment attached it this resolution.



Vice Chair Nootz expressed agreement with fellow Commissioners.

Chair Schwarz stated they want to be a good neighbor after the annexation, but does have reservations regarding payment with this resolution.

Commissioner Willich motioned to approve Resolution 5160 seconded by Commissioner Kahle.

For: Vice Chair Nootz, Commissioner Kahle, & Commissioner Willich

Abstain: Chair Schwarz due to working on a project for this person & Commissioner Lyons as he works with this person on a board.

Commissioners decided unanimously not to enter closed session.

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

8. City Manager Comment

The City Manager stated expressed appreciation for their work tonight.

9. City Commission Comments

Commissioner Willich thanked the Commissioner for their work tonight and reminded that social media is not a great source of information. He reminded the public if they have an issue to please contact them.

Commissioner Lyons stated the Upper Yellowstone Basin is at 86% of normal snow water equivalent for the date. He said the 80-degree weather melted off a lot.

Commissioner Kahle thanked the public for coming out this evening and the Commissioners for their work tonight, and agreed with Commissioner Willich about social media.

Vice Chair Nootz agreed with fellow Commissioners. She expressed sadness and frustration that City staff are receiving aggressive communications from the community, and stated we can disagree without being unkind.

Chair Schwarz thanked everyone who came to the meeting and thanked Chief Hard for keeping the peace and his service.

10. Adjournment

10:51 PM Commissioner Lyons motioned to adjourn the meeting seconded by Commissioner Willich. 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.