



Livingston City Commission Minutes

September 05, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/89631800639?pwd=WDFQSlg4b3dTM0ZVdDI0WVhsbmFFUT09>

Meeting ID: 896 3180 0639

Passcode: 938156

1. Call to Order

Chair Nootz called the meeting to order at 5:33pm

2. Roll Call

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

Staff in attendance: City Manager Grant Gager, City Clerk Emily Hutchinson, Planning Director Jennifer Severson, Finance Director Paige Fetterhoff, Asst. 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:

- Patricia Grabow gave a heartfelt thank you for the Warren McGee statue.
- Beverly McGee Madsen & Laura McGee jointly shared their excitement about the statue of their Uncle Warren. They gave a big thank you to everyone for putting this together and they are happy this statue will be here for their family to see for many years to come.

4. Consent Items

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| A. CLAIMS PAID 8/10/23 - 8/30/23 | PG.4 |
| B. APPROVAL OF MINUTES FROM AUGUST 15, 2023, REGULAR CITY COMMISSION MEETING | PG.21 |
| C. APPROVAL OF MINUTES FROM AUGUST 28, 2023, SPECIAL CITY COMMISSION MEETING | PG.31 |
| D. BROOKSTONE PAYBACK AGREEMENT | PG.34 |
| E. CONSIDERATION OF AGREEMENT 20033 WITH LIVINGSTON DEPOT FOUNDATION AND PARK COUNTY COMMUNITY FOUNDATION | PG.36 |

Chair Nootz asked Commissioners if there were any consent items that should be pulled for discussion. Vice Chair Kahle asked to pull consent item E for a small adjustment.

Motion to approve consent items A – D was made by Commissioner Schwarz and seconded by Vice Chair Kahle. The motion passed unanimously by the four members present.

Vice Chair Kahle motioned to approve consent item E with an adjustment to the language on PG 39 of the agenda at the ii adding “or legal” and seconded by Commissioner Schwarz.

Chair Nootz asked the City Manager if the City had anything to add. Nothing was added, but thanks was given to the Depot and Community Foundation.

The motion passed unanimously by the four members present.

5. Proclamations

6. Scheduled Public Comment

A. DEPT. OF COMMERCE COMMUNITY TECHNICAL ASSISTANCE - CONSULTANT INTRODUCTION TO ZONING CODE EVALUATION PROJECT

Chair Nootz called on the City Manager to introduce the item. The City Manager shared that the State Department of Commerce has included Livingston in its community technical assistance program. This means the City has a group of professionals who will help us start the zoning code overhaul. This team does this first step of comparing the Livingston Municipal Code zoning section with the growth policy to identify areas of conflict or point out areas of concerns.

Cody Marxer introduced herself as a planner with Great Western Engineering based out of Helena. She reiterated that they will be comparing the zoning code to the growth policy and they are looking for inconsistencies and things of that nature. They have already begun the review and we can expect to see an engagement plan with ways to amend and bring things into compliance. She did clarify nothing would be mandated, but all suggestion based and guidance for moving forward.

Chair Nootz asked the City Manager how this process works. The City Manager clarified the procurement process for the larger zoning overhaul. The document that Cody and her team put together will inform the work of that consultant. With the outcome being a text amendment, it will go through Zoning Commission then to City Commission.

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 3042: AND ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 26, ARTICLE V, SECTIONS 26.90 AND 26.91 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED STREET MAINTENANCE AND STREET LIGHTING DISTRICTS PG.41

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this is the second reading of this ordinance and it's to change to the way the street and street lighting maintenance district costs are assessed. The proposal is to move to an assessment method based on valuation. There are several different methods allowed under state code such as parcel size,

street frontage, trip generation, equal apportionment and the method we are recommending which is based on taxable value of a parcel.

Vice Chair Kahle moved to approve the ordinance and Commissioner Friedman seconded the motion. The item was approved unanimously by the four commissioners present.

B. ORDINANCE 3043, AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING BY ADDING NEW SECTION 30.47 ENTITLED PLANNED UNIT DEVELOPMENTS AND PROVIDING A REPEALER, SAVINGS, SEVERABILITY AND EFFECTIVE DATE. PG.50

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this a continuation from the last meeting when the PUD Ordinance was presented. There was a request from the City Commission to staff to gain some feedback on the ordinance. The City Manager and Planning Director spoke with several different groups and would like bring what they heard to the City Commission for a discussion. The intent is to gain City Commission feedback and bring a revised ordinance to them at a later date.

Planning Director Jennifer Severson shared that they did gain some additional feedback that was suggest from the August 1st meeting. Suggested revisions included decreased from 1 acre to .5 acre, allow PUD in all zoning districts, remove commercial use requirement, make commercial use a public benefit, increase max density bonus to 50% from 25%, and allow cash-in-lieu for increased open space benefit. The City Manager reminded City Commissioners that the goal is to refine the ordinance based on the 6 updates. Chair Nootz suggested to go through the items individually.

Public Comment was offered by:

- Tom Blurock is a board member of Friends of Park County and is really interested in making this PUD ordinance work. He felt it would be a big deal for a developer to deed restrict their property to do this. He is really happy to see the direction this is going.
- Dan Downing is frustrated by this idea and has concerns with density and affordability.
- Martha Downing shared that the proposed changes may change her experience with the home she purchased.
- Ken Cochrane, President of Friends of Park County, and shares that Friends of Park County approves and likes this PUD Ordinance. He offers to points of view being clear and objective definitions, standards and criteria in land use regulation, and would like commission to consider adding the provision of voluntary conservation easements in the ETJ as a public benefit.

Chair Nootz started off with decrease minimum PUD size to one half acre from 1 acre. Commissioner Schwarz and Commissioner Friedman liked this sizing. Vice Chair Kahle asked the City Manager and Planning Director if this feasible at one half acre. The City Manager clarified that the map the Planning Director had show's that yes, and there is benefit for half acre and no concern from staff capacity. Chair Nootz asked if this if this PUD process would also apply to land owners or developers that have properties to redevelop as well. City Manager confirmed yes, it applies. Vice Chair Kahle and Chair Nootz also agreed they like the half acre option.

Next is allowing PUD's in all zoning districts. Commissioner Schwarz asked how this works in R1. Planning Director Severson clarified that they are including zones outside of residential and last meeting it was not inclusive of all zones. The City Manager clarified that R1 was originally included in the August 1st meeting, but it was discussed then that it would not be suitable for environmental reasons and Commission thought PUD's should not be included in R1. To clarify zoning would not

include R1, but open it to everything else. Chair Nootz does not think it's acceptable to put PUD Ordinance in all zoning districts because there are some places that don't allow housing. Chair Nootz brought up Ag Land and Industrial Land that was discussed in growth policy that people don't want housing in those areas, so she feels PUDs should not be allowed in those districts. Mixed Use and Neighborhood Commercial zones were discussed as PUD candidate districts. It was determined that Neighborhood Commercial does not allow housing so this would not allow PUD's.

Remove commercial use requirement was started off by Vice Chair Kahle feels this is redundant, but it makes sense for public benefit. Chair Nootz clarified they like this idea of not making this a requirement just a commercial use a public benefit.

Require 80% minimum AMI for rentals and 120% AMI for owner units to obtain incentives, that's up from a minimum of 60% AMI with rentals and owner units not delineated. Vice Chair Kahle asked Planning Director Severson about her speaking with developers and housing experts and wanted to clarify both of those groups thought 60% was too low. Planning Director Severson said with the cost to build in Livingston that it's unlikely a developer could make 60% work. The City Manager clarified items related to deed restrictions and income verification. Chair Nootz reiterated the intent is for high quality housing and safe housing for all members of the community. Ultimately Chair Nootz is comfortable moving up this AMI. Chair Nootz would like more information and definition around renters vs. owners in this PUD.

Increase max density bonus to 50% from 25% was started by Chair Nootz. She understands that developers want this density bonus, but feels 25% is very generous and is not in favor of this increase. Commissioner Schwarz and Vice Chair Kahle agrees not to agree not to raise this density bonus to 50% and just keep it at 25%.

Cash-in-lieu for increased open space benefit was started with Chair Nootz who feels this contradicts one of the original proposed benefits. The City Manager clarified this was a suggestion based on a smaller subdivision and discussed some example numbers that calculate open space options. The staff would maintain the process for the cash-in-lieu of option such as a dollar amount per square foot for the in-lieu fee. Currently it's not a well-used or well-known program that could be used.

City Manager stated staff will take in the feedback and bring it back before the Commission with updates.

7:01pm Commissioner Schwarz for a 10 minute break seconded by Vice Chair Kahle. Unanimously approved.

(Starts at Video Mark 1:29:45)

C. ORDINANCE 3044: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 28, SECTION X-A OF THE LIVINGSTON MUNICIPAL CODE ENTITLED SUBDIVISION REGULATION BY ELIMINATING THE FEE SCHEDULE AND PROVIDING THAT THE FEES WILL BE SET BY SEPARATE RESOLUTION OF THE CITY COMMISSION. PG.78

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this is the second reading and this ordinance is in preparation for a City-wide Fee Resolution. The City is going through all City Code removing all reference to fees and they started with chapter 28.

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

The item was approved unanimously by the four commissioners present.

9. Resolutions

A. RESOLUTION 5107: LEVYING 100% OF THE COST FOR STREET MAINTENANCE AND IMPROVEMENTS DISTRICT NO. 1 FOR FY 2023-2024 **PG.84**

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this is the second reading of this resolution. The average residential property assessment will decrease in FY 24 from \$275 to \$255.

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

Chair Nootz asked where can people reach out and ask about this item and the City Manager clarified they could call City Hall and speak to the Finance Office or him directly.

The item was approved unanimously by the four Commissioners present.

B. RESOLUTION 5108: ESTIMATING THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR FY 2023-2024 **PG.89**

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this is the second reading of this resolution which sets the assessment amount for the light maintenance district. The change includes 33% decrease so the average residential property will be assessed \$19.30 down from \$31.09.

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

The item was approved unanimously by the four Commissioners present.

C. RESOLUTION 5109: MODIFYING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES FOR FY 2023-2024 **PG.94**

Chair Nootz called on the City Manager to introduce the item. The City Manager stated this resolution is to set the final assessment amount for the appurtenances in the light maintenance district. The amount for residential property will decrease in FY24.

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

Public Comment was offered by:

- Patricia Grabow is happy to see these changes in the lighting district and is happy it's going down.

The item was approved unanimously by the four Commissioners present.

10. Action Items

A. UPDATE ON COMMUNITY WELLNESS CENTER PROJECT

PG.99

The City Manager wanted to update the City Commissioners and let them know staff is working with 4 Ranges Community Recreation Foundation on possibly replacing some of the aging recreation infrastructure. It was discussed that there was talk of creating a special district that would extend into the County and unfortunately the County Commission did not feel comfortable asking the public to vote on this special district. Staff is still working with the Foundation on a path forward in a way that accomplishes the goals identified in the community needs assessment, but is also affordable for the tax payers of City residents. The goals being that the Wellness Center is affordable and sustainable is very important to maintaining our budget moving forward. It was further clarified the City is looking at the feasibility of a city only district to fund operations of the Wellness Center.

Public Comment was offered by:

- Patricia Grabow discussed a grant option to create a trail from Public Works to the Star Division and MRL agreed to a bike path. She thinks this grant would help reduce cost for Wellness Center.

Commissioner Schwarz expressed concern that this project will fall through and expressed disappointment in the County Commission for not letting the public vote on this. Vice Chair Kahle thanked the City Manager for working on this and trying to figure out a plan that works best for the community. Chair Nootz thanked the City Manager and stated the original intent of this project was to serve City and County and the design was based on both participating. Chair Nootz shared some community concerns she's still hearing about the City pool and understanding its aging, and also City residents carrying all the weight for the project. Chair Nootz thanked the City Manager for taking on this project and find a way to try and make it work. Commissioner Friedman expressed the importance of having a Wellness Center in the community and that we follow through on the project. Chair Nootz clarified that they are not done trying to help with this Wellness Center even with funding concern and the City Manager agreed.

B. DISCUSSION REGARDING ADVISORY BOARDS

PG.102

The City Manager has observed that the public engagement is very low and staff reviewed past meetings findings little to no public attendance or engagement. The average public attendance is less than 1 per meeting. The advisory boards have been brought to his attention to update and make more functional for the City.

Chair Nootz reminded that this has been a topic of discussion since they interviewed the current City Manager. After learning the history of some of the boards Chair Nootz offered that a primary issue is how the boards were initially set-up to be advisory to the Commission. However, they were actually give responsibilities that are more executive in nature. Chair Nootz also indicated she felt

we should update the advisory boards to be in line with today's City government. Chair Nootz would like to clarify the goals for the advisory boards and the roles of people on the boards.

Vice Chair Kahle stated peoples time is valuable and for the folks on these boards utilizing that time more effectively for everyone would be a good idea.

Commissioner Friedman asked if the boards are working within the City. He feels they are important if we can figure out a system where they fit for effectively. Frequency of meetings, consistency, input of good ideas, efficient and effective participation, clarify goals and roles are the key topics brought up by the Commission.

The City Manager agreed that frequency of meetings is a good issue to sort through giving on example with Park & Trail and Tree Board could benefit from a seasonal meeting. Chair Nootz questioned executive branch board vs. legislative boards and needed clarity on the difference. The City Manager stated if large changes are going to be made then some updates to Livingston Municipal Code will have to happen. Chair Nootz brought up board training and possibly making that part of our board process. It was discussed with a legislative update we could possibly combine the Planning and Zoning Board.

The City Manager stated boards will continue to meet as needed as staff and commission sort through the process of updating the boards.

C. CLOSED SESSION PURSUANT TO MONTANA CODE ANNOTATED 2-3-203(4)(A)

Chair Nootz motioned to enter into closed session seconded by Vice Chair Kahle.

The motion was approved unanimously by the four Commissioners present.

(Starts at Video Mark 2:32:26)

11. City Manager Comment

The City Manager thanked everyone in the room and is excited for September Community events and welcoming the kids back to school.

12. City Commission Comments

Vice Chair Kahle thanks fellow Commissioners and the City Manager. Chair Nootz thanked Vice Chair Kahle for stepping in while she was out. Chair Nootz thanked the Water Department for fixing a broken water main. Chair Nootz expressed gratitude to the City and the Water Department for their hard work.

13. Adjournment

8:48pm Commissioner Friedman motioned to adjourn the meeting seconded by Vice Chair Kahle. 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.