



Livingston City Commission Agenda

November 21, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/82178979351?pwd=a1FDeEppEVIQMUIzc0g4Qm55WmR3dz09>

Meeting ID: 821 7897 9351

Passcode: 459228

1. Call to Order

2. Roll Call

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)

4. Consent Items

- A. APPROVAL OF MINUTES FROM NOVEMBER 7, 2023, REGULAR CITY COMMISSION MEETING PG.4**
- B. APPROVAL OF CLAIMS PAID FOR 11.01.2023 TO 11.15.2023 PG.18**
- C. AGREEMENT 20044 WITH HEADWATER ECONOMICS PG.28**

5. Proclamations

- A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA RECOGNIZING NOVEMBER 25TH AS SMALL BUSINESS SATURDAY IN LIVINGSTON MONTANA. PG.33**

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances

- A. ORDINANCE 3047: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE, ENTITLED TREES, BY ELIMINATING THE TREE BOARD. PG.35**
- B. ORDINANCE 3048: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GEREALLY REVISING THE PROVISIONS THEREOF. PG.65**

9. Resolutions

A. RESOLUTION 5120: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965. PG.78

B. RESOLUTION 5121: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING CERTAIN ITEMS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL PG.82

10. Action Items

A. SELECTION OF NEW CITY LOGO PG.86

B. COMMISSION DIRECTION ON STATE MANDATED ZONING CHANGES PG.99

C. UPDATED ON COMMUNITY WELLNESS CENTER PROJECT PG.116

D. CLOSED SESSION PURSUANT TO 2-3-203 TO DISCUSS A MATTER OF INDIVIDUAL PRIVACY

11. City Manager Comment

12. City Commission Comments

13. Adjournment

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.

File Attachments for Item:

A. APPROVAL OF MINUTES FROM NOVEMBER 7, 2023, REGULAR CITY COMMISSION MEETING



Livingston City Commission Minutes

November 07, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/85998559835?pwd=T29lOWZxR05pcURoazVWZHZDOUZZdz09>

Meeting ID: 859 9855 9835

Passcode: 040617

1. Call to Order

Chair Nootz called the meeting to order at

2. Roll Call

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

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

Public Comment was offered by:

- Patricia Grabow discussed Miles Park and it remaining a park and not developed on.
- Leslie Fiegel with the Chamber of Commerce stated the Christmas Stroll is going to be December 1st celebrating its 111th year. She reminded everyone of shop small Saturday which is November 25th this year. She also asked the City that if an area of town is annexed to please inform surrounding areas of the street closures.

4. Consent Items

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|---|--------------|
| A. APPROVAL OF MINUTES FROM OCTOBER 17, 2023, REGULAR CITY COMMISSION MEETING | PG.4 |
| B. APPROVAL OF CLAIMS PAID FOR 10.12.2023 TO 10.31.2023 | PG.12 |
| C. CONSIDERATION OF CONTRACT 20041 WITH HUMAN RESOURCES DEVELOPMENT COUNCIL REGION IX | PG.37 |
| D. CONSIDERATION OF AGREEMENT 20042 WITH NORTHWESTERN ENERGY | PG.54 |
| E. APPROVAL OF MEETING MINUTES FROM CLOSED SESSIONS ON 12.6.22, 1.17.23, 2.21.23, 4.18.23, 5.2.23, 5.16.23 and 9.5.23. | |

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

Item C was pulled for discussion by Commission Lyons for potential conflict with this item and he noted that he will abstain from voting.

Motion to approve consent item C was made by Commissioner Schwarz and seconded by Commissioner Friedman. The motion passed with Chair Nootz, Commissioner Friedman, and Commission Schwarz voting for this item, and Commission Lyons abstained.

5. Proclamations

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances

A. ORDINANCE 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.60

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

The City Manager stated this is the second reading of Ordinance 3043. He stated that staff has made the three requested changes.

Commissioner Lyons asked the City Manager for a summary of a letter from HRDC. The City Manager briefly summarized the letter as it covered topic areas related to Ordinance 3043 and Resolution 5115.

Commissioner Schwarz moved to approve the ordinance and Commissioner Friedman seconded the motion

Public Comment was offered by:

- Leslie Fiegel expressed concerns about regulating short-term or long-term rentals.
- Patricia Grabow expressed concerns about HRDC involvement in Ordinance 3043.
- Brian Monaghan brought up transitional housing and would like to see a program like that in Livingston.
- Johnathan Hettinger commented on behalf of PCEC and expressed agreement and support of the comments in the letter from HRDC.
- Katherine Daly clarified the letter is just a written version of her public comment and the comments were intended for the Resolution 5115 and the PUD application.

Chair Nootz asked the City Manager for clarification on the topic of short-term and long-term rentals and how they affect the community.

The City Manager stated there is no reference in Livingston Municipal Code about short and long term rentals and are not something the City deals with on a regulatory level.

Commission Lyons expressed his thoughts on the letter from HRDC and stated the reference of short-term and long-term rentals is tied to incentives for the PUD.

Chair Nootz asked the City Manager for clarification on transitional housing and the City's role in managing the affordable housing program.

The City Manager stated the City does not formally have any sort of affordable workforce housing related policies and does not help private land owners manage any units they have deemed affordable. The City Manager stated the City of Livingston may be involved in management of any units that are deemed affordable, deeded affordable or eligible for incentives. We are requesting a plan from applicants to show us how they intend to manage those affordable units.

Commission Lyons asked the City Manager for clarification on the role of HRDC in the Housing Coalition.

The City Manager stated under Consent Item C the Commission just approved a contract with HRDC to provide staffing for the Park County Housing Coalition.

Commissioner Schwarz thanked staff for making the requested changes and thinks they should move the item forward.

Chair Nootz also thanked staff for working on this item, and stated she is looking forward to this moving forward.

The item was approved unanimously by the four commissioners present.

B. ORDINANCE 3047: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE, ENTITLED TREEES, BY ELIMINATING THE TREE BOARD. PG.77

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

The City Manager stated that this board was created to assist the City when there was lack of staff in this specific area, and as time has gone on and the City has changed, the functions this board was providing are no longer necessary as they have been taken over by City staff. With lack of public engagement and needs of the community changing this board is not meeting the needs of the City any longer so it is brought before the Commission for elimination.

Commissioner Lyons asked the City Manager if he received any feedback from the Tree Board on how they feel about it being eliminated.

The City Manager stated he has discussed this with the Tree Board several times over the last few months, and in recent weeks several Tree Board members have resigned. Some Tree Board members have expressed dissatisfaction with the recent function of the Tree Board, and comments included willingness to be on the board on a project by project basis.

Commissioner Lyons asked the City Manager about ad-hoc committees vs. regular monthly scheduled meetings and what that would look like for staff.

The City Manager stated it would be fairly easy to fit a 30-90 day project into the flow of existing City staff work schedules. Whereas staffing an advisory board that is required by law to meet quarterly or more often even with no new project or policy to discuss can be burdensome for staff and takes several hours of staff time for each meeting.

Commissioner Lyons asked Chair Nootz, who is on the Tree Board, about how members feel about the Tree Board and eliminating it.

Chair Nootz stated the feedback she has received was that the community was very frustrated by attending meetings that didn't feel effective or productive. She has also heard that community members really want to engage with staff, and the way this board was set up it did not make the flow to work with staff easy.

The City Manager stated there is 1 change to the Ordinance that will need to be corrected in section 23-27 deleting the first sentence of that section and replace the final word on the second line commissioner replace with manager.

Chair Nootz moved to approve the ordinance with amendment and Commissioner Schwarz seconded the motion.

Public Comment was offered by:

- Leslie Fiegel stated she thought the Tree Board was created in 2009 not 2002. She felt that the community needs to know the Tree Board is going way so they know what to do about trees if questions arise.
- Johnathan Hettinger on behalf of PCEC stated they are not for or against removing Tree Board, but wanted to state the City benefits from public input and public participation and transparency are key to community trust. If the Tree Board is removed they hope for a plan to be in place for public input.
- Patricia Grabow was on the Tree Board at a point in her life and loved it. She stated that public input is important to our community.

Commissioner Friedman stated it makes sense to him to eliminate Tree Board now looking at where the community is now and it's needs now versus where the community was when it was first created.

Commissioner Lyons asked why Tree Board was set through ordinance and other boards were set through resolution.

The City Manager stated it really is based on how they were created by where the Tree Board was set by ordinance and exists in the Livingston Municipal Code, it has to be removed by ordinance. Other boards that were created through resolution will have to be removed by resolution.

Commissioner Lyons asked about the status of the Conservation Board.

The City Manager stated the Conservation Board was not created by ordinance or resolution, it functions more as an executive advisory board.

Commissioner Lyons expressed concerns around eliminating this board as he has come to rely on their input as a City Commissioner.

Commissioner Schwarz understands all the Tree Board has accomplished over the years, but does feel that its monthly usefulness has run its course.

Chair Nootz asked the City Manager for some draft plans for public engagement to be presented before the second reading of this ordinance. It was also asked for clarification on the plans for Tree City USA.

The item was approved unanimously by the four Commissioners present.

9. Resolutions

A. RESOLUTION 5114: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING CERTAIN ITEMS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL PG.107

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

The City Manager stated this item is required as Police Chief Dale Johnson has requested his duty firearm. There is a section in Montana Code Annotated for retired Law Enforcement Officers be given their duty firearm. Earlier in the year Sergeant Alex Walker left the City of Livingston to work in Billings and because Livingston was his first Law Enforcement role he requested if he could purchase his duty firearm as a career memento. This resolution is to declare both of the firearms as surplus so that one may be sold for former Sergeant Alex Walker, and the other gifted to former Chief Dale Johnson.

Chair Nootz asked the City Manager if this is common practice in police force and across cities.

The City Manager stated yes, it is.

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

Chair Nootz offered her comments about the police department and she's been hearing from folks that they are concerned for the police department, and hopes the City is taking care of the officers. She feels this is something great we can do the officers.

Commissioner Schwarz offered this thank you to the police department for their service.

The item was approved unanimously by the four Commissioners present.

6:58 Chair Nootz motioned for a 10 minutes break seconded by Commissioner Schwarz. Unanimously approved.

(Starts at Video Mark 1:27:56)

B. RESOLUTION 5115: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, IDENTIFYING AFFORDABLE HOUSING INCENTIVES. PG.111

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

The City Manager stated this item is related to Ordinance 3043 and because there are incentives that are included in the PUD ordinance that would allow applicants additional density there were conversations in prior meetings about establishing affordability levels of units that would qualify for density bonuses. With staff they have created this resolution that clarifies that projects that provide

housing that is deemed affordable to residents earning 100% area median income would be eligible for incentives. The area median income for a two person household in Park County, Montana is approximately \$70,000 and that translates to an affordable monthly rate of approximately \$1,750. Looking at rental and ownership there is limited inventory on the market at the 100% AMI in Livingston.

Commissioner Lyons stated he didn't see in this resolution a schedule for updating it, and asked what the plans are for revisiting this resolution in the future.

The City Manager stated that staff intends to review the PUD Ordinance after passage to make sure it is achieving goals the Commission has set. He stated they will at that time review this resolution as well.

Commissioner Schwarz stated AMI is set yearly by HUD, and stated when someone does apply that would become effective wherever the AMI is at that time.

Chair Nootz asked the City Manager what this looked like in previous communities that he's worked.

The City Manager stated he has worked in communities where incentives were provided to residents earning all the way up to 140% AMI, and knows about areas in the Northwestern part of Montana that are offering 200% of their AMI.

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

Public Comment was offered by:

- Katherine Daly thinks this resolution is a great idea and these definitions are important. Some updates were offered that were stated in the letter from HRDC.
- Johnathan Hettinger thanked the City for going forward with this.

Commissioner Schwarz agrees to add the wording of adding Park County.

The City Manager reread the comment from HRDC that stated that projects that provide housing that is deemed affordable residents earning 100% or less of the Park County AMI. Adding "or less" and "Park County".

Commission Schwarz motion to amend the resolution with clarifying language and Commission Lyons seconded the motion

The amendment was approved unanimously by the four Commissioners present.

The item was approved unanimously by the four Commissioners present.

C. RESOLUTION 5116: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, ELIMINATING THE PARKS AND TRAILS COMMITTEE PG.115

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

The City Manager stated this has been a conversation previously and this is a resolution to eliminate The Parks and Trails Committee. He stated there has been little public engagement, and agendas have really only included operation updates from staff. Staff from Public Works and Parks Dept. looking forward to a different avenue for public engagement and they envision twice yearly meeting with the community. One around March and the other in October or November.

Commissioner Lyons asked the City Manager about how the Parks and Trails Committee feels about their board and it be eliminated.

The City Manager stated 3 members are reaching the end of their term in December and all 3 do not wish to be appointed. In the last several months they have discussed this item with the committee and there is a little excitement around a change in how community is given and received by the City. Project based groups seemed welcomed by members of the Parks and Trails Committee.

Chair Nootz stated she has heard from Parks and Trails Committee and they seem excited about a different way to engage with staff and community. She did hear some concern around public engagement and meaningful outcome.

Commissioner Schwarz stated this was created as an advisory committee and turned into a permanent board, but he likes the idea of ad hoc committee for Parks and Trails.

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

Public Comment was offered by:

- Johnathan Hettinger feels that Parks and Trails played a pretty important role over the past few years for public engagement.
- Patricia Grabow stated she is grateful for our current City Manager. She also stated concerns about previous staff and interactions with this board.

Chair Nootz ask the City Manager if he would like to speak to the public comments made about feeling of being able to influence the legislative branch versus the executive branch.

The City Manager stated his door is always open and offered his phone number, email is form of communication to reach him, and realizes customer service is very important to him.

Chair Nootz requested a plan for engagement and what this might look like for parks and trails. She stated she has heard feedback from the community that they want to engage with staff directly.

Commission Lyons appreciates the culture the City Manager has created where he is accessible to the public. He wondered how they would be notified if a board needs to be revisited.

The City Manager stated he would hope if staff was not meeting the needs of the community they would reach out directly to the Commissioners to let them know.

Commission Lyons clarified that he wondered which way is the best way to address the community need for a board to be created or revisited such as ordinance, resolution, or other.

The City Manager stated a resolution would be best for Parks and Trails if ever needed to be revisited.

Chair Nootz stated that historically the Parks and Trails Committee has done well with public engagement in the past, and did want that to be acknowledged.

The item was approved unanimously by the four Commissioners present.

D. RESOLUTION 5117: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN EASEMENTS **PG.121**

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

The City Manager stated is resolution is directly related to the development that is occurring on Loves LN in the vicinity of Miller Dr. and as part of that the development team is seeking to grant the City and easement to construct a roadway, essentially to widen Loves LN. The other easement is granting the City access to create and maintain infrastructure specifically water and wastewater within the bounds of the property itself.

Commissioner Lyons questioned impacts on the City water and sewer system.

The City Manager stated in that area the City is in good shape capacity wise, there is a well out there and are below both reservoirs.

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

Public Comment was offered by:

- Leslie Fiegel reminded that staff should communicate closures in newly annexed areas.

The item was approved unanimously by the four Commissioners present.

E. RESOLUTION 5118: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN LAND KNOWN AS RY TIMBER **PG.133**

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

The City Manager stated this is an annexation by petition that was received last week from the new owner of the property of RY Timber. The new owners contacted the city over the summer and expressed their desire to restart the mill, and through those conversations it became clear to new owners that annexation into the City would make their business easier to operate by having water to hook up to. If approved the City will work with new owners to designate zoning on the land and work with them to construct a water main to give them domestic service as well as fire suppression capabilities. This will pull off the existing main at the end of Centennial Dr. and will loop South and the new owner will manage that connection over the area of Billman Lane.

Commissioner Lyons asked for clarification on annexation by petition versus other types of annexation.

The City Manager stated there are several ways under Montana Code that land can be annexed and the easiest way is annexation by petition, meaning the land owner petitions the city to join the

cities limits. There is also annexation with provision of services and annexation by wholly surrounded.

Commissioner Lyons asked for clarification on zoning of the property.

The City Manager stated that the city has 90 days after the annexation to complete to zone the new land, and they will work with the Clerk and Records office, and will also go through the Zoning Commission because map and text amendments are in the purview of the Zoning Commission.

Chair Nootz questioned the staff report stating certain parcels and wondered where they are.

The City Manager shared a map (**Video Mark 2:24:27**)

Chair Nootz asked the City Manager to clarify the water demands for this annexation in terms of volume, and asked if we have capacity or not.

The City Manager stated that Public Works has reviewed the annexation petition and worked with the applicant on water volumes they intend to use. It is close to the Billman well which is a productive well, and lies downstream from a 3 million gallon reservoir. This area is well served by water and Public Works has certified the city has sufficient flows to serve this property.

Chair Nootz asked what the potential impacts would be to nearby businesses if there were road closures and large infrastructure changes to this property.

The City Manager clarified the applicant has worked with MDT and the water line will be bored under 89 without any road closures.

Commissioner Lyons ask how common is it for a city to only annex part of a parcel of land?

The City Manager stated we have a few areas locally that have only annexed partial parcels, and stated it is fairly common to do so.

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

Public Comment was offered by:

- Christopher Anderson is the Vice President for Sun Mountain Lumber in Deer Lodge. He asked for Commission support for the annexation, and further stated the biggest piece of this annexation is safety standpoint. Understanding fires have happened there in the past and fire suppression systems didn't work properly, and insurance recognized that when they tried to insure the property, so the insurance company recommended they connect to City water supply.

Commissioner Schwarz stated it will be nice to have that place back in operation for the employees and look forward to it being open again.

Commissioner Lyons feels it makes sense for them to connect to city services and to be annexed. He stated that they would be extending city boundaries and expressed concerns about what should be allowed within the boundaries.

Chair Nootz shared concerns she heard from the community about developments or property owners that are adjacent to the city whereby residents feel like they're paying taxes for someone that is not annexed into the city. She also expressed concerns from community members around

the mill that since it has not been operational that they have had far less debris around their homes than when it is up and running.

The item was approved unanimously by the four Commissioners present.

8:30PM Commissioner Schwarz motioned for a 5 minute break seconded by Commissioner Lyons. Unanimously approved.

(Starts at Video Mark 2:46:14)

F. RESOLUTION 5119: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN PARCELS OF LAND KNOWN AS VIEW VISTA COMMUNITY PG.151

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

The City Manager stated this is an annexation by petition by the View Vista Community. They currently benefit from City water and sewer in some way however the community has recognized the need for some improvements and so the City staff have been working with the community to identify and fund those improvements.

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

Commissioner Friedman stated he does not see any negatives of this annexation.

Commission Lyons and Schwarz both agreed with Commission Friedman.

The item was approved unanimously by the four Commissioners present.

10. Action Items

A. DRAFT PUD APPLICATION PG.161

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

The City Manager stated this item is related the PUD ordinance and he along with staff have been working on the eventual implementation of the PUD ordinance and this application has been discussed at different points throughout the process. The City Manager and staff wanted to confirm with the Commission the information they intend to ask of the applicants.

Public Comment was offered by:

- Katherine Daly reread parts of the HRDC letter that relate to this item.
- Patricia Grabow questioned short-term and long-term rentals being imposed on building owners.

Commissioner Lyons asked the City Manager if he can envision a scenario in which an existing building would be interested in applying for a PUD without tearing down and starting over.

The City Manager clarified it is a form of large lot development, so it would be have to be a demolition and reconstruction.

Commissioner Lyons appreciates that he can give feedback on the application. The only thing that stands out relates to affordable housing and says “the following must be submitted” and mentions a plan, he felt it sounded good, but doesn’t sound binding. He explained there doesn’t seem to be a mechanism ensuring that whatever is prescribed in the plan is actually is followed through on the side of the developer.

The City Manager understand this concerns and reminds there are two special exception permit reviews that we did before, and reminds that staff includes a generic condition that the permit shall reflect everything in the application. And they will include that in the PUD application too.

Chair Nootz shared concerns about HOA’s, covenants conditions, and restrictions. But overall likes this application.

Commissioner Friedman expressed over all concerns for affordable housing vagueness around the term, and to him this application makes sense and lays out affordable housing guidelines.

Commissioner Lyons expressed that there was some confusion to the public about short-term rentals and the PUD ordinance. And asked if it was worth putting restrictions around short-term rentals.

Chair Nootz agreed that affordable should be restricted to affordable and the design is to create workforce housing, and should be income properties for vacationers. She expressed that at this time she was not ready to make a decision about short-term rentals.

B. DISCUSSION AND DIRECTION REGARDING PLANNING BOARD AND ZONING COMMISSION

PG.166

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

The City Manager stated recently the Montana Legislatures passed Senate Bill 130 that explicitly allows the consolidation of planning boards and zoning commissions. If decided to go the way it will need to done through ordinance, and just wanted to touch base with the Commission to see if this is something they would like to see happen. He stated they have had difficulty achieving quorums on the Zoning Commission over the past 8 months. City Staff has met with Cody Marxer from Great West Engineering and she is helping through the Community Technical Assistance Program with Department of Commerce on the review of the Growth Policy and the Zoning ordinance, and they asked them about combining these two boards, and the feedback was that a consolidated board was more prevalent in the State of Montana.

Chair Nootz asked how many members are on a consolidated board.

The City Manager stated the bill would require a minimum of 5 members.

Chair Nootz asked about staff recommendation.

The City Manager stated that staff recommended 7 members.

Chair Nootz asked if renters would be allowed to represent on this consolidated board,

The City Manager stated yes.

Commissioner Lyons stated this was previously an issue on the Planning Board that membership was only for property owners.

The City Manager stated Senate Bill 130 does provide guidance stating members must be residents, but doesn't restrict to owners versus renters.

Chair Nootz expressed concerns about missing public engagement, but feels this consolidated board would seem like a way to solve that problem.

Commissioner Lyons is hesitant about making this change and feels there would be a lots of unhappy members from the Planning Board about maybe being able to remain on the Planning Board.

Commissioner Schwarz asked with the overhaul of the zoning code, how much work will they have to do as part of that process.

The City Manager reminded there was a delay in large projects due to meeting issues and no quorums.

Commissioner Lyons asked the appointment would look like for the consolidated board.

The City Manager stated they will open up an application period and take applications from the community, and they do envision additional training for these boards.

Commissioner Friedman expressed thoughts that we are not tied to this decision, but thinks they should give it a shot.

Chair Nootz motioned to move the Commission to closed session seconded by Commission Schwarz. Unanimously approved.

C. CLOSED SESSION PURSUANT TO MCA 2-3-203 TO DISCUSS A MATTER OF INDIVIDUAL PRIVACY.

(Starts at Video Mark 3:42:33)

11. City Manager Comment

The City Manager thanked the Commission for moving forward the PUD ordinance.

12. City Commission Comments

Commission Lyons stated he observed a bear, and talked with FWP about prevalence of bears in our community and how we kind of live together with them. FWP said they will reach out to the City Manager about safety of our citizens.

Commissioner Schwarz congratulated Chair Nootz on her re-election and welcomed James Willich.

Commissioner Friedman expressed we have a good Commission and good City Manager.

Chair Nootz thanked the people of Livingston for voting for her. And echoed the interest in the policies around bears in the area.

13. Adjournment

10:24pm Commissioner Lyons motioned to adjourn the meeting seconded by Schwarz. Unanimously approved.

Calendar of Events

Supplemental Material

Notice

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- **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.

File Attachments for Item:

B. APPROVAL OF CLAIMS PAID FOR 11.01.2023 TO 11.15.2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
2M COMPANY, INC.							
781	2M COMPANY, INC.	208016148-00	Deep Thaw	10/25/2023	428.75	428.75	11/03/2023
Total 2M COMPANY, INC.:					428.75	428.75	
A-1 MUFFLER, INC.							
2	A-1 MUFFLER, INC.	73320	BATTERIES	10/17/2023	374.00	374.00	11/03/2023
Total A-1 MUFFLER, INC.:					374.00	374.00	
AAA CLEANING, LLC							
3727	AAA CLEANING, LLC	2023.10.31	330 BENNETT CLEANING	10/31/2023	156.25	156.25	11/03/2023
3727	AAA CLEANING, LLC	2023.10.31	330 BENNETT CLEANING	10/31/2023	156.25	156.25	11/03/2023
3727	AAA CLEANING, LLC	2023.10.31	330 BENNETT CLEANING	10/31/2023	156.25	156.25	11/03/2023
3727	AAA CLEANING, LLC	2023.10.31	330 BENNETT CLEANING	10/31/2023	156.25	156.25	11/03/2023
3727	AAA CLEANING, LLC	2023.10.31	220 E PARK CLEANING	10/31/2023	2,000.00	2,000.00	11/03/2023
Total AAA CLEANING, LLC:					2,625.00	2,625.00	
ALL SERVICE TIRE & ALIGNMENT							
22	ALL SERVICE TIRE & ALIGNME	67187	SNOW TIRES	10/31/2023	772.00	772.00	11/03/2023
Total ALL SERVICE TIRE & ALIGNMENT:					772.00	772.00	
ALPINE ELECTRONICS RADIO SHACK							
402	ALPINE ELECTRONICS RADIO	10296507	HDMI CORD	10/10/2023	21.99	21.99	11/03/2023
402	ALPINE ELECTRONICS RADIO	10297078	Ink	10/27/2023	103.96	103.96	11/03/2023
Total ALPINE ELECTRONICS RADIO SHACK:					125.95	125.95	
AMERICAN AUTOMOTIVE							
3378	AMERICAN AUTOMOTIVE	5758	2019 DODGE REPAIRS	10/30/2023	1,126.69	1,126.69	11/03/2023
Total AMERICAN AUTOMOTIVE:					1,126.69	1,126.69	
BALCO UNIFORM COMPANY, INC.							
3371	BALCO UNIFORM COMPANY, IN	76278-2	Uniform-ALLEN	10/23/2023	1,377.00	1,377.00	11/03/2023
3371	BALCO UNIFORM COMPANY, IN	76306-2	Uniform-CRANK	10/23/2023	1,377.00	1,377.00	11/03/2023
Total BALCO UNIFORM COMPANY, INC.:					2,754.00	2,754.00	
BETTER DAYS CLEANING							
10004	BETTER DAYS CLEANING	1251	CLEANING	10/31/2023	875.00	875.00	11/03/2023
Total BETTER DAYS CLEANING:					875.00	875.00	
BOZEMAN TROPHY & ENGRAVING							
967	BOZEMAN TROPHY & ENGRAVI	27490	BENCH PLATES	10/23/2023	45.00	45.00	11/03/2023
Total BOZEMAN TROPHY & ENGRAVING:					45.00	45.00	
BRUCE E. BECKER, P.C.							
10000	BRUCE E. BECKER, P.C.	2023.10.31	Contracted service	10/31/2023	4,000.00	4,000.00	11/03/2023
Total BRUCE E. BECKER, P.C.:					4,000.00	4,000.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
CENTURYLINK							
162	CENTURYLINK	2023.10.16	406-222-0137- 441b	10/16/2023	86.43	86.43	11/03/2023
Total CENTURYLINK:					86.43	86.43	
CIVICPLUS							
10000	CIVICPLUS	273024	MERCHANT FEES	08/31/2023	235.81	235.81	11/03/2023
Total CIVICPLUS:					235.81	235.81	
DEPARTMENT OF REVENUE							
122	DEPARTMENT OF REVENUE	2023_08WMC	Western Municipal - Gross Receipt	10/09/2023	2,597.16	2,597.16	11/06/2023
Total DEPARTMENT OF REVENUE:					2,597.16	2,597.16	
EXEC U CARE SERVICES, INC.							
3298	EXEC U CARE SERVICES, INC.	3596	Janitorial Services	10/29/2023	2,668.81	2,668.81	11/03/2023
Total EXEC U CARE SERVICES, INC.:					2,668.81	2,668.81	
FLYING S TITLE & ESCROW OF MONTANA INC							
10005	FLYING S TITLE & ESCROW OF	14084-891000	MONTAGUE & GREEN ACRES	10/20/2023	400.00	400.00	11/03/2023
Total FLYING S TITLE & ESCROW OF MONTANA INC:					400.00	400.00	
FOUR CORNERS RECYCLING, LLC							
2919	FOUR CORNERS RECYCLING,	4078	Pull fees	08/28/2023	8,284.70	8,284.70	11/03/2023
2919	FOUR CORNERS RECYCLING,	4111	Pull fees	09/28/2023	7,914.90	7,914.90	11/03/2023
2919	FOUR CORNERS RECYCLING,	CM4078	Credit	08/28/2023	2,309.00-	2,309.00-	11/03/2023
2919	FOUR CORNERS RECYCLING,	CM4111	Credit	09/28/2023	3,257.65-	3,257.65-	11/03/2023
Total FOUR CORNERS RECYCLING, LLC:					10,632.95	10,632.95	
GLASS, PEGGY							
306	GLASS, PEGGY	2023.10.20	REIMB-TRAVEL	10/20/2023	117.90	117.90	11/03/2023
Total GLASS, PEGGY:					117.90	117.90	
HANSER'S AUTOMOTIVE & WRECKER							
1687	HANSER'S AUTOMOTIVE & WR	LIV5138	Towing Charge	10/30/2023	100.00	100.00	11/03/2023
Total HANSER'S AUTOMOTIVE & WRECKER:					100.00	100.00	
HAWKINS, INC							
470	HAWKINS, INC	6602802	Chlorine cylinder	10/15/2023	50.00	50.00	11/03/2023
Total HAWKINS, INC:					50.00	50.00	
HEWLETT-PACKARD FINANCIAL SERVICES CO							
10003	HEWLETT-PACKARD FINANCIA	510749075	LEASE	10/27/2023	21,170.58	21,170.58	11/03/2023
Total HEWLETT-PACKARD FINANCIAL SERVICES CO:					21,170.58	21,170.58	
HIGH COUNTRY WILDLIFE CONTROL							
10002	HIGH COUNTRY WILDLIFE CON	8678	PEST CONTROL	10/27/2023	210.00	210.00	11/03/2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total HIGH COUNTRY WILDLIFE CONTROL:					210.00	210.00	
INSTY-PRINTS							
250	INSTY-PRINTS	16884	Name Plates	10/06/2023	93.50	93.50	11/03/2023
250	INSTY-PRINTS	17067	fall health fest	11/02/2023	18.00	18.00	11/03/2023
Total INSTY-PRINTS:					111.50	111.50	
J & H OFFICE EQUIPMENT							
1783	J & H OFFICE EQUIPMENT	35177308	AGREEMENT 015-1486424	10/27/2023	270.73	270.73	11/03/2023
Total J & H OFFICE EQUIPMENT:					270.73	270.73	
JORDAN BRUMMEL							
10002	JORDAN BRUMMEL	2023.10.27	REIMB-TRAVEL	10/27/2023	1,064.30	1,064.30	11/03/2023
Total JORDAN BRUMMEL:					1,064.30	1,064.30	
KELLEY CONNECT							
10001	KELLEY CONNECT	IN1453623	JH13670	10/20/2023	2,390.96	2,390.96	11/03/2023
10001	KELLEY CONNECT	IN1464795	JH16535	11/01/2023	141.45	141.45	11/03/2023
Total KELLEY CONNECT:					2,532.41	2,532.41	
KENYON NOBLE							
776	KENYON NOBLE	1177557	POP UP HALF	09/28/2023	6.59	6.59	11/03/2023
776	KENYON NOBLE	1187362	WHITE WOOD	10/03/2023	73.60	73.60	11/03/2023
776	KENYON NOBLE	1193257	TOILET SEAL KIT	10/06/2023	214.48	214.48	11/03/2023
776	KENYON NOBLE	1217261	SONO TUBE	10/18/2023	71.97	71.97	11/03/2023
776	KENYON NOBLE	1220971	PREMIX CONCRETE	10/19/2023	289.91	289.91	11/03/2023
776	KENYON NOBLE	1230433	BROWTONE	10/24/2023	107.76	107.76	11/03/2023
Total KENYON NOBLE:					764.31	764.31	
LIVINGSTON ACE HARDWARE - #122005							
26	LIVINGSTON ACE HARDWARE -	D29124	STRUT CHNL	09/26/2023	129.98	129.98	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D29126	MARKING PNT	09/26/2023	395.58	395.58	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D30526	GROUNDING CONNECTORS	09/28/2023	23.98	23.98	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D30548	RETURN	09/28/2023	8.00-	8.00-	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D30633	SPRAY PAINT	09/29/2023	14.67	14.67	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D33222	CONCRETE MIX	10/04/2023	7.59	7.59	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D34214	TOILET	10/06/2023	24.57	24.57	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D34749	CLEANING	10/07/2023	45.55	45.55	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D36321	HDMI CABLES	10/10/2023	19.99	19.99	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D36519	CLEANING	10/10/2023	72.93	72.93	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D36876	BattERY	10/11/2023	53.97	53.97	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D37845	HOME/GARD SPRYER	10/13/2023	37.99	37.99	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D38631	Battery	10/14/2023	6.99	6.99	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D39354	FASTNERS	10/16/2023	63.90	63.90	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D39513	PARKS	10/16/2023	288.44	288.44	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D40304	PADLOCK	10/18/2023	39.98	39.98	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D40677	BUCKET	10/18/2023	23.96	23.96	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D43434	ANTIFREEZE	10/23/2023	63.00	63.00	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D44281	EXTN CORD	10/25/2023	61.74	61.74	11/03/2023
26	LIVINGSTON ACE HARDWARE -	D44356	SCRAPER	10/25/2023	47.94	47.94	11/03/2023
26	LIVINGSTON ACE HARDWARE -	X00520	BATTERIES	10/02/2023	57.97	57.97	11/03/2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total LIVINGSTON ACE HARDWARE - #122005:					1,472.72	1,472.72	
LIVINGSTON DEPOT CENTER							
184	LIVINGSTON DEPOT CENTER	2023.11.14	DOWNTOWN MASTER PLAN C	11/03/2023	1,050.00	1,050.00	11/07/2023
Total LIVINGSTON DEPOT CENTER:					1,050.00	1,050.00	
LIVINGSTON HEALTH CARE							
55	LIVINGSTON HEALTH CARE	200272513	770437350	09/28/2023	79.00	79.00	11/03/2023
Total LIVINGSTON HEALTH CARE:					79.00	79.00	
MASTERCARD							
3184	MASTERCARD	2023_08 CHAB	Pump Ops Book	09/01/2023	107.00	107.00	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Dues - NTOA - Chabalowski	09/01/2023	35.00	35.00	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Command 1 Registration	09/01/2023	45.37	45.37	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Command 1 Equipment	09/01/2023	22.57	22.57	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Fire Investigation Equipment	09/01/2023	31.79	31.79	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Command 1 Equipment	09/01/2023	142.29	142.29	09/08/2023
3184	MASTERCARD	2023_08 CHAB	BGL Supplies	09/01/2023	153.39	153.39	09/08/2023
3184	MASTERCARD	2023_08 CHAB	Medic 4 Registration	09/01/2023	24.36	24.36	09/08/2023
3184	MASTERCARD	2023_08 DELA	Code Enforcement Supplies	09/01/2023	18.99	18.99	09/08/2023
3184	MASTERCARD	2023_08 FETT	MINI SCREWDRIVER	09/01/2023	7.86	7.86	09/08/2023
3184	MASTERCARD	2023_08 FETT	SEAT ORGANIZER	09/01/2023	29.99	29.99	09/08/2023
3184	MASTERCARD	2023_08 FETT	SMALL NOTEBOOKS	09/01/2023	8.99	8.99	09/08/2023
3184	MASTERCARD	2023_08 FETT	OFFICE SUPPLIES	09/01/2023	34.97	34.97	09/08/2023
3184	MASTERCARD	2023_08 FETT	OFFICE SUPPLIES	09/01/2023	11.99	11.99	09/08/2023
3184	MASTERCARD	2023_08 FETT	OFFICE SUPPLIES	09/01/2023	54.90	54.90	09/08/2023
3184	MASTERCARD	2023_08 GAG	Tickets to Annual Conference	09/01/2023	199.00	199.00	09/08/2023
3184	MASTERCARD	2023_08 GAG	Tickets to Annual Conference	09/01/2023	199.00	199.00	09/08/2023
3184	MASTERCARD	2023_08 GAG	Job Ad	09/01/2023	136.23	136.23	09/08/2023
3184	MASTERCARD	2023_08 GAG	Job Ad	09/01/2023	75.00	75.00	09/08/2023
3184	MASTERCARD	2023_08 GILB	Uniforms	09/01/2023	335.68	335.68	09/08/2023
3184	MASTERCARD	2023_08 GILB	Speakers Bedrooms	09/01/2023	124.95	124.95	09/08/2023
3184	MASTERCARD	2023_08 GILB	FF1 Certification - MT	09/01/2023	14.90	14.90	09/08/2023
3184	MASTERCARD	2023_08 GILB	M3 & M4 Reflective Tape	09/01/2023	503.87	503.87	09/08/2023
3184	MASTERCARD	2023_08 GILB	Physical Training	09/01/2023	294.96	294.96	09/08/2023
3184	MASTERCARD	2023_08 GLAS	Printer Ink	09/01/2023	691.34	691.34	09/08/2023
3184	MASTERCARD	2023_08 GLAS	fax	09/01/2023	34.99	34.99	09/08/2023
3184	MASTERCARD	2023_08 GLAS	payment processing fee for fax	09/01/2023	.31	.31	09/08/2023
3184	MASTERCARD	2023_08 GLAS	MT 911 Training Forum	09/01/2023	300.00	300.00	09/08/2023
3184	MASTERCARD	2023_08 GRA	double-sided magnetic mobile whi	09/01/2023	165.90	165.90	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 95521; 59812	09/01/2023	8.86	8.86	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 57117	09/01/2023	4.43	4.43	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 98027	09/01/2023	4.43	4.43	09/08/2023
3184	MASTERCARD	2023_08 GRA	caution tape	09/01/2023	6.49	6.49	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 59068	09/01/2023	4.43	4.43	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 59034	09/01/2023	3.72	3.72	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 33431; 59230; 98501	09/01/2023	13.29	13.29	09/08/2023
3184	MASTERCARD	2023_08 GRA	birthday cards	09/01/2023	21.00	21.00	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 50112; 61611; 98446;	09/01/2023	21.44	21.44	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 95819	09/01/2023	3.72	3.72	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 59324; 80210	09/01/2023	8.86	8.86	09/08/2023
3184	MASTERCARD	2023_08 GRA	1 book	09/01/2023	19.00	19.00	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 30118; 59812	09/01/2023	7.64	7.64	09/08/2023
3184	MASTERCARD	2023_08 GRA	50 rolls thermal receipt printer pap	09/01/2023	64.99	64.99	09/08/2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
3184	MASTERCARD	2023_08 GRA	1 book	09/01/2023	12.43	12.43	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 04240	09/01/2023	3.72	3.72	09/08/2023
3184	MASTERCARD	2023_08 GRA	vacuum bags	09/01/2023	27.98	27.98	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 54701; 21212	09/01/2023	7.44	7.44	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 60108	09/01/2023	5.85	5.85	09/08/2023
3184	MASTERCARD	2023_08 GRA	key	09/01/2023	8.00	8.00	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 13346; 60506	09/01/2023	8.15	8.15	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 80302; 84601; 81501;	09/01/2023	19.43	19.43	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 95521; 59812	09/01/2023	3.72	3.72	09/08/2023
3184	MASTERCARD	2023_08 GRA	postage to 59030; 59018; 59027;	09/01/2023	24.62	24.62	09/08/2023
3184	MASTERCARD	2023_08 HAEF	Adjustable Hydrant Wrench	09/01/2023	177.63	177.63	09/08/2023
3184	MASTERCARD	2023_08 HAPP	Postage	09/01/2023	264.00	264.00	09/08/2023
3184	MASTERCARD	2023_08 HAPP	temporary recording system for co	09/01/2023	.99	.99	09/08/2023
3184	MASTERCARD	2023_08 HAPP	1 year storage	09/01/2023	695.40	695.40	09/08/2023
3184	MASTERCARD	2023_08 HOL	Parking Signs for Downtown	09/01/2023	145.50	145.50	09/08/2023
3184	MASTERCARD	2023_08 HOL	Parking Signs for Downtown	09/01/2023	261.60	261.60	09/08/2023
3184	MASTERCARD	2023_08 HOL	Sewer Truck Jetting Parts	09/01/2023	1,227.49	1,227.49	09/08/2023
3184	MASTERCARD	2023_08 JOHN	office supply	09/01/2023	143.49	143.49	09/08/2023
3184	MASTERCARD	2023_08 JOHN	Brummel Training	09/01/2023	350.00	350.00	09/08/2023
3184	MASTERCARD	2023_08 JOHN	office supply	09/01/2023	103.85	103.85	09/08/2023
3184	MASTERCARD	2023_08 JOHN	K9 Certification	09/01/2023	606.64	606.64	09/08/2023
3184	MASTERCARD	2023_08 JOHN	evidence supply	09/01/2023	69.81	69.81	09/08/2023
3184	MASTERCARD	2023_08 JOHN	K9 Certification	09/01/2023	49.85-	49.85-	09/08/2023
3184	MASTERCARD	2023_08 JOHN	K9 Certification	09/01/2023	154.00	154.00	09/08/2023
3184	MASTERCARD	2023_08 JOHN	K9 Certification	09/01/2023	42.07	42.07	09/08/2023
3184	MASTERCARD	2023_08 JOHN	Buckley Training	09/01/2023	179.00	179.00	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Planning Zoom subscription	09/01/2023	40.00	40.00	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Parks Dept. Dog Waste Bags	09/01/2023	359.97	359.97	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Sewer Truck Nitrile Gloves	09/01/2023	419.80	419.80	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Supplies	09/01/2023	65.98	65.98	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Dog Waste Bags	09/01/2023	239.98	239.98	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Hard Hat- Nevin	09/01/2023	40.99	40.99	09/08/2023
3184	MASTERCARD	2023_08 KINNI	office supplies - pen refills	09/01/2023	7.89	7.89	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Supplies	09/01/2023	5.99	5.99	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Return	09/01/2023	7.59-	7.59-	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Carwash- no receipt	09/01/2023	10.00	10.00	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Fuel- Billings	09/01/2023	50.36	50.36	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Commissioner Zoom Acct Subscri	09/01/2023	58.09	58.09	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Chipseal project drinks	09/01/2023	43.03	43.03	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Staff Lunch-Chipseal	09/01/2023	99.86	99.86	09/08/2023
3184	MASTERCARD	2023_08 KINNI	STAFF LUNCH- 2023 CHIPSEAL	09/01/2023	22.49	22.49	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Return- monitor adaptor	09/01/2023	7.80-	7.80-	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Monitor adaptor	09/01/2023	7.59	7.59	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Commissioner phone glass protec	09/01/2023	6.97	6.97	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Dividers	09/01/2023	40.83	40.83	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Subscription services	09/01/2023	60.00	60.00	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Coffee 6-pack	09/01/2023	95.94	95.94	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Office supplies	09/01/2023	4.99	4.99	09/08/2023
3184	MASTERCARD	2023_08 KINNI	Monitor adaptor	09/01/2023	7.80	7.80	09/08/2023
3184	MASTERCARD	2023_08 LOW	Software for Clerk	09/01/2023	19.99	19.99	09/08/2023
3184	MASTERCARD	2023_08 O'RO	snacks for swpp training	09/01/2023	26.28	26.28	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.66	401.66	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.66	401.66	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.67	401.67	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.67	401.67	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.67	401.67	09/08/2023
3184	MASTERCARD	2023_08 O'RO	Autocad	09/01/2023	401.67	401.67	09/08/2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
3184	MASTERCARD	2023_08 PIER	Medical Container	09/01/2023	19.00	19.00	09/08/2023
3184	MASTERCARD	2023_08 PIER	Label Maker Tape	09/01/2023	23.98	23.98	09/08/2023
3184	MASTERCARD	2023_08 PIER	Med Supply Room	09/01/2023	458.46	458.46	09/08/2023
3184	MASTERCARD	2023_08 PURK	August Medwrite	09/01/2023	6,393.07	6,393.07	09/08/2023
3184	MASTERCARD	2023_08 SEVE	National Register Plaque- Sacaja	09/01/2023	62.00	62.00	09/08/2023
3184	MASTERCARD	2023_08 SEVE	Downtown Plan Farmer's Mkt Map	09/01/2023	54.00	54.00	09/08/2023
3184	MASTERCARD	2023_08 SKAG	Water	09/01/2023	15.00	15.00	09/08/2023
3184	MASTERCARD	2023_08 STOR	Prime	09/01/2023	14.99	14.99	09/08/2023
3184	MASTERCARD	2023_08 STOR	supplies	09/01/2023	27.96	27.96	09/08/2023
3184	MASTERCARD	2023_08 TARR	Youth Sports Coach Training	09/01/2023	20.00	20.00	09/08/2023
3184	MASTERCARD	2023_08 TARR	Media Access	09/01/2023	12.00	12.00	09/08/2023
3184	MASTERCARD	2023_08 TARR	Rec Office Supply	09/01/2023	21.63	21.63	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	147.50	147.50	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	5.00	5.00	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	66.00	66.00	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	26.97	26.97	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	118.12	118.12	09/08/2023
3184	MASTERCARD	2023_08 TARR	Employee Appreciation - Pool	09/01/2023	36.94	36.94	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Supplies	09/01/2023	67.44	67.44	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Cutting Torch Face Shields	09/01/2023	85.88	85.88	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Pro Fluid Transfer Pump	09/01/2023	99.95	99.95	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Selector switch	09/01/2023	149.90	149.90	09/08/2023
3184	MASTERCARD	2023_08 TIDW	3 position selector switch	09/01/2023	37.00	37.00	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Breaker	09/01/2023	575.85	575.85	09/08/2023
3184	MASTERCARD	2023_08 TIDW	3 position knob	09/01/2023	90.65	90.65	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Magnetic Motor Starter Switch	09/01/2023	679.91	679.91	09/08/2023
3184	MASTERCARD	2023_08 TIDW	processing fee	09/01/2023	6.12	6.12	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Mountable Breaker	09/01/2023	196.80	196.80	09/08/2023
3184	MASTERCARD	2023_08 TIDW	Tungsten Tap & Die Set	09/01/2023	89.99	89.99	09/08/2023
Total MASTERCARD:					22,222.39	22,222.39	
MOBILE REPAIR & WELDING, INC							
10	MOBILE REPAIR & WELDING, IN	34383	TRANSER STATION	10/19/2023	816.47	816.47	11/03/2023
Total MOBILE REPAIR & WELDING, INC:					816.47	816.47	
MONTANA LANGUAGE SERVICES							
10005	MONTANA LANGUAGE SERVIC	INV-00539	INTERPRETING	09/01/2023	195.74	195.74	11/03/2023
Total MONTANA LANGUAGE SERVICES:					195.74	195.74	
MONTANA LAW ENFORCEMENT ACADEMY							
642	MONTANA LAW ENFORCEMENT	21861	PUBLIC SAFETY COMM	10/23/2023	250.00	250.00	11/03/2023
Total MONTANA LAW ENFORCEMENT ACADEMY:					250.00	250.00	
MONTANA MAGISTRATES ASSOCIATION							
643	MONTANA MAGISTRATES ASS	2023.7	MMA Dues	07/01/2023	300.00	300.00	08/15/2023
Total MONTANA MAGISTRATES ASSOCIATION:					300.00	300.00	
MOUNTAIN FRESH CLEANING							
10005	MOUNTAIN FRESH CLEANING	0000043	CLEANING	10/30/2023	2,450.00	2,450.00	11/03/2023
Total MOUNTAIN FRESH CLEANING:					2,450.00	2,450.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
MURDOCH'S RANCH & HOME SUPPLY							
3688	MURDOCH'S RANCH & HOME S	2826904	PLUMBING	09/26/2023	8.37	8.37	11/03/2023
3688	MURDOCH'S RANCH & HOME S	2946067	TIRE CHAIN	10/03/2023	111.96	111.96	11/03/2023
3688	MURDOCH'S RANCH & HOME S	3323738	MARKING FLAGS	10/23/2023	43.96	43.96	11/03/2023
3688	MURDOCH'S RANCH & HOME S	3348850	TIE DOWN	10/24/2023	139.96	139.96	11/03/2023
3688	MURDOCH'S RANCH & HOME S	3352379	TIRE CHAIN	10/24/2023	34.56	34.56	11/03/2023
3688	MURDOCH'S RANCH & HOME S	370410262332	TONGUE JACK	10/26/2023	95.97	95.97	11/03/2023
Total MURDOCH'S RANCH & HOME SUPPLY:					434.78	434.78	
NORTHWEST PIPE FITTINGS, INC							
423	NORTHWEST PIPE FITTINGS, I	79181-1	VALVE BOX RISER	10/09/2023	380.30	380.30	11/03/2023
Total NORTHWEST PIPE FITTINGS, INC:					380.30	380.30	
NORTHWESTERN ENERGY							
151	NORTHWESTERN ENERGY	0708370-2 202	8th & Park Sprinklers	01/16/2023	6.45	6.45	11/03/2023
151	NORTHWESTERN ENERGY	0709877-5 202	200 E Reservoir (north side hill)	01/09/2023	1,125.03	1,125.03	11/03/2023
151	NORTHWESTERN ENERGY	0709881-7 202	229 River Drive - Civic Center	01/11/2023	499.47	499.47	11/03/2023
151	NORTHWESTERN ENERGY	0719271-9 202	601 Robin Lane - Well	01/10/2023	2,632.10	2,632.10	11/03/2023
151	NORTHWESTERN ENERGY	0719272-7 202	4 Billman Lane - Well	01/11/2023	2,614.90	2,614.90	11/03/2023
151	NORTHWESTERN ENERGY	0719358-4 202	Street Lights - Livingston	01/16/2023	2,945.88	2,945.88	11/03/2023
151	NORTHWESTERN ENERGY	0719373-3 202	229 River Drive	01/16/2023	12.21	12.21	11/03/2023
151	NORTHWESTERN ENERGY	0720113-0 202	229 River Drive - CC Building	01/11/2023	65.28	65.28	11/03/2023
151	NORTHWESTERN ENERGY	0720122-1 202	400 North M	01/16/2023	12.57	12.57	11/03/2023
151	NORTHWESTERN ENERGY	0802599-1 202	608 W Chinook	01/16/2023	47.27	47.27	11/03/2023
151	NORTHWESTERN ENERGY	0933715-5 202	710 W Callender	01/16/2023	29.60	29.60	11/03/2023
Total NORTHWESTERN ENERGY:					9,990.76	9,990.76	
PARISI WESTERN PLUMBING & HEATING							
16	PARISI WESTERN PLUMBING &	59124	GASKET	10/17/2023	96.00	96.00	11/03/2023
Total PARISI WESTERN PLUMBING & HEATING:					96.00	96.00	
RIVERSIDE HARDWARE LLC							
3659	RIVERSIDE HARDWARE LLC	206584	BRUSH	10/04/2023	18.99	18.99	11/03/2023
3659	RIVERSIDE HARDWARE LLC	2067646	CONNECTOR WIRE	10/06/2023	7.99	7.99	11/03/2023
3659	RIVERSIDE HARDWARE LLC	207842	FASTENERS	10/19/2023	39.79	39.79	11/03/2023
Total RIVERSIDE HARDWARE LLC:					66.77	66.77	
SAFETRAC							
3143	SAFETRAC	41493	CDL Services	11/01/2023	620.80	620.80	11/03/2023
3143	SAFETRAC	41612	EMPLOYMENT SCREEN	10/31/2023	127.75	127.75	11/03/2023
Total SAFETRAC:					748.55	748.55	
SHANE CENTER, THE							
3359	SHANE CENTER, THE	2023.11.16	DOWNTOWN MASTER PLAN OP	10/30/2023	180.00	180.00	11/07/2023
Total SHANE CENTER, THE:					180.00	180.00	
SPECIAL LUBE							
1814	SPECIAL LUBE	224-280-14215	Oil Change	10/23/2023	65.20	65.20	11/03/2023
1814	SPECIAL LUBE	224-280-14317	Oil Change	10/26/2023	85.67	85.67	11/03/2023

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total SPECIAL LUBE:					150.87	150.87	
TARR, MARGARET							
3586	TARR, MARGARET	2023.9.22	REIMB- picnic	09/22/2023	69.42	69.42	11/03/2023
Total TARR, MARGARET:					69.42	69.42	
THE ABBI AGENCY							
10005	THE ABBI AGENCY	1772	RESEARCH & DEVELOP	08/01/2023	1,900.00	1,900.00	11/03/2023
10005	THE ABBI AGENCY	1862	LOGO DESIGN	09/01/2023	1,900.00	1,900.00	11/03/2023
10005	THE ABBI AGENCY	1925	LOGO DEVELOPMENT	10/01/2023	1,000.00	1,000.00	11/03/2023
Total THE ABBI AGENCY:					4,800.00	4,800.00	
THE NORTHERN PACIFIC BEANERY							
10005	THE NORTHERN PACIFIC BEAN	136	BREAKFAST BUFFET	11/13/2023	1,032.00	1,032.00	11/14/2023
10005	THE NORTHERN PACIFIC BEAN	137	BREAKFAST BUFFET	11/14/2023	216.00	216.00	11/15/2023
Total THE NORTHERN PACIFIC BEANERY:					1,248.00	1,248.00	
THOMAS, MARIAH							
10005	THOMAS, MARIAH	2023.10.3	REIMB-TRAVEL	10/03/2023	133.88	133.88	11/03/2023
Total THOMAS, MARIAH:					133.88	133.88	
TRANSUNION RISK & ALTERNATIVE							
3376	TRANSUNION RISK & ALTERNA	380349-20231	investigative resear	11/01/2023	75.00	75.00	11/03/2023
Total TRANSUNION RISK & ALTERNATIVE:					75.00	75.00	
USA BLUEBOOK							
1430	USA BLUEBOOK	INV00164390	VENTED WASH BOTTLE	10/13/2023	237.59	237.59	11/03/2023
Total USA BLUEBOOK:					237.59	237.59	
WESTERN MUNICIPAL CONSTRUCTION, INC.							
10000	WESTERN MUNICIPAL CONSTR	7	REGIONAL SEWER EXT	10/09/2023	259,715.94	259,715.94	11/03/2023
10000	WESTERN MUNICIPAL CONSTR	7	15 GROSS RECEIPTS TAX	10/09/2023	2,597.16-	2,597.16-	11/03/2023
Total WESTERN MUNICIPAL CONSTRUCTION, INC.:					257,118.78	257,118.78	
Grand Totals:					360,706.30	360,706.30	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
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Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

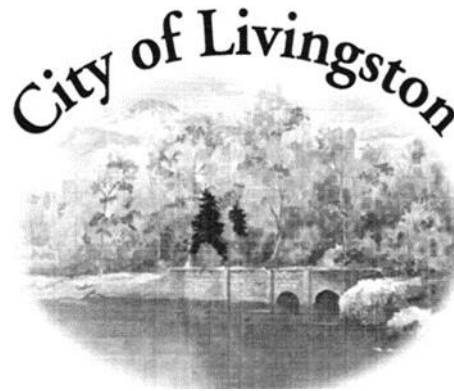
File Attachments for Item:

C. AGREEMENT 20044 WITH HEADWATER ECONOMICS

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

**Staff Report for Consideration of Agreement 20044 with
Headwaters Economics**

Recommendation and Summary

Staff is recommending the Commission approve Agreement 20044 with Headwaters Economics by adopting the following motion:

“I move to approve Agreement 20044 and authorize the City Manager to sign.”

The reasons for the recommendation are as follows:

- The City of Livingston lies adjacent to the Yellowstone River and has periodically experienced flood events related to its proximity to the river.
- Headwaters Economics has offered to include the City of Livingston in its FloodWise Community Assistance Program and requires an agreement to share certain data.

Introduction and History

Since its settlement in 1882, the City of Livingston has periodically experienced flood events related to its proximity to the Yellowstone River. As the City seeks to develop effective policies related to the river and flood risk, staff has held conversations with many community partners. Headwaters Economics and the City have discussed ways to collaborate including the sharing of flood risk data through Headwaters Economics FloodWise Community Assistance Program.

Analysis

The data provided by Headwaters will help City staff analyze flood risks and develop effective policy for Commission consideration. The data will also support review of certain proposals and applications that may come before the City.

Fiscal Impact

There is minimal fiscal impact arising from the agreement related to staff participation in data use.

Strategic Alignment

The use of data to inform public policy is critical to effective policy creation.

Attachments

- Attachment A: Proposed Agreement 20044



MEMORANDUM OF UNDERSTANDING

Livingston, Montana

Overview

This Memorandum of Understanding (“Memorandum”) is dated November 21, 2023, and is between Headwaters Economics, Inc., a Montana nonprofit corporation with address of P.O. Box 7059, Bozeman, MT 59771 (“Headwaters Economics”) and the City of Livingston, a political subdivision of the State of Montana with address of 220 E. Park Street, Livingston, MT 59047 (“City”). This Memorandum is valid through December 31, 2024, unless otherwise extended in writing by all signatories.

Purpose and Intent

The City of Livingston was selected to participate in the FloodWise Community Assistance program administered by Headwaters Economics to assist communities in decreasing flood risk. The purpose of this Memorandum is to clarify roles, responsibilities, and expectations associated with participation in the FloodWise program (“flood program”).

The goal of Headwaters Economics’ flood program is to provide research and technical assistance to help communities decrease flood risk. Technical assistance varies based on community needs and may be in the form of flood mitigation recommendations, assessments of funding options, grant writing, research, and capacity-building activities. Specific deliverables will be identified and prioritized in collaboration with the City. Technical assistance and services are provided at no financial charge to the City. This is a voluntary program. Headwaters Economics anticipates learning alongside the City throughout the partnership and sharing lessons and successful strategies with other communities.

Roles and Responsibilities

City of Livingston

By signing this Memorandum, the City commits to working with Headwaters Economics as participants in the flood program. The City commits to the following tasks and expectations:

- Provide background information, plans, regulations, data and related documentation, and knowledge of local issues to help Headwaters Economics identify, understand, and address the flood risk facing the community.
- Provide a minimum of two key points of contact committed to responding to inquiries from Headwaters Economics and providing feedback on Headwaters Economics’ deliverables.

- Engage local stakeholders, elected officials, and the public, as appropriate, including hosting site visits if applicable. Provide points of contact or referrals of city staff or consultants to assist Headwaters Economics with applicable project needs.
- Support Headwaters Economics’ efforts to document the City’s involvement in the flood program, including through video and photography (when consent is given) to share lessons and successful strategies with other communities.
- Participate in a short program evaluation one year after signing this MOU to help improve the flood program.

Headwaters Economics

Headwaters Economics, in its sole discretion, may employ additional contractors to provide technical assistance or may provide the City with grant funds to be used for technical assistance. All team members who work directly with the City will be clearly identified throughout the process, including on final deliverables.

Headwaters Economics may provide the following assistance to the City and County:

- Providing structure-level flood risk data from First Street Foundation to the City. The City shall adhere to the following stipulations in using the dataset:
 - The dataset may only be used by the City for efforts related to flood mitigation and land use planning.
 - The dataset cannot be shared with parties outside of City government without prior approval from Headwaters Economics.
 - The City shall inform Headwaters Economics of projects that make use of the dataset.
- In partnership with the City, assist in identifying stormwater management needs and solutions and assist the City in developing a stormwater utility.
- On behalf of the City, employ a grant writer to assist with a regional EDA grant that is being submitted in 2023 by the Rocky Mountain Economic Development Corporation.
- In partnership with the City, and in coordination with county, and state and federal partners as needed, identify and prioritize the technical assistance needs and specific deliverables from Headwaters Economics related to reducing flood risk.
- Partner with the City in crafting messaging about flood solutions to ensure stakeholders understand the intention and rationale of recommendations.

Implementation

Simultaneous with or as a result of the flood program, the City retains all responsibility for developing and implementing any flood risk reduction activities; complying with regulatory requirements; and planning goals, policies, and actions for all property under its jurisdiction. Further, the City is under no obligation to use or implement any of the deliverables provided by Headwaters Economics. Final deliverables created by Headwaters Economics will be provided to the City and may be shared publicly.

Neither party anticipates financial contribution from the other party for any component of this MOU.

Signatures

Grant Gager, City Manager
Livingston, Montana

Date

Patty Hernandez, Executive Director
Headwater Economics

Date

Contact

Questions or concerns about this Memorandum should be directed to:
Kristin Smith, Headwaters Economics
Email: kris@headwaterseconomics.org
Phone: 802-989-5385

Bridget Mitchell, Headwaters Economics
Email: bridget@headwaterseconomics.org
Phone: 413-512-0589

File Attachments for Item:

**A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA
RECOGNIZING NOVEMBER 25TH AS SMALL BUSINESS SATURDAY IN LIVINGSTON MONTANA.**



Proclamation
of the Livingston City Commission

Declaring November 25, 2023, as Small Business Saturday in the City of Livingston

WHEREAS, the City of Livingston celebrates our local small businesses and the contributions they make to our local economy and community; and

WHEREAS, small business owners who work long hours, juggling family and career responsibilities and serving as community volunteers, are integral to our county’s prosperity and the vibrancy of our community. These entrepreneurs are fundamental to our economy. Through the opportunities offered by the men and women who own and operate small businesses, many of our citizens are able to pursue their dreams of a better life; and

WHEREAS, we recognize “Small Business Saturday” on Saturday, November 25, 2023 as a day to celebrate and support small businesses that create jobs, boost the local economy, invigorate neighborhoods around the country and encourage residents to shop local; and

WHEREAS, it is fitting to recognize the small businesses in our community for the key role they play in strengthening our local economy.

NOW, THEREFORE, BE IT RESOLVED on behalf of the Livingston City Commission, I, Melissa Nootz, Chair, do hereby declare November 25, 2023, to be:

**SMALL BUSINESS SATURDAY IN LIVINGSTON,
MONTANA**

Signed this ___ day of November, 2023.



MELISSA NOOTZ, Chair
Livingston City Commission

EMILY HUTCHINSON,
CITY CLERK

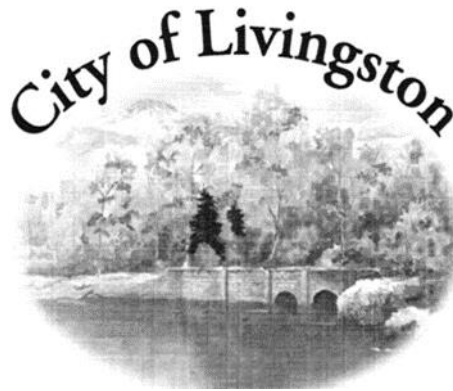
File Attachments for Item:

A. ORDINANCE 3047: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE, ENTITLED TREES, BY ELIMINATING THE TREE BOARD.

City Manager
Grant Gager

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(406) 823-6000 phone

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www.livingstonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Ordinance 3047 Eliminating the Tree Board

Recommendation and Summary

Staff is seeking Commission approval of Ordinance 3047 to eliminate the Tree Board through adoption of the following motion:

“I move to approve the second reading of Ordinance 3047 and authorize the Chair to sign.”

The reasons for the request are as follows:

- The City Commission established the Tree Board in 2002 through Ordinance 1919.
- The Tree Board is not currently functioning in accordance with the provisions of the Livingston Municipal Code.

Introduction and History

The City of Livingston established the Tree Board in 2002 to perform various functions including the creation and administration of plans to care for, and permits to remove, certain trees in the City. In several situations, the Tree Board has the authority to direct the work of City staff, including the Arborist and Code Enforcement Officer. The City Commission completed the first reading of the ordinance at its meeting on November 7, 2023.

Analysis

City staff has two certified arborists within the Public Works Department that will provide direction in the maintenance of the City’s trees. Additionally, City staff will conduct public engagement sessions with the community regarding public tree planting and maintenance. Similarly, ad hoc advisory boards will be created as projects and needs arise.

Fiscal Impact

Elimination of the Tree Board will eliminate the cost of staff hours committed to managing the Board. Such savings will be offset by new public engagement and ad hoc committee efforts.

Strategic Alignment

Effective public engagement is critical to the development of policy and implementation of processes.

Attachments

- Attachment A: Ordinance 3047
- Attachment B: Ordinance 1919

ORDINANCE NO. 3047

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,
MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE
ENTITLED TREES BY ELIMINATING THE TREE BOARD.**

Preamble.

The purpose of this Ordinance is to eliminate the tree board from the Livingston Municipal Code.

WHEREAS, The City established the Tree Board through passage of Ordinance 1919 on December 16, 2002; and

WHEREAS, the operation of the City has changed since 2002 and the Tree Board does not function in accordance with the Livingston Municipal Code; and

WHEREAS, the City of Livingston Commission desires to eliminate the Tree Board;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, as follows:

SECTION 1

That Chapter 23 - Trees, be amended as follows with deletions struck-through and additions redlined as follows:

Sec. 23-1. Definitions.

- A. ANSI A300 Standards-American National Standard for Tree Care Operations as used herein shall mean the most current edition thereof.
 - 1. Scope of Standards. The ANSI A300 standards present performance standards for the care and maintenance of trees, shrubs, and other woody plants.
 - 2. ANSI A300 Standards shall apply to any person or entity engaged in the business, trade, or performance of repairing, maintaining or preserving trees, shrubs or other woody plants on city property.
- B. Park Trees. Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- C. Reserved.
- D. Qualified Arborist. An individual who is capable of adhering to ANSI standards, and by possession of a recognized degree, certification or professional standing, or through related training and on-the-job experience, in the science, technology and business of tree care and who is familiar with the equipment and hazards involved therein and who has demonstrated ability in the performance of the special techniques involved.
- E. Street Trees. Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or alley ways within the City.
- F. Reserved.
- G. Tree Maintenance. Tree maintenance as it pertains to this Chapter shall refer to the removal of hazardous, broken or otherwise nuisance limbs

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-2. ~~Creation and establishment of a City Tree Board.~~ Reserved

~~There is hereby created and established an advisory board to the City Commission which will be known as the City Tree Board for the City of Livingston (Tree Board) which shall consist of seven (7) to nine (9) members who are residents of this City or who live within two (2) miles thereof, who shall be recommended by the Tree Board and appointed by the City Commission. The members shall come from different interest groups including homeowners, tree professionals, street department, parks and recreation department, and City government.~~

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 12/15/20; Ord. No. 3005 , § 2, 4/20/21)

Sec. 23-3. ~~Terms of office.~~ Reserved

~~The term of the persons recommended by the Tree Board and appointed by the City Commission shall be four (4) years.~~

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20; Ord. No. 3005 , § 2, 4/20/21)

Sec. 23-4. ~~Compensation.~~ Reserved

~~Members of the Board shall serve without compensation.~~

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-5. ~~Duties and responsibilities.~~ Reserved

~~It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Commission and upon their acceptance and approval shall constitute the official comprehensive City tree plan.~~

~~The Board shall promote and supervise the establishment of a tree inventory for street and park trees. The inventory shall be updated with the results of ground inspections every three (3) years.~~

~~The Board, when requested by the City Commission, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.~~

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-6. ~~Operation.~~ Reserved

~~The Board shall choose its own officers, make its own rules and regulations and by laws which shall be approved by the City Commission. The Board shall keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business.~~

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-7. Tree species to be planted.

The ~~Tree Board and~~ City Arborist develops and maintains a list of desirable trees for planting along streets in three (3) size classes based on mature height: small (under twenty (20) feet), medium (twenty (20) to forty (40) feet) and large (over forty (40) feet). Efforts shall be made to ensure a sufficient diversity of tree species. Lists of trees not suitable for planting will also be created by the ~~Tree Board~~ City Arborist.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-8. Spacing.

The spacing of street trees will be in accordance with the three (3) species size classes listed in Section 23-7 of this Chapter, and no trees may be planted closer together than the following: small trees, fifteen (15) feet;

medium trees, twenty-five (25) feet; and large trees, thirty-five (35) feet; except in special plantings designed or approved by a landscape architect or City Arborist.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-9. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Section 23-7 of this Chapter, and no trees may be planted closer to any curb or sidewalk than two (2) feet for small trees, three (3) feet for medium or large trees.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-10. Distance from street corners and fireplugs.

No street tree shall be planted within thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within ten (10) feet of any fireplug.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-11. Utilities.

No street trees other than those species accepted as small trees by the ~~Tree Board~~ [City Arborist](#) may be planted under, or within ten (10) feet of, any overhead utility wire.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-12. Public tree care.

In addition to caring for trees and vegetative growth on privately owned property, the person in control of a property is charged with care, maintenance and full responsibility for trees and all vegetative growth on adjacent streets, alleys, boulevards and public ways. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City will also be responsible for maintaining all trees within city owned parks and on any boulevards or other public ways that do not abut private property.

The City Arborist may instruct the City Code Enforcement Officer to send written notice to remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. In the event that the person in control of a property fails to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal plus an additional administrative cost equal to twenty-five (25) percent of the actual costs and expenses of removing the tree on the person's property tax notice. This Section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 23-7 through 23-12.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-13. Pruning and trimming standards.

All tree pruning and trimming on public property shall conform to the ANSI A300 standards and the International Society of Arboriculture Best Management Practices for tree care operations. All commercial tree service companies and property owners shall make application for and obtain a permit from the City Arborist before working on any city owned tree. The permit shall be issued without any fee. No permit is required when pruning is done to maintain the required (8) eight-foot clearance over sidewalks or the required (13) thirteen-foot clearance over streets. All commercial tree companies shall have a Qualified Arborist conducting the trimming or shall be on site during the trimming of all street and park trees following the aforementioned ANSI A300 standards.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095, § 1, 12/15/20)

Sec. 23-14. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, when approved in advance by the City Arborist. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the ~~Tree Board~~ City Arborist.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095, § 1, 12/15/20)

Sec. 23-15. Pruning and corner clearance.

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above street surface or eight (8) feet above the sidewalk surface. Owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and City ~~Tree Board~~ [Arborist](#) prior to any trimming by the utility company.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-16. Dead or diseased tree removal on private property.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the City. The City ~~Tree Board~~ [Manager](#) will instruct the City Code Enforcement Officer or City Arborist to notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal plus an additional administrative cost equal to twenty-five (25) percent of the actual costs and expenses of removing the tree on the owner's property tax notice.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-17. Fruit trees.

Any person may harvest fruit from park or street trees if the fruit has dropped or can be picked by hand while standing on the ground, so long as doing so does not in any way injure the tree. The City Arborist may authorize harvest by other means. The City Arborist may instruct the City Code Enforcement Officer to send written notice to remove fruit dropped from or remaining on any street tree so as to prevent public nuisance or the attraction of wildlife.

(Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-18. Protection of trees.

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.

Trees removed by decision of the City Arborist ~~or City Tree Board~~ or removed due to natural causes shall be replaced somewhere in the city on a one-for-one (1:1) basis within one (1) year. The location and species of any replacement tree shall be determined by the ~~Tree Board~~ [City Arborist](#).

Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy of the tree.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-19. Interference with City ~~Tree Board~~ Arborist.

It is unlawful for any person to prevent, delay or interfere with the City of Livingston, ~~its City Tree Board~~, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or application, or removing of any street trees, park trees, or trees on private grounds, as authorized in this Chapter.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-20. Arborists license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be set by resolution annually in advance; provided, however, that no license shall be required of any City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of seven hundred fifty thousand dollars (\$750,000.00) per claim and one million five hundred thousand dollars (\$1,500,000.00) per occurrence indemnifying the City or any person injured or damaged resulting from the pursuit.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09)

Sec. 23-21. Authority of adjoining property owner to plant or care for trees on boulevard or parkways.

Permission is given to the owners of real estate to improve their premises by planting trees and properly caring for trees in the boulevards adjoining their property after permit is obtained from the City. Such trees shall in no case interfere with the full use of the streets for public purposes, and no person shall plant any tree within the limits of any parkway, street or alley in the City without having first obtained a written permit from the City.

It shall be the duty of any property owner to make request in writing to the City, stating the variety and precise location of each tree proposed to be planted. The permit shall specify the location and variety of each tree.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-22. Removal, destruction, cutting and injury.

No person shall remove, destroy, cut, deface, or in any way injure or interfere with any street tree or park tree, without a permit from the City ~~Tree Board~~ Arborist. The City Arborist may authorize the removal of trees that constitute an immediate hazard or threat to life or property.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-23. Interference with trees by house mover, permit required.

It shall be unlawful for any person to move any building along any street, avenue or alley in the City, in such a way as to interfere with or injure any tree or shrub in any street, avenue, alley or public place, including parks and parkways, without a written permit obtained from the City Arborist. The application for such permit, and the permit issued, shall specify the particular building and the particular route to be followed.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-24. Procedure for temporary removal.

All moving of trees and shrubs made necessary by moving of buildings or any other purpose shall be done under the supervision of the City Arborist at the expense of the owners of the buildings, or the party requesting the same. Should such moving cause the death of the tree, the owner of the buildings or the party requesting the temporary removal, at their own expense, shall replace the same under the supervision of the City Arborist.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095 , § 1, 12/15/20)

Sec. 23-25. Insects and diseases-declared nuisance.

All insect pests and diseases known to be injurious to fruit, shade and ornamental trees and shrubs, and all trees, shrubs and vegetable growth infested or infected therewith constitute a menace, and are hereby declared to be a common nuisance.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-26. Spraying or applying.

Every person who is owner or in possession or control or management of any lot, block or parcel of land upon which there are any fruit, shade or ornamental trees or shrubs which are infested or infected with any insect pests or diseases known to be injurious to such fruit, shade or ornamental trees or shrubs, shall, within three (3) days, upon written order of the City Code Enforcement Officer or the City Arborist ~~at the instruction of the City Tree Board~~, spray, applicate, or cause the same to be sprayed or applied in such manner and with some insecticide designated by the City or by a licensed pesticide applicator. Any person failing to comply with any such order shall be deemed guilty of maintaining a nuisance.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09; Ord. No. 2095, § 1, 12/15/20)

Sec. 23-27. Review by city commission.

~~The City Commission shall have the right to review the conduct, acts, and decisions of the City Tree Board Arborist.~~ Any person may appeal from any ruling or order of the City ~~Tree Board~~ Arborist to the City ~~Commission~~ Manager who may hear the matter and make final decisions.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04)

Sec. 23-28. Penalty.

Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty, subject to a civil fine not to exceed three hundred dollars (\$300.00) for each violation or if the infraction is a repeat offense, a civil penalty not to exceed fifty dollars (\$50.00) for each repeat violation. In addition, commercial tree service companies which violate the terms of this Chapter shall after a second conviction be denied the ability to obtain a permit to work on public trees.

(Ord. 1919 § 1 (part), 12/16/02; Ord. 1935 § 1 (part), 2/2/04; Ord. No. 2010, § 1, 1/5/09)

SECTION 2**Statutory Interpretation and Repealer:**

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3**Severability:**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of November, 2023.

MELISSA NOOTZ - CHAIR

ATTEST:

EMILY HUTCHINSON
City Clerk

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the _____ day of ~~December~~November, 2023.

MELISSA NOOTZ – CHAIR

ATTEST:

EMILY HUTCHINSON
City Clerk

APPROVE AS TO FORM:

City Attorney

ORDINANCE NO. 1919

AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE BY CREATING A CITY TREE BOARD AND REVISING THE CITY'S TREE ORDINANCE TO PROVIDE A COMPREHENSIVE PLAN FOR TREE PLANTING, MAINTENANCE AND REMOVAL AND BY PROVIDING A PENALTY FOR VIOLATION THEREOF.

Purpose

The purpose of this Ordinance is to provide for the public health, safety and welfare by providing for a City Tree Board to develop a comprehensive tree management program for planting, maintenance and removal of trees and by providing a civil penalty for violations.

WHEREAS, the trees provide air purification, windbreaks, noise reduction, shade and energy savings; and

WHEREAS, planting trees and maintaining older trees provide natural areas for community beautification while enhancing economic and environmental benefits for the community; and

WHEREAS, Livingston has a community forestry program which needs to be amended to qualify for the Tree City USA program by creating a tree board, by adopting a tree care ordinance with complies with the program's requirements, have an annual budget of at least \$2 per capita and provide for an arbor day observance; and

WHEREAS, the Livingston City Commission believes that the Tree City USA program

will enhance the beauty of the Community.

NOW, THEREFORE, BE IT ORDAINED by the Livingston City Commission that Chapter 23 of the Livingston Municipal Code be and the same is hereby amended with additions redlined and deletions struck through as follows:

SECTION 1

Chapter 23 - TREES

Section 23-1. Definitions

Street Trees: Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

Section 23-2. Creation and Establishment of a City Tree Board

There is hereby created and established an advisory board to the City Commission which will be known as the City Tree Board for the City of Livingston (Board) which shall consist of five members citizens and who are residents of this city or who live within 2 miles thereof, who shall be appointed by the Chairman with the approval of the Commission. The members shall come from different interest groups including homeowners, tree professionals, street department, and city government.

Section 23-3. Term of Office

The term of the five persons to be appointed by the Chairman shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of three members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 23- 4. Compensation

Members of the board shall serve without compensation.

Section 23-5. Duties and Responsibilities

It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan.

The Board shall promote and supervise the establishment of a tree inventory for Street and Park Trees. The inventory shall be updated with the results of ground inspections every 3 years.

The Board, when requested by the City Commission, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

Section 23-6. Operation

The Board shall choose its own officers, make its own rules and regulations which shall

The term of the five persons to be appointed by the Chairman shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 23- 4. Compensation

Members of the board shall serve without compensation.

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It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan.

The Board shall promote and supervise the establishment of a tree inventory for Street and Park Trees. The inventory shall be updated with the results of ground inspections every 3 years.

The Board, when requested by the City Commission, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

Section 23-6. Operation

The Board shall choose its own officers, make its own rules and regulations which shall

be approved by the City Commission, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 23-7. Tree Species to be Planted

The City Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species. Lists of trees not suitable for planting will also be created by the Tree Board.

Section 23-8. Spacing

The spacing of street trees will be in accordance with the three species size classes listed in Section 23-7 of this ordinance, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees, 35 feet; except in special plantings designed or approved by a landscape architect.

Section 23-9. Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 23-7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than 2 feet for small trees, 3 feet for medium or large trees.

Section 23-10. Distance from Street Corners and Fireplugs

No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted within than 10 feet of any fireplug.

Section 23-11. Utilities

No street trees other than those species accepted as small trees by the Tree Board may be planted under, or within 10 feet of, any overhead utility wire.

Section 23-12. Public Tree Care

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 23-7 through 23-11 of this ordinance.

Section 23-13. Pruning standards

All tree pruning on public property shall conform to the ANSI A300 standards for tree care operations.

Section 23-14. Tree Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a

degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Board.

Section 23-15. Pruning & Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet (13') above street surface or eight feet (8') above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and City Tree Board prior to any trimming by the utility company.

Section 23-16. Dead or Diseased Tree Removal on Private Property

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree

Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Section 23-18. Protection of Trees

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.

Trees removed by decision of the City Tree Board or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year. The location and species of any replacement tree shall be determined by the Tree Board.

Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy of the tree.

Section 23-19. Interference with City Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the City of Livingston, its City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

Section 23-20. Arborists License and Bond

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and

procuring a license. The license fee shall be \$70 annually in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$750,000 per claim and \$1,500,000 per occurrence indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Sec. 23-21. Authority of adjoining property owner to plant or care for trees on boulevard or parkways.

Permission is given to the owners of real estate to improve their premises by planting trees and properly caring for trees in the boulevards adjoining their property after permit is obtained from the City. Such trees shall in no case interfere with the full use of the streets for public purposes, and no person shall plant any tree within the limits of any parkway, street or alley in the City without having first obtained a written permit from the City.

It shall be the duty of any property owner to make request in writing to the City, stating the variety and precise location of each tree proposed to be planted. The permit shall specify the location and variety of each tree.

~~A permit fee may be charged and may be set by the City Council.~~

~~It shall be the duty of property owners who have street trees adjacent to their property to water and maintain the trees so as to ensure the trees survival and compliance with the City's requirements for street trees. In addition, the property owners shall mow the grass on the~~

~~boulevard as necessary to prevent the grass from reaching 5 inches in height.~~

Sec. 23-2. Prohibited varieties.

~~Carolina Poplar, Canadian Poplar, Lombardi Poplar, Silver Leaf Poplar, Box Elder, Native Cottonwood trees or any other variety deemed undesirable by the City shall not be planted in the boulevards or within twenty (20) feet of a sidewalk.~~

Sec. 23-3. Size.

~~No tree shall be planted measuring less than one (1) inch in diameter of trunk one (1) foot above the ground.~~

Sec. 23-4. Size-minimum height over sidewalks.

~~It shall be unlawful for any person who is the owner or occupant in possession, control or management of any lot, boulevard or parcel of land within the City, to permit, or allow to be kept any tree whose limb or branches shall extend over the sidewalk, street or alley along the property within eight and one-half (8½) feet above the surface of the ground.~~

Sec. 23-22. Removal, cutting and injury.

No person shall remove, destroy, cut, deface, trim, or in any way injure or interfere with any street tree or park tree or shrub or any of the avenues, streets, alleys, or public grounds, including parks and parkways of the City, without a permit from the City Tree Board.

~~It shall be unlawful for any person to cut, mutilate, injure or destroy any tree in the boulevard without having first obtained the permission of the City.~~

~~Boulevard trees that are hazardous shall be removed by the City, but expense of removal shall otherwise be the adjoining property owner's.~~

Sec. 23-23. Interference with trees by house mover, permit required.

It shall be unlawful for any person to move any building along any street, avenue or alley in the City, in such a way as to interfere with or injure any tree or shrub in any street, avenue, alley or public place, including parks and parkways, without a written permit obtained from the City Tree Board. The application for such permit, and the permit issued, shall specify the particular building and the particular route to be followed.

Sec. 23-24. Procedure for temporary removal.

All moving of trees and shrubs made necessary by moving of buildings or any other purpose shall be done under its supervision of the City Tree Board, at the expense of the owners of the buildings, or the party requesting the same. Should such moving cause the death of the tree, the owner of the buildings or the party requesting the temporary removal, at his own expense, shall replace the same under the supervision of the City Tree Board.

Sec. 23-25. Insects and diseases-declared nuisance.

All insect pests and diseases known to be injurious to fruit, shade and ornamental trees and shrubs, and all trees, shrubs and vegetable growth infested or infected therewith constitute a menace, and are hereby declared to be a common nuisance.

Sec. 23-26. Spraying.

Every person who is owner or in possession or control or management of any lot, block or parcel of land upon which there are any fruit, shade or ornamental trees or shrubs which are infested or infected with any insect pests or diseases known to be injurious to such fruit, shade or ornamental trees or shrubs, shall, within three (3) days, upon written order of the City Tree

Board, spray or cause the same to be sprayed in such manner and with some insecticide designated by the City. Any person failing to comply with any such order shall be deemed guilty of maintaining a nuisance.

Sec. 23-27. Review by City Commission

The City Commission shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Commission who may hear the matter and make final decisions.

Sec. 23-28. Penalty

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a civil fine not to exceed \$300.00 \$100.00 for each violation. ~~Each day that the violation continues shall be deemed a separate and punishable violation.~~

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings provision:

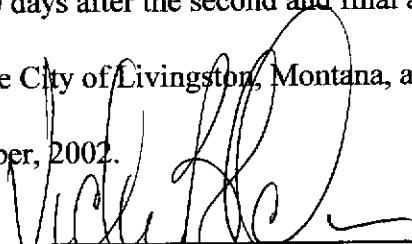
This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 5

Effective date:


This ordinance will become effective 30 days after the second and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, at a regular session thereof held on the 14 day of December, 2002.



VICKI BLAKEMAN - Chairman

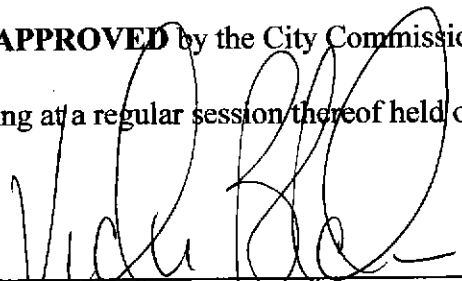
ATTEST:



PAM PAYOVICH
Recording Secretary

* * * * *

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 16th day of December, 2002.



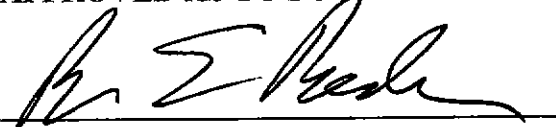
VICKI BLAKEMAN - Chairman

ATTEST:



PAM PAYOVICH
Recording Secretary

APPROVED AS TO FORM:



BRUCE E. BECKER
Livingston City Attorney

NOTICE

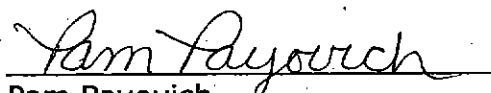
The public is invited to attend and comment at a public hearing to be held at 7:30 p.m. on December 16, 2002, on the second reading of ORDINANCE NO. 1919, entitled:

AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE BY CREATING A CITY TREE BOARD AND REVISING THE CITY'S TREE ORDINANCE TO PROVIDE A COMPREHENSIVE PLAN FOR TREE PLANTING, MAINTENANCE AND REMOVAL AND BY PROVIDING A PENALTY FOR VIOLATION THEREOF.

A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call Pam at 823-6001.

Please publish December 4, 2002 and December 10, 2002.

City of Livingston



Pam Payovich
Administrative/Recording Secretary

NOTICE

The public is invited to attend and comment at a public hearing to be held at 7:30 p.m. on December 16, 2002, on the second reading of ORDINANCE NO. 1919, entitled:

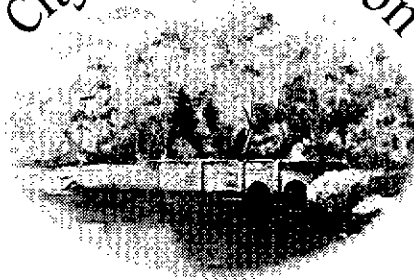
AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE BY CREATING A CITY TREE BOARD AND REVISING THE CITY'S TREE ORDINANCE TO PROVIDE A COMPREHENSIVE PLAN FOR TREE PLANTING, MAINTENANCE AND REMOVAL AND BY PROVIDING A PENALTY FOR VIOLATION THEREOF.

A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call Pam at 823-6001.

(Publish twice at least 6 days apart 7-1-4127(6)MCA and post the ordinance needs on the City bulletin board and copies need to be made available to the public 7-5-103 MCA)

Clint Tinsley
Public Works Director
330 Bennett Street
Livingston, Montana 59047
(406) 222-1142 • 222-5606 fax


City of Livingston



Incorporated 1889

Becki Cross 61
Office Manager
Sandy Wulf
Diane Powers
Utility Clerks

MEMO TO: Steve Golnar, City Manager

FROM: Clint Tinsley, Public Works Director 

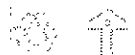
SUBJECT: Two dollars per capita spent for the trees for the "Tree City USA Ordinance"

DATE: November 27, 2002

Attached is a list, submitted by Eddie Miller, the City Arborist, of expenses the City of Livingston has incurred for trees in the last year. These are documented expenses and show very clearly the cost of what has been done. The total cost is over \$27,000 and therefore, I feel confident that we can easily say we spent at least two dollars per capita on trees in the City of Livingston.



Proudly providing your City Services



BOULEVARD TREE WORK

29,252.52

BUDGET YEARLEY	BUDGET	SPENT-COST
1000-153-460430-361	1,500.00	1,025.00
<u>BOULEVARD TREE REMOVAL</u>		
98 HOURS		
SEASONALS - MAIN 2 - FOREMAN		991.48
EQT. REPAIR - EQT RENDY - PARTS		500.00
<u>ARBOR DAY TREE GRANT PROGRAM</u>		
PLANT TWO TREES - PAPER WORK	410.00	410.00
PARK LABOR (24) HOURS		228.16
<u>EQUIPMENT USE</u>		
LOADER - 80 PER HOUR		7,840.00
CHIPPER - 30 PER HOUR		2,940.00
D. TRUCK - 25 PER HOUR		2,450.00
D. TRUCK - 15 PER HOUR		1,470.00
<u>CITY PARKS</u>		
TREE REMOVAL + TRIMMING		
64 HOURS		676.80
TREE WRAPS - (FO- BEVERS) 32 HOURS		235.84
BURN BRUSH PILE		
8 HOURS		110.24
LOADER - \$80.00 P. HOUR		5120.00
CHIPPER - 30.00		1,920.00
D.T - 25.00		1600.00
D. TRUCK - 15.00		960.00
EQT REPAIR - SOWS		300.00

Memo

Date: 11/25/02
To: City Commission
From: City Attorney
Re: Tree Ordinance

I have basically followed the model tree ordinance provided by the Tree City USA. I have deleted portions of the City's existing ordinance which are covered by the Tree City ordinance. A violator is subject to a civil penalty.

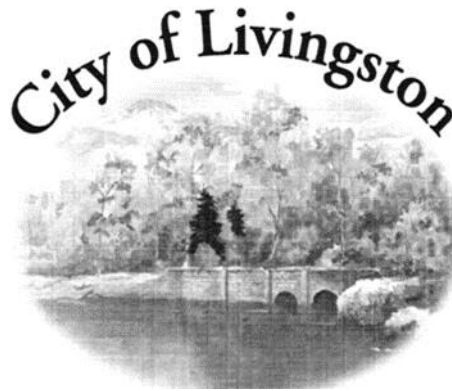
File Attachments for Item:

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

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Ordinance 3048 to Consolidate the Membership of the Planning Board and Zoning Commission

Recommendation and Summary

Staff is seeking Commission approval of Ordinance 3048 which will consolidate the membership of the Planning Board and Zoning Commission. Staff recommends approval of the following motion:

“I move to approve the first reading of Ordinance 3048 and authorize the Chair to sign.”

The reasons for the request for guidance are as follows:

- Montana Code Annotated establishes Planning Boards and Zoning Commissions and provides for their roles and requirements.
- Recent legislation has explicitly allowed such boards to be consolidated.

Introduction and History

The City of Livingston has established both a Planning Board and Zoning Commission pursuant to the requirements of Montana Code Annotated. In the 2023 Legislative Session, the Montana Legislature passed SB 130 (attached) that explicitly allows the consolidation of the Planning Board and Zoning Commission. The City previously operated a consolidated board.

Analysis

The community impact of decisions made by the Planning Board and Zoning Commission are inextricably linked; the rules established by the Zoning Commission necessarily influence applications evaluated by the Planning Board. Consolidating the membership of the two advisory boards will help ensure that land use decisions in the City of Livingston are made in a cogent and holistic manner.

Additionally, a requirement of the new Planned Unit Development ordinance is that applications will be presented to both the Planning Board and Zoning Commissions. Consolidation of the two advisory bodies will allow more timely and cohesive evaluation of applications.

The consolidation of the two boards was discussed at a November 15 joint meeting of the boards. There appeared to be general interest in a consolidation from many members of both boards. While there was general concern about the overall workload of a consolidated board, a review of land

use decisions by the Planning Board revealed that there were four such decisions in the past twelve months. While the planned review and update of the zoning code is forthcoming, internal staff support coupled with external consultant partners is expected to alleviate the workload of the Zoning Commission. Given the recent volume of work, staff does not expect that the consolidated membership will be over-burdened.

Fiscal Impact

There is no fiscal impact arising from the decision.

Strategic Alignment

The effective function of advisory boards is critical to quality public engagement regarding consideration of development applications and deliberation of policy.

Attachments

- Attachment A: 2023 SB 130
- Attachment B: Ordinance 3048



AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS AND THE GOVERNING BODY OF A MUNICIPALITY TO CONSOLIDATE A PLANNING BOARD OR PLANNING BOARDS, A ZONING COMMISSION, OR A BOARD OF ADJUSTMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Consolidated land use boards -- zoning commission, planning board, and board of adjustment. (1) The governing body of a city, county, or consolidated city-county may consolidate any combination of a planning board or planning boards as authorized in Title 76, chapter 1, a zoning commission as provided in 76-2-220 and 76-2-307, and a board of adjustment as provided in 76-2-221 and 76-2-321 into a consolidated land use board.

(2) The requirements regarding the duties and roles of a planning board as provided in Title 76, chapter 1, a zoning commission as provided in Title 76, chapter 2, parts 2 and 3, and a board of adjustment as provided in Title 76, chapter 2, parts 2 and 3, apply to a consolidated land use board.

(3) A consolidated land use board allowed under this section shall adopt bylaws that clearly define the roles and duties of a member when acting as a planning board member, a zoning commission member, or a board of adjustment member.

(4) (a) Except as provided in subsection (4)(b), a consolidated land use board allowed under this section must consist of at least five appointed citizen members that reside within the jurisdictional area of the consolidated land use board and who may be removed by the appointing authority. A vacancy on a consolidated land use board must be filled by the appointing authority.

(b) If a consolidated land use board includes the consolidation of a joint or consolidated board as allowed in 76-1-112 or a city-county planning board as allowed in 76-1-201, the consolidated land use board must consist of at least nine appointed citizen members as required in 76-1-201.

(5) The requirements provided in Title 76, chapter 1, and in Title 76, chapter 2, parts 2 and 3, regarding the number, qualification, and removal of members on a planning board, zoning commission, or board of adjustment do not apply to a consolidated land use board allowed under this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 1, part 1, and the provisions of Title 76, chapter 1, part 1, apply to [section 1].

- END -

I hereby certify that the within bill,
SB 130, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 130

INTRODUCED BY F. MANDEVILLE, M. DUNWELL, G. HERTZ, C. FRIEDEL, D. ZOLNIKOV, J. TREBAS

AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS AND THE GOVERNING BODY OF A MUNICIPALITY TO CONSOLIDATE A PLANNING BOARD OR PLANNING BOARDS, A ZONING COMMISSION, OR A BOARD OF ADJUSTMENT.

ORDINANCE NO. 3048

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GEREALLY REVISING THE PROVISIONS THEREOF.

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by providing for a Consolidated Land Use Board to carry out the functions of City Planning Board and the City Zoning Commission.

WHEREAS, the State of Montana has adopted legislation authorizing the City to consolidate a Planning Board or Planning Boards, a Zoning Commission, or a Board of Adjustment; and

WHEREAS, the City Commission has determined that it is in the best interest of the City and its' Citizens to combine the functions of the City Planning Board and the City Zoning Commission by establishing a Consolidated Land Use Board.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, that Chapter 27 of the Livingston Municipal Code titled City Planning Board, be and is hereby amended with additions underlined and deletions struck through, as follows:

Chapter 27

CITY ~~PLANNING BOARD~~ CONSOLIDATED LAND USE BOARD

Sec. 27-1. Established—powers and duties.

Pursuant to and under the provisions of Title 76 , Montana Code Annotated, the City Commission of the City of Livingston does hereby create and establish a City ~~Planning Board~~ Consolidated Land Use Board to be known as the "Livingston ~~Planning~~ Consolidated Land Use Board," and does by this Chapter adopt by reference all of the sections of the laws of the State of Montana aforementioned that specifically pertain to ~~City Planning~~ Consolidated Land Use Boards, granting and delegating to the ~~City Planning~~ Livingston Consolidated Land Use Board all of the rights, privileges, powers, duties and responsibilities thereto appertaining.

The Livingston Consolidated Land Use Board shall assume the duties and responsibilities of:

1. The City Planning Board as authorized by 76-1-101, MCA
2. The City Zoning Commission as authorized by 76-2-307, MCA

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-2. Jurisdictional area.

The Livingston ~~Planning~~ Consolidated Land Use Board shall have such jurisdiction in the corporate limits of the City of Livingston, as such limits may be amended from time to time and as may be provided by State law.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-3. Membership of Planning Board, terms of office and qualifications.

A. The Livingston Planning Consolidated Land Use Board shall consist of seven (7) members, as follows:

- ~~1. One (1) member appointed by the City Commission from its own membership;~~
- ~~2. 1.~~ One (1) member appointed by the City Commission who, at the Commission's discretion, may be an employee of the City of Livingston ~~or hold public office in Livingston or Park County;~~ and
- ~~3.—One (1) member appointed by the Chair of the Commission, upon designation by the Board of County Commissioners of Park County; and~~
- ~~4. 2.~~ Four (4) Six (6) citizen members appointed by the ~~Chair of the~~ City Commission who shall be residents freeholders within of the City of Livingston, ~~who~~ and shall be qualified by knowledge and experience in matters pertaining to the development of the City and hold no other office in City government.

B. ~~The term of the City Commissioner appointed to the City Planning Board shall be coextensive with that City Commissioner's term of office as City Commissioner.~~ All other members of the Planning Board shall be appointed to two (2) year overlapping terms of office. To establish the overlapping terms of office, ~~the appointment of three (3) Planning Board members shall be appointed for one (1) year and three (3) members shall be appointed for two (2) years. Thereafter, except for the appointed City Commissioner, all other appointments to the Planning Board shall be for two (2) year terms.~~

C. The ~~Recording Secretary~~ City Clerk shall certify the members appointed by the City Commission. The certificates shall be sent to and become a part of the records of the Livingston Planning Consolidated Land Use Board. ~~The Chair of the Commission shall make similar certifications for the appointment of citizen members.~~

D. Any citizen appointee may be removed from office by a majority vote of the City Commission.

E. The Planning Board members shall receive no salary for serving on the Planning Livingston Consolidated Land Use Board, ~~but may be reimbursed for transportation and actual expenses incurred in attending Planning Board meetings. When the Planning Board determines that it is necessary for members or employees to attend a regional or national conference or interview in another City, County or State dealing with planning or related problems, the Planning Board may pay the actual expense of the attending members or employees provided the amount has been made available in the Board's appropriation.~~

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06; Ord. No. 3005 , § 2, 4/20/21)

Sec. 27-4. Organization and administration.

A. Meetings. The Planning Board shall fix the time for holding regular meetings, ~~but shall meet at least once in the months of January, April, July and October.~~ Special meetings of the Planning Board may be called by the president or by two (2) members upon written

request to the Secretary. The Secretary shall send to all members, at least two (2) days' written notice stating the purpose, time and place of the meeting.

- B. Officers. The **Planning** Board, at its first regular meeting in each year, shall hold annual elections to elect a President and a Vice-President who shall preside in the absence of the President.
- C. Secretary. The **Planning** Board may appoint, from its' own membership, and prescribe the duties and fix the compensation of a Secretary and prescribe the duties thereof. ~~, which may be the City Planning Officer, and such employees as are necessary for the discharge of the duties and responsibilities of the Board~~ The Board shall have the power and duty to ~~prescribe the qualifications of, appoint, remove and fix the compensation of the employees of the Board and~~ delegate to ~~employee's~~ Staff authority to perform ministerial acts in all cases, except where final action of the Board is necessary.
- D. Quorum. A majority of all members shall constitute a quorum. ~~However, no action of the Planning Board is official unless authorized by a majority of the total membership of the Board at a regular or properly called special meeting.~~
- E. Administration of Board. The **Planning** Board shall have the power and duty to:
 1. Exercise general supervision of and make regulations for the administration of the affairs of the Board;
 2. Prescribe uniform rules pertaining to investigations and hearings;
 3. Keep an accurate and complete record of all ~~departmental~~ Board proceedings, ~~record and file all bonds and contracts,~~ and assume responsibility for the custody and preservation of all papers and documents of the Board;
 4. Make recommendations and an annual report to ~~any governing bodies represented on the Board~~ the Livingston City Commission concerning the operation of the Board and the status of planning within its jurisdiction;
 5. Prepare, publish and distribute reports, proposed ordinances and proposed resolutions and other material relating to the activities authorized by law. (Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective February 1, 2024.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the ____ day of November, 2023.

MELISSA NOOTZ, CHAIR

ATTEST:

Emily Hutchinson
City Clerk

PASSED, ADOPTED AND APPROVED, by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of December, 2023.

ATTEST:

APPROVED TO AS FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney

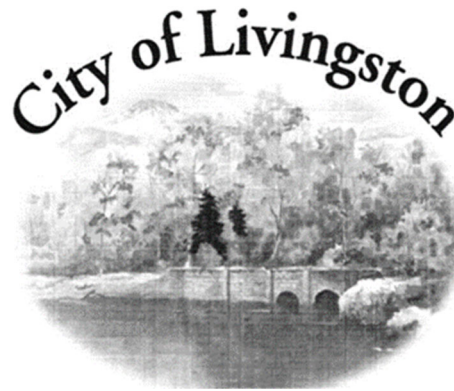
File Attachments for Item:

A. RESOLUTION 5120: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965.

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingtonmontana.org
www.livingtonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Paige Fetterhoff

Staff Report for the Budget Amendment for Fiscal Year 22-23.

Recommendation and Summary

Staff is recommending the Commission approve Resolution 5120 of its intent to amend the budget for the Fiscal Year Ended June 30, 2023.

“I move to approve Resolution Number 5120 and authorize the Chair to sign the resolution.”

Introduction and History

The Commission approved the City Manager’s budget for fiscal year 2022-2023 via resolution no. 5056 on July 26th, 2022. Since the approval of the budget certain expenditures occurred that were not included in the original budget. These expenditures were anticipated but the dollar amount was not available at the time of the adoption of the City Manager’s budget.

Analysis

During the fiscal year expenditures arose that were not included in the original approved budget. When presenting a budget to approve, it can be difficult to determine all the needs of the City for an entire year. Circumstances arise that require expenditures be made that cannot always be anticipated during the creation of the budget. When increasing appropriations, the source of funds must be identified as Fund Reserves, Unanticipated Revenues, or Unbudgeted Revenues. These expenditures were anticipated along with offsetting revenue, however the approximate dollar amounts and timing of the expenditures were unknown to staff.

Fiscal Impact

Revenue adjustments in the amount of \$3,635,965 and appropriation adjustments of \$2,631,557 will be reflected in the final budget for FY 22-23.

Strategic Alignment

This aligns with item 2. Financial Stewardship of the City’s Strategic Plan.

Attachments

- Resolution 5120

RESOLUTION NO. 5120

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

WHEREAS, by Resolution No. 5056 the City of Livingston adopted its budget for Fiscal Year 2022-2023 (FY 22-23); and

WHEREAS, Mont. Code Ann. §§ 7-6-4006(4), 7-6-4031(2) and 7-6-4006(3) provide that the budget may be amended by conducting a public hearing thereon; and

WHEREAS, any proposed budget amendment which provides for additional appropriations must identify the fund reserves, unanticipated revenue or previously unbudgeted revenue that will fund the appropriations; and

WHEREAS, the budget for FY 22-23 requires a budget amendment by making appropriation adjustments in the amount of \$2,631,557 and revenue adjustments in the amount of \$3,635,965 as specified herein.

NOW, THEREFORE, be it resolved by the City Commission of the City of Livingston, Montana, that the budget for Fiscal year 2022-2023 is amended as follows:

Revenue Estimate Adjustments

Fund	Description/Purpose	Account	Amount
Emergency/ Disaster	Tax Revenue	2260-311010	37,244
	Federal Disaster Aid	2260-331110	315,950
Regional Sewer	Special Assessments	4205-363010	432,839
	ARPA Grant	4205-331992	2,000,000
	Bond Proceeds	4205-381030	849,932
	TOTAL		\$3,635,965

Appropriation Adjustments

Fund	Description/Purpose	Account	Amount	Fund Reserves	Unanticipated Revenues	Unbudgeted Revenues
Emergency/ Disaster	FEMA Flood	2260-460-510331-800	274,106			X
Regional Sewer	Sewer Improvements	4205-400-430630-960	2,303,700			X
	Bond Issuance Costs	4205-400-430630-350	53,751			X
	TOTAL		\$2,631,557			

Dated this 21st day of November, 2023.

MELISSA NOOTZ - Chairperson

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINGSON
Clerk

JON HESSE
City Attorney

Resolution No. 5120
Intent to amend the budget for Fiscal Year 2022-2023 by making appropriation adjustments in the amount of \$2,631,557 and revenue adjustments in the amount of \$3,635,965.

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on December 5th, 2023 in the Community Room of the City County Complex, 414 E Callender Street, Livingston MT at 5:30 p.m., on **Resolution No. 5120** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965 AND CALLING FOR A PUBLIC HEARING.** For further information, contact Finance Director, Paige Fetterhoff, at (406) 823-6003.

Resolution No. 5120

Intent to amend the budget for Fiscal Year 2022-2023 by making appropriation adjustments in the amount of \$2,631,557 and revenue adjustments in the amount of \$3,635,965.

Page 2

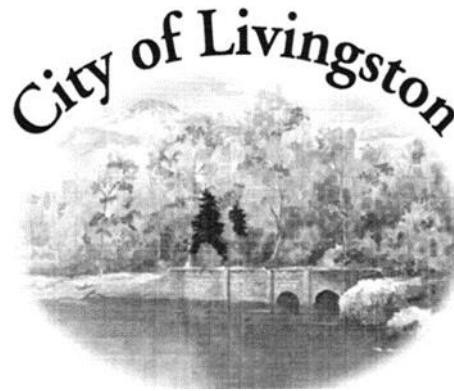
File Attachments for Item:

B. RESOLUTION 5121: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING CERTAIN ITEMS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL

City Manager
Grant Gager

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www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

**Staff Report for Resolution 5121 Declaring Certain Items As Surplus
And Authorizing Disposal**

Recommendation and Summary

Staff is seeking Commission approval to dispose of certain assets that have been deemed surplus by the Livingston Police Department. Staff recommends the Commission approve Resolution 5121 by adopting the following motion:

“I move to approve Resolution 5121 and authorize the Chair to sign.”

The reasons for the recommendation are as follows:

- Montana Code Annotated establishes certain requirements for disposal of public property.
- The City has identified certain items that are no longer necessary to its operations and is seeking approval to dispose of those items.

Introduction and History

Montana Code Annotated has established requirements for the disposal of municipally owned property in Section 7-8-4201 which provides that “the lease, donation, or transfer must be made by an ordinance or resolution passed by a two-thirds vote of all members of the council.” In the case of a Commission-Manager form of government, it is the responsibility of the Commission to make such a decision.

The City of Livingston operates two Police Canine (K-9) units that provide support and assistance to its officers.

Analysis

The City was recently notified that one of its canine handlers is leaving City service. Without a handler to manage the canine Rhino, the canine has limited utility to the City of Livingston Police Department. With the existence of another canine to support the City’s operations, Department leadership has determined that Rhino is no longer needed by the City of Livingston.

Fiscal Impact

There is minimal fiscal impact arising from the decision to declare the canine surplus. The City obtained Rhino through a grant from the State of Montana Board of Crime Control. The City previously incurred costs to train the handler.

Strategic Alignment

The alignment of equipment and operational capabilities ensures the City’s ability to meet its public safety obligations.

Attachments

- Attachment A: Resolution 5121

RESOLUTION NO. 5121

A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING CERTAIN ITEMS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL.

WHEREAS, The City of Livingston has procured certain items to enable its ability to provide statutorily required services to its residents and taxpayers; and

WHEREAS, Montana Code Annotated 7-8-4201, and its subparts, establishes requirements for the disposal of municipal property; and

WHEREAS, a two-thirds vote of all members of the City Commission is required to lease, donate or transfer municipal property; and

WHEREAS, The City of Livingston has identified a canine that is not required for its continued operations;

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, that the canine Rhino is declared surplus and authorized to be disposed of by the City Manager for an amount determined to be fair and reasonable.

BE IT FURTHER RESOLVED, that canine Rhino and his handler, Sargent Andrew Emanuel, are commended for their meritorious service to the community.

Dated this 21st day of November, 2023.

MELISSA NOOTZ, Chair

ATTEST:

APPROVED TO AS FORM:

EMILY HUTCHINSON,
City Clerk

JON HESSE,
City Attorney

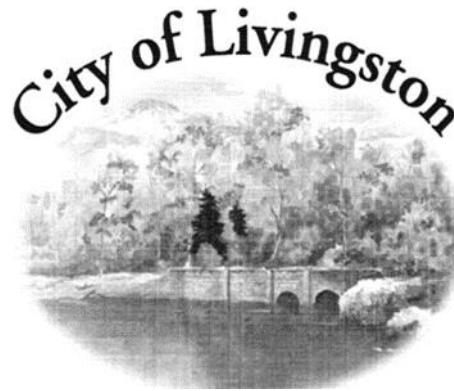
File Attachments for Item:

A. SELECTION OF NEW CITY LOGO

City Manager
Grant Gager

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www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report Seeking Approval of a New City Logo

Recommendation and Summary

Staff is seeking Commission approval of a new logo. If one of the presented logos is acceptable to the Commission, the following motion may be used.

“I move to approve logo option _____ as the City of Livingston’s official logo.”

The reasons for the update and request for direction are as follows:

- The Abbi Agency was awarded a contract for logo and branding services at the May 16, 2023, City Commission meeting.
- The Abbi Agency, City staff and the Commission have worked collaboratively to develop a new logo for the City of Livingston.

Introduction and History

At the Commission’s direction, the City of Livingston released a Request for Proposals for branding and logo development services. In May, a contract was awarded to the Abbi Agency and City staff has worked with their team since then to develop logo concepts. In August, the City released a poll to gather community input on the development of a new logo to determine which local features and colors were preferred for inclusion in a new logo.

Analysis

The City Commission provided direction at its October 3, 2024 meeting regarding several logo options. The Abbi Agency has revised the two finalist options based on that Commission’s input.

Fiscal Impact

The FY 2024 budget includes funding for this project. There is no fiscal impact arising from this update or the Commission’s direction.

Strategic Alignment

Strategy 6.2.3.1 of the Growth Policy is to develop a coherent and unique marketing strategy and branding that is consistent through all media. A reproducible logo is critical to effective branding.

Attachments

Attachment A: Revised Logo Concepts

LIVINGSTON MONTANA

LOGO IDENTITY CONCEPTS ROUND 3



LOGO CONCEPT 1



LOGO CONCEPT 1

Previous Concept Comparison



Previous Concept



Current Concept

CONCEPT 1 — B&W



CONCEPT 1 — TYPOGRAPHY OPTIONS



Option A



Option B



Option C

LOGO CONCEPT 2



LOGO CONCEPT 2

Previous Concept Comparison



Previous Concept



Current Concept

CONCEPT 2 — B&W



CONCEPT 2 — TYPOGRAPHY OPTIONS



Option A



Option B



Option C

LOGO COMPARISON



Concept 1



Concept 2

THANK YOU

CONTACT

hwalter@theabbiagency.com

775.323.2977

theabbiagency.com

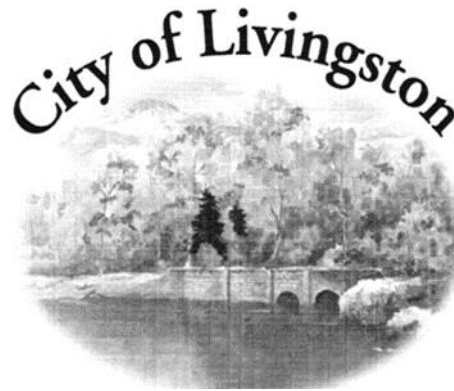
File Attachments for Item:

B. COMMISSION DIRECTION ON STATE MANDATED ZONING CHANGES

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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Commission Direction on State Mandated Zoning Changes

Recommendation and Summary

Staff is seeking Commission guidance in the implementation of certain state-mandated zoning changes. As such, no motion is expected or required.

The reasons for the request for guidance are as follows:

- The State Legislature has approved certain changes to Montana Code Annotated which affect the City’s zoning code.
- Certain changes have significant impact when coupled with existing zoning allowances.

Introduction and History

The Montana Legislature recently enacted certain legislation that will have impacts to the City’s zoning code. While many of the prescribed changes are of minimal impact, certain allowances affecting auxiliary dwelling units are likely to have significant impact. Therefore, staff is seeking City Commission direction on the implementation of certain policies.

Analysis

Certain bills that were passed by the Montana Legislature will necessitate updates to the City zoning code. The impacts of those bills are summarized as follows:

1. SB 245: Establishes that multi-unit dwellings and mixed use developments are allowed in commercial zones.
2. SB 323: Provides that a duplex housing unit is allowed on each lot where a single-family use is permitted in certain municipalities.
3. SB 528: Provides that a duplex housing unit is allowed on each lot where a single-family use is permitted and also establishes additional restrictions related to regulation of auxiliary units.

An accessory dwelling unit is defined as “an independent dwelling unit which is accessory to a primary dwelling unit on the same lot [...]” Moreover, the note in Section 30.41 of the LMC, provides that “The total number of dwelling units allowed on any lot is the allowed density of the lot in Table 30.41 above plus the equivalent number of accessory dwellings.”

Given that the effect of the noted legislation is to allow a duplex on certain lots, the allowable density in certain zones has effectively doubled. In certain locations that previously allowed a

single family home with one accompanying accessory unit, a duplex with two accompanying accessory units is now allowed. Given the possible impact to existing neighborhoods from this state-mandated change, staff desires Commission direction on the implementation of the change. Specifically, staff is seeking to understand if the Commission prefers to allow an accessory unit for each primary unit or whether accessory units shall be: (a) limited to one per primary structure; (b) limited to only single-family homes; or (c) some other arrangement.

With this direction, staff will prepare a text amendment to the LMC zoning provisions.

Fiscal Impact

There is no fiscal impact arising from the discussion.

Strategic Alignment

The alignment of state mandated policies with local policies is critical to the City’s effective implementation of zoning.

Attachments

- Attachment A: 2023 SB 245
- Attachment B: 2023 SB 323
- Attachment C: 2023 SB 528



AN ACT GENERALLY REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN CITIES TO ALLOW THE USE OF DUPLEX HOUSING IN ZONING REGULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-304, MCA, is amended to read:

"76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and the general welfare; and
 - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) promotion of compatible urban growth;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

the jurisdictional area.

(3) In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are

applicable to single-family residences.

(4) As used in this section, the following definitions apply:

(a) "Duplex housing" means a parcel or lot with two dwelling units that are designed for residential occupancy by not more than two family units living independently from each other.

(b) "Family unit" means:

(i) a single person living or residing in a dwelling or place of residence; or

(ii) two or more persons living together or residing in the same dwelling or place of residence.

(c) "Single-family residence" has the meaning provided in 70-24-103."

Section 2. Section 76-2-309, MCA, is amended to read:

"76-2-309. Conflict with other laws. (1) Wherever the regulations made under authority of this part require a greater width or size of yards, courts, or other open spaces; require a lower height of building or less number of stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this part ~~shall~~must govern.

(2) Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces; require a lower height of building or a less number of stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards than are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3), the provisions of ~~such~~the statute or local ordinance or regulation ~~shall~~must govern."

Section 3. Effective date. [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,
SB 323, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 323

INTRODUCED BY J. TREBAS, C. KNUDSEN, C. HINKLE, M. HOPKINS, K. BOGNER, D. ZOLNIKOV

AN ACT GENERALLY REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN CITIES TO ALLOW THE USE OF DUPLEX HOUSING IN ZONING REGULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.



AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-304, MCA, is amended to read:

"76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and the general welfare; and
 - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) promotion of compatible urban growth;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

the jurisdictional area.

(3) (a) In a municipality that is designated as an urban area by the United States census bureau with a population over 5,000 as of the most recent census, the city council or other legislative body of the

municipality shall allow as a permitted use multiple-unit dwellings and mixed-use developments that include multiple-unit dwellings on a parcel or lot that:

(i) _____ has a will-serve letter from both a municipal water system and a municipal sewer system; and

(ii) _____ is located in a commercial zone .

(b) _____ Zoning regulations in municipalities meeting the requirements of subsection (3)(a) may not include a requirement to provide more than:

(i) _____ one off-street parking space for each unit and accessible parking spaces as required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; or

(ii) _____ an equivalent number of spaces required under subsection (3)(b)(i) provided through a shared parking agreement.

(4) _____ As used in this section, the following definitions apply:

(a) _____ "Mixed-use development" means a development consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to the first floor of buildings that are two or more stories.

(b) _____ "Multiple-unit dwelling" means a building designed for five or more dwelling units in which the dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between units through an internal doorway, excluding common hallways."

Section 2. Section 76-2-309, MCA, is amended to read:

"76-2-309. Conflict with other laws. (1) Wherever the regulations made under authority of this part require a greater width or size of yards, courts, or other open spaces; ~~require a lower height of building or less a fewer~~ number of stories; ~~require a greater percentage of a lot to be left unoccupied;~~ or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this part ~~shall~~ govern.

(2) Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces; ~~require a lower height of building or a less-fewer~~ number of stories; ~~require a greater percentage of a lot to be left unoccupied;~~ or impose other higher standards than are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3),

the provisions of ~~such~~the other statute or local ordinance or regulation ~~shall~~ govern."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to municipal zoning regulations enacted or adopted on or before [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 245, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 245

INTRODUCED BY D. ZOLNIKOV, C. FRIEDEL, J. ELLSWORTH, K. BOGNER

AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.



AN ACT REVISING MUNICIPAL ZONING LAWS TO ALLOW FOR ACCESSORY DWELLING UNITS; REQUIRING MUNICIPALITIES TO ADOPT CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; PROHIBITING CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; ALLOWING A MUNICIPALITY TO CHARGE A FEE TO REVIEW APPLICATIONS TO CREATE ACCESSORY DWELLING UNITS; AND PROVIDING A DELAYED EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Accessory dwelling units -- regulations -- restrictions. (1) (a) A municipality shall adopt regulations under this chapter that allow a minimum of one accessory dwelling unit by right on a lot or parcel that contains a single-family dwelling.

(b) An accessory dwelling unit may be attached, detached, or internal to the single-family dwelling on a lot or parcel.

(c) If the accessory dwelling unit is detached from or attached to the single-family dwelling, it may not be more than 75% of the gross floor area of the single-family dwelling or 1,000 square feet, whichever is less.

(2) A municipality may not:

(a) require that a lot or parcel have additional parking to accommodate an accessory dwelling unit or require fees in lieu of additional parking;

(b) require that an accessory dwelling unit match the exterior design, roof pitch, or finishing materials of the single-family dwelling;

(c) require that the single-family dwelling or the accessory dwelling unit be occupied by the owner;

(d) require a familial, marital, or employment relationship between the occupants of the single-family dwelling and the occupants of the accessory dwelling unit;

- (e) assess impact fees on the construction of an accessory dwelling unit;
 - (f) require improvements to public streets as a condition of permitting an accessory dwelling unit, except as necessary to reconstruct or repair a public street that is disturbed as a result of the construction of the accessory dwelling unit;
 - (g) set maximum building heights, minimum setback requirements, minimum lot sizes, maximum lot coverages, or minimum building frontages for accessory dwelling units that are more restrictive than those for the single-family dwelling on the lot;
 - (h) impose more onerous development standards on an accessory dwelling unit beyond those set forth in this section; or
 - (i) require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for residential use by a single-family dwelling. This subsection (2)(i) may not be construed to prohibit restrictive covenants concerning accessory dwelling units entered into between private parties, but the municipality may not condition a permit, license, or use of an accessory dwelling unit on the adoption or implementation of a restrictive covenant entered into between private parties.
- (3) Nothing in this section prohibits a municipality from regulating short-term rentals as defined in 15-68-101.
- (4) A municipality may require a fee for reviewing applications to create accessory dwelling units. The one-time application fee may be up to \$250 for each accessory dwelling unit. Nothing in this section prohibits a municipality from requiring its usual building fees in addition to the application fee.
- (5) A municipality that has not adopted or amended regulations pursuant to this section by January 1, 2024, shall review and permit accessory dwelling units in accordance with the requirements of this section until regulations are adopted or amended. Regulations in effect on or after January 1, 2024, that apply to accessory dwelling units and do not comply with this section are void.
- (6) The provisions of this section do not supersede applicable building codes, fire codes, or public health and safety regulations adopted pursuant to Title 50, chapter 2.
- (7) A municipality may require an accessory dwelling unit to have a will-serve letter from both a municipal water system and a municipal sewer system.
- (8) Nothing in this section prohibits a municipality from adopting regulations that are more

permissive than the accessory dwelling unit provisions provided in this section.

(9) For the purposes of this section:

(a) "accessory dwelling unit" means a self-contained living unit on the same parcel as a single-family dwelling of greater square footage that includes its own cooking, sleeping, and sanitation facilities and complies with or is otherwise exempt from any applicable building code, fire code, and public health and safety regulations adopted pursuant to Title 50, chapter 2.

(b) "by right" means the ability to be approved without requiring:

(i) a public hearing;

(ii) a variance, conditional use permit, special permit, or special exception; or

(iii) other discretionary zoning action other than a determination that a site plan conforms with applicable zoning regulations;

(c) "gross floor area" means the interior habitable area of a single-family dwelling or an accessory dwelling unit;

(d) "municipality" means an incorporated city, town, or consolidated city-county that exercises zoning powers under this part; and

(e) "single-family dwelling" means a building with one or more rooms designed for residential living purposes by one household that is detached from any other dwelling unit.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 3, and the provisions of Title 76, chapter 2, part 3, apply to [section 1].

Section 3. Effective date. [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,
SB 528, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 528
INTRODUCED BY G. HERTZ

AN ACT REVISING MUNICIPAL ZONING LAWS TO ALLOW FOR ACCESSORY DWELLING UNITS; REQUIRING MUNICIPALITIES TO ADOPT CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; PROHIBITING CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; ALLOWING A MUNICIPALITY TO CHARGE A FEE TO REVIEW APPLICATIONS TO CREATE ACCESSORY DWELLING UNITS; AND PROVIDING A DELAYED EFFECTIVE DATE.

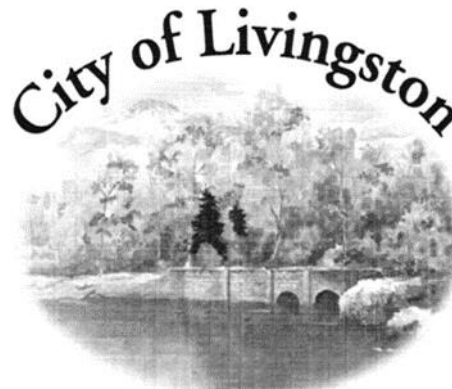
File Attachments for Item:

C. UPDATED ON COMMUNITY WELLNESS CENTER PROJECT

City Manager
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Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 11/21/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Update on the Community Wellness Center Project

Recommendation and Summary

Staff is providing an update on the Community Wellness Center project with the Four Ranges Community Recreation Foundation to the Commission. As such, no motion is recommended or required but Commission direction is appreciated.

The reasons for the update are as follows:

- The City and Foundation have been working to bring a suitable project forward to enable a community decision on the wellness center at the November election.
- Since the County Commission’s decision to withdraw from the project, the City has been working with the Foundation to identify opportunities to bring the project to fruition.

Introduction and History

The 4 Ranges Community Recreation Foundation (Foundation) was formed in 2018 to support the creation and operation of community recreation facilities in the City of Livingston. In 2019, the Foundation performed both community needs and fundraising assessments. On March 7, 2023, the City and Foundation approved a memorandum of understanding to guide their work on the community wellness center project. Since that time, the City and Foundation have worked to bring a suitable project forward to enable a community decision on the wellness center at the November election.

Analysis

While the Foundation had envisioned a Special District that extended beyond City boundaries to support the operations of the wellness center, the Park County Commissioners have indicated that such a District is unlikely. Given that, the City has worked with the Foundation to determine the viability of the project and find opportunities to create a new Wellness Center without County partnership.

This update is intended to provide the Commission with an understanding of possible opportunities to bring the project to fruition. The update will also provide the Commission with an understanding

of additional processes that would be required if the Commission intends to bring the question to a referendum and if such referendum is approved by voters.

Fiscal Impact

There is no fiscal impact arising from the update.

Strategic Alignment

The improvement of community recreation facilities is related to several objectives of the growth policy, including 2.2.2, and 3.2.1.

Attachments

- None