

July 8, 2021

To: Livingston City Commission

From: Steve Caldwell, Lauri Bishop, Bryan Beitel, Mitch Grady, and Mary Anne Keyes

Re: Local Government Review Committee Recommendation

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### **Recommendation**

The committee recommends that the Livingston City Commission preserves the current commission-manager form of government and adopt a charter to attain self-governing powers. The commission-manager government in place in Livingston for over twenty years appears to have provided responsive effective local government. No identified any potential downside to adopting a city charter have been identified. The committee recommends the attached proposed charter be submitted to the voters.

### **Background**

This committee met May 2020 through July of 2021.

### **Form**

The committee reviewed the four forms of government possible under general powers:

- 1) Town Meeting Government (7-3-6)
- 2) Strong Mayor Municipal Government (7-3-41)
- 3) Municipal Commission Government (7-3-42)
- 4) Municipal Commission Manager Government (7-3-43 & 44)

Upon review the committee found the commission-manager form unifies the city administrative functions under a single executive who remains accountable to the elected commission and to the electorate. In contrast to an elected mayor, for example, the manager can be removed by the commission at any time and for any reason. A city manager typically has formal training in municipal administration and often holds a Master of Public Administration degree. Because the manager brings knowledge and expertise specific to the role of municipal management, they can often be effective at guiding a community through times of significant growth and change.

Through our research, the committee discovered the commission-manager form of government is the most common form in the United States, according to the International City Managers Association. In 2006, 55% of all U.S. municipalities have a city manager. Twelve Montana cities and towns have adopted this form of government, beginning with Bozeman in 1921.

### **Powers**

The committee also reviewed governments with general powers and those with self-governing (charter) powers. The committee found self-governing powers (charter) would clarify the specific roles, responsibilities, and limitations of the respective powers of the manager and the commission. A charter providing self-governing powers is conducive to a more efficient, adaptive, and responsive government, and is well suited for our rapidly changing community. The committee found no downside to self-governing powers. Nine Montana communities have a commission-manager form of government with self-governing powers. Havre is the most recent city to adopt a charter form of government, in response to a housing issue. Twelve Montana municipalities have a commission-manager form with self-governing powers including: Anaconda-Deer Lodge, Butte-Silver Bow, Belgrade, Billings, Bozeman, Polson, Great Falls, Helena, Lewistown, West Yellowstone, and Whitefish.

**CERTIFICATE ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR  
THE CITY OF LIVINGSTON  
CHARTER**

**PREAMBLE**

**WE, THE PEOPLE OF THE CITY OF LIVINGSTON, COUNTY OF PARK  
STATE OF MONTANA**, in accordance with Article XI, Section 5 and 6 of the Constitution of  
Montana do hereby adopt this self-government Charter.

**ARTICLE I  
POWERS OF THE CITY**

**Section 1.01 Powers of the City of Livingston**

The City of Livingston shall have all powers not prohibited by the Constitution of Montana, the laws of Montana or this Charter.

**Section 1.02 Interpretation of Powers**

1. The self-government powers and authority of the City shall be liberally construed. Every reasonable doubt as to the existence of a city power or authority shall be resolved in favor of the existence of that power or authority.
2. As provided by Article XI, Section 5 and 6 of the Constitution of Montana, and 7-1-101 through 7-1-115 Montana Code Annotated, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

**Section 1.03 Restrictions**

1. The property tax mill levy of the City shall be limited to that of Montana municipal governments with general powers, except with the prior approval of the electors of the City voting on the question in a general or special municipal election.
2. No increase in any city license fee, user fee or utility charge shall be made without conducting a public hearing as required by law.

**ARTICLE II  
LEGISLATIVE BRANCH**

**Section 2.01 City Commission**

The legislative branch of the City shall be the city commission which shall be the governing body of the City.

**Section 2.02 Composition**

The city commission shall consist of five elected members who shall be elected at large.

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### **Section 2.03 Qualifications for Office**

Any resident of the City of Livingston who is 18 years of age or older, a resident of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution, and who has resided within the city limits of the City of Livingston for more than one year is eligible to hold the office of city commissioner.

### **Section 2.04 Term of office**

Members of the commission shall be elected to four year, overlapping terms of office.

### **Section 2.05 Election**

The election of commission members shall be conducted on a nonpartisan basis.

### **Section 2.06 Vacancy in Office**

The office of commissioner becomes vacant as prescribed by law.

### **Section. 2.07 Removal from Office**

A commissioner may be removed from office by a finding adopted by the affirmative vote of three commissioners, that the office has become vacant as prescribed by law, or by the recall of the commissioner by the electors of Livingston, as prescribed by law

### **Section 2.08 Filling a Vacancy on Commission**

When a vacancy occurs in the office of commissioner, this position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall appoint within 30 days of the vacancy, by the affirmative vote of three (3) commissioners, a person possessing the qualifications for office required by law and this Charter to hold the office until the successor is elected and qualified.

### **Section 2.09 Powers and Duties**

1. The commission shall be the legislative and policy-making body of the City. All governing powers of the City shall be vested in the city commission, except as otherwise provided by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the City by law or this Charter.
2. All members of boards, other than temporary advisory committees established by the city manager, shall be appointed by the commission. The appointment process shall be prescribed by commission resolution.
3. The chairman of the commission, who shall be its presiding officer shall be selected by the commission from its own number, shall vote as other members of the commission and shall have no veto authority. In the absence of the chairman, the commission shall select from its own number a person to serve as acting chairman.
4. The chairman shall be recognized as the principal officer of city government for ceremonial purposes and shall have no other executive or administrative duties except as specifically prescribed by majority vote of the commission.

**Section 2.10 Legislative Action**

A quorum of not less than three commission members must be present when official actions are taken by the commission. The affirmative vote of the majority of members present shall be required for all official actions of the commission, unless otherwise specified by law.

**Section 2.11 Procedure**

The commission shall, by resolution, establish its rules of procedure and time and place of meetings.

**Section 2.12 Compensation**

The compensation of the commission shall be set by resolution.

**ARTICLE III  
EXECUTIVE BRANCH****Section 3.01 The Manager**

The city manager, who shall be the chief executive and chief administrative officer of the City, shall be appointed by the commission for an indefinite term on the basis of merit only and removed only by a majority vote of the whole number of the commission.

**Section 3.02 Duties of the Manager**

The manager shall:

- 1) enforce laws, ordinances, and resolutions;
- 2) perform the duties required of him or her by law, ordinance, or resolution;
- 3) administer the affairs of the local government;
- 4) direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
- 5) carry out policies established by the commission;
- 6) prepare the commission agenda;
- 7) recommend measures to the commission;
- 8) report to the commission on the affairs and financial condition of the local government;
- 9) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
- 10) report to the commission as the commission may require;
- 11) attend commission meetings and may take part in the discussion, but he or she may not vote;
- 12) prepare and present the budget, to the commission for its approval and execute the budget adopted by the commission;
- 13) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance;
- 14) appoint members of temporary advisory committees established by the manager.

**Section 3.03 City Manager's Supervisory Authority**

Employees appointed by the city manager and his or her subordinates shall be administratively responsible to the city manager. Neither the commission nor any of its members may dictate the

appointment or removal of any employee whom the manager or any subordinates are empowered to appoint. Except for the purpose of inquiry or investigation ordered by a majority vote of the commission, the commission and any of its members shall deal with city employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

**Section 3.04 Compensation**

The compensation of the manager shall be set by resolution.

**ARTICLE IV  
JUDICIAL BRANCH**

**Section 4.01 City Court**

There shall be a city court as provided by law.

**ARTICLE V  
DEPARTMENT STRUCTURE**

**Section 5.01 Organization of Departments**

The organization of city departments shall be prescribed by ordinance.

**ARTICLE VI  
GENERAL PROVISIONS**

**Section 6.01 Amendment of Charter**

This Charter may be amended only as prescribed by state law.

**Section 6.02. Effective Date**

This Charter shall become effective on January 1, 2007.

**Section 6.03 Oath of Office**

Before assuming the duties of office, an elected city official shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

**Section 6.04 Severability**

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**ARTICLE VII**  
**TRANSITIONAL PROVISIONS**

**Section 7.01 General Transition**

Transition to this charter form of government shall be as prescribed by state law. The commission shall provide for such transition with an advisory plan consistent with law. The provisions of this transition article shall not be published as part of the Charter after January 1, 2007.

**Section 7.02 Continuation in Office**

1. No current city employee will lose employment solely because of the adoption of this Charter.
2. All persons holding elective office at the time this Charter is adopted may continue in office until their successors are elected, qualified and sworn into their respective offices.

**Section 7.03 Review of Existing Ordinances**

All city ordinances, resolutions, and rules of the City of Livingston shall remain in effect until reviewed, revised or repealed by the city commission. The city commission shall cause to be reviewed all such ordinances, resolutions and rules of the City and, where necessary, revise or repeal all city ordinances, resolutions and rules to provide for compliance and consistency with this Charter and state law no later than January 1, 2007.

\* \* \* \* \*

We, the duly elected Livingston Study Commission, do hereby certify that this is the proposed plan of government approved by the Livingston Study Commission as authorized by Title 7, Chapter 3, Part 3 of the Montana Code Annotated.

In testimony whereof we set our hands this 20th day of September, 2006, in Livingston, Montana.

  
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Robert Meyer, Chair

  
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Laurie Bishop, Co-Chair

  
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Tom Kitts

ATTEST:

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Denise Nelson, Clerk