

LIVINGSTON
CITY COMMISSION MEETING
January 6, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, January 6, 2003, at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Ed Davis, Sr., Vicki Blakeman, Thomas Romans and Lenny Gregrey. Sheryl Dahl arrived 10 minutes later.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley and Pam Payovich.

Motion was made by Gregrey, second by Romans, to approve December 16, 2002 regular City Commission Meeting minutes.

4 in favor, Motion passed. Sheryl Dahl was absent.

Motion was made by Gregrey, second by Romans, to approve correction of bid amount for two (2) Cab & Chassis award from \$157,601 to \$158,508.

4 in favor, Motion passed. Sheryl Dahl was absent.

The meeting was adjourned by Vicki Blakeman to turn the reins over to the new Commission. Vicki Blakeman, Chairman, thanked the outgoing City Commissioners and presented a plaque to each with their year of service in recognition of their commitment as being a part of the City Commission.

Pam Payovich, Administrative/Recording Secretary, gave the oath to the new Commissioners.

A short recess was taken at 7:35 p.m.

The meeting went back in session at 7:50 p.m.

Roll Call was given by Pam Payovich, Recording Secretary, for the new City Commissioners. Present was Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Sheryl Dahl nominated Vicki Blakeman, second by Lenny Gregrey as Chairman of the City Commission.

Vicki Blakeman was elected to be Chairman.

Bob Ebinger nominated Sheryl Dahl, second by Vicki Blakeman as Vice Chairman of the City Commission.

Sheryl Dahl was elected to be Vice Chairman.

The Chairman, Vicki Blakeman, initiated a review of committee vacancies and nominations for appointments to the following City Boards and Committees.

Sheryl Dahl and Lenny Gregrey were nominated by Vicki Blakeman to be the representatives for the Infrastructure Replacement Committee.

It was suggested by Chairman, Vicki Blakeman that the City advertises for a vacant member on the City Board of Adjustments.

Bob Ebinger stated that Reid Erickson and Cloe Auerhammer would be rerunning for the Historical Preservation Commission and that there was also a vacant slot for another member that applications have been received. Bob stated that he would give the applications to the City Commission for their review.

Thomas Romans was asked if he would like to stay on the Skate Park Committee as Chairman and he stated that he would like to. Sheryl Dahl was also requested to stay on the Committee. It was requested of the Chairman if the Recording Secretary would check to make sure that the list of people on the Skate Park Committee would like to stay on the Committee.

The nominations for the Board of Building Code Appeals members will stand.

The City-Planning Board will be nominated for vacancies after an Ordinance has been established by the City Commission to adopt the City-Planning Board.

The City/County Health Board members had a vacant slot for a City representative that was advertised. The applicant will be appointed at the next meeting.

Bob Ebinger was appointed to the City/County Building Maintenance Committee for a City Commission representative.

Motion was made by Dahl, second by Ebinger, to approve the confirmed nomination appointments of the City Boards.

All in favor, Motion passed.

Vicki Blakeman will stay on the Communications Advisory Committee as a City Commission representative.

Sheryl Dahl will stay on the Livingston Urban Transportation Committee as a City Commission representative.

Lenny Gregrey will stay on the Sister City Committee as a City Commission representative.

Vicki Blakeman asked if some other Commissioner would represent either the Alliance Development Corporation or the Park County Economic Development Alliance as she was on both Committees. Lenny Gregrey volunteered to take her place on the Alliance Development Corporation Committee.

Lenny Gregrey and Bob Ebinger will stay on the Park County Detention Committee as City Representatives.

The Community Trails Committee and the Urban Design Plan Implementation Committee will be re-established after consultation with Mayor's Landing Committee and the Urban Design Steering Committee and development of guidelines for the operation of said Committees.

Michelle Lee was appointed to be on the City Tree Board Committee as a City Commission representative.

Michelle Lee was appointed to be on the Angel Line Committee as a City Commission representative.

Bob Ebinger was appointed to be on the Lewis and Clark Committee as a City Commission representative.

Motion was made by Dahl, second by Gregrey, to approve the Chairman's appointments to the City Boards.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve consent items as follows:

- Accept Bills and Claims for last half of December 2002.
- Accept Bid for Latrines in the "McNair" Park Skate Park.
- Accept Bids for 300-Gallon and 96-Gallon Containers for the Automated Garbage Collection System.
- Approve waiver of Civic Center Rental Fee for Community Christmas Dinner.

Lenny Gregrey asked about the 25 video tapes purchased under a crime prevention grant to determine if those ~~tapes~~ had programs on them. Darren Raney replied yes they did. ^{TC-23}

Bob Ebinger asked about the claim for repair of flat tires to Park Tire. Darren Raney stated that those claims were not just flat repairs that one vehicle was for changing tires from regular to snow tires and the rest were repairs.

Michelle Lee asked about the Medicare overpayment claims. Shirley Ewan stated that these were errors in the Ambulance Billing and that they had to return checks to for claims being process wrong.

Sheryl Dahl stated that she would like to thank those volunteers for helping with the Christmas Dinner at the Civic Center that this community is very helpful to people in need and that people take the time out on Christmas Day to help those not so fortunate.

Steve Golnar commented about the wavier of the fee for the Civic Center for the Christmas Dinner that it was up to the discretion of the City Commission. The City Commission agreed that this fee should be waived and requested Steve to write a letter to that effect.

All in favor of consent items, Motion passed.

A Proclamation was read by Chairman, Vicki Blakeman, for designating January 14-18, 2003 as Lewis and Clark Days in the City of Livingston, Montana.

Resolutions:

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3350 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPOINTING PARK COUNTY ELECTION ADMINISTRATOR AS ELECTION ADMINISTRATOR FOR MUNICIPAL ELECTIONS AND DESIGNATING THE CITY'S GENERAL ELECTION DAY.** Bruce Becker gave background information relating to this Resolution.

All in favor, Motion passed.

Motion was made by Gregrey, second by Dahl, to approve Resolution No. 3351 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE UNDEVELOPED CRAWFORD AVENUE LOCATED SOUTHERLY OF THE ADJACENT TO LOT 31 OF BLOCK 22 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON, MONTANA.** Bob Ebinger asked that Thomas Burns be mailed a copy of the public notice for this Resolution. Bruce Becker stated that the law only requires the City to give public notice through the newspaper. Sheryl Dahl explained to Bob Ebinger the significant relation of this Resolution with Thomas Burns and that she felt it would not be necessary to send him a copy of the public notice.

All in favor, Motion passed.

Motion was made by Gregrey, second by Ebinger, to approve Resolution No. 3352 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPOINTING JAMES MASTIN AS FIRE CHIEF FOR THE CITY OF LIVINGSTON, MONTANA, RETROACTIVE TO DECEMBER 16,**

2002. Steve Golnar stated that he highly recommends the appointment of James Mastin as permanent Fire Chief for the City of Livingston. He went on to say that over the course of the last six (6) months, during his probationary period, he has been pleased with his progress and the way he has integrated into the community. He concluded by saying that he looks forward to working with Mr. Mastin for future years to come. Vicki Blakeman stated that she has heard nothing but good complements about his performance with the Fire Department and the community.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3353 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT WITH ROBIN BREWER, d/b/a/ ROBIN THE HOUSE KEEPER FOR JANITORIAL SERVICES AT THE CITY'S UTILITY OFFICE.** Lenny Gregrey stated that he recognized in this agreement that it was a 44% increase in wages with the contract. Steve Golnar stated that Robin has cleaned for the Utility Office for a number of years and that the City was trying to formalize the agreement to have it as a written contract verses a verbal contract and to go with a 18 month term on the contract and after that he proposed to advertise for proposals before securing the contract. Clint Tinsley, Public Works Director, stated that Robin has always been reliable and gone out of her way to clean areas in the Utility Office and that he recommends her service.

4 in favor, Ebinger, Blakeman, Lee and Dahl, 1 opposed; Gregrey, Motion passed.

Action Items:

Motion was made by Dahl, second by Gregrey, to authorize \$1,500.00 of \$2,000.00 matching Park/Recreation Facility Capital Funds for Baseball Bleachers and \$500.00 of these funds for Irrigation System Improvements in Miles Park and request that similar matching funds for these projects be distributed by Park County. Steve Golnar and Clint Tinsley gave background information and the reasons for the fund distribution.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to direct City Attorney to prepare a Resolution of Intent to discontinue a portion of the old Park Street Right-of-way in the 1000 Block of West Park Street adjacent to property owner by Mr. Christian Salacinski; Lots 1-4, Block 1, Park Addition. Ernie Meador of 105 South 2nd Street stated that the adjacent property was vacated and requested that the same be done with this property.

All in favor, Motion passed.

An Ordinance for the City Commission establishing its rules of procedure for conducting City Business in a fair and open meeting was discussed and the City Commission directed the City Attorney to bring back at the next meeting for a first reading with some changes of their discretion.

The City Manager's written comments were reviewed.

- Sheryl Dahl asked about the letter to Skillings-Connolly Inc. that the City Commission approved this to go through at the last meeting and wanted to know if it was sent out.
- Sheryl Dahl stated that she was in support of the Sidewalk Ordinance and if the City Commission is not in support of the Ordinance then to have the City Commission change it. She went on to say that she liked the idea that City's monies were necessary and the possibility of city crews to make it affordable for the public.
- Sheryl Dahl asked about why transition to automated garbage collection and developing a sidewalk replacement program were hand in hand. Steve Golnar clarified that one of the things that the City is proposing is to move some individuals around as a result of automating garbage collection. Some of those individuals would not be needed for garbage collection and we would move them to street or sidewalk maintenance. This would create a way of funding those positions and improving sidewalks at the same time.
- Sheryl Dahl asked about the Rick D'Hooge contract and asked for clarification if he would charge on an hourly wage and not as a contract. Steve Golnar confirmed that the arrangement would be on an hourly basis. Sheryl stated that she felt that the City has a good Staff and feels that they can handle this effectively and efficiently.
- Lenny Gregrey asked about the 4th Ambulance report and asked about the cost of maintaining the cost of the Ambulance if this is a net profit or a gross profit. Shirley Ewan stated that this is gross profit. Lenny drew a diagram to clarify his question. Jim Mastin, Fire Chief stated that money is important in maintaining an Ambulance but his primary concern is delivering service to the community and that the profits identified in the report provided is net profit and this is a bonus. The City is the County's Ambulance service and when school events are in session an Ambulance is required or the events would not be held. Steve Golnar stated that the Interlocal Agreement with Park County for Ambulance Services will be provided by February or March, not January as stated in his comments.

Commissioner Lee Comments:

- She stated that she was happy to be sworn in and looks for the year ahead working with the City Commission.
- She commented about the pigeon droppings under the Underpass has been brought to her attention and stated that it is really bad and would like to see something done about it.

Commissioner Ebinger Comments:

- He wished everyone a Happy New Year and is very excited about being a part of the City Commission.

Commissioner Dahl Comments:

- She welcomed the new Commissioners.
- She asked about the Carolyn Armbrust concern about landlords paying business licenses and wanted to know the status so that she could get back to her. Bruce Becker stated that the City issues a \$70.00 Fire Inspection fee for units of three (3) or larger. Sheryl asked that someone from the City follow-up with Ms. Armbrust.
- She asked about Labor Negotiations meetings involving the City Manager, Staff and each Commissioner for proposal orientation and feedback. She stated that she would like to see a schedule. Steve stated that he would contact the City Commission to schedule these meetings soon.
- She wished everyone a Happy New Year.

Commissioner Gregrey had no comments.

Chairman, Vicki Blakeman Comments:

- She echoed Sheryl Dahl and welcomed the new Commissioners and that she looks forward to working with them.

No public comments were given.

Motion was made by Dahl, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 9:14 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
January 21, 2003
Tuesday
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, January 21, 2003, at 7:30 p.m. due to the Holiday of Martin Luther King Day on Monday, January 21, 2003 in the Community Room in the City/County Building. City Commissioners present were Lenny Gregrey, Sheryl Dahl, Bob Ebinger, Vicki Blakeman and Michelle Lee.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley and Pam Payovich.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve January 6, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 1st half of January 2003.
- Department Heads monthly reports and other minutes.
- Correct bid amount for Latrine Bid for "McNair" Skate Park from \$13,1380.00 to \$11,680.00 from Flathead Concrete Products.
- Appoint Jill Kraus as representative to the City/County Health Board.

Bob Ebinger requested some changes be made to the minutes changing the word types on page three (3) of the minutes to include "tapes" so that they read "Lenny Gregrey asked about the 25 video tapes purchased under a crime prevention grant to determine if those tapes had programs on them", and the word where on page six (6) of the minutes to were to read "She went on to say she liked the idea that City's monies were necessary and the possibility of city crews to make it affordable for the public".

Bob Ebinger also asked about the claim for the Montana Rail Link for 2003-2004 Sewer Lease if this was a common thing for the City to lease from Montana Rail Link. Clint Tinsley, Public Works Director, stated that the City has leases with MRL for property along the railroad tracks, primarily for utility crossings.

All in favor of consent items, Motion passed.

A street vacation was requested by Verna Dodge, owner of property described as Lot 1 and 2, Block 125, Riverside Addition, located at 404 South "G" Street. She requested a variance from the minimum lots size requirements for RII zoning districts. Jim Woodhull, City Planner, gave background information relating to this variance and stated that the Board of Adjustments recommended that the City Commission approve this variance.

Motion was made by Ebinger, second by Gregrey, to approve Findings of Fact for the Verna Dodge variance, from the minimum lots size requirements for RII zoning districts. She wished to divide her parcel so that the two (2) existing houses could be deeded separately. In order to accomplish this one of the resulting lots would be 2,300 square feet not the minimum 3,500 square feet as required by code.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve the variance request of Verna Dodge.

All in favor, Motion passed.

Public Hearing:

Motion was made by Gregrey, second by Ebinger, to approve Resolution No. 3354 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING A PORTION OF THE UNDEVELOPED CRAWFORD AVENUE LOCATED SOUTHERLY OF AND ADJACENT TO LOT 31 OF BLOCK 22 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON, MONTANA.** No public comments were given.

All in favor, Motion passed.

Scheduled Public Comments:

Patty Miller, representative from Yellowstone Country Montana, gave comments about the marketing plan for the Yellowstone Country for fiscal year 2002-2003. She stated that the purpose of Yellowstone Country Montana, "a state tourism region, is to market and develop the region as a preferred destination for vacation visitors and groups." She went on to say that Yellowstone Country Montana's primary goals are to attract or increase new tourism dollars into the region; encourage visitors to do more and stay longer while visiting Yellowstone Country; maximize efficiency of dollars spent to promote tourism through a cohesive effort, promoting our vertical markets (such as fly fishing, golf, skiing) with the focus on family, mature travelers and travel related industries; promote the Lewis & Clark Bicentennial, informing both residents and non-residents of the Corps of Discovery's travels through the region; make Yellowstone Country a year-round vacation destination, encouraging summer, winter and shoulder season recreation; and, educate the region's residents of the value of tourism by enhancing their knowledge of the importance of tourism to the area.

Ordinances:

*City Manager
to pay write
letter*

Motion was made by Dahl, second by Gregrey, to approve first reading of Ordinance No. 1921 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING ITS RULES OF PROCEDURE FOR CONDUCTING CITY BUSINESS IN A FAIR AND OPEN MEETING WHICH ENCOURAGES PUBLIC PARTICIPATION IN THE DECISION MAKING PROCESS OF LOCAL GOVERNMENT AMENDING 1869 AS CODIFIED BY CHAPTER 2, SECITON 2-10 THROUGH 2-35 OF THE LIVINGSTON MUNICIPAL CODE.** Bob Ebinger requested a typo change be made on page three (3) of the Ordinance to "twice" instead of "two" so as to read "When notice of a public hearing or other official action is required, unless provided elsewhere in the statutes, notice shall be published twice (2) with at least 6 days separating each publication". A public hearing will be held on February 3, 2003 at the City Commission meeting.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve first reading of Ordinance No. 1922 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1045 PROVIDING THAT THE LIVINGSTON MUNICIPAL CODE BE AMENDED BY CREATING A CITY PLANNING BOARD, CONSISTENT WITH STATE LAW, REPEALING ORDINANCE NO. 1045.** Michelle Lee requested a typo change be made from "my" to "may" on page two (2) of this Ordinance so as to read "The Livingston Planning 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." Also Michelle requested a typo change be made from "withing" to "within" on page four (4) of this Ordinance so as to read "(d) make recommendations and an annual report to any governing bodies represented on the board concerning the operation of the board and the status of planning within its jurisdiction." Lenny Gregrey asked about the membership of this Planning Board if a City Commissioner was intended to be on the Board. Bruce Becker, City Attorney pointed out that it was a member appointed by the City Commission from its own membership. Steve Golnar commented that this was the way prescribed for City Planning Boards by State Statutes. A public hearing will be held on February 3, 2003 at the City Commission meeting.

All in favor, Motion passed.

Scheduled Public Comment:

Sharon Walker, representative from Alliance Development Corporation, gave comments about the organization development and the goals of the Alliance Development Corporation. She requested that if everyone could bring Economic Development suggestions to the Alliance Development Corporation for the City of Livingston the sooner the better. Sharon also requested to schedule a workshop with the City Commission to discuss options of raising money and securing more City support. The Workshop was scheduled for January 27, 2003 at 6:30 p.m. in the West Room of the City/County

Complex. Also Sharon mentioned that the Alliance Development Corporation has had calendars made up with Ranch Women of Park County on them and if anyone was interested that they could be purchased for \$10.00 or if someone would like to put a business ad on them then they would cost \$5.00 each. They can be bought at Montana Edge located at 108 North 2nd Street.

Resolutions:

Motion was made by Dahl, second by Lee, to approve Resolution No. 3355 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE OLD PARK STREET RIGHT-OF-WAY LOCATED NORTHERLY OF LOTS 1-4 OF BLOCK 1 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON, MONTANA.** A public hearing will take place on this Resolution at the next City Commission meeting on February 3, 2003.

All in favor, Motion passed.

Motion was made by Ebinger, second by Gregrey, to approve Resolution No. 3356 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ECHOE MOUNTAIN FIRE AND RESCUE, LLC FOR CDBG LOAN.** Michelle Lee withdrew from the discussion of this Resolution due to a conflict of interest relating to her involvement in the project. Derek Smith, owner of Echo Mountain, made comments about the amount of this loan and stated that he wanted to withdraw from the consideration of this loan as it did not meet the amount that he needed to secure the investment of his business and that he did not have enough equity in his business to secure the amount that he needed to request. He also noted that he was working on additional financing alternatives and suggested that he may return in the future with a revised revolving loan request.

4 opposed, Motion denied.

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3357 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH TERRI EDDY AND WILLIAM EDDY, d/b/a LATTE LAND FOR CDBG LOAN.** After much discussion with the City Commission, Staff and Dana Taylor, representative of Alliance Development Corporation it was determined that no action would be taken until a hiring plan and business plan were available from Terri Eddy and William Eddy to complete this CDBG Loan application.

Motion was made by Lee, second by Dahl, to table Resolution No. 3357 until the next meeting so that the City Attorney can gather information relating to this Resolution to complete the information needed on the agreement and determine what is public information and what is not.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3358 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NELSON ENGINEERING FOR THE WATER MAIN PROJECT "M" THROUGH "P" STREETS FROM PARK TO CALLENDER STREET, IN PARK STREET FROM "L" THROUGH "O" STREET AND IN CALLENDER STREET FROM "O" TO "P" STREETS.** Bob Ebinger asked if Scott Nelson was the City's Engineer exclusively. Clint Tinsley, Public Works Director stated that the City advertises and reviews proposals for the Engineering services every two years and that Scott Nelson has one (1) more year as the City's Engineer on retainer for infrastructure related projects.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3359 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING, AS A GUIDELINE, AN URBAN DESIGN FRAMEWORK MASTER PLAN.** Lenny Gregrey made comments about the Urban Design Master Plan and presented his comments in a memo to the Recording Secretary, Pam Payovich for the record. Some highlights of that memo were that Mr. Gregrey felt that the Urban Design Plan is flawed for a number of reasons which included at the first "Charette", when opening remarks by Mr. Keith Walzak to the group assembled included "do not consider the cost of any of your recommendations", it caused Mr. Gregrey to have doubts on the process from that day on. Also Mr. Gregrey stated that "The final document Entranco submitted had a variety of offerings that involved "the modification of private property." To his knowledge the affected property owners never participated in the process nor were they consulted." Mr. Gregrey concluded by stating, "he felt that the Urban Design Master Plan was a "vision statement" and that there were faults." He went on to mention that a "vision" in several private conversations with Chairman, Vicki Blakeman over several months concerning the Entranco process, that Vicki would always tell him "this is a vision for Livingston, etc. and Lenny you do not have a vision, etc." Mr. Gregrey concluded by saying that "Entranco will defend their work product by saying these are the recommendations that people attending the Charette gave to us. It is not our plan – it is yours. We told you at the start, we are not concerned with what any of this will cost to implement, it is up to Livingston to provide the funding, not Entranco."

Thomas Lackey of 125 West Geyser asked what the cost prediction and time frame of this project would be. Clint Tinsley stated that this is a 10-year Infrastructure project and that over the period of 10-years we hope to have it completed. Thomas Lackey also asked how this would affect homeowners with tax increases. Steve Golnar, City Manager, stated that it would eventually affect property owners, especially in the downtown area where private water, sewer and storm sewer connections should be upgraded and vaulted sidewalks stabilized.

4 in favor; Blakeman, Dahl, Lee and Ebinger; 1 opposed; Gregrey;
Motion passed.

Action Items:

Motion was made by Lee, second by Dahl, to direct the City Manager to write a letter to Representative, Pat Wagman, requesting him to propose an amendment to local government committee of the Legislature to allow for the addition of sidewalks to Street Maintenance Districts. Steve Golnar, City Manager, gave background information on this and stated that he has written Pat Wagman, State Representative for District No. 26 a letter requesting that he sponsor a bill which would allow for sidewalk replacement or installation to be implemented in street maintenance districts by revising the Street Maintenance District allowable maintenance activities. He stated that the prior representative, Michelle Lee, had introduced this bill in the last Legislature's Session, but that Pat Wagman informed him that it was too late for him to introduce a new bill and the best strategy at this point would be to seek an amendment to other legislative proposals.

All in favor, Motion passed.

Discussion among the City Commission and Staff took place about the proposed Grievance Procedure for employees directly supervised by the City Manager. Lenny Gregrey stated that he had concern about the statement if the grievant's supervisor is the City Manager, the grievant shall proceed to step 2. Lenny Gregrey also mentioned possibly having a Human Resource Committee developed so that the person could go or the City Manager could go to them as a Mediator. However, Mr. Gregrey thought that there should not be a City Commissioner on the Human Resource Committee. After much discussion the determination of the City Commission was to have the City Attorney re-evaluate the procedure with Staff before incorporating it into the City Personnel Policies and Procedures Manual.

The City Manager's written comments were reviewed.

- Sheryl Dahl asked about the Skillings Connolly letter response and how much longer the City was going to give them for a response. Clint Tinsley, Public Works Director stated that if they did not respond within two (2) weeks that he would do a follow-up letter.
- Lenny Gregrey asked about the letter of January 13, 2003 for CTEP money in Engineering a Sidewalk Maintenance District and why completing the project was costly. Steve Golnar, City Manager stated that project proposed to use CTEP funds for engineering only and that the CTEP contract requirements for the construction made using this funding too costly. The unused funds would be put back into the CTEP funds account.
- Lenny Gregrey asked about the concern of Mr. Sparks relating to trash and human waste issues out at the Rest Stop West of town and if

someone has clean them up and took the responsibility for maintaining the area and if the DOT was involved. Steve Golnar, City Manager stated that it will be discussed at the TCC meeting on January 22, 2003 at 2:00 p.m. and that it will be determined at that meeting if DOT will be involved and that he will report back to the City Commission as soon as he finds out.

- Lenny Gregrey asked about the cost of the insurance for the 4th Ambulance if that had been considered in the Fire Chiefs report. Jim Mastin, Fire Chief stated that "no" those figures were not included in his report but would ask for the figures so that it could be figured into the profit of keeping the 4th Ambulance.
- Bob Ebinger asked why the 5th Street and Park Street Overpass over the Railroad was taken off of the priority list. Steve Golnar stated that he would ask the MDT representatives at the TCC meeting which is scheduled on Wednesday, January 22, 2003 at 2:00 p.m. when the public meeting to discuss the study's conclusions with MDT's Consultant was scheduled in Livingston and report back to the City Commission.

Commissioner Lee Comments:

- She commented about the Legislative proposals and reminded everyone to keep on top of them for proposing bills for the local government. Steve Golnar stated that he will be having teleconferences with Legislators Pat Wagman, John Esp and Bruce Malcolm every Tuesday at 12:00 (noon) and would welcome Department Heads and City Commissioners to sit in on these sessions or to pass-on issues to be discussed with these representatives.
- She asked about the pigeon droppings under the Underpass and wanted to know if anything had been done yet. Clint Tinsley, Public Works Director stated that they were waiting for the weather to clear up so that this could be taken care of.

Commissioner Ebinger Comments:

- He mentioned that due to recent legislation relating to Commissioners being on the Board of Committee's creating a conflict of interest for commissioner's participating in City decisions, he felt that he would resign from the Depot Board. He also felt that every board that the Commissioner's are on should be checked out for potential conflicts of interest.
- He also stated that the Historic Preservation Officer position needs to be advertised so that the City will not loose State funding for this position and suggested a Workshop to be held for this purpose the first week of February. He suggested to have a Workshop on February 10, 2003 at 6:30 p.m. for this and invite all Historic Preservation Officers with Chere Jiusto of the Montana Historic Preservation Alliance out of Helena. Mr. Ebinger asked if Jim Woodhull, Acting Historic Preservation Officer, would handle the arrangements for this Workshop.

- Mr. Ebinger asked about the appointments of additional members to the City Planning Board once the Ordinance for developing a City Planning Board was passed.

Commissioner Dahl Comments:

- She asked about the City of Livingston's position on the Building Inspection billing and it was stated by Shirley Ewan, Finance Officer that the City of Livingston handles the billing.
- She stated that she felt that it would be beneficial for the City Commissioner's to change their term from two (2) years to four (4) years and would like to see this put on the ballot for the next election being consistent at a local level and would like the City Attorney to draft an Ordinance and bring back to the next meeting. (General concurrence from the other Commissioner's was given).
- She asked about the repairs to the East Side School. Steve stated that he had not heard as of yet and that the Clint was waiting to hear back from the Sheet Metal Company on their proposal. This sheet metal work was the primary concern for immediate repairs of the School.
- She thanked who ever did the colored graphic included in with the Resolution No. 3355. It was really helpful in the description of the area being proposed to discontinue and vacate.
- She asked about annexation and the City's procedure before developing the City Planning Board. She asked could the City annex Mayor's Landing into the City. Steve Golnar stated that he would have the City Planner look into all possibilities.
- She also asked about the Humane Society contract and when this was going to be looked at. Steve stated that he hoped to have it completed by March 2003 tentatively.

Commissioner Gregrey Comments:

- He voiced concern about the ethics situation involving the City Board's and the membership of City Commissioners on some of them and the conflict of interest that this presented for their office as City Commissioner's. He felt for instance on the East Side School Sale vote, having to make a decision for some Commissioner's who serve on the ADC Board was a conflict of interest and would involve money. Vicki Blakeman asked the City Attorney to look into the guidelines and direct the City Commissioners as to what the decision of being on a City Board or not should be.
- He mentioned that the friendly geese will be arriving soon as the weather permits and encouraged whatever mechanism that the City uses to get the Fish and Game Department involved as soon as possible and take care of the issues sooner rather than later.

Chairman, Vicki Blakeman Comments:

- She mentioned that someone had a concern about the City's Interlocal Agreement with the County over the Planning and the Zoning of the

City and the City's peripheral area and had some concerns that the City has no say over the donut area which the City might be annexing and asked for clarification.

Public comments:

- Paula Clawson of 321 South 7th Street asked about the City Codes relating to shoveling sidewalks and if these could be implemented promptly. She is a walker and finds it difficult to walk on icy sidewalks. She mentioned the possibility of having a public notice to state that citations would be issued if people did not shovel their sidewalk by a certain date and that the citations would be issued. Steve Golnar stated that this has been a problem in the past. The individual Code Enforcement Officer has helped with City wide snow removal efforts in the past and the citation and enforcement of sidewalk shoveling is a big job which would require more than one person to complete. He suggested that this issue be referred to Staff and that a public information statement be developed summarizing the property owner's responsibilities and the City's plan to ensure this is done.

A short recess was taken at 10:05 p.m. and adjourned for those not participating in the Executive Session.

The meeting went back into Executive Session at 10:20 p.m. This was a closed session for the City Manager's periodic performance review.

Motion was made by Dahl, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 11:03 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
February 3, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, February 3, 2003, at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Lenny Gregrey, Sheryl Dahl, Bob Ebinger, Vicki Blakeman and Michelle Lee.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley and Pam Payovich.

Motion was made by Dahl, second by Gregrey, to approve the consent items as follows:

- Approve January 21, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 2nd half of January 2003.

Michelle Lee asked that in the minutes about the Yellowstone Country Montana that it be added that a letter was requested from Steve Golnar, City Manager, to write to the State for request for information on Bed Tax Collections and Distributions in Park County and City of Livingston. Also, Michelle Lee asked about the Rick D'Hooge claim. Steve stated that this was for past work and that any future work would be billed on an hourly basis as no contract was in place for his services.

Bob Ebinger asked about the claims for the Verizon Wireless bills if these were average bills. Steve Golnar stated that these were about average for monthly billing.

Sheryl Dahl asked about clarification of Resolution No. 3356 in the minutes if Derek Smith actually withdrew from the consideration of this loan. Vicki Blakeman stated that yes Derek did state that he wanted to withdraw from the consideration of this loan. Also, Sheryl stated that on the City Manager's comments about the "Rest Stop West of town and if someone has clean them up", should read, "Rest Stop West of town and if someone has cleaned them up."

All in favor of consent items, Motion passed.

Public Hearings:

Motion was made by Ebinger, second by Gregrey, to approve Ordinance No. 1921 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING ITS RULES OF PROCEDURE FOR CONDUCTING CITY BUSINESS IN A FAIR AND OPEN MEETING WHICH ENCOURAGES PUBLIC PARTICIPATION IN THE DECISION MAKING PROCESS**

OF LOCAL GOVERNMENT AMENDING ORDINANCE NO. 1869 AS CODIFIED BY CHAPTER 2, SECTION 2-10 THROUGH 2-35 OF THE LIVINGSTON MUNICIPAL CODE. No public comments were given. Michelle Lee asked for clarification about the Recording Secretary being under the direction of the City Manager and if the Commission concurred. The City Commission concurred that the Recording Secretary should be under the direction of the City Manager.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Ordinance No. 1922 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING A CITY PLANNING BOARD, CONSISTENT WITH STATE LAW, AND REPEALING ORDINANCE NO. 1045.** No public comments were given. Lenny Gregrey asked about the definition in Section 27-3 D, (2) of "freeholders". City Attorney, Bruce Becker stated that a freeholder is a person that owns real property. Michelle Lee asked about the Secretary of the Planning Board in Section 27-4 (3) if this person needs to report to the City Manager. Lenny Gregrey stated that he felt that the Secretary should report to the Planning Board and the President of the Planning Board reports to the City Commission. Steve Golnar, City Manager, stated that the secretary would be in direct line to the City Planner and then the City Manager and that this would not be a separate hired person. Bruce Becker stated that this draft Ordinance was directly quoted from the State Statutes. The City Commission asked the City Attorney to research this and prepare wording that would address the chain of command and reporting relationship for the secretary for this board and bring back at the next meeting.

No action was taken.

Motion was made by Dahl, second by Ebinger, to table Ordinance No. 1922 until the City Attorney could determine the clarification of the secretary roles and whom they are directed under.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3360 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING A PORTION OF THE OLD PARK STREET RIGHT-OF-WAY LOCATED NORTHERLY OF LOTS 1-4 OF BLOCK 1 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON, MONTANA.** No public comments were given.

All in favor, Motion passed.

Scheduled Public Comments:

Bonnie Goodman of the Park County Humane Society gave a public comment about the Montana Spay/Neuter Task Force and what the mission of the Task Force was to accomplish their goals in spaying and neutering dogs and cats

in the City. She stated that the Montana Spay/Neuter Task Force plan to have a Pet Care Week in Livingston either the first or second week of September and requested the City Commission's consent. It was approved by the City Commission to proceed with this event and have a proclamation drawn up to declare "Pet Care Week" when the dates for the event were established.

Resolutions:

Motion was made by Lee, second by Ebinger, to pick up for discussion and take off the table Resolution No. 3357- **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH TERRI EDDY AND WILLIAM EDDY, d/b/a LATTE LAND FOR CDBG LOAN.**

All in favor, Motion passed.

Bob Ebinger asked if the location of this Latte Land was at the existing location. Dana Taylor, Chairman of the Alliance Development Corporation stated that yes the existing location is the location for Latte Land and that they are requesting assistance for signage and some marketing expense. Bob Ebinger asked that the letter of protest be attached to the documents of this request. Lenny Gregrey stated that the ADC loan money is out there for generating businesses not to prevent any other business from competition and that a business has the right to request assistance from the loan committee and the loan committee determined that this was a valid loan applicant for the loan request.

Gary Blakely, owner of Cabin Coffee, stated that he was opposed to this loan request, as it would be a subsidy at taxpayer's expense of a competing business. He went on to say that he felt that the Alliance Development Corporation should be loaning money to create jobs not subsidize businesses.

Dana Taylor summarized that these are loans not subsidies for business owners.

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3357. *1) Retention + Expansion of existing businesses.*

3 in favor; Blakeman, Dahl and Gregrey, 2 opposed; Lee and Ebinger, Motion passed.

Motion was made by Gregrey, second by Dahl, to approve Resolution No. 3361 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO SIGN AGREEMENT FOR PURCHASE OF ELECTRIC POWER SUPPLY AND POWER SUPPLY AGREEMENTS.** Michelle Lee asked if the City could do an energy analysis to make sure that the City has the proper sites on the agreement. Steve Golnar stated that there are only limited accounts that MLCT will accept with the pooled league energy-

4

purchasing program. This includes the larger sites for the City. Shirley Ewan stated that Northwestern Energy Marketing is the company that the City pays the electric bills to and Northwestern Energy is the Montana League of Cities and Towns.

All in favor, Motion passed.

Action Items:

Discussion of the conflict of interest relating to public officers and employees serving as a director of an organization, which appears before the City Commission, was had among the City Commission and Staff. City Attorney, Bruce Becker, commented that with the Legislature changing the law it makes it difficult for City Commissioners to continue on some of the community boards that they have in the past without having a conflict of interest and not being able to participate in debate or a vote as a City Commissioner on any community board related issues. He went on to say that this does not apply to Inter-governmental agency boards, such as Skate Park and Angel Line. Bruce Becker summarized by stating that if Commissioners or employees do not participate on these boards they do not have a conflict. This does not preclude them from attending a community board meeting.

The request for an alley vacation at Block 21, Palace Addition was discussed with the City Commission and Staff. Steve Golnar, City Manager, clarified the location of this request. This is the whole alley behind Crash Repair on Front Street for the entire block. Steve Golnar went on to say that typically the City seeks to maintain access or an easement for bike and pedestrian traffic, but in this case such a reservation seemed infeasible because of the steepness of the slope.

Motion was made by Ebinger, second by Dahl, to direct City Attorney to prepare a Resolution of Intent for alley vacation of Block 21 of the Palace Addition.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to direct City Attorney to move forward with the draft Ordinance calling for an election ballot issue amending the terms of office for a City Commission member from two (2) year overlapping terms of office to four (4) year overlapping terms of office. Lenny Gregrey stated that he felt that the four (4) year term was possibly too long and that the City Commission, he felt, did not consider the public when they suggested this. He went on to say that on behalf of the voters that he thought that it should not be four (4) years, that the two (2) year overlapping term was efficient but he would let the voters decide. Sheryl Dahl commented that having been on the City Commission for eight (8) years and looking back on her past and the amount of time it takes for

learning the process as a public servant that a four (4) year term is a better benefit for the community. It was the concurrence of the City Commission to place this on the ballot for the next election in November.

Motion was made by Ebinger, second by Gregrey, to direct City Manager and City Attorney to develop a contract with the Alliance Development Corporation (ADC) for fiscal year 2003-2004 funding support in the amount of \$15,000.00.

No action was taken.

Pat ^{Grabow} ~~Graybow~~ of 204 East Callender gave a letter for the record with her concerns relating to this action and asked the City Commission not to take action on this tonight.

Bob Ebinger stated that it was his understanding that the budget proposal is for an Executive Director, which has been working with the Alliance Development Corporation (ADC), and her responsibilities are not solely related to review, evaluation and recommendations of the loans that are presented to the City Commission. She would also be helping the City, County and other groups with Economic Development looking for sources with grant writing with the entire community.

Sheryl Dahl concurred with Bob Ebinger and stated that she supports economic development in the community and she believes that the government has to play a role in this. She went on to say though, that she was concerned about being conservative with the budget of the City. The City has already negotiated union contracts for Staff and substantial raises are going to affect the budget. She felt to be prudent that the City Commission needs to look at the budget and evaluate the monies that we have promised to our Staff and see what projects are not going to be accomplished because of that. She is in full support of those raises. She also supports economic development and requested that Staff look at a possible contract, but suggested evaluating the possibilities and determining where this money will come from during the budget process.

Bob Ebinger stated given the economic development situation in Livingston can the City afford not to buy into this? He stated that he felt that this is a top priority for the City of Livingston.

Michelle Lee asked if there was a new Interlocal agreement between the City and the Alliance Development Corporation that was brought before the City Commission? Steve Golnar stated that there is not a new agreement with the Alliance Development Corporation. Michelle Lee asked the City Attorney if the City Commission is in a position that this agreement would need to be updated before this action was initiated. Bruce Becker stated that the ADC has assumed the Park County Economic Development Committee (PCEDC)

agreement that was initiated with Resolution No. 2653 that this is just a name change.

Motion was made by Ebinger, second by Gregrey, to withdraw motion as stated above.

Motion was made by Ebinger, second by Gregrey, to direct City Manager and City Attorney to develop a contract with the Alliance Development Corporation (ADC) to cover a two (2) year term beginning July 1, 2003 at a funding level of \$1,000.00 per month with no additional compensation provided from loan interest on LRC CDBG funds during that two (2) period. Steve Golnar, City Manager, gave background information on this proposal. Steve Golnar stated that this contract is needed to clarify roles and responsibilities between the City and the Alliance Development Corporation relating to loan activities and other economic and community development roles. Also it was asked that the City Attorney draft an updated agreement with the Alliance Development Corporation with Resolution No. 2653. Vicki Blakeman asked that Michelle Lee's suggestions be included in the agreement with the Alliance Development Corporation and to present this at the next meeting.

All in favor, Motion passed.

The review of the 1902 East Side School Bid from the Alliance Development Corporation was discussed. It was suggested by the City Manager, Steve Golnar, based upon the City Attorney's opinion dated January 28, 2003 on conflicts of interest relating to Public Officers and Employees who serve as a Director of an organization which appears before the City Commission, and in order to avoid the appearance of any impropriety and to avoid any potential liability claims against the City, that the City Commission take no action on this proposal at this time and re-bid the project at a future date. The City Commission concurred with the City Manager's recommendation.

Motion was made by Dahl, second by Ebinger, to authorize Staff to develop a contract with WISPWest.net for leasing the pole on City property for installation of High Speed Internet Transmitter on the North Hill. Steve Golnar stated that what they were proposing to provide Broadband High Speed Internet Access to the Livingston area and negotiate a lease with the City for placement of equipment on the pole on the North Hill. They would also offer to provide the hosting of a Website and unlimited e-mail addresses and/or a lease payment once this contract is negotiated. Golnar said that if the Commission is interested, Staff will bring back a proposed lease agreement to the City Commission for their consideration at a future meeting. Jason Boss, President of WISPWest.net, spoke about the options that this will entail for the Livingston area.

All in favor, Motion passed.

Motion was made by Gregrey, second by Ebinger, to approve payment of CDBG Loan in the amount of \$5,100.00 for Terri Eddy and William Eddy d/b/a LATTE Land.

3 in favor; Ebinger, Blakeman and Gregrey, 1 opposed; Lee, Sheryl Dahl absent, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger gave clarification on the Historic Preservation Office Workshop that the State Historic Preservation Officer and the Montana Preservation Foundation Director not the State Preservation Association Director would be attending.
- Vicki Blakeman asked about the workman's compensation dividends if the City gets this every year. Shirley Ewan stated that this is yearly and the refund is based on the experience in the organization.

Commissioner Lee Comments:

- She mentioned that the Big Brothers Big Sisters of Park County is putting on a Bowling Tournament and wanted to know if the City Commission would like to participate against the County Commission.
- She wanted to know if there was any way to consolidate the activities between the Planning and Historic Preservation office.

Commissioner Ebinger Comments:

- He mentioned that he would be interested in going to the Little Big Horn Memorial that is being held on February 12th and 13th.
- He thanked Patricia Miller from Yellowstone Country responding to all of the questions that were asked of her at the last meeting in a timely manner.
- He wanted to remind everyone about the Montana Film & Economic Development Conference on February 21, 2003 and February 22, 2003 and that there would be four (4) films shown that weekend and that two (2) of which have been filmed in Montana and has never been screened before and one (1) of them has been picked up by Paramount Pictures.

Commissioner Dahl had no comments.

Commissioner Gregrey had no comments.

Chairman, Vicki Blakeman Comments:

- She asked about the TCC meeting if they had any feedback on the Historic Signs for City Center signs. Steve stated that the Montana Department of Transportation stated that this was still with their Sign Committee and that they would get back to them before the next TCC meeting which will be in April. Steve Golnar would contact them this week and let the City Commission know at the next meeting what he found out.

- She mentioned that she had a request from Kelly Dowdell that she is doing a reading program and asked anyone if they would be interested in reading a story in the grade school and if so to contact her.

Public comments given:

- *Grabow* Pat ~~Graybow~~ of 204 East Callender stated that she was present on behalf of Lori Indendi relating to a grant application that she had submitted to the Montana Department of Agriculture and that Ms. Indendi had requested letters of support from Steve Golnar, City Manager and the Alliance Development Corporation supporting the funding application for Venus Farms Phase I Project. Ms. Indendi felt that the letter from the Alliance Development Corporation was not as supportive of her proposal as the one from Steve Golnar, City Manager. Also Ms. ~~Graybow~~ mentioned that when the PCEDC Board transferred to the ADC Board that each member of the board resigned.
- *Grabow* Michael Johnson of WISPWest.net asked to whom would they make their request for testing from the North Hill location prior to going live and entering into a formal contract with the City. Steve Golnar stated that this would be part of the contract negotiations discussions and that he would be the contact person.

Motion was made by Ebinger, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 9:40 p.m.

ATTEST:

APPROVED:

 Pam Payovich
 RECORDING SECRETARY

 Vicki Blakeman
 CHAIRMAN, CITY COMMISSION

Presented with letter - Grabow

LIVINGSTON
CITY COMMISSION MEETING
February 18, 2003
Tuesday
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, February 18, 2003, at 7:30 p.m. in the Community Room in the City/County Building due to the Holiday of President Day on Monday, February 17, 2003. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Kevin Harrington, Jim Woodhull, Clint Tinsley and Pam Payovich.

Motion was made by Dahl, second by Gregrey, to approve the consent items as follows:

- Approve February 3, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 1st half of February 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve Special Event request for State Girls' Fast Pitch Softball Championship Tournament on July 11, 2003 through July 13, 2003 contingent upon receipt of certificate of insurance naming the City as an additional insured and hold harmless agreements for the City, its agents and officers and approve waiver of the standard special event fee.

Bob Ebinger stated that he would like to clarify as to why he voted against Resolution No. 3357 at the last meeting and have it reflected in the minutes. This reason was that he felt that in economic development it is important to support the retention and expansion of existing businesses before supporting new businesses. Mr. Ebinger stated that Pat Grabow's name was spelled wrong twice on the February 3, 2003 minutes and requested that to be changed from Graybow to Grabow. He also asked that in the minutes of the last meeting, where the City Manager's written comments were reviewed, that Montana Preservation Foundation Director be changed to Montana Preservation Alliance Director.

Sheryl Dahl asked about the claim for Mity-Lite, Inc. for 3'x8' Walnut Tables for \$3,151.80. She was curious what these were for. Shirley Ewan, Finance Officer stated that these tables were new tables for the Civic Center and they would be paid for in a three (3) year time frame. Meaning that twenty (20) tables were purchased this year; twenty (20) tables will be purchased in 2004 and twenty (20) tables will be purchased in 2005. Sheryl also asked about the claim for Western Plains for the Elevator Chains for \$1,855.70.

Shirley Ewan stated that these were elevator chains that were replaced on the back of a garbage truck.

Lenny Gregrey requested that with the public comments given at the last meeting that the letter from Pat Grabow should have been included in the packet. He also asked about the Livingston Fire/Ambulance Accounts Receivable Financial Report what is the projected loss expected for the current fiscal year if this was more or less than the previous loss. Steve Golnar, City Manager stated that he would get back to him on that that he did not have the answer at this time. Lenny asked on the Finance Report if the projected revenues are not realized does the projected expenditures reduce accordingly? Shirley Ewan stated that yes they could. Sheryl Dahl stated that she has learned in the past depending upon what department and fund the activity is in the City may shuffle some money around to meet expenditures without violating the law.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

The Park County Tobacco Use Prevention Program – Teens in Partnership, students from Sleeping Giant Middle School; Carolyn Harris, Erica Linder and Hillary Fabich gave a presentation relating to tobacco free Baseball Fields and requested to be extended to Miles Park and Weimer Park from the Resolution No. 3255 that was adopted on April 1, 2002.

Motion was made by Dahl, second by Ebinger, to direct the City Manager and the City Attorney to draw up a Resolution in support of extending tobacco free Baseball Fields to Miles Park and Weimer Park. The Teens in Partnership organization will provide the signs to keep in coordination with the other Park signs in the community.

All in favor, Motion passed.

Ted Krauss of Yellowstone Gateway Sports gave a presentation relating to his request of the City of Livingston's support to reduce Wolf threats to Hunting Industry in Montana and asked for support of the Resolution that is going to be given to the Secretary of the Interior. He provided a copy of the Resolution and the laws of the State of Montana to the City Commission. Mr. Krauss stated that tourism is a big part of the Livingston area and that tourists rely on the satisfaction of being able to hunt in this area. Mr. Kraus stated that this State brings 60,000 non-resident people for tourism and hunting and this is big dollars for the industry.

Vicki Blakeman stated that the wolf issue is a divisive issue and that the City Commission is a City governing body and that the City Commission is not the forum for this issue, as they have no control over the issue of wolf control.

Tim Stevens of 315 North 3rd Street gave comments as to why he is opposed to this request. He stated that some of the things that were stated from Mr. Kraus were plain, factually wrong. Mr. Stevens went on to say that he would like to ask the City Commission to get information from the Wildlife Professionals that work on the ground. Tom Lemke is one of these professionals and works for the Fish, Wildlife and Parks. The Wolf program of the National Parks, Doug Smith is a representative for them. Mr. Stevens requested that the City Commission get their information from these professionals and not to take his word or others that had spoken at the meeting. He concluded by saying that wolf predation had not significantly decreased the deer and elk population in the area but that the drought for the last five years has intervened resulting in the decrease of deer and elk.

Lenny Gregrey stated that there is a concern on both sides of the issue. He was a proponent of seeing the wolves being re-introduced to the Park in 1995. He went on to say that wolves are travelers and do not stay in their habitat and people should be concerned. He concluded by stating that his request is that the City Commission listen to both sides and evaluate a reasonable conclusion to this issue of wolf control.

Bob Ebinger stated that he felt that these issues are already being taken care of by the wolf de-listing process which was part of the wolf reintroduction plan once a certain population is attained and also stated the Livingston City Commission is not the appropriate forum for this issue.

It was determined by the City Commission to take no action on this request at this time.

A short ceremony involving police officer appointments following the successful completion of a one (1) year probationary period was given by City Manager, Steve Golnar and Darren Raney, Police Chief. The Police Officer's recognized were Valerie Vaught, Joseph Harris, III and Jerry Harmon. Officer Harris and Harmon were not present but Officer Vaught was present. Police Chief, Darren Raney recommended these appointments to the City Manager. The City Manager requested confirmation of his Police Officer appointments by the City Commission as provided by State statute.

Motion was made by Dahl, second by Gregrey, to confirm the City Manager appointments of Police Officers: Valerie Vaught, Joseph Harris, III and Jerry Harmon.

All in favor, Motion passed.

The Commission welcomed Officer Vaught to her permanent position as Police Officer.

Ordinances:

Action on Ordinance No. 1922 was postponed until later in the meeting to allow the City Attorney to research the questions asked by the City Commission about: 1) "the appointment of a Planning Board Secretary and if this could be the City Planning Officer" and 2) Vicki Blakeman's statement that at the last City/County meeting the County asserted that the County's appointment to the City Planning Board does not have to be a freeholder of the City where upon she questioned if this would require rewording of Section 27-3 (2).

Motion was made by Dahl, second by Lee, to approve Ordinance No. 1923 first reading - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CALLING FOR AN ELECTION ON THE BALLOT ISSUE AMENDING THE TERMS OF OFFICE FOR A CITY COMMISSION MEMBER FROM TWO (2) YEARS OVERLAPPING OF OFFICE TO FOUR (4) YEARS OVERLAPPING TERMS OF OFFICE.** A public hearing will take place on March 3, 2003. Lenny Gregrey gave comments on his opinion about this Ordinance and stated that he felt that it should stay at a two (2) year overlapping of office rather than a four (4) year overlapping term of office and to not have the public vote on this.

Bob Ebinger clarified that this Ordinance did not address the City Commission deciding to change the terms but to have the voters decide if they would like it to be four (4) years rather than two (2) years on the ballot this November. He went on to say that the current two (2) year overlapping terms were costly and did not allow for an effective use of time and that this was the reason that the City wanted to put this on the ballot for the upcoming election in November. He concluded by stating "let us let the voters decide".

Sheryl Dahl concurred that she felt that this would help City staff in the off years to be able to get work done that had been initiated the year before and so that the City Manager would only have orientations every other year as opposed to every year for new City Commissioners.

Michelle Lee stated that she wanted to weigh-in on the freedom that voters have through initiative and referendum and feels that the City would be only asking a question of the public to vote their opinion on this issue and decide whether it would be more effective for the City Commission to go to a four (4) year overlapping term as opposed to a two (2) year overlapping term.

4 in favor; Blakeman, Dahl, Lee and Ebinger, 1 opposed; Gregrey,
Motion passed.

Review of Ordinance No. 1922 was re-visited. After a review of the State statutes by the City Attorney he determined that the County was correct in their interpretation of the County's appointment to the City Planning Board not having to be a freeholder of the City. He suggested that Section 27-3 (D) be combined with sub-paragraph (2) to read: "Four citizen members appointed by the Chairman of the Commission who shall be qualified by

knowledge and experience in matters pertaining to the development of the city and hold no other office in city government as resident freeholders within the city limits of the City of Livingston". He also recommended to include in Section 27-4 "Organization and Administration, (3) Secretary" to read: "The Planning Board may appoint and prescribe the duties and fix the compensation of a secretary, which may be the City Planning Officer, and such employees as are necessary for the discharge of the duties and responsibilities of the board." Michelle Lee commented in going through the Historic Preservation Workshop one thought that she had was how does the City get more integrated with the various commissions or established entity's in the City government. She suggested that a member of the City Planning Board be from the Historic Preservation Commission. Bruce Becker, City Attorney stated that the four citizen members that the Chairman is to appoint are to be resident freeholders and there is no reason that the Chairman can't appoint someone from the Historic Preservation Committee from that category.

Motion was made by Lee, second by Dahl, to approve Ordinance No. 1922 as amended - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING A CITY PLANNING BOARD, CONSISTENT WITH STATE LAW, AND REPEALING ORDINANCE NO. 1045.** Lenny Gregrey stated that the amendment that Commissioner Lee offered specifying someone from a specific group he felt was unnecessary that you can get four applications from the community that are involved in that group.

No action was taken.

Motion was made by Lee, second by Dahl, to withdraw motion of approval as amended for Ordinance No. 1922.

Motion was made by Lee, second by Dahl, to bring up off the table Ordinance No. 1922 for discussion.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve second reading of Ordinance No. 1922 with amendments and add to Section 27-3 (1) (D) and combine (2) to include: "All members shall be appointed by the City and be a resident freeholder within the city limits of the City of Livingston and may include a member of the Historic Preservation Commission".

3 in favor; Blakeman, Lee and Dahl, 2 opposed; Ebinger and Gregrey, Motion passed.

Motion was made by Lee, second by Dahl, to approve Ordinance No. 1922 as amended.

4 in favor; Blakeman, Dahl, Lee and Ebinger, 1 opposed; Gregrey, Motion passed.

Resolutions:

Motion was made by Dahl, second by Lee, to approve the City Manager's signoff of the section relating to insurance and bonding for the liability insurance to become effective on July 1, 2003 in the Resolution No. 3353 agreement with Robin Brewer d/b/a Robin the Housekeeper for janitorial services at the City's Utility Office. This Resolution was passed on January 6, 2003 but the agreement as written was not signed by Robin Brewer. After consultation with Ms. Brewer, the City Manager and City Attorney recommended changing the agreement in the section relating to insurance and bonding for the liability insurance to become effective July 1, 2003.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3362 as amended to add to the agreement with an option: in the event that the City constructs Ridgeway Drive and such construction necessitates moving the above-described pole, WISPWest shall have the option of either paying the costs to move the pole to an alternative location on City property which is described by Certificate of Survey 1607 and Subdivision Plat #21, or WISPWest may terminate this lease. - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH WISPWest.net FOR LEASE OF CITY PROPERTY.** Steve Golnar stated that he had received a memo from Clara Gillard with her concerns about this installation and provided this memo to the City Commission after the packet was already produced. He asked her to articulate her concerns and she identified that the City did not approve of her variance request due to the road which did not exist and may someday. She stated that if the road does go through that property that the pole would have to be moved. Also Steve stated that other concerns of Mrs. Gillard's were the harmful effects of the electrical rays associated with the equipment to be installed on this pole and Mrs. Gillard's concerns about the equipment causing her migraine headaches. Electrical Engineer, Michael Johnson of WISPWest.net explained that the transmission of electrical rays from the equipment to be installed on the pole would be equivalent to the electricity transmission of a cell phone. Steve Golnar stated that the value of the contract proposed is \$400.00 per month with a \$100.00 reduction in exchange for the provision of Website Hosting and Email Hosting for the City. The term of the lease is five (5) years during.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3363 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING THE POSITION DESCRIPTION FOR UTILITY ONE/WATER SEWER MAINTENANCE.**

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3364 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE THE ALLEY LOCATED IN BLOCK 21 OF THE PALACE ADDITION TO THE CITY OF LIVINGSTON, MONTANA.**

All in favor, Motion passed.

Action Items:

The Commission reviewed the DRC's recommendation on Haug Subdivision identifying recommended conditions to be applied to the County's approval of this subdivision. Steve Golnar stated that the reason why the DRC took action on this was that the City does not have a City Planning Board legislatively appointed or empowered and that the City has an intergovernmental agreement with the County that says that the City will review and comment on newly proposed subdivision within two (2) miles of the city limits.

Motion was made by Dahl, second by Lee, to move forward with the DRC's recommendations and direct the City Manager to prepare a letter articulating these conditions to be submitted to the County Commissioners.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to designate Saturday, July 19, 2003 and Sunday, July 20, 2003 as a period for a Dog Show in the Sacajawea Park area.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to direct City Manager to write a letter to the Capitol Restoration Foundation declining to donate a portion of the City's allocated CTEP funds to their project. Lenny Gregrey asked how many CTEP dollars would be the City's donation. Steve Golnar stated that they would take what ever they could get. He stated that he could get accurate figures to the City Commission at the next meeting and also stated that he felt that the City's CTEP funds are limited and its needs are great, therefore; he would like to see the money used locally.

No action taken.

Motion was made by Dahl, second by Ebinger, to direct the City Attorney to prepare an Ordinance adopting the revisions of Chapter 12 of the City Code relating to Garbage, Trash and Weeds. Lenny Gregrey asked about Section 12-4 Refuse-placement for curb collection what provisions has the City made

for the Handicapped persons with the 96-gallon containers. Clint Tinsley, Public Works Director stated that his department did a count in the City and came up with 23 residents in town who didn't have an alley or did not have access to an alley. He stated that they are going to notify those people that they can bring their bags out just as they have done in the past and the City will pick them up. Lenny Gregrey asked about garbage wrapping requirements if this would still be necessary. Clint Tinsley answered, "yes" because the City's automated system lifts garbage cans into the truck and there is room for un-bagged garbage to blow away if not contained in plastic bags.

All in favor, Motion passed.

The review of plans and scope for CTEP Landscaping Improvement Project located at the west interchange was discussed and Clint Tinsley, Public Works Director gave a presentation on the proposed scope of work. He stated that the project is going to be more costly than what was proposed. Mr. Tinsley stated that the project was initially proposed to include the medians, the cloverleaf areas and the bike path. The bike path was proposed to be taken out for 2003 in order to complete the cloverleaf and median areas. These areas would cost more than the initial budget if they were to be done as proposed. Steve Golnar stated that the City could go back to CTEP and ask for expansion of the scope of this project. The City Commission directed Staff to move forward with this project with the understanding that it be completed in 2003. Steve Golnar stated that the main concern for providing the preliminary information given at the meeting was to get direction from the City Commission for this project scope and budget and he stated that he could have a recommendation at the next meeting and proposed a letter to CTEP requesting expansion of the scope and budget for this project with anticipated completion this year.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the Alliance Development Corporation relationship and that Anne Hallowell had made a statement and he was wondering if any of her comments or concerns were valid. Steve stated that he would get back to the City Commission after talking with the Alliance Development Corporation about their responses.
- Lenny Gregrey asked about the Angel Line Transportation purchasing a new van and if they were going to get rid of the other one or keep it. Steve Golnar stated that he was not absolutely sure as to what their intentions were but will let the City Commission know after discussion with the Angel Line Committee.
- Sheryl Dahl asked if Steve had heard back from Patricia Miller on the Yellowstone Country and Department of Commerce letters. Steve stated that he has not heard either from Patricia or County so the letters had not been sent out yet.
- Sheryl Dahl asked about the Alliance Development Corporation if they are required to move their money from bank to bank for the CDBG

revolving loans as Pat Grabow had brought up in her letter at the last meeting. Shirley Ewan, Finance Officer answered "no".

- Sheryl Dahl stated that she had had some calls about the Latte Land loan and wanted to know who is required to do the impact on existing businesses when the City is giving money to a new business. Michelle Lee stated that her understanding of Resolution No. 2653 was that the Alliance Development Corporation is responsible to do that. Sheryl stated that she would like to make sure with the new contract with Alliance Development Corporation is clear on who does do the assessment of impacts on existing businesses.
- Bob Ebinger asked if Pete Hart was present. Steve Golnar stated that "yes" he was. Steve Golnar introduced the new Communications Services Coordinator for the City to the City Commissioners and stated that he came highly recommended by the Communications Advisory Committee and that he looked forward to working with Mr. Hart.
- Bob Ebinger stated that he had attended the Department of Transportation Railroad Crossing meeting and commented that he found out that the only way that the City is going to get the railroad crossing overpass on the west side of town was from congressional assistance. Steve stated that he feels that the City can use the railroad crossing study and the fact that the Livingston 5th Street railroad crossing rated 6th Statewide on a need basis. An off-grade rail crossing was found to be not feasible at 5th Street, which was consistent with public and staff comments. He went on to say that he felt that the study helps the City's case for the need for a railroad crossing on the west side of town.
- Bob Ebinger also stated that he would like to thank Darren Raney, Police Chief for doing the Workshop on Sex Offenders in the City.
- Michelle Lee asked about the Alliance Development Corporation if the County approved an appropriation for them or is it under consideration. Relating to the specific concern regarding performance objectives, she felt that if the Alliance Development Corporation does more loans than the City money wouldn't always be a necessity and wanted to know where Steve was with that. Steve stated that the new contract with the Alliance Development Corporation and the City should be completed by the next meeting. Also Michelle stated in the original Resolution that housing was part of the Economic Development Corporation's charter with the City and she stated that she knew that rural housing grants were available through the USDA. She felt the rural housing grants are pretty sustainable and that they do cover administrative cost and wanted to know if the Alliance Development Corporation would be applying for one of those grants so that they would not have to use City/County money to pay for their salaries. Steve stated that he thought that the focus of the Alliance Development Corporation had moved away from the housing development but their by laws had kept a community and economic development focus which would allow for housing projects to be

pursued. Ms. Lee noted that housing was still noted in the LRC CDBG program income plan as a role for the Committee as well.

- Michelle Lee asked about the position description for the Historic Preservation Officer if this was what was going to be proposed. Steve stated that this was a draft and the intention was to propose approval of the position description at the next meeting. The City Code may be changed at a later date to reflect issues brought up at the recent Workshop on historic preservation.
- Vicki Blakeman asked if Steve had gotten in touch with MDT about the City Center signs. Steve stated that he had contacted them on Friday, February 14, 2003 and is waiting for their response. Once he hears from them he will respond to the City Commission.

Commissioner Lee Comments:

- She stated that she would like to note that Park Street is very bumpy and dark and asked what could be done about this. Clint Tinsley stated the street has been patched several times and that the street lights are very sensitive to light and he has directed his staff to contact Northwestern Energy several times and Northwestern Energy has not gotten around to taking care of problem.
- She also mentioned that for the bowling team challenging the County that she needed to collect another \$50.00.

Commissioner Ebinger Comments:

- He stated that he has talked to several people about the near collisions at un-marked intersections. During the winter it seems that it is harder to stop and no one seems to know who to let go first. He asked if a possible solution could be putting up more stop signs.
- He asked about the City's ticketing procedure. Moving the cars to allow getting into the downtown area. He asked for statistics of how much the parking enforcement officer's salary is as to how many tickets are written daily. Steve stated that he could get this information and bring it back to the City Commission.

Commissioner Dahl Comments:

- She asked if the Skillings Connolly letter had been sent out and if they were going to be dropped from the project. Clint stated that it couldn't be done that he is working with DOT. Sheryl stated that she wants follow-up on this contract and the 5th and Park Street Intersection done in 2003.
- She also asked about the Humane Society contract draft if this was still being pursued.
- She wanted to know about the East Side School repairs and what the status was on this. Clint stated that weather permitting is the issue for repairs.
- She also asked about the City Board member status. Steve stated that he and Pam are working on this and will let the City Commission know the status at the next meeting.

Commissioner Gregrey Comments:

- He suggested that if Police Cars could possibly be environmental friendly for fuel efficiency. He provided the article from the Wall Street Journal to the Police Chief for his review.
- He mentioned the skate board closure in Laurel, MT concerning liability issues and wanted to let the Chairman of the Skate Board be aware of those issues for our city. He provided the Recording Secretary with the article.
- He also stated that the Detention Center Committee has decided to reject the offer of the Montana Power building for the proposed Detention Center facility.

Chairman, Vicki Blakeman Comments:

- She stated that she had received a parking out of town public relations memo from Polson and would like to see the City of Livingston develop something like this.

No Public comments were given.

Motion was made by Dahl, second by Lee, to adjourn the meeting there being no further business. Motion passed.

The time was 9:50 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
March 3, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, March 3, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Sheryl Dahl, Michelle Lee, Vicki Blakeman, Bob Ebinger and Lenny Gregrey.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Pete Hart and Pam Payovich.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve February 18, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 2nd half of February 2003.
- Waive Chair Rental Fee for Film Conference at Depot Center on February 20, 2003 through February 23, 2003.
- Approve Bids for Used Equipment and Vehicles on February 13, 2003.
- Waive Rental Fee for Civic Center for Friends of the Library Book Sale on May 8, 9 & 10, 2003.

Michelle Lee asked about the Building Inspector Fees to the City of Bozeman if at some point the City is going to hire a Building Inspector and stated that it seemed that these bills were pretty large for the month of January. Steve Golnar stated that Building Inspector applications were received until February 28, 2003. Eight (8) applications were received and interviews were scheduled to take place within week or two. Jim Woodhull stated that the fees are based on the amount of activity in the City.

Bob Ebinger asked about the compound fence claim. Shirley Ewan stated that these fees were for relocating the Impound Lot. Also Mr. Ebinger asked about the laser postcard claim to MSD Computer Supply. Shirley Ewan stated that these were the water bills that the Utility Department sends out. Mr. Ebinger also asked about the Yellowstone Ballet Company claim for \$1,200.00. Steve Golnar stated that this was for a Montana Cultural Trust Grant that was pursued through the City.

Lenny Gregrey asked to have a word changed in the minutes on page 4 to "than" instead of "that" so as to read: "Lenny Gregrey gave comments on his opinion about this Ordinance and stated that he felt that it should stay at a two (2) year overlapping of office rather than a four (4) year overlapping term of office and to not have the public vote on this".

Vicki Blakeman asked about the claim for the towing of a Chevy Pickup for \$270.00 which seemed pretty high for towing a vehicle. Darren Raney stated the vehicle towed was way up in Paradise Valley and that is why the fee was so large.

All in favor of consent items, Motion passed.

Employee Recognition:

Steve Golnar gave a congratulating statement to Steve Briggs, Wastewater treatment plant Chief Operator for receiving the Waste Water Operator of the Year award. Steve Golnar also introduced Public Works Director, Clint Tinsley who gave background and stated that Mr. Briggs and himself went to Great Falls and Mr. Briggs received this award from the State Rural Water Operators Association for the excellent way that he manages the City waste water treatment plant. The City Commission congratulated Mr. Briggs on his expertise initiative and the award received.

Public Hearings:

A second reading of Ordinance No. 1923 and public hearing were heard - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CALLING FOR AN ELECTION ON THE BALLOT ISSUE AMENDING THE TERMS OF OFFICE FOR A CITY COMMISSION MEMBER FROM TWO YEAR OVERLAPPING TERMS OF OFFICE TO FOUR YEAR OVERLAPPING TERMS OF OFFICE.** No public comments were given. Lenny Gregrey gave a statement as to why he was opposed to this Ordinance and provided his statement to the Recording Secretary for the record. Some of Mr. Gregrey's main objection was that going to a four (4) year term from a two (2) year term of office took the public's ability to vote on the performance of a City Commissioner on a frequent basis. He felt that the benefits of keeping the two (2) year terms of office far out weighed any extra expense of having elections every year due to the staggered terms of office of the City Commissioners. He stated that the cost of having good government is a luxury that the citizens of Livingston can afford, by doing otherwise is cheating the public. Bob Ebinger stated that he has given this Ordinance a lot of thought and in his mind and still feels that the citizens of Livingston should have the decision to vote on this issue and that other cities in the State have a four (4) year City Commission term.

4 in favor; Dahl, Ebinger, Blakeman and Lee, 1 opposed; Gregrey, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve public hearing of Resolution No. 3367 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING THE ALLEY LOCATED IN BLOCK 21 OF THE PALACE ADDITION TO THE CITY OF LIVINGSTON, MONTANA.** No public comments were given.

All in favor, Motion passed.

Ordinances:

Motion was made by Dahl, second by Gregrey, to reconsider Ordinance No. 1922 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING A CITY PLANNING BOARD, CONSISTENT WITH STATE LAW, AND REPEALING ORDINANCE NO. 1045.**

Ordinance No. 1922 was re-visited. City Attorney, Bruce Becker, stated that he felt that State Law may have been modified by this Ordinance and he suggested that the Ordinance be changed. At the February 18, 2003 City Commission meeting Section 27-3 (D) was combined with sub-paragraph (2) to read: "Four citizen members appointed by the Chairman of the Commission who shall be qualified by knowledge and experience in matters pertaining to the development of the city and hold no other office in city government as resident freeholders within the city limits of the City of Livingston, and who may be a member of the Historic Preservation Committee". Also at that time the Section 27-4 "Organization and Administration, (3) Secretary" was revised by the following underlined addition to read: "The Planning Board may appoint and prescribe the duties and fix the compensation of a secretary, 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 City Attorney asked that the first change be deleted and returned back to its original wording to read: "Four citizen members appointed by the Chairman of the Commission who shall be resident freeholders within the city of Livingston, who shall be qualified by knowledge and experience in matters pertaining to the development of the city and hold no other office in city government."

All in favor, Motion passed.

Motion was made by Gregrey, second by Dahl, to approve second reading of Ordinance No. 1922 with amendments eliminating the wording in Section 27-3 (D) as stated above suggested by the City Attorney, Bruce Becker. Lenny Gregrey concurred with what the City Attorney suggested and stated that he believed that the inserted wording violates the State's statute creating Planning Boards. Mr. Gregrey reminded the Commission that this would be violating their oath of office and the Commission does not have the authority to change the wording of State law. Michelle Lee stated that she did not intend to change state law but only made a suggestion to add the non-binding language "who may be a member of the Historic Preservation Committee".

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve first reading of Ordinance No. 1924 - **AN ORDINANCE OF THE CITY COMMISSION OF THE**

CITY OF LIVINGSTON, MONTANA, PROVIDING FOR AN AUTOMATED GARBAGE COLLECTION SYSTEM, AMENDING CHAPER 12, ENTITLED GARBAGE, TRASH AND WEEDS, OF THE LIVINGSTON MUNICIPAL CODE AND ESTABLISHING A CIVIL PENALTY FOR VIOLATION. A public hearing will be at the next City Commission meeting on March 17, 2003 on this Ordinance.

All in favor, Motion passed.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3366 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN COLLECTIVE BARGAINING AGREEMENT WITH THE LIVINGSTON POLICE DEPARTMENT EMPLOYEE ASSOCIATION FOR FY 2003-2004, FY 2004-2005 AND FY 2005-2006.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Lee, to approve Resolution No. 3368 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DIRECTING THAT NO TOBACCO USE SIGNS BE PLACED IN MILES PARK AND WEIMER PARK.** Sheryl Dahl asked if this incorporated the Baseball Fields with Miles Park. Steve Golnar stated yes it did include all Baseball Fields in Miles Park and Weimer Park.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3369 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING REVISED POSITION DESCRIPTION FOR HISTORIC PRESERVATION OFFICER.** Bob Ebinger asked that in the Job Characteristics of the position description to insert the word "Downtown" so as to read: "This position also performs administrative duties relating to the functioning of the Downtown Historic District." Michelle Lee asked if a bullet could be added under Areas of Job Accountability and Performance to read: "Attends City Planning Board meetings." Bob Ebinger mentioned that this is a part-time position with a 20 hour work week and suggested that this would take away from the position's regular working hours and that he would be worried about that. Steve Golnar suggested under "Areas of Job Accountability and Performance" where it read: "Coordinates with other City Departments in matters where Historic Preservation issues are concerned", that "Planning Board" added after "City Departments" so as to read: "Coordinates with other City Departments and Planning Board in matters where Historic Preservation issues are concerned." The City Commission concurred.

No action was taken.

Motion was made by Lee, second by Dahl, to amend Resolution No. 3369 to add in the Areas of Job Accountability and Performance City Commission to read: "Regularly makes progress reports to supervisor for distribution to City Manager who will provide them to the City Commission".

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to amend Resolution No. 3369 to add in the Areas of Job Accountability and Performance, under bullet reading: "Coordinates with other City Departments in matters where Historic Preservation issues are concerned" to add the wording "City Planning Board" so as to read: "Coordinates with other City Departments and City Planning Board in matters where Historic Preservation issues are concerned".

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3369 as amended as stated above.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3369 as amended. Steve Golnar stated that this job would be advertised soon.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3370 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE MONTANA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF "H" STREET FOLLOWING ITS RECONSTRUCTION BY THE STATE OF MONTANA AS AN MDT URBAN SYSTEM PROJECT.** Sheryl Dahl stated that in the contract on page three (3) says City of Bozeman and this should be City of Livingston. Bob Ebinger stated that federal funding is going to be used for this project and mentioned that "H" Street is a Historical Street in the City and asked when reconstruction begins that whoever is doing the work be cautious of any Historical merits that are in place. Steve Golnar stated that the Montana Department of Transportation is going to manage this project and they will be doing the engineering and environmental review work on this project which will include a review of historical significance.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3371 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING BUDGET AMENDMENT NUMBER III AND APPROVING SIXTH AND FINAL DRAW FOR THE MILES BUILDING REHABILITATION PROJECT.** Bob Ebinger mentioned that HRDC referred to

the City Commission as the City Council in their letter and would like that to be addressed to them. Vicki Blakeman asked why the numbers were different in the Budget verses the letter from HRDC. Shirley Ewan, Finance Officer, stated that the budget was HRDC's initial plan for each expenditure section and they had to use more HRDC money in some other sections than what was proposed in their initial budget. Any expenditure overruns will be paid for by HRDC funding.

All in favor, Motion passed.

Action Items:

Motion was made by Dahl, second by Ebinger, to confirm Chairman appointments to the City Planning Board as Michelle Lee, a member of the City Commission and Clint Tinsley, one member who may be an employee of the City of Livingston or holds public office in Livingston or Park County.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to confirm Chairman appointments to the City Planning Board to Dude Tyler, Gary Blakely, John Fryer and Mark Rehder as the four (4) citizen members who shall be resident freeholders within the City of Livingston, who shall be qualified by knowledge, experience and matters pertaining to the development of the City and hold no other offices in city government.

All in favor, Motion passed.

It was requested by the City Commission to revise the City of Livingston Application for Appointed Office and add the following working to this form: "Are you currently serving on any Community Boards?"

The Commission reviewed a proposal to revised rates for dogs and cats and animal control and shelter practices in the City's agreement with the Humane Society. Michelle Lee questioned that after hour animal control services also be developed into the Resolution. Brad Haefs stated that the numbers on the identification of animals comes from the Animal Shelters quarters and is not countywide information due to the fact that the Shelter is the only one with that system information. The Commission directed the City Manager and City Attorney to develop a revised contract incorporating the changes and a Resolution authorizing the City Manager to enter into this contract.

Motion was made by Dahl, second by Lee, to appoint Tom Bergsing and Bob Ebinger for the remaining City Tree Board members.

All in favor, Motion passed.

A draft agreement was provided to the City Commission for the proposed Contract for Services with ADC and possible revisions to Resolution No. 2653. Comments on this agreement were made by Steve Golnar and he stated that this was for discussion purposes and that its not in its final form. Mr. Golnar stated that the actual work plan for each fiscal year would need to become very specific.

Michelle Lee stated that this needs to be very specific and asked how the City was going to track performance.

Bob Ebinger asked about under the Scope of Services third paragraph which stated that fiscal audits or assistance with activities not related to the CDBG funds.

Michelle Lee asked about the exhibit "A" of the Management Plan if a number five (5) could be added under the loan disbursement section to read: 5. Analysis of CDBG numbers 1-5 loan process. Also Ms. Lee stated that she is concerned that there were no performance objectives in the Agreement. Vicki Blakeman stated that she felt that this was addressed under number six (6) Compensation of the Agreement which said: "The City will release the funds after receiving the previous month's performance report". Steve Golnar stated that he concurred with Commissioner Lee that there needed to be more specifics relating to what the report is going to include and what the performance would be based on. Shirley Ewan, Finance Officer asked Commissioner Lee if she would provide her suggestions to Ms. Ewan so that she could incorporate her suggestions in the agreement.

Lenny Gregrey asked about the terminology in the exhibit "A" of the Agreement under Businesses that are to be sought as priorities to include those which: 1. Are generally non-competing (or where market saturation is not present). Mr. Gregrey asked is this state or local mandated regulations. Shirley Ewan stated that CDBG wrote that statement. Mr. Gregrey asked City Attorney what "generally" meant? City Attorney stated that maybe another word would be better. Mr. Gregrey stated that he would like a clarification of what "generally" meant from CDBG and requested response back at the next City Commission meeting. Sheryl Dahl stated that possibly they could mean geographic location for similar businesses. Vicki Blakeman concurred that the City Commission would like some clarification and better guidelines as to what the statement "Are generally non-competing (or where market saturation is not present)" means.

Sheryl Dahl asked about the effective date of the Agreement. Steve Golnar suggested that the effective date be changed to July 1, 2003 from March 3, 2003 and to expire on June 30, 2005 from March 3, 2005.

Also Sheryl Dahl asked about the note on exhibit "B" where it states: "A specific work plan will be agreed upon between the parties prior to the beginning of each fiscal year", Sheryl requested that this be done before

budget development for mid-June is completed. Michelle Lee stated that she would like to see, before this Agreement is completed, if any local option tax passes is passed by the Legislature, to have those portions of revenues used for this purpose or if a bed tax could be used for these purposes rather funds coming out of the City's general fund. She also encouraged pursuing the example of the Butte Local Corporation model and how they have a 10-year mill levy which might be good for the Alliance to have a longer term of funding. Shirley Ewan stated that she contacted Norm Klein with the Department of Administration and he stated that a mill levy would not be possible for this type of an Agreement being unless it was countywide.

Bob Ebinger mentioned that on the Agreement under conflict of interest that there was a typographical error reading: "The Contractor further covenants that, in performing this Contract, it will employ no person who has nay such interest." Mr. Ebinger suggested that "nay" be changed to "any". Mr. Ebinger asked about the statement under conflict of interest that reads: "It is possible that general members or members who serves as volunteers on the Board of Directors of the Contractor, an non-profit corporation, could have a direct or indirect interest in the CDBG Revolving Fund" and what this means. City Attorney, Bruce Becker, stated that this applies to Board member of the ADC. For example if the person goes to the bank for a loan and gets turned down for that loan and then comes to ADC for the same kind of loan then the banker does not have the right to participate in the discussion or vote on that topic as a board member of the ADC. Sheryl Dahl asked if this would be in exchange of Resolution No. 2653 and Bruce Becker stated that this would replace that Resolution No. 2653. Michelle Lee asked about the statement in the Agreement under community development that reads: "Contact point with Travel Montana". Steve Golnar stated that this would be a basic contact. Sharon Walker, representative for the Alliance, stated that Cindi Fargo, Executive Director of the Alliance, wrote the proposed list of possible contracted services and she believes that she was thinking of various coordination and development that could be funneled through the office with communication but not limiting the point of contact to the ADC.

Steve Golnar stated that one other issue that has been brought up in the past is access to City health insurance for the non-profit executive director. Mr. Golnar stated that he believes that there is some legislation which allows for governmental entities to make health insurance available to non-profit economic development directors. He was concerned that if the City created a relationship allowing access by the Alliance employee to the City's health insurance pool would that make them the City's employee? Mr. Golnar stated that he would coordinate this with the City Attorney and would respond back at a later date.

At the conclusion of this discussion Ms. Dahl requested a copy of Resolution No. 2653 be distributed to all of the City Commissioners.

Reconsideration of allocation of City of Livingston CTEP Funds to the Capitol Restoration fund was discussed. Mr. Golnar's recommendation was to decline the allocation of any CTEP funds to be considered for Capitol Restoration funding due to the amount of projects that the City has in progress and that the City's needs exceed the CTEP resources. The City Commission discussed that they felt that it would be appropriate to send some monies to the Capitol Restoration fund even if it was a small amount like \$1,000.00.

Motion was made by Dahl, second by Lee, to approve to send \$1,000.00 from the allocation of City of Livingston CTEP funds to the Capitol Restoration Fund.

All in favor, Motion passed.

The City Commission received the "Livingston Patterns Downtown" report. Steve Golnar gave comments relating to this report and stated that it was his understanding from the Commissions February workshop that the City Commission wanted the community's input before the City Commission would take any action on adopting this report.

Motion was made by Ebinger, second by Lee, to receive "Livingston Patterns Downtown" report and that it be distributed for Community input and comment.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Drawdown no. 6 and claim for HRDC for \$79,504.38.

All in favor, Motion passed.

A review of the Film Incentive Program, possible movie incentive package, and consideration of possible short term facilities contracts was discussed. Steve Golnar stated there was a possible movie proposal he was contacted about and this was placed on the agenda to allow the City Commission to act on a proposal if is were received. He was interested in reviewing and possibly changing the City's Film Policy and to consider Local incentives. Mr. Golnar mentioned that the City Commission might want to look at establishing higher standard filming fees with incentive being to offer waiver of certain fees to help attract films to Livingston. The City Commission suggested a workshop to be scheduled to develop a policy with other local businesses and organizations with similar concerns and issues that the Commission determined were necessary for the City.

The City Manager's written comments were reviewed.

- Sheryl Dahl asked about the clarification process of written documents being given to the Recording Secretary and how these are to become

permanent record. Her suggestion was to have them put with the permanent records that are filed in the Recording Secretary's office and refer to them in the minutes as being provided. Pam Payovich, Recording Secretary, suggested that the documents provided at meetings be scanned with the laser fiche when the packets are scanned and kept in files for public information.

- Sheryl Dahl stated that she was opposed to the proposal to screen the railroad underpass on North Main Street to eliminate the bird dropping problem. Ms. Dahl stated that the monthly spraying of the underpass proposal of the Public Works Director was a great idea to keep the pigeons out of the underpass. It was the concurrence of the City Commission not to screen, but spray the underpass.
- Sheryl Dahl commented about the MDT City Center signs determination by stating that she totally disagrees with MDT and would like to have this reviewed again. Her suggestion was to write a letter with comments that Livingston is a unique situation where the public motorists are diverted from our community when the signs are only located at the Exit No. 330 interchange. She felt that many motorist head due south to Yellowstone National Park without entering downtown Livingston. The City Commission unanimously agreed to direct the City Manager to write a letter arguing with the Sign Committee conclusion and arguing the City's case.
- Sheryl Dahl commented on the Grievance Policy for City Manager direct supervisees and requested to keep pushing for this to be completed.
- Sheryl Dahl asked about the 5th and Park Street Intersection status. Clint Tinsley stated that he has been in contact with the Department of Highway and the Engineering firm and they are coming up with some ideas and will report to the City Commission when completed.
- Sheryl Dahl asked about the Legion Baseball Field Announcer's Booth/Score Keepers if the City is giving any monies to them from the budget to accomplish this. Steve Golnar stated that he was only letting the Commission know that this was out there for discussion and that the City is half way through the budget. Mr. Golnar stated that the Legion Baseball would need to get this built before the season is underway. The Commission asked Mr. Golnar to bring this topic up at the City/County meeting and to discuss joint funding support.
- Lenny Gregrey asked about the cement benches offered from the Park County High School and asked where these might be placed. Clint Tinsley stated that they would be placed on the Bike Path and downtown businesses. Lenny and Sheryl offered to buy a bench a piece for anywhere that the City would like to put them.
- Michelle Lee asked in response to the letter to Amy Robins, Industry Promotion Specialist with the State of Montana regarding bed tax collections. Ms. Lee stated that she has discovered in doing some research on bed tax that within the City limits that a few of the businesses are delinquent and requested that we ask for a list of those delinquencies and possibly ask the Alliance to help to get these

businesses current as this hurts the level of bed tax that is collected by the State in the City.

- Steve Golnar wanted to remind everyone about the conference at the Depot Center with Senator Burns on March 8, 2003 from 3:00 p.m. – 5:00 p.m.

Commissioner Lee Comments:

- She stated that the City Commission bowling team is short a player for the tournament on March 15th & 16th and would like to know if anyone would be interested and that they are short \$25.00 for the team.

Commissioner Ebinger Comments:

- He stated that the Collective Bargaining Agreement for the Police Association was done in a very timely manner and wanted to congratulate those involved.

Commissioner Dahl Comments:

- She wanted to know in relation to the Police Collective Bargaining Agreement if a policy for donating sick leave had been developed. Steve Golnar stated that this is being initiated and will let the Commission know when it is done.
- She asked about the Landscaping Improvement plan if the City was working on getting the scope increased with their CTEP funds.
- She asked about the Ambulance Interlocal agreement with the County and Jim Mastin stated that this should be accomplished by the first meeting in April possibly.
- She wanted to remind everyone that she would not be at the March 17, 2003 City Commission meeting.
- She congratulated Steve Briggs on receiving the Waste Water Operator of the Year award.

Commissioner Gregrey Comments:

- He stated that he has noticed that some intersections have not been sanded during and after snow storms and requested that this be resolved.

Chairman, Blakeman Comments:

- She asked about the automated garbage collection what the time frame was on implementing the new system. Clint Tinsley stated this would go into effect probably within two (2) to three (3) weeks depending on meeting with the downtown businesses.
- She wanted to know about the snow shoveling issue and Clint stated he has been gathering some information. He noted a concern about who has the authority to issue tickets, as the City only has one (1) Code Enforcement Officer. He felt it would be a time consuming and costly program for the City to initiate without more positions capable of issuing tickets.

No Public Comments were given.

Motion was made by Gregrey, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 9:30 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
March 17, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, March 17, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Lenny Gregrey, Michelle Lee and Bob Ebinger. Sheryl Dahl was absent.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Pete Hart and Pam Payovich.

Motion was made by Ebinger, second by Lee, to approve the consent items as follows:

- Approve March 3, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 1st half of March 2003.
- Department heads monthly reports and other minutes.
- Approve waiver of Civic Center Rental Fee for the Livingston School District Class "B" Basketball Tournament which was held on February 28, 2003.
- Confirm appointment of Wayne Weninger to the Board of Adjustment.
- Consider request for waiver of fee for Sister Cities Dance at the Civic Center on March 28, 2003 at 7:00 p.m.
- Approve offer from Park County Rural Fire District #1 of 300' of 3 inch hose for the City Fire Department's old compressor and the storage bottles.

Bob Ebinger asked about the Livingston Fire/Ambulance Accounts Receivable Financial Report and as to why the County calls are collected quicker than the City calls. Shirley Ewan stated its because the Ambulance is usually picking up auto accident patients in the County and the Ambulance will *haul* anybody for a variety of needs in the City and not as many people have insurance that covers the ambulance costs so fees take longer to collect. Mr. Ebinger also asked about the consent item of not charging the Sister City group Civic Center fees and what insurance deposit meant. Steve Golnar stated that what the letter referred to, as "insurance deposit" was the event security deposit.

Lenny Gregrey asked if a conflict of interest existed with him being a member of the Sister Cities Board, and also as a Commissioner, did he need to withdraw his vote on this issue. Bruce Becker, City Attorney, stated that this was not a private board that this board was involved with the City and would not exist without the City's involvement, so he felt that there was no conflict.

All in favor of consent items, Motion passed.

Chairman, Vicki Blakeman, read a Proclamation for Arbor Day on April 25, 2003. This proclamation endorses the planting of trees and maintaining older trees in our community with the development of interaction, volunteerism, economic development and environmental conservation and encouraging citizens of our community to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in the community.

Public Hearings:

A second reading of Ordinance No. 1924 and public hearing were heard - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, PROVIDING FOR AN AUTOMATED GARBAGE COLLECTION SYSTEM, AMENDING CHAPTER 12, ENTITLED GARBAGE, TRASH AND WEEDS, OF THE LIVINGSTON MUNICIPAL CODE AND ESTABLISHING A CIVIL PENALTY FOR VIOLATION.** No public comments were given. Bob Ebinger asked about special situations where residents having several children may need more than one can and whether the cost of the extra cans could be waived. Clint Tinsley, Public Works Director stated that the residential garbage collection fee is based upon an average of one ton of garbage collected a year and this equals one automated can per household. Mr. Tinsley went on to say that if another can is provided by the City at certain residences than more tonnage of garbage would be collected there and this would be an additional cost to the City and should be to the resident as well.

Lenny Gregrey asked about the disposal of the old trash cans and rack if the resident does not want the City to pick them up, how does the resident mark them. Mr. Tinsley stated that if you want your cans and rack picked up by the City after the automated garbage collection is in place residents should mark the cans and rack with an "X" so that it is visible to the City crews, or residents can call the Utility Office and communicate their desires.

Motion was made by Gregrey, second by Lee, to approve second reading of Ordinance No. 1924.

All in favor, Motion passed.

The first reading and comments of Public Hearing for CDBG Program were heard. Steve Golnar gave background information relating to this program. He stated that the City had received an indication of interest from Printforless.com for this grant to help in purchasing a print press for their organization. This would create additional jobs in the community. Mr. Golnar stated that the process for applying for community development block grants economic development program funds includes having two (2) public hearings. He went on to say that the first public hearing would be relating to the general philosophy of if the City wants to get involved in applying to the

Montana Department of Commerce for a CDBG Economic Development loans of approximately \$400,000.00 for the Printforless.com organization to purchase a printing press. The repayment of the loan would then go to a revolving loan fund. This revolving loan fund would be set up for the City to administer the funds, or the City could sign a sub-recipient agreement with another group and have them agree to manage the loan fund. The second public hearing will be based on if the City wants to pursue applying for community block grant funds from the State for a specific project which would create potential jobs in the community. Guidelines for the CDBG Program were provided. Steve Golnar briefly discussed the specifics of these guidelines for these types of grants. He encouraged that if anyone knows of any other businesses interested in this funding to please let him know at the City office and he will provide them with a grant application packet.

Cindi Fargo, Executive Director of the Alliance Development Corporation, provided the Commission with a letter of support for applying for the CDBG funds for business loans. In her comments she stated that the Alliance Development Corporation is working with the Montana Department of Commerce to secure additional Housing and Urban Development CDBG funds for business loans. Ms. Fargo commented that the requested funds would stimulate business and manufacturing expansion and result in job creation for the community. She concluded by commenting that additional information regarding this proposed request will be at the next City Commission meeting on April 7, 2003. Ms. Fargo stated that this would be additional new funding over and beyond loan funds available from existing community revolving loan programs.

Steve Golnar stated that he had received a call from a Lori Tokash that she stated an interest in seeing teens in our community having a place to interact such as an Arcade or a Skating Rink.

Vicki Blakeman stated she had received a visit from Ann Hallowell and she wanted to mention that public restrooms would be a good project and a tree replacement program.

Another public hearing will be scheduled for the April 7, 2003 City Commission meeting on the CDBG Program.

Resolutions:

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3365 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN COLLECTIVE BARGAINING AGREEMENT WITH AFSCME LOCAL 2711A FOR FY 2003-2004 AND FY 2004-2005.** Lenny Gregrey asked about Addendum "C" Working Conditions (C) Shop Usage by Employees if this was for employees after working hours. Steve Golnar stated that "yes" it was for employees after working hours. Bob Ebinger asked what call-outs under

Article IX - "Compensation" was. Clint Tinsley's explained that this section pertains to employees getting called out to a work related issue after an eight (8) hour day. Steve Golnar thanked the Commission for its support and direction, Staff for its assistance and the AFSCME Local 2711A for negotiating this agreement in a timely manner.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3372 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH PARK COUNTY HUMANE SOCIETY TO CARE FOR ANIMALS IMPOUNDED BY THE CITY OF LIVINGSTON.** Lenny Gregrey asked that the cat licensing fees requirements be integrated into an Ordinance and brought back to the City Commission for approval at a later date.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3373 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING ITS POLICY REQUIRING EVENT SPONSORS TO REIMBURSE THE CITY FOR INCURRED COSTS WHEN OFF-DUTY POLICE OFFICERS ARE CALLED IN TO PROVIDE ADDITIONAL POLICE SERVICES RELATED TO EVENT.** Bob Ebinger asked about the memorandum from Darren Raney, Police Chief, relating to this Resolution where it states the hourly rate differential per officer. Darren Raney stated that this shows what they get paid on a regularly basis and what they would be paid during a special event (off-duty). The difference is for payroll multipliers above the time and one half rate.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve updated Application for Appointed Office. Lenny Gregrey asked if the question could be added to the application "Is your spouse or a family member working as a City employee or serving on a City Board?" Bruce Becker stated that he would have to look into this issue and get back to the City Commission at the next meeting. Michelle Lee asked if under question no. 7 "Are you currently serving on any Community Boards", could a sub-section "a" be added to read: "If yes, what boards are you serving on"? It was discussed among the City Commission and Staff and determined to bring this back at the next meeting.

No action was taken.

Motion was made by Gregrey, second by Lee, to remove motion and table for the next meeting.

The next item on the agenda was for further discussion on record retention issues and determined to table until the next meeting for all City Commissioners to respond.

Motion was made by Lee, second by Ebinger, to take action to keep the 4th Ambulance. Lenny Gregrey gave comments and provided a written document to the Recording Secretary for the record. Mr. Gregrey questioned the way of reporting the information for keeping the 4th Ambulance. He stated that he felt that if clerical office staff and other claim processing time would have been included into the figures that the methodology used to get the profit of \$26,000 would have been lower. He referred to the methodology used to compute parking ticket revenues and costs at the last City Commission meeting. Bob Ebinger stated that he felt that the 4th Ambulance is needed.

3 in favor; Ebinger, Blakeman and Lee, 1 opposed; Gregrey, Motion passed.

Motion was made by Ebinger, second by Lee, to approve Ranch Supply minor Subdivision. Steve Golnar gave background information relating to this request. He stated that this request had been reviewed by the DRC and their recommendation was for approval of this minor subdivision. This request is from David and Danielle Mooneyham proposing to subdivide their exiting tract in Block A of the Original Townsite into three (3) lots. All proposed lots will be served by existing City Sewer and Water and all lots will be accessed by existing City Streets.

All in favor, Motion passed.

Motion was made by Gregrey, second by Ebinger, to approve the proposed non-union employees Grievance Policy and move forward integrating the policy into the Policy and Procedures Manuals for the City of Livingston. Lenny Gregrey stated that he felt that the revisions and the outline before the Commission describing the process when a Grievance has been issued with the City Manager is professional. Mr. Gregrey also stated getting a professional mediator involved is much better than having a representative from the community who may have or may not have the ability to hear and handle the grievance. Steve Golnar stated that this is a general policy and a Resolution will be developed which will amend the current policies and procedures manual and they will be brought to the City Commission after reviewed by Staff.

All in favor, Motion passed.

Motion was made by Lee, second by Gregrey, to approve letter to Park County indicating City's intention to pursue annexations with an eye toward encouraging efficient service delivery for the current and future residents of our community. Steve Golnar gave background information relating to this

issue. Mr. Golnar stated that a bill relating to annexation and deferring the deadline for adoption of a growth policy was passed by both the House and the Senate and was on the Governor's desk for signature. He stated that what this did was to allow Cities to pursue annexation in the absence of an adopted growth management policy using their currently adopted comprehensive planning document as the plan of record. This would allow for extension of Utilities of the City. Michelle Lee asked how would the City pay for this? Steve Golnar stated that the City would not be able to pay for this issue alone that the City would have to ask the County and the property owners of the community for their commitment. Public facilities Community Development Block Grants would also be pursued. Ms. Lee asked if this would affect the impact fees or contractor fees. Steve Golnar stated that system development fees would be assessed as a matter of course.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about including the Sister City Committee meetings on the Calendar of Events and stated that they were every 3rd Wednesday of every month.
- Bob Ebinger mentioned the Annexation meeting with the County Commissioners scheduled for March 18, 2003 at 10:30 a.m. if anyone could participate. Steve Golnar stated that City Commissioners would be welcomed if they would like to attend.
- Lenny Gregrey asked about the information provided from the Angel Line Board from their meeting on January 13, 2003 clarifying their statement that the City Commissioners questioned the Angel Line's policy of taking passengers to Bozeman on combined medical and pleasure trips. Mr. Gregrey stated that this was a concern of the previous City Commission and that 3 of the 5 previous Commissioners were against taking passengers to Bozeman to do their shopping but indicated that he can see their efforts are benefiting for medical trips. Michelle Lee asked if the Building Inspector position selection has been completed. Steve Golnar stated that it should be completed by tomorrow, March 18, 2003.
- Michelle Lee also mentioned that she was not allowed to be on the Angel Line Board due to the fact that the Board already has a City representative and the Board is only allowed nine members. Ms. Lee stated that the Angel Line Board said she is welcomed to attend and would be receiving meeting notifications. She also asked if Angel Line had received their grant that they applied for with the Department of Transportation for a new van. Steve Golnar stated that he would let the Commission know what they have found out after their next meeting which will be on Monday, April 14, 2003.

Commissioner Lee Comments:

- She asked if the City had a plan for responding to economic dislocation experienced by anticipated reductions in tourism this upcoming year.

*were not
against taking
passengers to
Bozeman to shop*

She stated that tourism is going to be affected with the price of fuel rising, with the sagging economy and the war in place. She suggested that the City get a plan in place for marketing so that the City's tourism would not be affected and be pro-active.

- She also mentioned that she wanted to thank the Bowling Team for the City which did very well against the County Bowling Team. She wanted to thank everyone involved for their efforts.

Commissioner Ebinger Comments:

- He wanted to know when the Historic Preservation Officer position was going to be advertised. Steve Golnar stated that it would be advertised within the next week or two. He also noted that the City Codes had to be revised for Historic Preservation and that this effort is separate from advertising for the Historic Preservation Officer position.
- He mentioned the tour for the Printforless.com was to be held on Tuesday, March 18, 2003 and hoped that everyone could attend.

Commissioner Gregrey Comments:

- He asked that the City Manager and the City Attorney draft an Ordinance for Cat Licensing and bring it back to the City Commission at the next meeting.
- He apologized for not being able to attend the Bowling Tournament as the cheerleading delegate as he had other obligations.

Chairman, Blakeman Comments:

- She thanked Ms. Lee for organizing the Bowling Team.

No Public Comments were given.

Motion was made by Gregrey, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 8:40 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
April 7, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, April 7, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Bob Ebinger, Vicki Blakeman, Michelle Lee, Sheryl Dahl and Lenny Gregrey.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Pete Hart and Pam Payovich.

Motion was made by Lee, second by Gregrey, to approve the consent items as follows:

- Approve March 17, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 2nd half of March 2003.
- Confirm Chairman's appointment of County representative, Ann Hollowell, for the City Planning Board.

Bob Ebinger asked about the claim to the Department of Environmental Quality for \$2,075.00. Clint Tinsley, Public Works Director stated that this was for the discharge permit for the Wastewater Plant. Mr. Ebinger also asked about the Northwestern Energy bills for the Sewer Plant of \$2,199.72 if this was an average amount. Clint Tinsley stated that they were a little above average.

Lenny Gregrey stated that he would like to add a word to the minutes where it states: "Mr. Gregrey stated that this was a concern of the previous City Commission and that 3 of the 5 previous Commissioners were against taking passengers to Bozeman to do their shopping" to add the word not to read: "Mr. Gregrey stated that this was a concern of the previous City Commission and that 3 of the 5 previous Commissioners were not against taking passengers to Bozeman to do their shopping."

Vicki Blakeman stated that she would like to change the word of the minutes where it states: "Shirley Ewan stated its because the Ambulance is usually picking up auto accident patients in the County and the Ambulance will hall anybody for a variety of needs in the City" to change the word hall to haul to read: "Shirley Ewan stated its because the Ambulance is usually picking up auto accident patients in the County and the Ambulance will haul anybody for a variety of needs in the City."

Ms. Blakeman also asked about the claim to L.N. Curtis & Sons for \$18,500.00 and as to what kind of compressor it was for. Jim Mastin, Fire

Chief, stated that this was for a new air compressor for the Fire Department that was purchased with grant assistance.

All in favor of consent items, Motion passed.

Public Hearings:

A second public hearing for CDBG Economic Development proposed application for a low interest loan to expand an existing business (Printingforless.com) was held. A written letter of support for this project was provided by the Alliance Development Corporation.

Motion was made by Ebinger, second by Lee, to direct Staff to work with Printingforless.com the Alliance Development Corporation and the State Department of Commerce in developing a Community Development Block Grant (CDBG) economic development loan application in the amount of \$400,000.00 and authorize City Manager to sign this application. Steve Golnar gave background information relating to Printingforless.com and their request for assistance from the City to purchase a printing press so that they could expand their business, and create jobs in the community. Mr. Golnar stated that the proposed request to the State is \$400,000.00 with \$368,000.00 being loaned to Printingforless.com and \$32,000.00 being used for administrative expenses. Mr. Golnar also stated that he had reviewed the job creation requirements of the community development block grant loan funds with Mr. Al Jones, Regional Development Officer for the Department of Commerce, and Mr. Jones indicated to him that Printingforless.com does meet the job creation requirements. Not only will the acquisition of the new press create the need for six (6) new jobs, but it would also allow for Printingforless.com to continue growing at a rate of approximately two (2) jobs per month. The salaries for jobs at Printingforless.com range from \$35,000 to \$40,000 per year. Printingforless.com also provides benefits which means that these jobs are of a living wage level with benefits. Mr. Golnar commented that Printingforless.com is pursuing training of new employees estimated to cost approximately \$948,000.00 over a two (2) year period. The State is considering approving additional assistance for this training. Mr. Golnar concluded by stating that this is a positive addition to the skill level of the City's local employment pool and beneficial to the community's economic development.

Bob Ebinger commented that if in fact the City helps with the assistance of this CDBG loan which Printingforless.com has applied for then would they have to stay in the City or if not would they have to repay the loan.

Dan Rice of Printingforless.com gave comments thanking the City for its support of this economic development loan in order for them to expand their business so far. Mr. Rice stated that the intentions of Printingforless.com are to stay in the community. He identified that the company is looking at three

final locations in Park County for expansion of their facilities and this should make their intent to stay in the area possible.

All in favor of directing Staff to work with Printingforless.com the Alliance Development Corporation and the State Department of Commerce in developing a CDBG economic development loan application in the amount of \$400,000.00 and authorize City Manager to sign this application, Motion passed.

Ordinances:

Motion was made by Gregrey, second by Dahl, to approve first reading of Ordinance No. 1925 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 14-13.2 OF ORDINANCE 1329, AS AMENDED BY ORDINANCE NOS. 1639, 1802, 1804, AND 1868, REQUIRING NON-CITY RESIDENTS AND BUSINESSES TO WAIVE ANNEXATION AS A CONDITION OF CONTINUING TO RECEIVE CITY SEWER SERVICE.** Steve Golnar gave background information relating to this Ordinance. Mr. Golnar stated that this Ordinance was in follow-up to policy direction that City Commission has given to allow for extension of the City's boundaries to include those areas in which Infrastructure in currently extended. Bruce Becker stated that the City would have the right to extend their boundaries by annexation to any property which is currently served by utilities if this and the next Ordinance are passed. A public hearing will be held at the City Commission meeting on April 21, 2003.

All in favor, Motion passed.

Motion was made by Ebinger, second by Dahl, to approve first reading of Ordinance No. 1927 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 13-19 OF ORDINANCE 1658, AS AMENDED BY ORDINANCE NO. 1706 AND ORDINANCE NO. 1794, REQUIRING NON-CITY RESIDENTS AND BUSINESSES TO WAIVE ANNEXATION AS A CONDITION OF CONTINUING TO RECEIVE CITY WATER SERVICE.** This Ordinance is the same as for sewer service annexation as stated above. A public hearing will be held at the City Commission meeting on April 7, 2003.

Resolutions:

Motion was made by Dahl, second by Lee, to approve Resolution No. 3374 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RELATING TO \$250,000.00 SOLID WASTE SYSTEM REVENUE BOND, SERIES 2003; AUTHORIZING THE ISSUANCE, AWARDED THE SALE AND FIXING THE TERMS AND CONDITIONS THEREOF AND CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY THEREFOR.** Sheryl Dahl asked if Shirley Ewan was able to get her question answered as to whether the City would be required to make

monthly payments or semi-annual payments. Shirley Ewan stated that she had not received answers back as of yet.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3375 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ITS GRIEVANCE POLICY FOR NON-UNION EMPLOYEES.**

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3376 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DESIGNATING THE COMMUNICATIONS SERVICES DIRECTOR AS A FLSA EXEMPT EMPLOYEE.**

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3377 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING HIPAA COMPLIANT POLICIES FOR THE AMBULANCE SERVICE, AMBULANCE BILLING AND THE CITY'S MEDICAL FLEX PLAN.** Steve Golnar stated that "Exhibit A" is not in the packet as it was a 50 page report and in order to keep the packet down to a minimum he did not include it. It was available for anyone to review and would be filed with the Resolution.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3378 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AMENDMENT NO. 1 TO AGREEMENT WITH THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR PRELIMINARY ENGINEERING STUDY OF THE LIVINGSTON DITCH.** Bob Ebinger asked about the date due of March 31, 2003. Steve Golnar stated that the Department of Natural Resources and Conservation had been contacted and the City was given an extension date.

All in favor, Motion passed.

Action Items:

Motion was made by Dahl, second by Lee, to adopt the revised Application for Appointed Office as written March 17, 2003.

All in favor, Motion passed.

Motion was made by Ebinger, second by Lee, to accept the record retention policy for placing documents received from the Commission and public in the following City Commission packet. Lenny Gregrey stated that he wished to have the information in the packet that is provided to the Recording Secretary at a City Commission meeting in the following packet so as to be able to review them and clarify any questions that may be asked of him from the community.

All in favor, Motion passed.

The possibilities of the City requesting a City appointee on the County Planning Board was discussed among the City Commission and Staff. Steve Golnar stated that he would not recommend doing this because the only way that the City can have a representative on the County Planning Board is if there is a Countywide Planning Board only. The City has a City Planning Board and the County has a Planning Board which serves to the City limits. The City would have to eliminate the City Planning Board in order to have a representative on the County Planning Board. The Commission took no action as they did not want to pursue this further. The City Attorney informed the Commission that anyone can attend the County or City Planning Board meetings as a citizen.

Motion was made by Dahl, second by Ebinger, to authorize City Manager to write a letter to CTEP Bureau requesting the extension of the Scope of the Landscaping Project from \$44,753 to \$104,753. Sheryl Dahl asked about the 13% that is necessary for the City to match. Steve Golnar stated that the increase to the match would be included in the budget for next year budget. Michelle Lee had asked if City work toward this project could count as a match. Steve Golnar stated that it was possible that the City could count City work toward the project as a match, if the City identified this work as part of the costs. Clint Tinsley will be tracking the hours worked to account for the costs relating to this project so that it can be used for the match amount. Lenny Gregrey stated that when he sees a 60% increase in a project he gets a little nervous. Mr. Gregrey went on to say that he was uncomfortable with the increase as the scope of work was changed significantly. Sheryl Dahl concluded by stating that the administration of CTEP projects is very expensive and time consuming so it is more economic to have a large project rather than a small project.

4 in favor; Lee, Ebinger, Dahl and Blakeman, 1 opposed; Gregrey, Motion passed.

A review of the draft of the Cat Licensing Ordinance was discussed. Steve Golnar gave background information relating to the Cat Licensing Ordinance proposed. He stated that assessing a fee for cats could possibly be pursued through an honor system. For instance, if a cat was picked up by the Humane Society then they could assess a fee to the owner once the cat is picked up. This issue was brought to the City Commission to pursue cat

licensing because of an ordeal that occurred last year when the Humane Society processed an abundance of cats in one household and charged the City a fee of \$2000.00 for boarding these cats. Steve suggested that this fee could be covered through the Solid Waste fee as a budget line item if no cat licensing fee were imposed. Sheryl Dahl stated that she was against adopting a Cat Ordinance. Ms. Dahl stated that she did not feel that cat licensing would be necessary because of a one time ordeal that took place last year. If the City would like to pursue some kind of licensing for cats Ms. Dahl suggested to budget a small amount for situations as the one last year and not license cat owners on a yearly basis. Lenny Gregrey stated that he would like to see cat owners license their animals just the same as dog owners. Sheryl Dahl commented that she felt that cats do not create ruckus and that cat owners are not going to pay for cat licensing.

Shirley Ewan of 120 South 10th Street commented that people paying for part of something they don't have is going to create an uproar. Ms. Ewan stated that people complain about street lights not having street lights but having to pay for the usage of the lights through taxes. She stated also that the Code Enforcement Officer is not going to have the time to pick up cats.

Deon Lackey of 122 West Geyser Street stated that she has two house cats. Ms. Lackey stated that she has raised these cats from kittens. She stated that this would be an added expense to the community that is not necessary because cats stay near their house and don't roam the streets.

Nancy Warfel of 515 West Callender stated that it is very expensive to have a cat with having to buy cat food and cat litter. She went on to say that most cat owners keep their cats in the house rather than outside. She doesn't believe that cats are a nuisance, as they do not roam around the town.

Mark Rister of the Absaroka Apartments commented that it doesn't make sense to license cats. He made comments as to how would the City know who owns cats. He suggested that if the City is looking for a way to make money then why not have people who own bicycles license them. People who have bicycles slow down traffic and cut off people that are driving cars at intersections without signaling.

Michelle Lee asked if there was any way to possibly assess a fee against an estate in isolated instances when the City has to put out money to move the cats. The City Attorney, Bruce Becker answered by stating that the City would have to have some kind of basis to assess a fee. Ms. Lee asked if the Ordinance could narrow the fee to those isolated instances. Bruce stated that there would have to be some kind of penalty for doing something wrong.

Vicki Blakeman asked if the City could regulate the number of cats that people could own is what she would like to see and also the differential impoundment fee charging for unaltered animals that are found at-large.

Motion was made by Lee, second by Dahl, to bring a draft Ordinance back at the next meeting with Brad Haefs, Code Enforcement Officer present for answering any questions and to have draft Ordinance narrowly focused without licensing cats. Bruce Becker stated that he had a problem with charging between altered and unaltered animals if the City does not have the right to pick up cats then the City couldn't charge fees. Mr. Becker suggested the simple solution would be to impound cats at-large.

No action was taken.

It was requested by the City Commission to have a draft Ordinance brought back at the next meeting with a limited number of cats allowed in one household or a fee would be assessed and not to license cats. Steve Golnar stated that he would commit to having Brad Haefs at the next meeting.

Motion was made by Dahl, second by Ebinger, to approve the Federal Appropriations/Technical Assistance Request for 2003-2004. Steve Golnar stated that this Federal Appropriations request submitted to the Congressional Delegation was developed on a short time-line and wanted to assure that the Commission was consistent with the priorities and items identified.

Motion was made by Lee, second by Dahl, to change the Federal Appropriations/Technical Assistance Request for 2003-2004 in order of priority to: change no. 1 to no. 2 and no. 2 to no. 1 and change in no. 4 the order from a, b, c, d to b, c, a, d. The order of projects by priority would be:

1. West railroad crossing feasibility study.
2. Infrastructure development to encourage economic development.
3. Downtown/Business District Re-development.
4. Other Projects.
 - a. Bring the Burlington Northern Livingston Railyard Clean-up to a productive conclusion which results in assurances of health and safety for the community and creates the ability for productively using vacant property within the affected area as a business/industrial park.
 - b. Funding and technical assistance for employee retention, business expansion and job growth for area major employers.
 - c. Matching funding for Livingston Depot Roof Replacement and Structural Stabilization Project.
 - d. Livingston community trails master plan and phased development strategy.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Federal Appropriations/Technical Assistance Request for 2003-2004 as amended.

All in favor, Motion passed.

A discussion of parking issues was reviewed. Steve Golnar stated that this was a request of the Commission for courtesy parking tickets for out-of-town visitors. Steve stated that Mr. Raney, Police Chief identified that courtesy parking tickets to out-of-state visitors in violation of two (2) hour parking have been issued for quite sometime. Letters have been received from people from out-of-town that have received parking tickets and their concerns as to why this happens when they bring their shopping to Livingston. Steve Golnar stated that it is difficult to identify those people that come to Livingston to shop and those that work in the area with out-of-town license plates.

The City Commission decided to have a Workshop on April 14, 2003 at 7:00 p.m. in the Community Room of the City/County Complex to discuss options relating to out-of-town courtesy tickets standards, Parking Code proposed revisions and the draft Parking Boot Ordinance. The Police Chief and the Parking Enforcement Officer were requested to be in attendance at this Workshop as well.

The status of the East Side School was reviewed. Steve Golnar stated that this was put on the agenda per the request of the City Commission. Clint Tinsley stated that the maintenance of the East Side School has been put on hold due to the weather. Mr. Tinsley stated that he talked to the Contractor and the Contractor stated that he would give a bid to do the repairs as soon as the snow has melted off of the roof. Bob Ebinger stated that he would really like to see this done within the next two (2) weeks due to the spring rains coming upon us. Lenny Gregrey asked when the City put the East Side School up for sale if it was only advertised in-state. Steve Golnar stated that it was advertised only within the State. Bob Ebinger suggested that the City advertise the East Side School for sale not only in-state but also nationally in the National Trust Magazine. Sheryl Dahl stated that the repairs of the East Side School is a priority before the City puts the School up for sale for financial purposes. Steve Golnar stated that he would bring an update on the progress of the East Side School repairs and moving the archives back at the next City Commission meeting.

A request for comments from the City on the Yellowstone River Bridge, northeast of Livingston from Montana Department of Transportation was discussed. Bob Ebinger asked that all correspondence on this issue be forwarded to all of the representatives of the Montana Department of Transportation as copied on the letter from David Evans and Associates Inc.

Motion was made by Dahl, second by Lee, to direct City Attorney to prepare an agreement with Skillings Connolly Engineers for design of 5th and Park

Street intersection improvements and a Resolution authorizing City Manager to sign it. Bob Ebinger stated that he had talked with Western Photo management and they are concerned about not having any parking for their customers if a "no parking" zone is initiated on Park Street. They own the parking lot next to the building but customers do not know the parking lot is for them. It was suggested that they put up a sign to indicate that the parking lot was for customers of Western Photo. Sheryl Dahl asked about the issue of getting access onto Park Street from 5th Street in northern lane coming from Front Street and possibly not having a left turning lane on to Park off of 5th Street. Bob Ebinger stated that he would like to see the Urban Design Plan completed as designed.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to direct City Attorney to prepare an Ordinance establishing a no-parking zone between 5th and 6th Streets on Park Street. Sheryl Dahl asked about the parking lot for Western Photo be implemented to enter off of Park and exit through the T-alley. Bruce Becker stated that it is hard to regulate a business parking lot. Bob Ebinger stated that he felt that some residents on that alley have complained in the past about people cutting the corner through the alley is going to be an exit out of the parking lot to the alley for Western Photo that the residents on that alley be notified.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the correspondence letter of Livingston being named as a Tree City USA and in the connection with that he stated that there was discussion of beavers at the City/County Meeting. Mr. Gregrey stated that beavers belong in the wild. He also stated that trees take about 15-30 years to mature to their full growth and beavers can take them down in about six (6) bites. The beavers need to be removed either by trapping or some other source.
- Bob Ebinger asked about the grants/funding. He stated that one of the previous commissioners, Thomas Romans, asked last year for an Art Center Auditorium. Mr. Ebinger stated that he felt that Livingston could use this kind of Center and that the City already has a structure that could be used for this which is the Civic Center and that the City should look into restoring the Civic Center so that the City can have art events take place there.
- Michelle Lee stated that she had a comment about the Yellowstone Country piece of information. She stated that she did not trust the Department of Commerce comment on bed tax revenues because they rely on the Department of Revenue. She went on to say that the Department of Revenue bought a "pig in a poke" about five (5) years ago and their computer system still doesn't work. She has some deep concerns about the accuracy of the figures that come out of the

Department of Revenue. Ms. Lee asked if there was some way to request a copy of the quarterly reports that the lodging facilities submit either from the facilities themselves or the Department of Commerce or Department of Revenue. She concluded by stating that she finds it very hard to believe that the City of Livingston has not increased their bed taxes in the last seven years especially with all of the grant money that the City has received. She felt it is very important that the City get a handle on this, as this is money coming into the City.

- Michelle Lee asked about the upcoming grants that the City is considering applying for especially the CDBG Planning grants for growth management planning, the CDBG Public Facilities grants, and the CDBG Housing Grants for 2004 if there had been letters of invitation sent. Steve Golnar stated that the growth management for planning is directed towards growth management plans and the City Planning department will be submitting a proposal for trying to advance the City's growth management efforts. Mr. Golnar stated that the public facilities grant advertisement has already gone out and the public hearings will take place on April 21, 2003 and May 5, 2003.
- Bob Ebinger asked about where the Historic Preservation Officer position was advertised. Jim Woodhull stated that it goes through Job Service.
- Steve Golnar stated that Jeanne Marie Souvigney with the Mayors Landing Committee was present and that was why he had the Mayor's Landing Clean-up in his comments. A letter from Jeanne Marie Souvigney was provided in the packet. Some of Ms. Souvigney issues in her letter were the community trail system in Livingston and Park County, and the footbridge across the Fleshman Creek channel from Mayors Landing to the north side of town. She also stated that she had concerns about the abandonment of City rights of way and asked about adopting a policy for evaluating such requests.

Commissioner Lee Comments:

- She asked about the need to start planning for the economic downturn. She stated that she has been working on grants for tourism and the numbers indicate that the City of Livingston is going to be hit with a 25% decrease and that the City Commission needs to take a leadership role in tourism and have a task force so as to be prepared for the economic adjustment money.
- She also mentioned the traffic on Geysers Street. She felt it was too fast particularly for young children.

Commissioner Ebinger Comments:

- He commented that he had copies of the "Dollars and Cents" movies and that it has some excellent ideas on development issues and encouraged everyone to look at it.
- He also mentioned that he would be absent at the May 5, 2003 City Commission meeting.

Commissioner Dahl had no comments.

Commissioner Gregrey Comments:

- He asked about the Old Water Plant Building Clean-up progress. Clint Tinsley stated that everything has been done except for the sacks of alum to be removed in the upstairs area.
- He asked about the trash pick-up when the City goes to the automated system how do residents make arrangements for items that do not fit in the can to be picked up. Clint Tinsley stated that those residents can contact the Utility Office and they will make arrangements to pick up those items that do not fit into the cans. Mr. Gregrey asked about the length and width rules for tree branches if they were still the same. Clint Tinsley stated, "yes" and mentioned that the Utility Department still has lawn pickups on the boulevards every Monday and that they will also take leaves and branches on the boulevard in addition. Clint Tinsley stated that Spring Clean-up is May 5, 2003 so if anyone wants anything picked up to have it out that day.

Chairman, Blakeman had no comments.

No public comments were given.

A short recess was taken at 9:40 p.m. to close the meeting for an executive session, closed session to the public, for the City Manager. Vicki Blakeman, Chairman, stated the rights of the person's privacy preclude the rights of the public so that the City Commission went into executive session.

The meeting went back in session at 9:50 p.m.

Motion was made by Gregrey, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 10:39 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
April 21, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, April 21, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley and Pam Payovich. Absent were Shirley Ewan and Peggy Glass.

Motion was made by Dahl, second by Ebinger, to approve the consent items as follows:

- Approve April 7, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 1st half of April 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve Special Events Requests:
 1. Patricia Coleman Foundation's Children's Health River Run on May 17, 2003.
 2. Club Boxing in Civic Center on April 25, 2003.

Bob Ebinger asked that he would like to change a word to the minutes under City Manager's written comments where it stated: "Mr. Ebinger stated that he felt that Livingston could use this kind of Center and that the City already has a structure that could be used for this which is the Civic Center and that the City should look into restoring the Civic Center so that the City can have art events take place there" to change the word art to community.

Mr. Ebinger asked about the bill for the Stephen Potenberg as a Public Defender and what this was for. Steve Golnar stated that Mr. Potenberg provides public defender services for the City on a periodic basis. Also Mr. Ebinger asked about the Yellowstone Locksmith claim for locks of \$3,547.00. Brad Haefs stated that these were locks for the new automated garbage collection.

Michelle Lee asked about the claim from Normont Equipment in the amount of \$4,000.00 for barricades and candle sticks and if these were in addition to traffic control equipment that the City already owns. Steve Golnar stated that yes these were in addition to what the City owns and some replaced broken equipment in preparation for the Infrastructure projects that are upcoming.

Ms. Lee also asked about the claim from the Office of Public Instruction for a workshop for \$500.00. Jim Mastin stated that this was for registration fees for the Emergency Operation Force Conference. Also Ms. Lee asked about the claim for WispWest.net of \$323.50 that she thought that the City had a contract with them and that there were negotiated services or a trade off for their services. Steve Golnar stated this bill was for installation into the Utility Office for Internet service not for the City office, which was the initial agreement with WispWest.net. Clint Tinsley stated that there would be a \$45.00 per month charge in addition to the initial hook up charge. Mr. Golnar said he would follow-up on the North Hill agreement with WispWest.net and the recent arrangement with the Utilities Department.

Lenny Gregrey asked if he could receive clarification of the statement that Bob Ebinger made in the minutes about "the City helps with the assistance of this CDBG loan which Printingforless.com has applied for then would they have to stay in the City or if not would they have to repay the loan". Bob Ebinger stated that if they moved out of the City that they would have to pay back the CDBG loan to the City moved into the County would they have to pay back the CDBG loan. Mr. Golnar stated that the minutes should be revised to read "community or area" rather than City.

All in favor of consent items, Motion passes.

Scheduled Public Comments:

A scheduled public comment was given by Trygg Heintz of 112 North Yellowstone discussing Senate Bill No. 399 entitled: "An Act allowing a Municipality or County to request that the United States Department of Transportation establish railroad crossing quiet zones through which locomotive horns and bells are not routinely sounded; requiring the Municipality or County to describe how required supplemental safety measures will be implemented at those crossings providing that a quiet zone may not be established unless certain procedures are followed allowing a railroad company to permit its trains to pass through designated quiet zones without sounding their horns and bells; exempting a railroad company and employees from liability amending section 61-8-347, 69-14-562, and 69-14-610, MCA; and providing an immediate effective date." Mr. Heintz stated that this is so appropriate for the City of Livingston, considering all the train traffic it has and the fact that so much of the "blasting" is to warn hypothetical "daredevils" who may try to cross the tracks in spite of all of the other warning devices already in place. Mr. Heintz asked the City Commission to consider a request of making an Ordinance designating the City of Livingston as a Quiet Zone from routine train horns and whistles. Mr. Heintz also stated that certain safety issues may need to be applied and that there is funding available.

Motion was made by Lee, second by Dahl, to bring this back to the City Commission if Senate Bill No. 399 becomes a law possibly by the June 16, 2003 City Commission meeting.

All in favor, Motion passed.

Chauncey F. Whitright, III, Fort Peck Tribes/Indian Memorial representative, provided a letter to the City Commission because he was not able to attend in person. He thanked the City of Livingston for their strong support of the new Indian War Memorial at the Little Big Horn Battlefield which will be held on June 25, 2003 at the Little Big Horn Battlefield. Steve Golnar gave background information relating to this Indian War Memorial. Mr. Golnar stated the Mr. Whitright is inviting the City Commission to be involved in this Memorial Celebration. He was also asking the City's support in lining up some area celebrities to either attend or get involved directly with the Indian War Memorial and Crow Native Days Celebration.

Motion was made by Ebinger, second by Dahl, to approve the Findings of Fact relating to the Variance for Allen Knauber, owner of property located at 610 East Callender Street requesting a variance from the front setback requirement for RII zoning districts. Mr. Knauber asked to add a window well to his existing home in order to provide for emergency egress out of the basement. A variance is required because the original placement of the house is only three (3) feet from the front property line. Code requires a twenty-five (25) foot front setback. Jim Woodhull, City Planner, gave background information relating to this issue and recommended that the City Commission approve this variance.

All in favor, Motion passed.

Motion was made by Ebinger, second by Dahl, to approve Variance for Allen Knauber property located at 610 East Callender Street.

All in favor, Motion passed.

Public Hearings:

A second public hearing for CDBG Economic Development. Steve Golnar stated that there are two (2) public hearings required for this process and applications are due by May 23, 2003. Mr. Golnar stated that CDBG funds are often used in combination with other federal, state, or local funds to make basic community infrastructure improvements, such as drinking water and waste water facilities, affordable to low and moderated income families. Mr. Golnar went on to say that public-facility projects can also include facilities designed for use predominantly by persons of low and moderate income such as nursing homes, senior centers, Head Start centers, or mental health centers. No public comments were given. Sheryl Dahl asked if the City of Livingston was eligible to apply for the CDBG Planning monies. Mr.

Golnar stated that yes the City of Livingston is eligible. Ms. Dahl asked about the Civic Center being a possible aspect for low or moderate income persons to provide water to those for this CDBG grant. Ms. Lee stated that she would be available to help write a planning grant.

Motion was made by Lee, second by Dahl, to approve second reading of Ordinance No. 1925 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 14-13.2 OF ORDINANCE 1329, AS AMENDED BY ORDINANCE NOS. 1639, 1802, 1804, AND 1868, REQUIRING NON-CITY RESIDENTS AND BUSINESSES TO WAIVE ANNEXATION AS A CONDITION OF CONTINUING TO RECEIVE CITY SEWER SERVICE.** David Wistey of 12 Big Horn Drive stated as a property owner in the Kahle Addition he assumed that his property would be included in this Ordinance change. Mr. Wistey also asked if he would be assessed any additional fees if this proposed Ordinance is enacted other than an increase in property taxes. Clint Tinsley stated that the impact fees and the develop fees are paid by everybody that is going to be attached to the City's Water or Sewer Main. He stated that in Mr. Wistey's neighborhood every house is already hooked to the City's Water and Sewer Main's and are therefore "grandfathered" in so there would be no additional fees applied except if new service is required. Steve Golnar stated that the purpose for this Ordinance is to allow the City to extend its Utility Infrastructure consistent with the boundaries of City limits to enable the City to continue to provide efficient utility services to fringe areas. Mr. Wistey asked since every property owner owns the sewer and water line installed would the City be willing to compensate the property owners when the City forces them to annex. Mr. Tinsley stated that every subdivision in the City of Livingston has had to pay for their utility line extension so the answer would be "no" that the City would not compensate the property owners.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve second reading of Ordinance No. 1927 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 13-19 OF ORDINANCE 1658, AS AMENDED BY ORDINANCE NO. 1706 AND ORDINANCE NO. 1794, REQUIRING NON-CITY RESIDENTS AND BUSINESSES TO WAIVE ANNEXATION AS A CONDITION OF CONTINUING TO RECEIVE CITY WATER SERVICE.** No public comments were given.

All in favor, Motion passed.

Resolutions:

Motion was made by Dahl, second by Lee, to approve Resolution No. 3379 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NELSON ENGINEERING FOR THE PRELIMINARY ENGINEERING STUDY FOR UTILITY EXTENSIONS TO FOUR**

AREAS IN THE AMOUNT OF \$2,975.00. Steve Golnar gave background information relating to this Resolution and stated that these engineering services were in preparation for the City's community development block grant (CDBG) public facilities grant application or other funding to prepare the City to identify the costs of the needs for the utilities extensions. Michelle Lee asked if there was a possibility to add an area to this Resolution. Ms. Lee asked specifically about the area out by the cemetery. Clint Tinsley stated that utilities are already extended to the cemetery area. Deon Lackey of 123 West Geyser asked about the clarification of the four areas and about the Montague Subdivision if the City was working with the County about the annexation. Bruce Becker stated that Nelson Engineering combined Green Acres and Montague Subdivisions as one (1) unit. Steve Golnar stated that the City is coordinating with the County on it's plans for utility extension and annexation of these areas.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3380 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN TREE CITY GRANT AGREEMENT WITH DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WHICH REQUIRES A 35% CASH OR IN-KIND MATCH.** Steve Golnar stated that Mark Lennan of the Tree City USA said that he would like to come to the Tree celebration on April 25, 2003 and would like to present the City with a plaque for being a Tree City USA and asked if any of the Commission could be present to accept this plaque. Sheryl Dahl stated that she would be available to attend. Lenny Gregrey asked about the in-kind match if it had to be a City employee who provides that match could the home owner taking care of a tree in boulevard count. Steve Golnar stated that the advertising budget would be the in-kind match and that the Tree Committee would be the one to determine that match.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3381 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ARBOR DAY GRANT AGREEMENT WITH DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WHICH REQUIRES A 35% CASH OR IN-KIND MATCH.**

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to post-pone Resolution No. 3382 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH SKILLINGS CONNOLLY ENGINEERS TO PERFORM ENGINEERING SERVICES FOR THE DESIGN OF 5TH AND PARK STREET INTERSECTION IMPROVEMENTS IN THE AMOUNT OF \$25,421.37.** Steve Golnar stated that there was no agreement included with this

Resolution and that he had hoped to have the agreement but it was not done, so he recommended that the City Commission post-pone consideration of this Resolution until the agreement is completed. He expected to have an agreement by the first meeting in May 2003.

All in favor, Motion passed.

Action Items:

A review of the draft Ordinance for Cat Licensing fees was discussed.

Motion was made by Dahl, second by Ebinger, to move forward with no cat licensing. Lenny Gregrey stated that cat licensing should be the same as dog licensing and offered to pay for two (2) peoples licensing if a person could not afford it. Brad Haefs stated that he agreed with licensing and vaccination of cats but at this time did not feel that the City had the material or the man power for this to move forward that it was premature to enforce an Ordinance and would like to see this tabled for now.

4 in favor; Dahl, Lee, Blakeman and Ebinger, 1 opposed; Gregrey, Motion passed.

Motion was made by Dahl, second by Lee, to direct City Attorney to prepare an Ordinance for first reading for Parking Boot and the "no parking" zone between 5th and 6th Streets on Park Street for first reading. Bruce Becker stated that the main change of the Ordinance was on the "no parking" on Park Street between 5th and 6th Streets and the other changes made were just for updating our codes (housekeeping). Sheryl Dahl mentioned that in Section 9-232 (b) that as long as she has been a City Commission she did not know that within sixty (60) days of a new City Commission taking office, the City Manager shall present a list of restricted parking zones to the Commission and would like to have this put on a check list when the newly elected City Commissioner's are being oriented. Sheryl Dahl also discouraged "booting" on a Friday by asking if the Parking Enforcement Officer not put boots on cars on Fridays. Bruce Becker stated that a person has ten (10) days to take care of the parking tickets before their car is "booted". Also Ms. Dahl asked to eliminate the option of paying after business hours to the Livingston Police Department because the Police Department and Dispatch Center has enough to do. Lenny Gregrey asked about Section 9-223 Parking in front of theaters. Bruce Becker stated that the Fire Department and Police Department thinks that this would be a good idea. Jim Mastin stated that it is nice to have access to run a business in order to get a Fire Truck to the business. Lenny Gregrey stated that the City should put a sign up while an event is on to have a "no parking" sign. Sheryl Dahl mentioned that in the past there was a "no parking" sign in front of the theater and she believes that it was taken down when the two (2) hour parking law was established for the downtown area. Bob Ebinger stated that matinees are staggered in the Summer and how would the City regulate that.

Lenny Gregrey suggested to just take out the Section 9-223 – Parking in front of theaters. Michelle Lee asked about Section 9-234 – Restricted parking zones – fifteen minutes parking at the post office. Ms. Lee suggested having all fifteen minute parking sign from 9:00 a.m. to 5:00 p.m. Lenny Gregrey asked about Section 9-235 (b) reading: "For the purpose of this section residential districts are defined as "11" of the streets in the City other than the following." Mr. Gregrey asked for clarification of the "11" and suggested it be changed to "all". Bruce Becker stated that he would check on this and bring it back to the Commission. Lenny Gregrey also asked if a definitions page could be added to define terms like "Stop", "Stand" and "Park" and provide a definition of a "Boulevard". A Boulevard is the space between the curb and the sidewalk. Lenny Gregrey stated that he is for the parking "boot" Ordinance and suggesting advertising those with outstanding parking tickets in the paper similar to what Bozeman had recently done. Michelle Lee asked about the yellow painting issue of the curbs that a minimum fine under this subsection shall be ten dollars (\$10.00). Bruce Becker stated that the City has the authority to do this. Michelle Lee mentioned that these tickets were being waived because the curbs have not been painted and was wondering how the City would define that. Also Ms. Lee mentioned in Section 9-230 – Parking illegally in loading zones that she observed that they were white or not painted and not what was stated as yellow in the City Code. Clint Tinsley stated that the State Law does not require the City to paint loading zones or a fire hydrant. Bruce Becker stated that the City did approve a law to paint curbs yellow. Michelle Lee asked about the issue of trailers and RV's parking along the streets and not being able to see around intersections. Darren Raney stated that he knows that this is an issue and that he will discuss this with the City Attorney to develop a solution to this problem. Sheryl Dahl stated that she wants all of the fifteen minutes (15) parking to be from 9:00 a.m. to 5:00 p.m. including the Banks along with the Post Office. The City Attorney will bring this Ordinance back at the next City Commission meeting with the City Commission suggested revisions.

Motion was made by Gregrey, second by Lee, to amend the motion and bring this back with all of the revisions suggested by the City Commission as a draft Ordinance.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to direct City Attorney to prepare an Ordinance for Parking Boot and the "no parking" zone between 5th and 6th Streets on Park Street as amended.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve Lagoon Dock Replacement Plan to be accomplished by the Livingston Rotary Club when the Lagoon is drained in the last part of May 2003.

All in favor, Motion passed.

Motion was made by Ebinger, second by Lee, to approve Wally O'Hara's 6" Sewer Extension plans for the 300 Block of North Main Street. Sheryl Dahl asked where this extension was going if it was going through an alley. Clint Tinsley explained where the project would be located.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to authorize bids for construction for Infrastructure Project for 3rd through 6th Streets from Park to Callender Streets and the Intersection Project at Callender and 3rd Street. Steve Golnar gave background information relating to these projects and a diagram was provided in the packet. Mr. Golnar stated that this will be the first Infrastructure project that will take place on the fringe of the downtown area and incorporate urban design plan concepts. The "Livingston Patterns Downtown Design Concepts" reports are also being distributed to summarize current design approaches and solicit community input. Clint Tinsley gave background information relating to the Intersection Plan at 3rd and Callender. A review of this project was discussed among the City Commission and Staff as to what the plans are for these projects. The City Commission requested as a courtesy to provide information about these projects to the Historic Preservation Commission.

All in favor, Motion passed. HJ

Motion was made by Lee, second by Dahl, to direct the City Manager to have the people doing the Construction for the Infrastructure Project for 3rd through 6th Streets from Park to Callender Streets and the Intersection Project at Callender and 3rd Street as a courtesy meet with the Historic Preservation Commission on May 13, 2003. Steve Golnar stated that if Staff goes to the meeting on May 13, 2003 of the Historic Preservation Commission with plans set and out for bid there would not be enough time to respond to comments and accomplish the implementation of these projects this year. Mr. Golnar stated the reason that this came before the City Commission was to meet deadlines for the Infrastructure Projects to be advertised, the bid awarded and construction completed in 2003. Clint Tinsley stated that this project would go out for bid by May 15, 2003. Bids will be received by June 15, 2003 so the project can start on July 15, 2003.

Michelle Lee stated that she would like to withdraw her motion, second by Sheryl Dahl, stating that she would leave it to Staff at their discretion to inform the Historic Preservation Commission of their plans.

Motion was made by Dahl, second by Gregrey, to direct Staff to budget \$750 in matching funds for the American Legion Baseball concession stand project and request that the County budget the same amount for FY 2003-2004.

Bob Ebinger pointed out on the drawings that where you look out over the field he did not see the window. Steve Golnar agreed with Mr. Ebinger's observation.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to direct City Manager to Nationally Advertise Sale of Old East Side School 1902 Original Building. Bob Ebinger stated that at the last City Commission meeting the Commission discussed advertising the building in the National Marketing Historic Properties Magazine and he has checked into the cost of this advertisement and stated that it would cost \$475.00 and the deadline is May 1, 2003 for publication in July and August, 2003 issue.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the Landscaping Improvement Project letter to CTEP about the cost of the scope of the project has increased and asked if there was going to be any more additional costs. Steve Golnar stated that this is for City costs for extension of the Infrastructure to the site which will be paid back from CTEP and that this will be the end of the changes.
- Bob Ebinger commented that the Dave Galt, Director of the Montana Department of Transportation letter was a good letter but wanted to emphasize that the whole City Commission was very upset about the MDT Sign Committee's decision of turning down their request for signing at both exits no. 332 and exit no. 334. Sheryl Dahl stated that at the Transportation Coordinating Committee meeting that Rob Bukvich stated that it was a very strong letter.
- Bob Ebinger made comments of the personnel related issues that Pat Grigsby had been employed by the City of Livingston for 26 years effective April 19, 2003 and would have liked to have her present at the City Commission meeting to congratulate her on her number of years with the City.
- Michelle Lee made comments about the letter to Dave Galt that she would be happy to make a phone call to clarify the City's concerns and seek a Highway Commission response to this letter. Lenny Gregrey stated that he felt that this was going to be the only way that something happens as the result of letter and thanked Ms. Lee for her volunteering of her efforts.
- Sheryl Dahl asked about the project status of the East Side School repairs and asked if the work was done. Clint Tinsley stated very soon. Ms. Dahl also asked as to when the City was going to move the archives. Mr. Golnar stated that he would let the City Commission know by next meeting. Clint Tinsley stated that he was putting the archives off until Spring Clean-up is completed and that he would have no people. Sheryl Dahl asked if the City could use community people

to move the archives. Steve Golnar stated that these are the City's archives so it's best to use the City Staff.

- Sheryl Dahl mentioned the Municipal Clerk & Treasurers Convention on May 4th through 9th and would encourage any City Commission to attend that it's a very good learning tool and to collaborate with the other Municipal Cities in the State.
- Bob Ebinger commented about the Federal Appropriations Request 2003-2004 asking why the funding requested for the railroad crossing could not be obligated in full on an enactment of the Transportation Appropriation if there is total funding available. Steve Golnar stated that the City is asking for money for design of the railroad crossing which would establish a location and preliminary cost for the project. He felt it was best to define the City's project so that the City can make it more competitive for a future federal fiscal year.

Commissioner Lee Comments:

- She wanted to reference her comments made at the last meeting on Geyser Street that she wanted to make note to the Police Officer's that she was not insinuating that they were not doing their work but wanted to just say that the traffic volume not the speed is heavy on Geyser Street.

Commissioner Ebinger Comments:

- He mentioned that on May 10, 2003 the Downtown Livingston Association is having a clean-up party for the downtown area. They will be spraying down the streets, scraping and painting businesses, sprucing up the businesses and that this will begin at 9:00 a.m. and that lunch will be served to the volunteers. He mentioned the Poole Building needs to be scraped and painted and would like to have some volunteers from the City participate. Interested parties can contact Joel Reinholz at 222-5635.

Commissioner Dahl Comments:

- She wanted to congratulate Pat Grigsby, even though she was not present of her 26 years of service to the City.
- She asked about Sacajawea Bridge is it something that the budget is going to be expanded for next year for this. Clint Tinsley stated that the City has final design on the plans and before he can present it to the City Commission he needs to find out what the project will cost definitely.
- She asked about the status of the moving of cars in the impound lot. Steve Golnar asked Darren Raney to answer this. Darren Raney stated that they are having an auction in June and that they have to advertise it for 30 days and that it has been already advertised.
- She asked about the Skate Park Committee. She would like to encourage Steve to ask the Chairman, Thomas Romans to call a meeting or let her take over as the Chairman because she would like to see some projects get accomplished.

- She stated that at the TCC meeting an idea of the Tunnel Walking Pedestrian Path under the Railroad to the Bridge at Bennett Street on East Park Street needs to be applied for this year with CTEP funds jointly with the County.
- She made comment about speaking louder at the meetings that she heard a complaint from the audience tonight that they couldn't hear as a courtesy.
- She reminded Steve of the hit list for community groups.
- She commented that the City Commission has a City Attorney Evaluation coming up and wanted to know if this could be the second meeting in May. Steve stated that would be appropriate.
- She wanted to request a letter being sent to Dan Gravage for his hard work with the bridge project and to thank him.

Commissioner Gregrey Comments:

- He asked about the status report of the painting of the Civic Center and if there were any steps moving forward for this project. Clint Tinsley stated that there was no money in the budget to paint it.
- He asked about the 2003 Geese Roundup if a Resolution was needed for the Fish, Wildlife and Parks to have a motorboat down at the Park for the Roundup or would last years Resolution take presence. He mentioned that they did a great job last year and would like to see the same action taken place this year. Steve Golnar stated that the City would probably need to do another Resolution as it is a case-by-case request.
- He stated that the tunnel business intrigued him and wanted to know how big of a tunnel this would be in dimensions. Steve stated that it would be big enough for a person to walk through or ride their bicycle through. Lenny mentioned people camping under the bridge if there would be the same problem camping in the tunnel for that type of individual.

Chairman, Blakeman had no comments.

Public Comments:

- Richard Caruso of 203 Ash Lane made comments of the West Nile Virus is moving into the west of Montana. The virus is spread by mosquitoes to birds and other animals and stated so far that horses have been diagnosed with the virus. Mr. Caruso stated that he is concerned that here in Livingston that we have a bird problem with dead birds under the "B" Street Underpass. He wanted to know if any those birds have been tested. The State made suggestions of such incidents to have them tested at the lab. He requested that these tests be done so that the City would not be liable. He also suggested that the City do something under the Underpass to get rid of the birds such as a chicken wire netting of some sort. Clint Tinsley stated that not his knowledge are the birds tested and Steve Golnar commented that the City should do something about this problem.

Motion was made by Dahl, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 9:48 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
May 5, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, May 5, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Michelle Lee and Lenny Gregrey. Commissioners absent were Bob Ebinger and Sheryl Dahl.

Staff members present were Bruce Becker, Steve Golnar, Corey Lussier, Jim Mastin, Jim Woodhull and Peggy Glass. Absent were Pam Payovich, Clint Tinsley and Darren Raney.

Motion was made by Michelle Lee, second by Lenny Gregrey, to approve the consent items as follows:

- Approve April 21, 2003 Regular City Commission Meeting Minutes.
- Accept bills and claims for 2nd half of April 2003
- Approve bids for materials for street work.
 1. Bainter Backhoe for Street Chips - \$5,670
 2. STS Gravel for 3/4" inch road mix - \$5,200
 3. Koch Pavement Solutions for oil - \$12,320
 4. JTL for cold mix blacktop - \$14,000
- Appoint City Zoning Commission.
- Waive employment residency requirement for Dean Tucker who will be serving as a seasonal Code Enforcement Officer.
- Approve Bob Brown's appointment as a City Representative to the Board of Health.

Michelle Lee questioned I Worq Systems claim and was informed that this is for the Paving Software Program, she also inquired as to what the Tytrex odor masks paid to Chem Search were for. It was explained that these are for the Sewer Dept.

Lenny Gregrey had some spelling corrections for final minutes before they are bound in the permanent records.

All in favor of consent items, Motion passes.

Scheduled Public Comments:

A scheduled public comment was given by Jerome Smart in regards to "B" Street Underpass Walkway Mural Proposal. The mural would be done by Teens for Art. The Livingston Life spoke in favor of the painting the Underpass on both sides. The Teens will be meeting on Wednesday, May 7th

2003 to discuss what the mural will consist of. Commissioner Gregrey is in favor of the mural but would like to see the pigeon droppings problem cleaned up first. He would like to see this addressed in this order, sketch of the mural and the pigeon problem fixed. He would like to see something less expensive than the original plan used. His suggestion was to use chicken wire instead of some expensive fix of around \$8,000. Commissioner Blakeman would like to see a time line set on this project and to make sure the surface is properly primed and sealed to protect the mural. Commissioner Lee would like to know if the pigeon droppings could cause health problems to the painters and would like to have the City Manager check with the Sanitarian to make sure the teens are not at risk. The consensus of the Commission was to go forward with the mural sketch and bring it back to City Manager, Steve Golnar within the next 3 weeks and Mr. Golnar was directed to get the Pigeon droppings problem fixed. Mr. Golnar stated he would have a recommendation back to the City Commission by May 19, 2003.

Public Hearings:

A public hearing was held regarding "Public Comments for a possible lift station on South 89 to bring sewer services beyond Billman Creek in order to allow for efficient and orderly growth and infrastructure extensions to planned annexation areas. No one from the public spoke at this public hearing. Steve Golnar, City Manager explained the proposal for a CDBG grant to accommodate this addition to the infrastructure plan and the annexation that would follow if the lift station grant were approved. Commissioner Gregrey wanted to know if there would be a problem putting in sewer and water mains on some of the narrow roads out in the 5-acre tract. Mr. Woodhull explained that there would not be a problem as the easements are wider than the roads.

Resolutions:

Motion was made by Lenny Gregrey, second by Michelle Lee to approve Resolution No. 3382 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH SKILLINGS CONNOLLY ENGINEERS TO PERFORM ENGINEERING SERVICES FOR THE DESIGN OF 5TH AND PARK STREET INTERSECTION IMPROVMENTS IN THE AMOUNT OF \$25,421.37.**

All in favor, Motion passed.

Motion was made by Michelle Lee, second by Lenny Gregrey to approve Resolution No. 3383 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING SALE OF SURPLUS CITY PROPERTY.**

All in favor, Motion passed.

Motion was made by Michelle Lee, second by Lenny Gregrey to approve Resolution No. 3384 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CLOSING OUT FUND 3004 AMBULANCE GENERAL OBLIGATION BOND AND TRANSFERRING BALANCE OF ACCOUNT TO FUND #3002 FIRE TRUCK GENERAL OBLIGATION BOND.** Commissioner Gregrey wanted to know which Ambulance this was for, Finance Officer, Shirley Ewan stated that this was for Ambulance #3.

All in favor, Motion passed.

Action Items:

Discussion was heard on draft ordinance – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 9, ARTICLE 1V PARKING, STOPPING STANDING BY AUTHORIZING IMMOBILIZATION OF VEHICLES WITH FIVE (5) OR MORE UNPAID PARKING TICKETS, PROVIDING A CRIMINAL PENALTY FOR VIOLATION AND GENERALLY REVISING THE PARKING REQUIREMENTS.** Commissioner Gregrey inquired as to what stopping, standing and no parking had to do with this ordinance. Mr. Becker explained that this was all part of the complete parking ordinance and that those are addressed in another part of the ordinance. He also inquired as to what the fire limit district was, Mr. Becker stated that this is the downtown business district and this is cross referenced in another section of the ordinance. Before Commissioner Gregrey will vote for this ordinance he would like to see a definition list addressed. Commissioner Lee in section 9-230, would like to see the word "yellow" taken out of this sentence, in Section 9-234 she should be 24 hrs/day not just 9-5 in some places and 24 hours elsewhere. She would like to see some consistency with these and put them all at 24 hours and none at 9-5. The consensus of the Commission is that the RV's length; time of stay and whether or not to ticket them needs some work. This will be referred back to City Attorney and Police Chief for clean up and consistency in the Ordinance.

Status of mediation with the County on the East Interchange Rezoning Lawsuit Settlement was discussed. Commissioner Gregrey felt changing this back to agricultural zoning would be counterproductive to economic growth. He felt it would delay changing the agricultural zoning to commercial zoning until 2005 could harm the Community's ability to respond to economic opportunities. Commissioner Lee would like to see a task force (that will develop a growth plan for this area) started. She would like to see the plan done within 1 year and for the land not to be developed or sold until the plan is done. Mr. Gregrey stated that currently there is not a lot of commercial land inventory for developers to look at and this (being commercial) would help developers with economic growth. The Commission will meet Monday evening May 13, 2003 at 6:00 p.m. to discuss mediation with the County Commissioners.

Motion was made by Commissioner Gregrey, second by Commissioner Lee to authorize the use of motor powered boats in the Lagoon for the goose roundup.

All in favor, Motion passed.

Chairman Blakeman asked if there was anyone that had questions in regards to the City Manager's comments. No comments or questions were asked.

Commission Comments:

Commissioner Lee asked that the Alliance Development Corporation contract be brought back to the City Commission by the 2nd meeting in May 2003.

Commissioner Lee would like to have a work session on the Civic Center. She would like to discuss what the options and problems are and how they can be corrected. The consensus of the Commission was that this was an appropriate request and they would like to schedule a meeting after the Commissioner's who are out of town return. She would also like to request everyone vote yes for the School levies tomorrow.

Commissioner Gregrey would like to see something done with the outlet culvert at the lagoon as it is backing up and is in dire need of some work done there. He would also like to see some of the projects that have been started, finished. Some of these are B Street, Recreation Service, Skate Park, Painting the crosswalks and the 7th Street Bridge to name a few. He would also like someone to find the missing small table that he donated to the City for the public to provide comments while seated.

Commissioner Gregrey suggested that as far as the development of a Botanical Garden in Livingston, he felt that the City should get involved no further than a reduction in taxes.

Chairman Blakeman would like to see the City get started on garbage negotiations with the County. She stated that County resident restaurants don't pay as much as City food service customers and this is discriminating to Owners that have restaurants in town. She has had several calls from restaurant owners in town verifying this fact. Chairman Blakeman would also like to have Mr. Golnar, City Manager write a letter to Senator Burns showing support for federal funding for the Library

City Manager Golnar identified that the City/County meeting had been rescheduled to May 14, 2003 at 4:00 p.m. and the meeting with MRL would be at Mr. Vier's office.

Chairman Blakeman asked for Public Comments, no comments were heard.

Motion was made by Gregrey, second by Lee, to adjourn the meeting there being no further business. Motion passed

The time was 8:35 p.m.

ATTEST:

APPROVED:

Shirley Ewan
Finance Officer

Vicki Blakeman
Chairman, City Commission

LIVINGSTON
CITY COMMISSION
SPECIAL MEETING
May 12, 2003
6:00 p.m.

The Livingston City Commission had a special meeting on Monday, May 12, 2003 at 6:00 p.m. in the Community Room in the City/County Building to continue Settlement Mediation with Park County on County's East I-90 Interchange Rezoning from "Agriculture-Open Space" to "Commercial" use of in excess of 280 acres and to approve a Special Event Permit for Farmer's Market in Miles Park. Present were Vicki Blakeman, Sheryl Dahl, Michelle Lee and Bob Ebinger. Lenny Gregrey arrived later during the meeting.

Motion was made by Lee, second by Dahl, to move item #1 to item #2 on the agenda.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Special Event Permit for Farmer's Market in Miles Park. Steve Golnar gave background information relating to this event and stated that this needed to be approved so that the Farmer's Market Committee could start advertising. He also stated that Lil Erickson and Kelly Wade from the Corporation of the Northern Rockies were present if the Commission had any questions of them.

Michelle Lee asked if after vendors unload, would their be parking available for their vehicles. Lil Erickson stated that this was one of the reasons why they wanted to move this event to Miles Park as it would have more parking available.

Bob Ebinger stated that given the current circumstances that it was appropriate to move the Farmer's Market to Miles Park this year but he would like to see the event come back to the downtown area in the future.

Lil Erickson of PO Box 1448, Livingston, MT stated that she was open to moving this event as appropriate in the future. In making their decision, they were keeping in mind the farmers and the community.

Lenny Gregrey stated that he felt that it was appropriate to move the Farmer's Market event to Miles Park.

Motion was made by Lee, second by Dahl, to accept and sign the Settlement Agreement between the City of Livingston et al. v. Park County et al. (DV-02-32) to resolve all issues raised in the complaint against Park County in the Sixth Judicial Court, Park County arising from Park County's approval of a zoning designation amendment from Agricultural to Commercial on the

property owned by Boyd, Watson and Park County located east of the City of Livingston.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to adjourn the meeting there being no further business. Motion passed.

The time was 10:38 p.m.

ATTEST:

APPROVE:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

1

LIVINGSTON
CITY COMMISSION MEETING
May 19, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, May 19, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Lenny Gregrey, Sheryl Dahl, Bob Ebinger, Vicki Blakeman and Michelle Lee.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Kevin Harrington, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich. Absent was Jim Mastin.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve May 5, 2003 regular City Commission meeting minutes.
- Approve May 12, 2003 special City Commission meeting minutes.
- Accept Bills and Claims for 1st half of May 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve Special Events Requests:
 1. Marks In & Out Autorama Car Show on June 20 & 21, 2003.
 2. The Downtown Hoedown on June 28, 2003.
 3. Montana Girls' Fast Pitch State Tournament on July 11, 12 & 13, 2003.

Michelle Lee asked about the claim for Mountain View Web Design, Inc. what Website the bill was for. Steve Golnar stated that this was for the City of Livingston's Website.

Bob Ebinger asked about the claim for Dana Kepner for pipe. Clint Tinsley stated that this was for piping replacement of water values and fire hydrants for the Infrastructure Project. Also Mr. Ebinger asked again about the Fire/Ambulance accounts receivable financial report and why the City was behind on collecting bills and that there is only two (2) months left for the fiscal year and if it would carry over. Shirley stated that it would carry over for the next year. The City Ambulance cannot refuse service to anyone and if people don't have the resources to pay their ambulance bill it is carried forward as an unpaid bill. Some people on fixed income pay what they can afford. If no payment arrangements are made the bill then goes to collections. Also Mr. Ebinger asked about bullet number five of the notes on the Livingston Fire & Rescue Report and what scba and new turnouts for the reserves was. Sheryl Dahl stated that they are a self-contained breathing apparatus.

Sheryl Dahl asked about the extra garbage cans for the special event of the State Girls' Fast Pitch Softball Championship Tournament request and whether the City would be donating for dumping of the dumpster. Clint Tinsley stated that this would be an in-kind contribution and that the city crews picking up the garbage would be weighing it. Also Sheryl Dahl asked why the special event requests were just put in the packet when some were dated back to January and February as with the recent Farmers Market event proposal and wanted to know what the City policy is for pushing these special event requests through. Steve Golnar stated that the State Girls' Fast Pitch Softball Championship Tournament special event request was already approved but was waiting for a proof of insurance form naming the City as an additional insured. Steve Golnar stated that the City pushes these special events through as soon as possible and that the Corporation for the Northern Rockies Farmers Market request, considered at the recent special meeting, was held after submitted at the request of the applicant until very recently.

All in favor of consent items, Motion passes.

Proclamations:

Chairman, Vicki Blakeman, read proclamations for the American Legion Auxiliary's Poppy Day on May 23, 2003, for Emergency Medical Services Week on May 18 through May 24, 2003 and for Rodeo Days in the City of Livingston on June 23 through July 5, 2003.

Variances:

Motion was made by Gregrey, second by Ebinger, to approve Findings of Fact of Variance request for Caesar's, the Livingston Ford dealership, owner of property located at 1415 West Park Street, requesting a variance from the application of the Livingston Sign Code (Sec. 30.50). They wished to continue to use the two (2) existing free-standing signs on their property. The City's Sign Code allows only on free-standing sign per commercial property and recognizes the existing situation as grandfathered as long as no changes are made to them. This variance was being requested in order to allow them to change the faces on the signs without having to remove one of them. In addition, the applicant requested that one of the free-standing signs be allowed to be raised to forty (40) feet in height. Jim Woodhull, City Planner gave background information relating to this variance request.

Sheryl Dahl mentioned that when the Yellowstone Motor Inn changed hands that they changed the face of their signs but they were not required to take down the free-standing signs or to bring one of the signs down. Ms. Dahl mentioned that maybe to allow the changing of the faces of the signs but not to allow the height of the sign to be raised to 40'.

Caesar Jha, owner of the property of the Livingston Ford Dealership, made comments as to the why this variance should be allowed. He stated that the

franchises for the Ford Lincoln Mercury are splitting into Ford and Lincoln Mercury and that corporate direction was the reason for the changing of the faces of the signs to reflect these brand names separately. He feels that the signs would enhance the business from the highway traffic with business signs on each side of the business separating Ford from Lincoln Mercury.

Bob Ebinger asked if there would be new signs or would the faces of the existing signs change. Mr. Jha stated that the faces of the existing signs would just change which would be two (2) different signs and that the other sign on the Ford side would come down and that one of the signs would raise up to 40'. Ms. Blakeman asked Mr. Jha to come forward and clarify from the map of the property where the signs are located. Jim Woodhull stated that this property is one business.

Caron Cooper of 411 South 6th Street made comments that this property is one (1) business and that she is very concerned about having two (2) signs on one business. Ms. Cooper stated that what attracts people to a business is good customer service and good prices with pure economics and nothing to do with signage and hoped that the Commission would stick with the sign code.

Wayne Bronson, General Manager of Livingston Ford stated that their original variance request was that they want to replace the faces of the two (2) existing signs and not move them and to also remove the sign off the building. Mr. Bronson stated that signs make a difference for a business and that they give vibrancy to the City.

All in favor of the Findings of Fact, Motion passed.

Motion was made by Dahl, second by Gregrey, to deny the forty (40) foot raise in height and leave at thirty (30) feet height but to allow the faces on the signs to change that are currently in place.

None in favor, Motion denied. Variance denied.

Motion was made by Dahl, second by Ebinger, to approve Findings of Fact of Variance request of Ruth Caron Cooper, owner of property located at 411 South 6th Street, requesting a variance from the front and side setback requirement for RII zoning districts. She wished to add two (2) window wells to the existing home in order to provide for emergency egress out of the basement. She also seeks to extend the front steps by approximately three (3) feet. A variance is required because the original placement of the house did not meet either the front or the side setback requirements. City Code requires a twenty-five (25) foot front setback and a five (5) foot side setback. Jim Woodhull gave background information.

All in favor of the Findings of Fact, Motion passed.

Motion was made by Dahl, second by Ebinger, approve Variance Request of Ruth Caron Cooper. Bob Ebinger asked if two (2) egress windows were required. Jim Woodhull stated that with two (2) bedrooms in the basement that two (2) egress windows would be required.

All in favor, Motion passed.

Motion was made by Lee, second by Gregrey, to amend item number 4 to state "No" of the Findings of Fact of Variance request and approve the Findings of Fact for Atanas and Lola Marinow, owners of property described as Lots 10-12, Block 7, Palace Addition, located on the 700 Block of North 10th Street, requesting a variance from the side setback requirements for RII zoning districts. A potential buyer wishes to place a new house on these lots that would extend to within 3 ½ feet of both side property lines. City Code requires five (5) foot side setbacks. Jim Woodhull gave background information.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve Findings of Fact of Variance request for Atanas and Lola Marinow.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to disapprove Variance Request for Atanas and Lola Marinow. Sheryl Dahl stated that the reason she disapproved of this variance was that this subdivision was a new developed area and she felt that there is a reason to have the five (5) foot setback and the developers should comply with this and the lot is large enough to allow them to move the house in another direction.

All in favor, Motion passed.

Scheduled Public Comments:

A scheduled public comment was given by Larry Edwards of 724 River Drive discussing the Beaver Problems near Sacajawea Park. Mr. Edwards stated that beavers are destroying the trees on his property and in the Park and that these trees take a long time to grow. He stated that in the past government trappers were called to trap beavers in the Park and wanted to know why this could not occur any more. Mr. Golnar stated that liability insurance concerns, workers compensation and trappers being certified as independent contractors by the State combined with the low value of beaver pelts and the age of the trappers all contributed to loss of trapper services. Mr. Edwards commented that the beavers need to be controlled and that the trees are valuable on homeowner's property and around the Park and wanted to know who has the responsibility of controlling the beavers? He asked that the City take a stance on this issue and pursue a solution to the beaver problem.

Kevin Brown of 610 South 8th Street mentioned that he has lived at his residence for three years and has two (2) children under five (5) years of age and is concerned about being so close to the Livingston Ditch. He stated that the water is waste deep due to beaver dams and mentioned the liability concern for the City. Mr. Brown stated that citizens have spent a lot of time and effort to clean the ditch and standing water was also a problem with mosquito season coming, there is going to be a concern with the West Nile Virus. He went on to say that if the City doesn't do anything about this then he is certain that citizens will take action with the beavers to get rid of them.

Char Devine of 724 River Drive stated that she has lost nine (9) trees at her residence in the last three (3) years from beavers. She felt that the City has a responsibility to take care of the beaver problem.

Lenny Gregrey made comments that three (3) citizens have voiced their opinion about the beaver problem and now it is time for the City to eliminate the beaver problem. He stated that he knows how long it takes to clean out the culvert that he has observed the city crews taking a whole day to clean the culvert running to the Livingston Ditch. Mr. Gregrey stated that the beavers need to be disposed of because you can't move them or they will come back to the area. He concluded by stating since the City has become a Tree City USA city that we need to protect the trees and in order to do this we need to eliminate the beavers from the city.

Sheryl Dahl stated that she would like to see a plan worked up by the City Staff. Clint Tinsley, Public Works Director, stated that his employees are doing the best they can with the beaver problem in eliminating them. Mr. Tinsley commented that it just so happens that as soon as they get rid of the beavers more appear in the Lagoon and the Fleshman Creek area. Mr. Tinsley stated if the City shuts off the water running from Fleshman Creek to the Livingston Ditch then it will dry up by July, although this would eliminate the beaver problem citizens would not be happy with no water in the Ditch.

Steve Golnar stated that what Mr. Edwards referred to as "Government Trapper", were individuals working on their own on a piece mill basis. Mr. Golnar stated that the problem was the public safety hazard to people and animals that traps posed in the City Park raised liability insurance and workers compensation insurance concerns for the trappers and the City.

Michelle Lee suggested that with the Biological stations at the college in Bozeman that possible they could help the city crews out with the trapping and not have to pay overtime.

Resolutions:

Motion was made by Dahl, second by Lee, to approve Resolution No. 3385 -
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,

MONTANA, AMENDING RESOLUTION NO. 3206 BY EXTENDING THE LOAN TO THE AMBULANCE FUND TO 4 YEARS INSTEAD OF 2 YEARS. Shirley Ewan stated that the operating balance in this account is not large enough to cover the loan payment for the Ambulance and would like to extend it to four years to be able to maintain a positive balance in this fund. Lenny Gregrey stated that there was a similar Resolution at the last meeting. He asked for which Ambulance this is Resolution was for. Shirley Ewan stated that this is for the #1 Ambulance that was purchased last year. Mr. Gregrey stated that the City cannot afford to run four (4) Ambulances and that the city needs to tighten its belt. Bob Ebinger stated that the City needs to act upon this Resolution now and take care of the issue of the number of Ambulances at a later date. Steve Golnar stated that the City is evaluating the new rates that were adopted last year and that revenues are a moving target with recent changes in Medicare reimbursements combined with rising uncollectibles. Kevin Harrington stated that selling the Ambulance would not help in the respect of paying this loan off as the Ambulance is only worth \$6,000.00 now.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3386 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BLUE CROSS / BLUE SHIELD FOR HEALTH INSURANCE AND COBRA.** Steve Golnar gave background information about this Resolution. He stated that the Employee Insurance Committee has determined that the employees are willing to accept an 8.5% increase in medical insurance rates to maintain the same coverage as last year.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3387 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND ADOPTING SICK LEAVE DONATION POLICY.** Sheryl Dahl thanked the City Attorney and the City Manager for developing this Resolution in a timely manner and asked if it works in other cities? Steve Golnar stated that "yes" it does work in other cities.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3388 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BRIDGER ELECTRIC, INC. TO PROVIDE POWER TO MILES PARK IN THE AMOUNT OF \$6,206.00.** Sheryl Dahl asked if the grant money received to help pay for toilets in the Skate Park if it was specifically applied for the Skate Park?

Steve Golnar stated that the Land and Water Conservation fund money received in grants has gone toward the asphalt, the fence, ramps and the restrooms for the Skate Park and that money has been spent over the amount of the grant received. The funding that was allocated towards recreation improvements in this year's budget is from the balance of money from the Skillman Trust fund. The City's goal was to put a significant amount of funds into this account to close the Skate Park project out. Because the restrooms were acquired and installed for approximately \$12,000.00 verses the anticipated \$28,000.00 in the budget, funding is available for the electrical project and to assist with ramps. The suggestion to extend the electric to the Miles Park area so that there would be power available for construction of ramps is part of the Committee's earlier desires.

Sheryl Dahl stated that she felt that the grant money was being taken away from the Skate Park. It was specifically budgeted for the Skate Park and the proposal from Bridger Electric states "power to the Miles Park". While she realized that the City saved money on the bathroom installation at Skate Park she felt that the remaining money should be set aside for the Skate Park.

Michelle Lee asked if this money is dedicated each year in the budget process? Steve Golnar stated that "yes" it is budgeted and that the Skillman Trust fund is limited to certain uses and he will provide the Commission with the wording of the Skillman Trust fund at the next meeting. One outlet would be designated to the Skate Park according to Clint Tinsley, Public Works Director. Clint Tinsley also stated that there has been no commitment coming from the Skate Park. Lenny Gregrey stated that there was a savings from the grant money for the installation of the bathrooms in the Skate Park and that there would be a benefit putting electricity in at Miles Park for the community use.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to amend Resolution No. 3389 to read: "That the City Manager is hereby authorized to enter into the Agreement with Fridley Construction instead of Bridger Electrical, Inc. attached hereto as Exhibit A" - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH FRIDLEY CONSTRUCTION FOR REPAIR WORK ON EAST SIDE SCHOOL FOR COST OF MATERIAL AND LABOR NOT TO EXCEED \$15,000.00.**

All in favor, Motion passed.

Action Items:

A review of the elimination of Pigeon Dropping Problems in "B" Street Underpass alternatives was discussed. Steve Golnar stated that Clint

Tinsley, Public Works Director is working on alternative solutions involving chicken wire and will get back to the Commission as soon as a solution has been determined. Clint Tinsley stated that the problem is that they cannot drill holes in the underpass according to the Railroad but he will work on a plan to determine what they can do. Steve Golnar stated that whatever is determined to be the best solution that the City has to coordinate with MRL because the welding could jeopardize the integrity of the bridge beams. Steve Golnar stated that he had talked with the City/County Sanitarian and that he had identified that the pigeon droppings under the "B" Street underpass is not a healthy environment and so the kids proposing the mural to be painted in the underpass will have to wait until the pigeon problem is resolved.

Vicki Blakeman asked to put Action Items #B and #D off until the budget has been determined for next fiscal year to consider \$5,000.00 funding request from Yellowstone Gateway Museum and a \$5,000.00 request for contribution and membership to Greater Yellowstone - Teton/Clean Cities Coalition.

A comment was heard from Hillary Johnson of 51 Sprayhill Road, Grant & Funding Writer for the Yellowstone Gateway Museum. She provided information to the Recording Secretary of the economic impacts of the Yellowstone Gateway Museum and asked to have distributed to the Commission. Vicki Blakeman assured Ms. Johnson that this will be proposed in the budgeting process and will let the members of the Yellowstone Gateway Museum know when this will occur.

A review of the appointments for the Citizen Task Force representatives for the donut area planning was discussed. Steve Golnar stated that this was in follow-up to the mediated settlement agreement with the County for the donut area planning with the understanding that the City Commission needs to make appointments by the June 2, 2003 City Commission meeting. Mr. Golnar stated that this has been advertised asking for citizen Task Force applications and he has provided three (3) packets of information for each City Commissioner to distribute to applicants for the Citizen Task Force. These applications are due by May 28, 2003.

A review of the Alliance Development Corporation Agreement and 2003-2004 Work Plan was discussed. Steve Golnar stated that he would like any comments on the form and content of this agreement prior to finalizing it and preparing a Resolution for the Commission's consideration at the June 2, 2003 meeting. He stated that the Alliance Development Corporation provided Exhibit "A" & "B" of the agreement which is the scope of service for the Administration of the City of Livingston Community Development Block Grant Economic Development Revolving Loan Fund and the Range of Possibilities for Economic Development relating to activities that the Alliance Development Corporation can assist the City with.

Cindi Fargo, Executive Director of the Alliance Development Corporation and Dana Taylor, on the loan committee of the Alliance Development Corporation was present for any questions to be answered. They also provided a missing page for Exhibit "B".

Michelle Lee stated that she has in the past requested "performance objectives" and that she has spent a great deal of time in researching these measures and feels that it is important to measure the benefit of the Alliance Development Corporation's activities to the City in that the City will be helping to pay for someone's salary in the organization. She went on to say that the budget is tight for the next fiscal year and she would like the City not to pursue more mills to fund this position.

Steve Golnar stated that this proposal moves to a City payment of \$1000.00 per month. He went on to say that this will replace the funding (about \$5,000.00 this year) that the City does provide to the Alliance Development Corporation which could vary depending on the level of activity that they have in the loaning of funds. Part of the benefit to the City is based upon the expectation that with more full time staff, the Alliance Development Corporation would be able to increase the volume of loans issued and the City would then see an increase of revolving loan administrative fees as that money is being paid back.

Cindi Fargo and Dana Taylor provided changes of the agreement to the City Commission and Staff and also to the Recording Secretary for the permanent record.

Bob Ebinger stated that he supports this whole program and thanked the addition of Exhibit "B" to the agreement that it is very much appreciated relating to meeting the community's economic development needs. He noted that the community is fortunate to have a position like the Alliance Development Corporation's Director and that she has been an active part of the Downtown Association's recent success.

To summarize, Steve Golnar asked if the Commission had any more changes or concerns to this agreement and if not then this would be proposed with changes given by the Alliance Development Corporation and he would bring this back to the Commission with the revised agreement at the next City Commission meeting on June 2, 2003.

A review of the Solid Waste Contract Renewal with Park County was discussed. Steve Golnar stated that he did not have anything prepared to hand out yet that he met with the Refuse Board of Park County on May 16, 2003 to talk about garbage disposal particularly about the City refuse at the Incinerator and also the charges for the Landfill. Mr. Golnar stated that they are going to meet again next week and will provide the Commission with the information after the meeting with the County on May 22, 2003 at 10:00

a.m. The Commission asked for a Workshop on this issue on Friday, May 23, 2003 at 2:00 p.m.

The Civic Center Workshop was rescheduled for June 9, 2003 from May 27, 2003 at 7:00 p.m.

The City Manager's written comments were reviewed.

- Steve Golnar stated that the small table, which Lenny donated, was back in the Community Room for the City meetings.
- Lenny Gregrey asked about the Sidewalk Replacement Program about the cost of improvements being put on abutting property owner's tax bill at 6% and who established that rate. Steve Golnar stated that a committee including Golnar, Tinsley, Ewan and Becker recommended that the City establish the rate of 6% by Ordinance and that it is to spread out the amount of time that an individual has to pay the cost back. Mr. Gregrey stated that the City owns the sidewalks and the sidewalks that need repair are the one's in the boulevard where the tree roots damage the sidewalk. Mr. Gregrey stated that the homeowner should not be the one responsible for the repair to the sidewalk if they belong to the City in the boulevards. He did feel that it would be unfair for a homeowner to be the responsible party and that the City should share the costs of the repairs to the sidewalks. Steve Golnar stated that this program would allow people to apply for the sidewalk replacement program and that it would consist of 1,500 feet of sidewalk per year at a price of \$ 4.00 per foot, which equals \$24.00 per running foot of sidewalk. This would be a good price to the residents in that the Public Work crews could handle the amount of work if scheduled properly. The City would give the property owners the opportunity to pay this back through their tax roles over a five (5) year period at an interest rate of 6%. This is to some extent what the City of Butte is doing. The City would not replace sidewalks in the downtown business district because of the expense and the City crews do not have the expertise to replace vaulted sidewalks or sidewalks that are attached to buildings. Steve Golnar asked if the Commission wanted him to move forward with this program. The City Commission instructed the City Manager to move forward with proposed Ordinance changes and budgeting for this sidewalk replacement program.
- Michelle Lee stated that the status on modifications of the Livingston exit signing at the three (3) I-90 exits that she will be meeting with the Department of Transportation on Wednesday, May 21, 2003, and will give an update after the meeting.

Commissioner Lee had no comments.

Commissioner Ebinger had no comments.

Commissioner Dahl Comments:

- She apologized for not being able to attend the Spring Clean-up day.

- She asked about the electricity going to Miles Park if Farmer's Market would pay for the use each time? Steve stated that "yes" it would each time and that the City will need to establish a new rate for this service.
- She asked that a fleet list of the City vehicles be provided to the City Commission.
- She asked about the street maintenance signs being implemented? Clint stated that the City crews are looking at putting this on their planner for the year.
- She mentioned that there is a very good potential for flooding this year and would like to have a disaster plan in place.

Commissioner Gregrey Comments:

- He stated that he would not be present at the July 7, 2003 City Commission meeting.
- He stated as a result of the last Workshop the City Commission had he is going to enhance a Workshop in August and will provide an "Uncle Lenny's Pizza" for the Workshop to broaden their taste buds.

Chairman, Blakeman Comments:

- She asked on Resolution No. 3389 as to when the work for East Side School was going to be done? Clint Tinsley stated that Fridley Construction is waiting for approval of this Resolution and will then give the time frame.
- She stated that she would like to schedule a time that the Clean Cities gal could come and talk to the City Commission. If the City doesn't contribute to the organization she feels that the City still needs to get designation to be involved.

No Public Comments were given.

A short recess was taken at 10:35 p.m.

The meeting went back into session at 10:45 p.m. to discuss City Attorney's Evaluation.

Motion was made by Dahl, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 10:57 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
JUNE 2, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, June 2, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Lenny Gregrey, Michelle Lee and Bob Ebinger. Sheryl Dahl arrived later.

Staff members present were Bruce Becker, Steve Golnar, Darren Raney, Kevin Harrington, Jim Woodhull, Clint Tinsley, Peggy Glass, Brad Haefs and Pam Payovich. Absent was Jim Mastin and Shirley Ewan.

Motion was made by Lee, second by Ebinger, to approve the consent items as follows:

- Approve May 19, 2003 regular City Commission meeting minutes.
- Accept Bills and Claims for 2nd half of May 2003.

Bob Ebinger asked about the claims for the automated garbage trucks to Solid Waste Systems and Tri-State Truck & Equipment and if they were for two different kinds of equipment. Clint Tinsley stated that the Solid Waste Systems claim is for the compactors on the trucks and the Tri-State Truck & Equipment claim is for the actual trucks.

All in favor of consent items, Motion passes.

A scheduled public comment was given by Char Devine of 724 River Drive discussing the Beaver Problems near Sacajawea Park. She stated that she has now lost her 11th tree from beavers over Memorial Day weekend. She stated that it was a Quaking Aspen Tree and was 3" in diameter and the cost of tree to replace would be in the vicinity of \$427.00 plus \$125.00 - \$150.00 for labor. She asked if a decision had been made by the City to protect the trees from the beavers and if she could put a fence up around her property. Steve Golnar stated that he felt that this would be difficult to respond to without looking at the particular site but would certainly review it with the Devine's. Vicki Blakeman, Chairman, stated that it was scheduled on the agenda later of some of the long-term plans that the City has and what the State requirements and assistance relating to beaver management. Ms. Blakeman mentioned that Ms. Devine could stay and hear what the City Staff along with Tom Lemke, Wildlife Biologist, Montana Fish, Wildlife and Parks had determined may be done with the beaver problems.

Public Hearings:

A public hearing was held for consideration of the Zone Change Request from R-2 to R-3 for the Branding Iron Subdivision.

Jim Woodhull, City Planner, gave background information relating to this request. Mr. Woodhull stated that the Branding Iron Partnership, owner of the Branding Iron Addition, was requesting a zone change from R-2 to R-3 for this property. Mr. Woodhull summarized the Findings of Fact of the Staff report. Sheryl Dahl asked Mr. Woodhull to clarify where exactly this property was located on the map provided in the packet. Ms. Dahl asked for clarification if the developer's proposed use was to be assisted living or elderly housing. Mr. Woodhull answered by stating that this was what their intent was to create some type of retirement housing and/or assisted living units. Ms. Dahl went on to say that under the list of uses for R-2 zoning it says that Adult Foster Care Center and Nursing Homes are allowed and why is the developer wanting a zone change if this is what they are proposing. Jim Woodhull stated that this is what they are proposing to do but could not guarantee after the zone change that it was going to be done.

Michelle Lee asked about clarification of the letter Jim Woodhull wrote to the City Manager that was provided in the packet on the Branding Iron Zone Change request that the "agent of the prospective buyer" was Mr. Ernie Meador. Mr. Woodhull answered by stating "yes". Also Ms. Lee stated that the letter that was provided by Aspen Real Estate indicated something quite different than Mr. Meador being the agent of the prospective buyer. So she was wondering in subsequent detail if this was something different.

Gary Blakely of the City Planning Board made comments. He stated that he had voted "no" for this zone change that this area has been zoned R-2 for thirty some years and that the citizens in that area bought property in good faith and knowledge that the zoning would not be changed. He felt that there are other areas in the City that are R-3 and suggested not to change this area that is R-2 to R-3. He went on to say that he was concerned about emergency access to this area due to the flooding at times of the "B" Street underpass. He summarized by saying to change the zoning for nothing but to facilitate a sale of property while having no idea of what the developer was pursuing he felt was wrong.

Ernie Meador, Broker for Aspen Real Estate made comments in representation of the current owners. He wanted to clarify that during the zone change hearing he may have inadvertently made it sound like the people that are interested in buying this property had spent a great deal of time and effort on this particular property. Hence, there was the frustration by some of Board members as well as some of public that this zone proposal was put forth without a specific plan to be reviewed. In point of fact, he stated that the person interested in buying this property has been coming to Livingston to visit relatives for a period of about 10 years. Over that ten years the person's father-in-law died which widowed his mother-in-law and he has found; in the course of helping her investigate housing for a person in her situation, that there was not anything available in the City. Mr. Meador stated that the person was interested in developing a mixed-used property

with probably an "over 50 years of age" housing designation. A mixed-used facility could include balcony apartments, garden apartments, and perhaps an area of townhouses and/or condominiums. Mr. Meador went on to say that there was no other property available in the City for this kind of request, due to the fact the lots are too small.

Vicki Blakeman asked Mr. Meador about his letter in the packet where he stated that there would probably be a subdivision of this property because it was too large. Mr. Meador stated that the potential owner would not be able to do mixed-use without presenting a subdivision plan.

Lenny Gregrey asked what a balcony apartment was. Mr. Meador stated that these are apartments that can be built on a hillside with possibly a parking garage underneath a two-story building.

Mr. Gregrey stated that to his understanding that the maximum height of a R-3 building is 45' and that this was a concern that he has on the area and that property. Mr. Meador stated that he would agree with Mr. Gregrey if the 45' started at the top of the hill. He envisioned this proposal to bring rooftops to the height of the hillside by starting from the base of the hill, because the bottom elevation of the property is low. This would be for balcony apartments.

Rachella Devine of 87 Elk Ridge Road made comments against this request for a zone change from R-2 to R-3. Mr. Devine stated that she felt that this would be spot zoning and that according to the Supreme Court there are generally three factors considered in determining whether spot zoning exists in any given instance. She went on to say that such spot zoning is illegal. Ms. Devine continued by saying that there was a case presented before the Supreme Court where requested use was significantly different from the prevailing use in the area. The area in which the requested use was to apply was rather small and the requested change was more in the nature of special legislation. She also stated that in this case the Supreme Court determined that the zone change benefited one or a few landowners at the expense of the surrounding landowners and the general public. The Supreme Court determined that the higher density uses under the proposed zoning would have conflicted with the predominantly residential character of the surrounding properties. Ms. Devine stated that the Court also concluded that the Duck Creek Subdivision was owned by a single entity and that the rezoning would only benefit one landowner, which created a spot zoning situation. She felt that the Branding Iron request would also be spot zoning. Ms. Devine also stated that the proposal would develop a high-density residential district in an area that would produce above average costs to the City. The unique, geographic and geologic situation of this area is basically a bowl with a singular narrow drainage at present river gravel drains it providing an adequate drainage to that area and that the City doesn't provide storm drainage for this area. Pavement and buildings most especially of high density zoning would decrease vegetation and lot drainage and possibly could

cause flood damage to the area. The area is unsuited for high density housing because it could form an entrapment in the case of wildlife fires.

Lenny Gregrey asked what this case was requesting and Ms. Devine stated that it was to increase development options and the value of the property.

Bruce Becker, City Attorney stated that he felt that this request still would maintain a residential character for the property so he wasn't certain that spot zoning would apply.

A scheduled public comment was given by Nelson Allen of 418 West Summit Street opposing this zone change request. Mr. Allen's main objection was that this zone change request was not consistent with the character of the area. He specified that the only difference between R-2 and R-3 zoning was that R-3 could have multi-family dwellings and hospitals.

George Boyle of 724 North Yellowstone stated that he recognized with Mr. Allen's presentation that the only two things different in the R-2 and R-3 zoning was the R-3 zoning has multi-family dwellings and hospitals. He made comments that this is what the potential owners want to build to his understanding, because why would they want to change the zoning if that wasn't their intent. He stated that when he lived in a different area of town that there were apartments built next to him and his property value went down. He concluded by stating that he sees no reason for this rezoning to take place, as there are low rental facilities in the City already.

Ray Hillman of 528 North 8th Street stated that the zone change would not be a good thing. Mr. Hillman stated that he works in Bozeman and that he is in these types of subdivisions all of the time and that they create havoc. The amount of people that they can put into these kinds of apartments creates increased traffic and in the City of Livingston there is no great access to this property. To get across the Railroad tracks now is a challenge and to have the additional pressure in the area from traffic isn't what the neighborhood wants to see. He stated that the neighborhood wouldn't be opposed to change in the area but single-family units would be more appropriate for access to the area.

Jeanne Taylor of 607 North 7th Street made comments that she is not opposed to construction in the area but does not want to see this type of building in the area. She went on to say that when this land was purchased thirty years ago the buyers knew that this would be an expensive undertaking. There has not been an earthquake or land change it's still the same. It had been zoned R-2 from the beginning and those who purchased property in the area at that time were assured that this area would be a nice family oriented development with single or two-family dwellings. The developers at the time assured the surrounding property owners that the streets would have to be paved and promised the proper drainage would be provided to assure the safety of the property from water run-off before the

houses would be built. She felt that it would be inappropriate to the owners of their property in that area for the City to change from R-2 zoning to R-3 zoning on the Branding Iron property. She stated that this proposed buyer is an out-of-state developer and that all of the rent would be paid to an out-of-state interest and would not trickle back into the City. She concluded by stating that the property owners of this community have worked hard at improving their dwellings to beautify them and would like to keep the neighborhood that way. She encouraged the City Commission to deny this zone change so as to not interfere with the hard work that the neighborhood has done to invest in their dwellings.

Kathleen Carrick of 621 North 5th Street gave comments on the developer's proposal she felt that they were way too vague for the City to even consider. She stated that their language is should be designed to lessen congestion in the street and will address secure safety from fire, panic and other dangers; they assume to deal with adequate light; did not appear to prevent over crowding of land; assume not to cause problems with the responsible consideration of the characteristic of the district. Basically she concluded by saying that the developer's do not have a concrete proposal to let the community know what they are going to do and why they are going to do it and how that will impact the whole community. Therefore she felt that the City Commission does not have any reasonable facts upon which to base any decision because the developers are not telling the City what they are going to do.

Harold Stewart of 406 West Summit stated that he was concerned about the safety response time of this request in the area and especially talking about high-density elderly people. He gave an example of when the underpass was closed due to a storm and he had visited with a railroad engineer who stated that it is not unusual for the 5th Street Railroad Crossing to be closed for up to thirty (30) minutes at a time. With this he stated that the City has a bad traffic access problem like with the Star Subdivision and the Northern Lights Subdivision. He went on to say why should the City change the zoning, limiting options on how the property is developed with high density, high value property. He felt that the Branding Iron Addition could be a beautiful area in the City if it was properly done, for both the City and the surrounding owners, but felt that the developer has several questions to answer before any property owners would consider giving their consent to a zone change. He concluded by stating that he had heard that there was a marketing survey done on this property and has anyone ever seen it. He stated that he wants to make sure that it is economically unfeasible to develop the property under the R-2 zoning designation and wants proof that it can't be done. Who is the developer, does he have the qualifications to do the job he wants to see his previous work and requested that this zone change be denied.

Pat Miller of the corner of Yellowstone and Montana made comments about the zone change. She feels that this area is mid to high income and hopes that the taxes won't go higher with this kind of change if it passes. She

asked what recourse would the community have if this zone change was approved. She asked for more time before the City Commission would make a decision on this zone change and stated that this area is the wrong place for multi-dwelling homes.

Merle Bourma of 325 West Summit stated that he could see no reason why this area's zoning should be changed. He stated when looking at the allowable uses in R-2 zoning districts, it seems to him that these give plenty of room for what the developer wants to do and he sees no reason to change to R-3.

Gwendolyn Norskog of 527 North 7th Street stated that with traffic, the storm water problem, noise pollution and access to other parts of town to construct buildings and businesses for our residents she would like to keep the area with the same zoning.

A short break was taken at 8:55 p.m.

The meeting went back into session at 9:10 p.m.

Motion was made by Lee, second by Dahl, to accept the Findings of Fact relating to Zone Change Request from R-2 to R-3 for the Branding Iron Subdivision.

4 in favor; Lee, Gregrey, Ebinger and Blakeman, 1 opposed; Dahl Motion passed.

Motion was made by Dahl, second by Lee, to approve the zone request from R-2 to R-3 for the Branding Iron Subdivision. Sheryl Dahl presented letters for the zone change to the Recording Secretary for the record. Ms. Dahl stated that she had received a phone call from Pat Wagman and that he supported this zone change and the idea of the proposed use for the area.

Steve Golnar made comments relating to point of order. He stated that the action the Commission should be considering was for the Commission to direct the City Attorney to prepare an Ordinance for approval of the zone change for a first reading.

Motion was made by Dahl, second by Lee, to withdraw their motion to approve the zone request from R-2 to R-3 for the Branding Iron Subdivision.

Motion was made by Dahl, second by Lee, to direct the City Attorney to prepare an Ordinance to approve the zone request from R-2 to R-3 for the Branding Iron Subdivision.

Lenny Gregrey thanked all of those people that attended and expressed their feelings on the zone request change. He stated that it was nice to see community involvement and having people express their views and concerns

to the Commission. Mr. Gregrey stated that homeownership is probably the most valued asset for everybody and that homes property value should increase, not decrease by some legislative fiat. He concluded by stating that he would like to see this area stay at R-2 that the developer whom ever it is can still build an attractive building and still charge an amount that he feels is necessary to develop those lots and that it would still be an upscale development. Also he mentioned that he would one day like to be able to move into a place like a townhouse that he didn't have to mow his own lawn and would like to see somebody do something like this in Livingston and that R-2 stays R-2.

Sheryl Dahl agreed with Mr. Gregrey. She stated that she was not opposed to seeing the area developed but she thought that the idea of the planning of the neighborhood was for a lower density residential, which is R-2, and she believes that the right developer with vision could come up with a plan especially with 3500 square feet per lot. Ms. Dahl did comment that this community does need more assisted housing and senior housing but wants this area to remain at R-2.

Bob Ebinger stated that when he had heard that the developer's were contemplating a senior housing area with assistant living he felt that it was a great idea and that the community needs this kind of housing but that R-3 is too dense for this particular area. He stated that the Commissioners should think about the School system in that the District is thinking about closing the Washington School and if it were developed as senior housing, it would not have enrollment impacts on the School. He went on to say that having access to the area is a really serious problem in the long-term and that the character of the area needs to stay the same as R-2.

Michelle Lee stated that she had voted against this request the first time it was brought to her and she wanted to applaud the citizens of the neighborhood for pulling together and sharing their concerns and facts opposing to this zone change.

5 opposed; Motion denied directing the City Attorney to prepare an Ordinance to approve the zone request from R-2 to R-3 for the Branding Iron Subdivision.

Bruce Becker, City Attorney stated that he is hearing Findings of Facts that are inconsistent with the zone change and suggested that the City Commission amend the Findings of Fact to what has been stated.

Motion was made by Lee, second by Gregrey, to reconsider the Findings of Fact of Zone Change Request from R-2 to R-3 for the Branding Iron Subdivision.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to amend the Findings of Fact as follows: No. 3 – Will the proposed rezoning secure safety from fire, panic, and other dangers? Change the answer to no. No. 6 – Will the proposed rezoning prevent overcrowding of the land? Change the answer to no. No. 8 – Will the proposed rezoning avoid undue concentration of population? Change the answer to no. No. 9 – Does the proposed rezoning give reasonable consideration to the character of the district? Change the answer to no. The reason being because the Commission has heard testimony from the citizens in the neighborhood of the area being proposed to be rezoned from R-2 to R-3.

All in favor, Motion passed.

Ordinances:

Motion was made by Dahl, second by Ebinger, to approve Ordinance No. 1926 as amended – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1901 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING, AND STANDING; AUTHORIZING IMMOBILIZATION OF VEHICLES WITH FIVE (5) OR MORE UNPAID PARKING TICKETS; PROVIDING A NO-PARKING ZONE ON PARK STREET BETWEEN 5TH AND 6TH STREETS; AND PROVIDING A CRIMINAL PENALTY FOR VIOLATIONS AND GENERALLY REVISING THE PARKING REQUIREMENTS.** Lenny Gregrey asked in Section 9-222 (2) stating "on any crosswalk, sidewalk or boulevard" the definition does the boulevard have to be a grassy space between the sidewalk and the curb or can it be cement? Bruce Becker stated that in the previous Ordinance, which said that there, be no-man made material placed in that area. Lenny asked if it was a sidewalk or a boulevard? Bruce Becker stated that by the definition it is a boulevard. Lenny Gregrey asked about Section 9-236 what an inoperable motor vehicle was? Bruce Becker stated that it is a vehicle that is not licensed or in running condition. Darren Raney, Police Chief, stated that he would direct his Police Officers not to ticket vehicles with recent flat-tires that are operable in a short time frame.

Michelle Lee asked if an "inoperable motor vehicle" was anywhere in State Code. Bruce Becker stated that "no" it was not. Ms. Lee also stated that in Section 9-222 (11) "beside any curb painted yellow by the City" that yellow should be taken out.

Vicki Blakeman asked about Section 9-233 – Street Sweeper Schedule if this section should be taken out because the City has no recourse. It was the concurrence of the City Commission to take this section out.

All in favor, Motion passed.

It was requested by Vicki Blakeman, Chairman to amend the agenda and go forward to action item no. "8, B" at this time.

Action Items:

The beaver control and property protection / health safety and welfare plan was reviewed. Steve Golnar gave background information on this issue and stated that Staff had met with Mr. Tom Lemke, the Livingston Wildlife Biologist for Montana Fish, Wildlife and Parks Department and reviewed beaver control and property protection issues. Mr. Golnar also mentioned that City Attorney, Bruce Becker had also given his comments on his review of the law in respect to beavers. Mr. Becker stated that as a general rule, the State of Montana owns wild animals in trust for the public, but such ownership does not create a liability for damages caused by wild animals. He also stated that under Montana law, a beaver is a fur-bearing animal and it is unlawful to hunt or trap any fur bearing animal except as provided by law, or as provided by the department of Fish, Wildlife and Parks.

Mr. Tom Lemke stated that in order to resolve the issues caused by beaver gnawing trees in the City and private property owners can help protect their trees by wrapping them with wire, or they can put a retardant on their trees that is made from adding aggregate to latex paint. A licensed trapper is the only lawful person that can do the trapping or lethal injection and they can do this from November 1st through April 15th. Mr. Lemke stated that the Montana Fish, Wildlife & Parks Department will issue game damage permits to property owners or the City so that the beavers can be removed from the problem areas beginning June 1st of each year.

Vicki Blakeman asked Mr. Lemke if adding the aggregate to latex paint is more effective than putting wire mesh on trees. Mr. Lemke stated that the aggregate paint is relatively new that on sapling trees it is not as effective but on the larger diameter trees he feels that it is effective. Beavers will get to trees that are impaired to their environment zone. Mr. Lemke suggested directing the City to obtain skilled trappers. Live trapping was the preferred alternative in urban areas to avoid damage to domestic pets or kids. It is hard to catch a beaver alive but it can be done. Once trapped the animals could either be relocated or disposed of. He went on to say that the City would never totally eliminate beavers. It will be a long-term process.

Lenny Gregrey stated that Larry Edwards shared with him that in broad daylight he has seen beavers bring down a tree in about 15 seconds.

Vicki Blakeman asked if during the off-season of the summer, would the City employee be considered the land agent. Mr. Lemke stated that "yes" if she or he was operating on City owned property.

Bob Ebinger asked if the City was going to initiate this painting process how would the City go about doing something like that. Mr. Lemke stated that it would just be the cost of the paint and masonry sand and making it available to people or just trying it on City owned property.

Steve Golnar asked how the State handles the liability associated with beaver dams and the damage of property.

Mr. Lemke stated that the State Fish generally does not accept liability for public animals.

It was a consensus of the Commission to have the City Manager write letters to the citizens that are having beaver problems to invite them to a training session on beaver control, property protection including wire mesh and paint to the trees and the biology of beaver. He will give an update in six (6) months but to take care of the beaver problem on the City property first.

Ms. Dahl excused herself from the meeting.

Resolutions:

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3390 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MEMORANDUM OF UNDERSTANDING WITH THE LIVINGSTON POLICE DEPARTMENT TO CHANGE THE WORK SCHEDULE TO 4 TEN HOUR SHIFTS PER WEEK ON A TEMPORARY TRIAL BASIS FOR PATROLMEN.** Lenny Gregrey asked about the difference of the rotating week shift schedule. Darren Raney stated what that reflects is a 40-hour workweek and not having Officers have an excessive number of days off in a row.

All in favor, Motion passed.

Action Items:

Motion was made by Gregrey, second by Lee, to consider a request for a No Parking Sign and area in front of Rural Fire Department #1 property located at North "C" and Park Street and to advertise their intention to create such restrictions to allow for abutting property owners to voice concerns if they have any prior to the implementation of said restriction.

All in favor, Motion passed.

A review of CDBG Loan Application for Big Sky Services was discussed. Steve Golnar gave background information relating to this request.

Motion was made by Lee, second by Ebinger, to direct City Attorney to prepare a Loan Agreement and a Resolution authorizing City Manager to sign loan agreement, contingent upon final review and approval of loan details by the City Manager and Finance Officer.

Bob Ebinger asked the letter from Alliance Development Corporation dated May 27, 2003, which stated that this loan was intended to be for a bridge

loan and asked what a bridge loan was. Dana Taylor stated that they became aware of this program after this loan application was submitted and determined that this would be a perfect application for this program but the financing was not available until the end of the year.

Lenny Gregrey asked about the ½% fee as to who pays the fee and if the fee amount is added or deducted to the loan amount. Dana Taylor stated that is a fee that is paid outside of the loan by the applicant and is received by Alliance Development Corporation.

All in favor, of directing City Attorney to prepare a Loan Agreement and a Resolution authorizing City Manager to sign loan agreement, contingent upon final review and approval of detailed plans by the City manager and Finance Officer, Motion passed.

Action Item No. C – to approve special event permit application for Skate Park Concert on June 14, 2003 at the Miles Park Bandshell was taken off of the agenda. Steve Golnar stated that this request is being delayed until July 16, 2003 so that it is not an immediate action that needs to take place.

In the special event request a replacement was inserted to ask for the City Commission's consent to move forward with advertising for Club Boxing on June 27, 2003 with the understanding that this would not be approved until the meeting on June 16, 2003.

Motion was made by Lee, second by Ebinger, to accept the Findings of Fact of the Ranch Supply Minor Subdivision.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve the Ranch Supply Minor Subdivision.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to nominate all of the five citizen applicants for the Citizens Task Force, which are Jim Barrett, Dennis Glick, Kester Romans, Al Pendergrass and Gary Blakely.

All in favor, Motion passed.

Secret ballots were supplied to the Recording Secretary with the City Commission's vote. The City Attorney and the Recording Secretary tallied the votes. The members for the Citizen Task Force are as follows: Jim Barrett, Dennis Glick, Al Pendergrass and Gary Blakely.

Motion was made by Gregrey, second by Ebinger, to table the action item to advertise the Old Water Works Building for Lease proposals until the first

meeting in July for further information relating to water rights to the River. Lenny Gregrey stated that he would like to have the City determine the water rights to the River before any decision be made for this advertisement for the Old Water Works Building for lease proposals.

All in favor, Motion passed.

Clint Tinsley, Public Works Director, gave a presentation on eliminating the pigeon dropping alternatives in "B" Street Underpass. He stated that while he was in Texas on vacation he acquired information from them that they use Bird-X to eliminate pigeon dropping on their underpasses and that it is very effective. Mr. Tinsley stated that the State of Texas shared with him that Bird-X leaves a scent that stops the pigeons from laying eggs; makes the pigeons sterile and that it is safe to the environment and people. Mr. Tinsley stated that they have looked at chicken wire and he have talked with Jim Nardella in spot welding this to the Underpass and Mr. Nardella stated that it would need more than just spot welding to keep the wire in place. This would cost in the range of about \$7,000.00. The City Commission requested that Mr. Tinsley look into what the Bird'x would cost compared to the cost of the chicken wire. Mr. Tinsley stated that if they were to screen that area the pigeons would just go somewhere else and that would not get rid of the problem entirely.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the Railroad Quiet Zones comment and stated that he felt that people are going to have to live with the noise for a while because there is a lot of issues that need to be resolved with legislation and administration.
- Lenny Gregrey asked the letter to the Missouri River Drug Task Force position and wanted to know if the City had made any big arrests for these types of crimes. Darren Raney stated that "yes" they have and that they are doing a good job.
- Michelle Lee asked about the Yellowstone River Flood Stage if there was a declaration of emergency in place. Steve Golnar stated that the County declared an emergency relating to flooding of the River. The City would declare an emergency before they ask for assistance from the County particularly when the City discovers damage is occurring or can occur requiring more than local resources to address. Ms. Lee asked when an emergency is declared if the Commission would be called into a meeting. Mr. Golnar stated that "yes" Staff and the Commission are called into an emergency meeting and then an action is taken to prepare a Resolution declaring an emergency.
- Michelle Lee asked about the Solid Waste Contract renewal with the County. Clint Tinsley, Public Works Director reported that he had talked with BFI and asked them what they could do to help the City out with garbage issues if the City decided not to renew the contract with the County. Mr. Tinsley stated that BFI commented that it would not be the thing to do at this time to build a transfer station at

Livingston and haul garbage to Logan. BFI would not build a transfer station because Livingston is less than 60 miles away from Logan. Mr. Tinsley also stated that he asked BFI what the City would do with appliances, such as refrigerators, stoves, washers and dryers. BFI stated that the City could build a mini-transfer station for less than \$20,000.00 then the residents could also bring their metal products to the station. Mr. Tinsley stated that BFI's contract would be substantially less than the County for hauling garbage with their trucks. Bob Ebinger asked if the transfer station could maintain mulching and be able to separate other items. Mr. Tinsley stated that "yes" that would be a great idea including being able to separate out table scraps for composting products but this would take some time getting direction from the State with a consultant. Mr. Tinsley went on to say that the City could save a lot of money hauling to Logan. There will be another meeting with the Refuse Board meeting this week. Steve Golnar stated that if the City decides to haul their garbage to Logan and not with the County then the County will not let the City residents use the Incinerator or the Landfill. Lenny Gregrey asked if the City knows for sure what the County is going to do with the Incinerator and Landfill if they are going to close it or what. Steve Golnar stated at the last meeting the City had with the Refuse Board the County's opinion was that the upgrade of the Incinerator would cost around \$750,000.00 to \$1,000,000.00 to fix the air omission problems for the future and fixes above that. Steve Golnar stated that the County is serious of upgrading the Incinerator. If the County upgrades the Incinerator and keeps the Landfill open then they are going to have to raise the costs to the City residents. It was mentioned that there will be a City/County meeting on Wednesday, June 4, 2003.

- Lenny Gregrey asked if the garbage cans that are marked with an "X" have been picked up yet. Clint Tinsley stated that they were starting to pick up the "X" cans today. Also Mr. Gregrey asked if the grass clippings were still going to be picked up on the boulevards on Monday's. Clint Tinsley stated that "yes" but that it will be a little different they will pick up grass clippings, branches, leaves and anything that will not fit into the cans. Mr. Gregrey asked for clarification of the branches if they still had to be put into four-foot bundles. Mr. Tinsley stated, "yes" and that to put them in front of the boulevards.
- Clint Tinsley brought up the project of the FFA and their benches that the FFA wants to put these benches on the Bike Path and they will maintain them. Vicki Blakeman asked if the FFA will pick the benches up? Clint Tinsley stated that "yes" they will pick up the benches and that they will place them. Mr. Tinsley stated that the benches are for sale and the cost is \$75.00. Lenny Gregrey stated that he would buy a bench and donate it.
- Steve Golnar stated that there was a question about the Missouri River Drug Task Force bill if the City can pay for bills outside of the fiscal

year and stated that the City Attorney concluded that "no" the City cannot pay for bills outside of the fiscal year unless the City has a contract that states that the City will do so and the City Attorney suggested to have a contract prepared to authorize City Manager to sign agreement for the fiscal year 2003-2004 along with past due obligations for the Missouri River Drug Task Force.

Motion was made by Lee, second by Ebinger, to direct the City Attorney to prepare a contract with the County for the Missouri River Drug Task Force bill for the fiscal year 2000-2001 and to give the City Commission an update.

All in favor, Motion passed.

Commissioner Lee Comments:

- She stated that she had done a follow-up call to Jeff Ebert about the East and West Interchanges signs and she was curious if Steve had heard from him. Ms. Lee stated that she did not receive a phone call back from Jeff Ebert and asked if Steve would call him. She also asked if someone could take pictures of the signs so that the State could see the signs and what and why the Commission was requesting the change of the signs. Steve Golnar asked which signs she was requesting to have pictures taken of. Ms. Lee stated the one that say Livingston next two exits because she feels that this is wrong, which would be Exit No. 330 through Exit No. 337.

Commissioner Ebinger Comments:

- He stated that Preservation Magazine will start running the ad for the East Side School in July and August and that we should get the archives out of there as soon as possible for any prospective buyers. Mr. Ebinger also asked about the contract for the repairs to the East Side School and would like to have this implemented as soon as possible.
- He mentioned that he would be helping interview for the Historic Preservation Officer position on Tuesday, June 3, 2003 and that he will be missing the Building/Maintenance meeting at 4:00 p.m. and asked if any other Commissioner would like to go in his place.

Commissioner Dahl was absent for comments.

Commissioner Gregrey Comments:

- He stated that he had received a call from Gladys Durden and that she happens to be in the audience and she wanted to know how many gallons of water goes through the fire hydrants when they are flushed out. Clint Tinsley stated that it is close to 1,000,000 gallons each time, which they flush out twice a year.
- He asked if the City will see construction this year on the 7th Street Foot Bridge. Clint Tinsley stated that bids are out and that "yes" it will be constructed this year but not by July 1st. Mr. Gregrey asked if the

bids included the grade caused by the erosion of the storm that we had this last weekend. Clint Tinsley stated "yes" it does.

Chairman, Blakeman had no comments.

No Public Comments were given.

It was decided by the City Commission since it was getting so late to postpone the City Manager's Executive Session until the next meeting.

Motion was made by Lee, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 11:25 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSIO

LIVINGSTON
CITY COMMISSION MEETING
JUNE 16, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, June 2, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve June 2, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of June 2003.
- Approve Bills and Claims for FY 2003-2004 after July 1, 2003.
- Department Heads Monthly Reports and Other Minutes.
- Authorize overnight camping request at Mayor's Landing Fishing Access for the Boy Scout Troop River Float on June 22, 2003.
- Approve Special Event Requests.
 1. Special Event Request for Club Boxing at the Civic Center on June 27, 2003.
 2. Special Event Request for Livingston Roundup Parade on July 2, 2003. This event was changed to be the Livingston Area Chamber of Commerce Parade.
 3. Special Event Request for Skate Park Committee Fund Raising Concert scheduled for July 16, 2003. This event was withdrawn by the organizer because of conflicting events scheduled for that day at the Civic Center.

Bob Ebinger clarified the fiscal year for the Missouri River Drug Task Force bill and asked to have it changed in the minutes to reflect the change to fiscal year 2001-2002.

Michelle Lee asked about the two bills for the Dell Computers and who they were for. One was to Dell Marketing L.P. and the other one was to Rockin Micro. Shirley Ewan stated that the claim to Dell Marketing was for the replacement computer for the Laserfish in the City Office that was budgeted for last year and Fire Chief, Jim Mastin, reported that the claim to Rockin Micro was for a computer for the Fire Department that was being funded from non-expanded fund balances available at year end. Ms. Lee also asked about the Black Mountain Software bill and did she understand right that this is for the Web Page Site being developed. Steve Golnar stated that Black

Mountain is the Software that the City is contracted with for the Accounting Department and not the Web Page. Mr. Golnar stated that City Staff and Roebby Simmons are developing the Web Page Site and that there should only be one more bill from Roebby for his services to complete this project. Ms. Lee asked about the County Internet service if that was a monthly billing to the City and if so why was it not on the bills and claims. Shirley Ewan stated that "yes" this was a monthly billing and that it would be on the claims for the July 7, 2003 City Commission meeting.

Vicki Blakeman asked about the postage for the Tony Hawks Grant and why this was so much. Steve Golnar stated that this was a rush overnight mail charge so that the City could get this in to meet the grant deadline. Ms. Blakeman also asked about the Touch America bill if this was going to continue as they are going out of business. Steve Golnar stated that it was still the long distance carrier.

All in favor of consent items, Motion passed.

A scheduled public comment was scheduled for Char Devine and Larry Edward of 724 River Drive to discuss the Beaver Problems near Sacajawea Park but they withdrew their request for such public comment before the meeting.

Variances:

A variance was discussed for Jane Skeoch of 405 West Lewis Street requesting a variance from the side setback requirement for RII zoning districts. City Planner, Jim Woodhull, stated that the variance request was to build a carport on this property that would extend to within 3 1/2 feet of the side property line. The Livingston Municipal Code requires a five (5) foot side setback. Mr. Woodhull stated that based on the Findings of Fact Staff report, that the City Zoning Administrator felt that it was appropriate for the Board of Adjustment to recommend that the City Commission approve this variance request.

Motion was made by Dahl, second by Lee, to approve the Findings of Fact relating to the Variance request for Jane Skeoch of 405 West Lewis Street.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve the Variance Request for Jane Skeoch of 405 West Lewis Street.

All in favor, Motion passed.

Public Hearings:

A public hearing was held for Ordinance No. 1926 – second reading – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1901 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING, AND STANDING; AUTHORIZING IMMOBILIZATION OF VEHICLES WITH FIVE (5) OR MORE UNPAID PARKING TICKETS; PROVIDING A NO-PARKING ZONE ON PARK STREET BETWEEN 5TH AND 6TH STREETS; AND PROVIDING A CRIMINAL PENALTY FOR VIOLATIONS AND GENERALLY REVISING THE PARKING REQUIREMENTS.** No public comments were given.

Bob Ebinger asked about the Section 9-222 (9), he understood that the City was going to have a no-parking zone due to the proposed lengthening of the left turn lane for the 5th Street Intersection for traffic moving eastward on Park Street from 6th to 5th Streets. He wondered if the Ordinance should address that parked vehicles in that area should be towed immediately as they would be obstructing traffic. Bruce Becker, City Attorney, stated that any time a vehicle is obstructing traffic the City has the right to tow the vehicle even if it is in a "no-parking zone", which has less immediate towing requirements. He did not feel that the City's ability to tow immediately needed to be added to this Ordinance.

Motion was made by Lee, second by Gregrey, to approve second reading of Ordinance No. 1926.

All in favor, Motion passed.

This Ordinance will go into effect in thirty (30) days which would be July 16, 2003.

Resolutions:

Motion was made by Lee, second by Dahl, to approve Resolution No. 3391 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH THE MONTANA STATE HISTORIC PRESERVATION OFFICE FOR GRANT FOR LOCAL HISTORIC PRESERVATION OFFICE.**

Lenny Gregrey asked about Section XIII of the agreement relating to conflict of interest what personal or pecuniary interest related to. Bruce Becker stated that for example if you are a member of the Montana Historic Preservation Society or the State Preservation Review Board and you are on a governing body and your decision effects you personally or pecuniarily than you could not vote due to a conflict of interest. This comes from the Code of Ethics as defined in State statues.

Michelle Lee stated that she felt this specifically was relating to this agreement and that the agreement is narrowly scoped between the City and the Historic Preservation Office in the respect that it covers funding of office and officer.

All in favor, Motion passed.

Ms. Blakeman asked if a Historic Preservation Officer had been appointed and if so when would they be starting their position. Steve Golnar stated that "yes" a Historic Preservation Officer has been appointed and will be starting the week of July 8, 2003.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3392 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH PARK COUNTY TO IMPLEMENT AGREEMENT WITH MISSOURI RIVER DUG TASK FORCE AND AUTHORIZING PAYMENT OF CITY'S CONTRIBUTION FOR FISCAL YEAR 2001-2002 IN THE AMOUNT OF \$7,500.00 AND FISCAL YEAR 2003-2004 IN THE AMOUNT OF \$7,500.00.**

Lenny Gregrey asked if the reports were from in-house or if they came from the Missouri River Drug Task Force. Mr. Golnar responded that the reports were prepared by the Missouri River Drug Task Force. Mr. Gregrey pointed out that the word "December" and "currency" had been spelled wrong.

All in favor, Motion passed.

A discussion of Resolution No. 3393 being proposed - Authorizing City Manager to sign Interlocal Agreement with Park County Refuse District at \$60.00 per ton disposed at the Incinerator to cover Incinerator and Landfill charges was reviewed.

Steve Golnar gave background information relating to Resolution No. 3393. He stated that the City had meet with the County twice on June 16, 2003; once in the morning with the County Commissioners during the regular session where they post-poned further determinations until the afternoon when Mr. Golnar and Clint Tinsley meet with the County Commission, the Refuse District Board and the Incinerator personnel.

In the way of background, Mr. Golnar stated that a majority of the City Commission asked him to contact the County and get their response to a proposal, which the County Commission Chairman, Ed Schilling, requested of the City Commission Chairman, Vicki Blakeman. This agreement was to spell out under what circumstances the City would avoid terminating their Solid Waste Disposal agreement with the County at the Incinerator and Landfill.

The proposal that the City offered on Thursday, June 12, 2003 was to dump their garbage at the Incinerator at the rate of \$60 per ton to cover Incinerator and Landfill charges to be in force for a one (1) year period in order to allow the City and the County time to evaluate further opportunities to coordinate with each other on Solid Waste Disposal. The County responded on Friday, June 13, 2003 that they would evaluate the City's proposal and respond by Monday, June 16, 2003. The City meet with the

County on Monday, June 16, 2003 and the County identified after some discussion that they could work with the City at \$60 per ton, but they were concerned about how much of the City's garbage would be recycled and composted. The City didn't want to pay the estimated average number of tons of garbage that the City threw away in previous year's for landfill charges, because the City wanted an incentive to be able to recycle and compost. At the meeting, Public Works Director, Clint Tinsley, responded to the County that particularly in the first year, the City would be looking at limited quantities of garbage diverted due to recycling and composting. The primary reason was that the City would need to build a facility which was permitted for recycling and composting and needed to develop this further. An agreement was arrived at in concept that the City could move forward in the development of recycling cardboard fairly immediately in cooperation with the County which can bail cardboard. The County was concerned about the termination clause in the agreement and they requested that it be deleted. Mr. Golnar and the City Attorney agreed that this termination language was not a significant issue for the City Commission to be concerned about. Mr. Golnar also stated that in the "performance / responsibilities" section of the agreement that the City's discretion to compost and recycle material and deliver material to the Incinerator is reserved. "The City shall pay the County a disposal fee of \$60 per ton for refuse actually delivered by the City to the County's Incinerator."

The County suggested that the City might want to identify number of tons to be delivered to the Incinerator because of a concern for budgeting anticipated revenues. The County's suggestion was to add the wording: "The City shall pay to the County a disposal fee of \$60 per ton for refuse actually delivered by the City to the County's Incinerator, not to exceed 5,100 tons less composted or recycled materials, which sum represents the City's total financial obligation for costs associated with the County's disposal of refuse delivered to the Incinerator by the City." Mr. Golnar stated that there are pros and cons to putting a specific number of tons in the agreement, because it established an expectation, however, the ability to compost and recycle is identified and this was acknowledged by the County Commission.

Clint Tinsley, Public Works Director, stated that the City's garbage at best would see 15% go to composting and recycling. Mr. Tinsley stated that he had met with Lawrence Osset at the Landfill and they discussed that there are many things that the City and County can do to help the composting and recycling efforts. Mr. Tinsley went on to say that the composting and recycling efficiency will take nine (9) months to a year to figure out and would not be a part of this contract. Mr. Tinsley also stated that the City is hoping for 1,000 tons to be directed toward composting and recycling eventually. In response to the County's concern about the 5,100 tons and that the City might haul their garbage somewhere else, he was not concerned with the statement "not to exceed 5,100 tons" because the option for recycling and composting is preserved and he confirmed that the City's

intention is to dump garbage not recycled or composted at the Incinerator, except for items which have disposed of elsewhere in the past. He concluded by stating that he feels that the City and County can come to a reasonable arrangement.

Sheryl Dahl asked what if the City were to exceed the 5,100 tons of garbage. Mr. Tinsley stated that he did not believe that the City would exceed the 5,100 tons. Sheryl stated that she did not see the need to add the wording "not to exceed 5,100 tons". Sheryl also sought to clarify her understanding that the City was asked by the County to work toward identifying the City citizen's use of the Incinerator through use of a roll-off dump boxes, a mini-transfer site, and that all trash going to the Incinerator would need to be paid for.

Clint Tinsley stated that he has come to the conclusion that it makes no sense for the City to have a mini-transfer station. So between the City Public Works Director and County Incinerator Operator it has been suggested to hire a full-time person and have the City pay for half (1/2) and the County pay for half (1/2) of the salary for this person who would be at the Incinerator to weigh the garbage as it comes into the Incinerator and determine if it comes from a City resident or a County resident. This would save on the cost of a mini-transfer station for the City and the cost of an upgrade at the Incinerator for the County. Mr. Tinsley strongly suggested to proceed with the objective of hiring a full-time person and split the salary between the City and County in order to get an accurate weight of garbage at the Incinerator for both of City and County residents.

Michelle Lee asked if the cost of this person is included in the proposed cost of the \$60 per ton for the City. Clint Tinsley stated that "no" it was not included so the 50% cost of a full-time employee for the City would need to be made up by cost savings or redirection of expenditures. Ms. Lee also asked Mr. Tinsley if he knew how much this person's salary would be. Mr. Tinsley stated that the estimated cost of this additional person would be \$43,000.00 and the City would pay half of that salary.

Sheryl Dahl asked if the major concern of the County was the amount of people dumping at the Incinerator from the City at no cost. Mr. Tinsley stated that the City and County are doing this for one (1) year so that they both can get an actual weight of the garbage being dumped at the Incinerator. He went on to say that the City and County plan to begin meeting in August 2003 to figure out where the future lies with Solid Waste. Both the City and County are decreasing their revenues by \$35,000.00. The City wants to work together with the County and figure out the best solution for everybody for Solid Waste Disposal.

Michelle Lee asked how the cardboard revenues would work between the City and County. She asked if the City was going to weigh the cardboard before it would go to the Incinerator and how the share would come back to the City

from the County. Clint Tinsley responded "yes" and went on to say that this will be proposed later to the City Commission as a separate agreement. Mr. Tinsley concluded by stating that he feels very confident that the County will work with the City to come to an acceptable solution for all parties.

Michelle Lee asked that the rates for the Landfill be attached to the agreement.

Lenny Gregrey made comments that the public has a misconception of what the situation is with the Park County Incinerator and the Landfill. He stated that the Engineer that spoke in reference to the Landfill stated that it has a 22-year life span left. He went on to say that the garbage that is collected at the Landfill in the next 22 years will be it, and then the Landfill will close. The public is not aware of that. The Montana Department of Environmental Quality made a report in 2002 concerning their Inspection of the Incinerator and that when these inspections occur no notice is given to the operator. He had read the report from this inspection and an operator commented to the inspectors that the County will eventually be transferring their garbage to Logan. The Park County Incinerator is the only municipal Incinerator in the State of Montana. Mr. Gregrey stated that the City of Livingston is either ahead of the curve or behind the curve on this, no other City in the State is jumping on the bandwagon to put Incinerators in and when an Incinerator burns material it breaks down the components that you put in and they become separate elements. Incinerators are not the total answer. He understands that the Park County Incinerator was put in because of the problems at the Landfill and garbage blowing all over and onto the highway. The rancher that was in that area took the County to court and the County was told to put in a device to offset the garbage blowing around the County. The County put the Incinerator in and it only had a 15-year life span in 1982. After that it would require extensive repairs to operate it. It appears now that both the City and the County are addressing the problem and will try to manage the refuse for the City and the County in the best, most economical, and safest way they can. Mr. Gregrey stated that he had received a call from Ann and William Biastoch of 825 West Callender and that they thought that the Incinerator was a safe way to dispose garbage and they were not aware that there is hazardous material that is left in the process of incineration.

Bob Ebinger stated that he was very happy with the way the City and County are working together to come up with a solution to the Solid Waste Disposal agreement. He felt that this was another step forward in the City and County relationship.

Sheryl Dahl concurred with Mr. Ebinger's statement and asked again about the rates to the Landfill and asked to have an addendum attached to the agreement to identify the rates at the Landfill.

Vicki Blakeman provided letters she had received from Mary Smith, Carol Woodley and Margery Graham in support of keeping the Incinerator and the Landfill and asked that they be put into the permanent record.

Bob Ebinger stated that several residents in the City stated, "that City residents need to spend their money in Park County and not go to other counties".

Sheryl Dahl asked Mr. Tinsley if with this proposal to stay with County disposal, will the City still offer the 10% discount to the City Commercial garbage users. Clint Tinsley stated that in his opinion "yes". He went on to say what this proposal involves is the County will cut \$36,000 off of their rates in a year and the City will cut \$36,000 off of their income for a year. The City is spending \$56,000 toward composting and reducing rates, with \$20,000 for a consultant and \$36,000 will be coming out of reserves. Hopefully, the composting and recycling efforts will make up the difference by offsetting some of these increased costs with cost savings.

Mr. Golnar clarified that the additional full-time person to identify the source of garbage dumped at the Incinerator was not presently in the budget. Mr. Tinsley said that a future proposal from his office and the County Solid Waste Manager's would be forth coming on this matter.

Michelle Lee asked for concurrence that we were not going to put the statement in the #4 - Incinerator Fees to keep away from the total tonnage. After much discussion among Staff and the City Commission it was determined not to include the total tonnage statement in the Incinerator Fees and to have an Exhibit "A" included with the agreement to identify the Landfill rates.

Bob Fleming a member of the Refuse Board made comments that he was very happy to hear the comments that had been given by the Commission and wants the City to be involved in the decision making process of the Park County Incinerator and the Landfill.

Steve Golnar asked if the City Commission wanted to enter the City/County action planning process for refuse disposal into the agreement or deal with it separately. The City Commission stated that they would like to have them separate and presented in the future.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3393 with changes and deletions and an addendum for Landfill rates - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH PARK COUNTY EXTENDING SOLID WASTE DISPOSAL AGREEMENT FOR FISCAL YEAR 2003-2004.**

All in favor, Motion passed.

9

Action Items:

A review of a draft Ordinance for Sidewalk Replacement and Repair program was discussed.

Lenny Gregrey asked about (Section 26-53) same-compliance with requirements, slope, repair of existing adjacent curbing and pavement for the curb repair. He stated that he felt that the curbing is not the responsibility of the homeowner abutting the offending curb. Mr. Gregrey stated that homeowners have paid once for sidewalk and curbs and that this is the City's property and not the adjacent homeowners property and he feels that the cost of repairs is the City's responsibility to repair the curbs which should be shared by all of the citizens of the City through taxes. He asked that if the Montana Supreme Court can eliminate the property owner's insurance company from liability for sidewalk accidents because the property owner does not own the property, then why does the City believe repairing the sidewalks and curbs is the sole responsibility of the property owner if they were not the cause of the damage. He feels that the reason for the crumbling of the curbs is caused by the excessive use of people running over the curbs with their vehicles and damaging the curb to the point where the concrete starts crumbling. He stated that this was not the fault of the homeowner. He concluded by stating that if the deterioration of the sidewalks is not the fault of the homeowners then why should the homeowner be responsible for the replacement and repair of the curbs and sidewalks.

Steve Golnar asked Mr. Gregrey for clarification, if he said that the replacement and the repair of the curbs and sidewalks should be the responsibility of all property owners.

Mr. Gregrey stated that the City collects taxes and this is what should be applied to the replacement and repair of curbs and sidewalks and the abutting property owner should not be assessed.

Bob Ebinger stated that he agreed with Mr. Gregrey and stated that in a town that is quite old that it really isn't the responsibility of the property owner that it is the City's responsibility for the replacement and repairs to the curbs and sidewalks.

Shirley Ewan stated that some of the curbs are the sidewalks and they need to be fixed. She stated that you don't want to take out the curb language because when you have a replacement or a repair the State will say that is a curb and not a sidewalk.

Vicki Blakeman suggested adding the wording to the Section 26-53 - "that if a curb is attached to the sidewalk then it is a part of the sidewalk."

Lenny Gregrey stated that in the situation that he was describing there was a sidewalk, a boulevard and a curb. Shirley Ewan stated that those isolated and free standing curbs are covered by the Street Maintenance District and that is not the responsibility of the property owners.

Motion was made by Dahl, second by Lee, to direct City Attorney to place an Ordinance amending Chapter 26, Article IV with amendments of the Livingston Municipal Code entitled Streets and Sidewalks Construction & Repair for first reading at the next City Commission meeting.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, directing the City Attorney to prepare a Resolution adopting the Sidewalk Replacement & Repair Program. Ms. Lee stated that she thought the City was going to have an option open so as to when the City goes around to do these sidewalks that the property owner can schedule when to have it done. Shirley Ewan stated that when the property owner receives a notice from the City that the sidewalk and curb needs replacement or repair then the property owner can call the City and schedule a time that coordinates with the City.

All in favor, Motion passed.

Action Item #B on the agenda was withdrawn authorizing the purchase of dump boxes to be hauled by a leased front-end loading garbage transport vehicle, because a decision was made to continue the Solid Waste Disposal contract with the County for another year.

A discussion was heard about applying for a lease to develop a parking lot on MRL property. Steve Golnar gave background information relating to this and stated that with the Commission's permission and in follow up to the Urban Design Plan, he intends to apply for a lease for a two (2) block area from 5th to 7th Streets between Front Street and as close to the Railroad as the Railroad will allow for a parking lot. Mr. Golnar commented that the purpose of leasing this property would be for the development of additional parking for downtown overfill parking.

Sheryl Dahl asked if the City was planning on paving the area. Steve Golnar stated that the City was planning on roto-milling the surface so that it is not mudding or dusty and said that other improvements could be done with CTEP money. The idea is to apply for the lease and determine what it costs and options for paying the lease and then to move forward with the alternatives of how to surface the area consistent with the Urban Design Plan and in the coordination with Montana Rail Link. Mr. Golnar asked the City Commission if they agreed that a two (2) block area was sufficient for the parking lot expansion.

Sheryl Dahl asked if Steve knew how much this plan would cost. Mr. Golnar stated "no" not until the lease was approved. Ms. Dahl stated that if the City is going to lease property for additional parking then it should be closer than five (5) blocks from the downtown area and commented that there is plenty of room downtown with the re-organization of the parking so she was opposed to leasing property five (5) blocks away from the downtown area when the goal is to get downtown parking.

Bob Ebinger stated that this proposal was initially for oversized vehicles not necessarily for the overflow of the downtown parking area for vehicles like motor homes that are not able to park in the downtown area.

Sheryl Dahl stated that since she has been on the Commission no one has taken the lead in the parking problem for the downtown area and she feels that someone should take the initiative to resolve the parking problems downtown before leasing other property to accommodate for the overflow parking problems in the downtown area. She volunteered to fill that role.

Michelle Lee stated that she felt that it would be beneficial to have this parking lot on the MRL property to accommodate the fishing boats on trailers behind vehicles that don't have anywhere to park in the downtown area. She went on to say also that the motor-homes that park at the end of the Depot Parking area would have more room at this proposed parking lot area and suggested that the area proposed could eventually get some trees for shading.

Motion was made by Gregrey, second by Ebinger, to direct the City Manager to provide the Commission with a lease cost for the proposed area from MRL West of 5th through 7th Street between Front Street and the Railroad before the Commission decides whether to apply for a lease of the property proposed for a parking lot from MRL. Again, Sheryl Dahl stated that she would like to see the parking lot plan initiated in the downtown area before the proposed lot lease from MRL was implemented.

4 in favor; Blakeman, Gregrey, Lee and Ebinger, 1 opposed; Dahl,
Motion passed.

Motion was made by Dahl, second by Lee, to authorize City Manager to appoint City Planner, Jim Woodhull, as an Environmental Certifying Officer for the Livingston Landscaping Improvements Project at I-90 Interchange and along the Bike Path generally following Park Street from Rodgers Lane northeasterly to 5th Street.

All in favor, Motion passed.

Creation of the new Residential Zoning District was discussed and it was determined to have a proposal submitted in writing by the Planning Commission before initiating further discussion by the City Commission.

Motion was made by Ebinger, second by Gregrey, to direct City Manager to write a letter of endorsement to the Ice Skate Committee encouraging efforts to construct a facility on City property by the Civic Center and coordinate the Civic Center exterior upgrades with the development of the Ice Skate Center. Steve Golnar stated that this was a suggestion that came out of the Workshop that was held on June 9, 2003 at 7:00 p.m. on improvements Civic Center. Sheryl Dahl asked with the Ice Skate Committee proposed leasing land from the City how would this effect the recreational program. Steve Golnar stated that there would be a lot of potential for cinergy between a facility like this and the Civic Center and the ball park lots would be vacant most of the year. Ms. Dahl also mentioned that her whole idea with moving the impound lot away from the Skate Park was the idea that an impound lot doesn't belong in the City Park and her future hope was to turn the impound lot into an outdoor recreational area with a Volleyball Court and a Basketball Court and expanding the area of the Skate Park.

Lenny Gregrey made comments about some developer that decided to live in the Bozeman area who came up with a \$50 million redevelopment plan. He suggested that the Livingston area would never see something like he had designed unless we dream grandly.

All in favor, Motion passed.

The Commission reviewed the billing procedures for transfers of prisoners to Warm Springs and considered a May 28, 2003 bill adjustment to the County.

Fire Chief, Jim Mastin, gave background information relating to this bill. The County and Mr. Mastin have discussed these types of issues and Mr. Mastin stated that he would take a look at this and stated that the bill that the County received was quite larger than what it actually cost the Ambulance Service. He stated that the Ambulance Service does not have an Interlocal Agreement with the County as of now that it expired in 2001 and Mr. Mastin commented in lieu of not having an agreement with the County that the Ambulance Service has done two (2) Warm Springs transfers for the County in the last year. Vicki Blakeman asked what does it actually cost the Ambulance Service for these types of transfers. Mr. Mastin stated that it actually cost them \$387.08 and his recommendation was to charge the County the base rate of \$406.00 plus .50¢ per mile which is a total of \$536.00. Mr. Mastin also stated that the Ambulance Service is in the process of negotiations with the County and just gave the County a budget request of \$250,000.00 and he would hate to see this bill jeopardize the negotiations with the County.

Lenny Gregrey asked if there was a problem implementing Jim Mastin's recommendation since the City had only had two (2) transfers to Warm Springs for the County in the last year.

Steve Golnar stated that his concerns were provided in the packet and that they were also the concerns of the Finance Officer and the City Attorney and he suggested further study of this request. He requested the Commission's thoughts on how the City should proceed and what remedy that the Commission would like to see. Mr. Golnar stated that he thought that the City should look at making billing adjustments on systematic and programmatic basis for the County and the Ambulance Service as a whole. The City is looking at negotiating a contract with the County which deals with the Ambulance Services, the City needs to incorporate such rate concessions into the negotiating process and not award them before hand. He was curious if the City made adjustments to Warm Springs would the City also make adjustments for other transfers or was it only for Warm Springs transfers.

Michelle Lee stated that the County gets a reimbursement rate from the State on these transfers and wanted to know what that rate would be in this case. Ms. Lee made comments that the City needed to know this before making a decision about the adjustment of the Ambulance Service transfer bill. Ms. Lee also stated that if this transfer was in the custody of the State then the County did get reimbursed a percentage of the bill. She suggested not reducing this bill for the County.

Jim Mastin, Fire Chief, stated that the County just wants to deal with Warm Springs bills not any other location of transfers from the jail. He suggested to only extending the arrangement until an agreement was adopted with the County, not to make it permanent.

Sheryl Dahl stated that she agreed with Chief Mastin and found it hard to answer the questions that Steve requested answers to. Such as: "Is it legal and fair to make an adjustment in rates charged to the County for transfers to Warm Springs for jail inmates recognizing that the county provides partial funding of the Ambulance Services through taxpayer money?" Mr. Golnar stated that this is why he needed to have more time on this issue due to the need for answers to these questions. He did state that the City should take the initiative to evaluate this issue and that it is important that the County understand that the City's is looking into this and will respond to the County and their request when a decision has been made.

Sheryl Dahl stated that on one of the questions: "Would this methodology apply to any other transfers from the jail?" her answer would be "no" and suggested that this would only apply to Warm Springs transfers from the County jail.

Shirley Ewan stated that this bill was negotiated at the time it came up not before hand and that a contract should be in place before something like this happens not after the fact.

Michelle Lee asked that City Staff find out how much the County got reimbursed for this from the State before making a determination of what the City would do with the bill for the transfer to Warm Springs from the County jail.

Steve Golnar stated that the rates were set and the mileage rates were set in order to cover the cost for the transfers based on what the methodology is for establishing the Ambulance Service rates as a whole. He stated that his suggestion would be to make adjustments for the upcoming fiscal year with the new contract. He went on to say that if the City Commission wanted to make an adjustment to one transfer that he thought that there should be more information provided and for the Commission to make their decision after proper information is provided at the next City Commission meeting.

Bob Ebinger stated that he felt that the City should not make an adjustment on this transfer but stated that the amount of the bill was substantially higher if there would be no State reimbursement made to the County.

It was determined that the City Commission needed more information relating to this issue before making a decision and asked the City Manager to provide this information to them at the next City Commission meeting.

Motion was made by Dahl, second by Gregrey, to approve the sign locations for the Lewis & Clark National Historic Trail in Sacajawea Park. Bob Ebinger provided a copy of the signs that will be displayed in the City and also stated that these signs will be placed on June 28, 2003.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve payment to Mediator, Susan Swimley in the amount of \$204.37.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Michelle Lee stated that she had not heard back from Jeff Ebert, Montana Department of Transportation about the signage at Interstate Exits No. 333 and No. 334 and asked Mr. Golnar to follow-up.
- Michelle Lee also asked about the letter from Larry Raffety, Architect was about that was provided in packet. Mr. Golnar stated that it was for the proposal for the East Park Street Bridge that was included in the "Livingston Patterns Downtown" design approach. Mr. Golnar stated that he is going to write a letter to the Consultant for the Montana Department of Transportation and let them know that this project is being considered by the City. He will investigate possible cooperation and funding alternatives which may work toward realizing this project.

- Bob Ebinger asked for a list of Acronyms in the letters that were provided by the City Manager.
- Bob Ebinger asked about the CTEP Project for period lighting for the City of Livingston and what the 86.68% share for STPE was. Steve Golnar stated that this was for the State Transportation Project Enhancement (Federal Fuel Tax) funding.
- Bob Ebinger asked about the City contribution for the improvements of the Mission Field Airport. Steve Golnar stated that the City paid \$5,000.00 and the County paid \$5,000.00 and that the remaining was from Federal funds.
- Sheryl Dahl made comments about the historic signage at the Interstate Exits No. 333 and No. 334 and suggested that she would like to have the time it takes to get to downtown from these exits and would hope that this may make the difference for Montana Department of Transportation to change the signage. She also requested to be a part of the meeting with Jeff Ebert, of the Montana Department of Transportation on this issue.
- Lenny Gregrey stated that the City's previous goose roundups have shown some results. He feels that this year that there have only been two (2) families of goslings in the Park and stated that this is the least amount of geese that he has seen in the Park in ten (10) years. He went on to say that the City's previous goose round-ups have shown quite a significant sign of success.
- Lenny Gregrey made comments about the letter from John Horwich, Professor & Director of Land Use Clinic, and if he was only giving an academic option, not necessarily a legal opinion about the SB 326, because he felt that Mr. Horwich was making assumptions that were not true. Bruce Becker stated that Mr. Horwich is an Attorney, but also lived in the academic world.
- Vicki Blakeman asked about the Pet Care Week and wanted to know if the City had heard from any Veterinarians. Steve Golnar stated that he was not aware of any letters received from Veterinarians but Pam Payovich mentioned that she had received letters from Veterinarians who wanted to help and she had passed this information on to Bonnie Goodman who is organizing this event.

Commissioner Lee Comments:

- She asked about the "M" Street Park Improvements and stated that she thought that a list for the City to work with community groups was going to be developed and asked that the improvements for the "M" Street Park be included on this list. She stated that this really concerned her for the community group involvement.
- She asked about the antique lights in the downtown lights. She stated that Helena has adopted an Ordinance to "Save the Nights Sky" and was curious with the amount of lights that the City is getting if the City would consider getting an Ordinance like this. Bob Ebinger stated that this was brought up last year and felt that there is a way to keep the light rays down. Jim Woodhull stated that the lights being proposed in

the downtown area do have diffusers in them that keeps the light down. Ms. Lee stated that she would like to get a copy of the Ordinance that the City of Helena has adopted and see if the City Commission would be interested in having such an Ordinance developed for the City of Livingston that talks about light pollution and the night sky.

Commissioner Ebinger Comments:

- He mentioned the Indian War Memorial Dedication on June 25, 2003 and stated that he had been down there planning this special event and wanted to say that it should be a special day. He also mentioned that he was planning on going to this but was wondering if any other Commissioner would like to go in case he would not be able to attend.

Commissioner Dahl Comments:

- She wanted to know the status of the repairs of the East Side School and the exterior projects. Steve Golnar stated that the City has hired a Contractor for this project with subs and should be moving forward soon.
- She also asked about the moving of the Impound Lot and when it was going to happen. Darren Raney stated that the Police Department had just had their sale on Saturday, June 14, 2003, and was in the process of moving this impound lot and getting it cleaned up. Taking down the fence part of it is going to be used for the Baseball Fields. Steve Golnar stated that he would check with Eddie Miller and see when he would start this project.

Commissioner Gregrey Comments:

- He thanked Clint Tinsley, Pubic Works Director and Jim Mastin, Fire Chief for providing the documents and the graphics accompanying those documents in the packet to help everybody understand what was being presented.
- He mentioned that he would not be attending the Workshop for the Civic Center on June 23, 2003 or the City Commission meeting on July 7, 2003.

Chairman, Blakeman had no comments.

No Public Comments were given.

The meeting went into executive session for the City Manager's evaluation.

The time was 10:05 p.m.

Motion was made by Ebinger, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 11:24 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSIO

**LIVINGSTON
CITY COMMISSION MEETING
JULY 7, 2003
7:30 p.m.**

The Livingston City Commission met in regular session on Monday, July 7, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Sheryl Dahl, Michelle Lee, Vicki Blakeman and Bob Ebinger. Lenny Gregrey was absent.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Kevin Harrington, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich. Jim Mastin showed up later during the meeting.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve June 16, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of June 2003.
- Approve Bills and Claims for FY 2003-2004 after July 1, 2003.
- Approve Bid for Street Reconstruction 3rd through 5th Streets from Park Street to Callender Street recommendation from Scott Nelson Engineering & Associates, Inc. to JTL Group, Inc. as the lowest responsible bidder. The higher bid (\$460,850.69) - Total Base Bid Price and \$39,149.31 for added alternative) from Bainter Backhoe & Cat Service was withdrawn and the recommended bid was:

JTL Group, Inc. - \$377,294.10 - Total Base Bid Price and \$30,443.00 include the Additive Alternate Bid Price.

- Approve Bid for Fleshman Creek Enhancement Project Phase I - Mayor's Landing Clean-up and Beaver Dam Removal to Mike Adkins Construction, Inc.

Bob Ebinger stated that several items have been purchased from vendors outside of Livingston and was wondering why they were not purchased in Livingston. Steve Golnar stated that the City policy is that to shop for the best price and that the City seeks to purchase items in Livingston first but some items are not easily available in the City.

Sheryl Dahl asked why items were being purchased from Bumper to Bumper. Clint Tinsley stated that ^{Montana} Mountain Motors in Livingston changed their name to Bumper-to-Bumper. Sheryl Dahl stated that she didn't know that and thought that Bumper-to-Bumper was in Bozeman.

Bob Ebinger asked about the Dana Kepner bill for hose caps, valves and boxes. Clint Tinsley stated that the City buys the water supplies, Fire Hydrants valves and Sewer Maintenance materials from Dana Kepner.

Bob Ebinger also asked about the claim for Morrison & Malerle for \$4,135.66 and asked what it was for. Steve Golnar stated that this was for the structural analysis of a house on 112 Highground after it had been moved and an analysis for 411 North 11th Street to evaluate if the structure was stable.

Bob Ebinger stated that the claim to Park County for phone charges should be changed to 6/26/03 from 6/26/05.

Sheryl Dahl asked about the claims to Jim Mastin for reimbursements allowances and wanted to know what the reimbursement for a jumpsuit was. Kevin Harrington stated that claim should be for a jump kit not a jumpsuit and stated these kits are what the Fire Department uses in the Ambulance for Field response. Steve Golnar stated that the Fire Chief, Jim Mastin, is reimbursed differently for uniform allowance than others in the Fire Department who are paid \$150.00 quarterly.

Also Ms. Dahl asked about the Mountain Communications & Paging bill and what this was for and if it was budgeted for this fiscal year or next fiscal year. Steve Golnar stated that the Fire Chief asked to expend some money from other Fire Department line items to cover these expenses and that there was an unexpended balance in the Fire Budget for fiscal year 2002-2003. Kevin Harrington stated that the claim for Mountain Communications & Paging was for new pagers, because parts are not readily available for the current Fire Department pagers.

Ms. Dahl asked about the claim to High Country Rental for a U-Haul Truck. Clint Tinsley stated that this was used while the City was starting their new automated garbage disposal.

Vicki Blakeman asked about the claim for the Livingston Veterinary Hospital for an office visit. Steve Golnar stated that this was for office visits for euthanasia of a stray cat that had been pickup by Brad Haefs, Code Enforcement Officer.

All in favor of consent items, Motion passed.

A Proclamation for the City of Livingston sponsoring the Sustainability Fair 2003 and proclaiming the week of July 6th through 12th as Sustainability Week was read by Chairman, Vicki Blakeman.

Ordinances:

Motion was made by Lee, second by Ebinger, to approve first reading of Ordinance No. 1929 with amendments - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1803 AND CHAPTER 26, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED STREETS AND SIDEWALKS CONSTRUCTION**

AND REPAIR. The wording "a free standing curb is not the responsibility of the property owner" was requested to be added to the Ordinance in Section 26-61 in writing provided by Lenny Gregrey. Bruce Becker, City Attorney, stated that he would add the following wording to the Ordinance: "However, any curb which does not abut a sidewalk is not the responsibility of the adjacent property owner". A public hearing will be held on July 21, 2003 for this Ordinance.

Phillip Burden of 521 East Gallatin Street spoke against this Ordinance as he felt that the City owns this piece of property and that it should be the City's responsibility to replace or repair the sidewalks not the property owner's responsibility. Mr. Burden stated that 3rd through 5th Streets seem to be the only streets that are paved and worked on the most. He commented that the streets from "M" to "P" street between Callender and Park streets have not been paved for thirty (30) years in fact they are still gravel. The sidewalks haven't been replaced for a long time. Livingston is not a rich town! People come here to have a second home. Most jobs in Livingston are minimum wage. Since the Railroad has gone out of town the City of Livingston was dying. Most people in the City are elderly and the few that are working are low income. He stated that the increased expenditures required of property owners for sidewalk maintenance was going to drive people out of town.

Vicki Blakeman stated that the City has a 10 year Infrastructure Plan which we are working on every year. Some paving will be done this year between Callender and Park Streets.

Mr. Burden just asked to wait a while until the economy recovers to implement this Ordinance. He stated that there is not even enough money to spray for mosquitoes this year due to the cost of the chemicals being so high. The Parks and during the Rodeo are the only place and time that he had noticed spraying for mosquitoes took place.

Steve Golnar stated that the County is responsible for spraying for the mosquitoes and he understood that they will be spraying the same areas as last year beginning with the new fiscal year on July 1, 2003. He agreed with Mr. Burden that the County did run into a shortfall of funds and limited spraying in June of 2003.

Mr. Burden stated that the City of Livingston used to be run by the Railroad and that's where the City got its money. Since the Railroad has gone out of this town it has been turned into a tourist town with Art Galleries and Coffee Shop businesses and the money is not here and he asked the Commission to cut back.

In response to the comments given from Mr. Burden, Sheryl Dahl stated that she looks at sidewalk maintenance and repair as a health and safety issue and said that she has heard from several people who walk in this town and

they all feel that there are a lot of sidewalks that are in disrepair. If we are to look at health and safety the City needs to pursue repair and replacement of sidewalks and that is our goal with this Ordinance. Ms. Dahl also went on to say that not every homeowner is going to get approached at once for repairing or replacing his or her sidewalks. The City crews will try to approach those sidewalks that are in very poor condition in the bad areas first and then go elsewhere. She stated that the homeowners have the responsibility of keeping their sidewalks shoveled during the winter and keeping debris off of them and that this Ordinance has not been fully enforced for a long time. As far as she was concerned numerous homeowners' sidewalks were in disrepair. This was a public health and safety issue. She stated that the City needs to start somewhere.

Rick Spellman of 226 South 8th Street stated that some of his concerns were that "landowner" responsibility was in this Ordinance several times and to his belief the sidewalks and curbs are City owned property. The sidewalk and curbs are on the City's land not the homeowner's land. Mr. Spellman stated that he does agree that the homeowner should accept responsibility for their property but this is not just the homeowner's property it is the public's property and everyone should take part in repairing and replacing sidewalks. He concluded that he felt that this should be the City's responsibility and it should not put the burden on the adjacent homeowner.

All in favor, Motion passed.

Resolutions:

Motion was made by Lee, second by Dahl, to approve Resolution No. 3394 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING CONTRACT WITH CITY MANAGER AND AUTHORIZING CHAIRMAN TO SIGN CONTRACT FOR FISCAL YEAR 2003-2004.** Lenny Gregrey had provided Chairman, Vicki Blakeman with his comments on this Resolution and stated that he was opposed to the amount of the raise being offered in this Resolution as being too high. The proposed increase in the City Manager's yearly salary is \$3,187.00 and represents a percentage increase of 4.9%. Mr. Gregrey stated that last year the City Manager's salary was increased by \$4,966.00 which was an 8.4% increase. That increase was made possible by the extra money made available when Ken Kastelitz's, Superintendent of Public Services position was eliminated. The economy for the United States is in a serious recession and private businesses, the federal, state, and local governments are suffering a decrease in revenues as a result. At this time, Mr. Gregrey stated, we must begin to cut back on operating expenses, and this includes reducing the amount of salary increases for all City employees, starting with the City Manager and working downward. He said that he supported a 3% salary increase for the City Manager this year. He went on to say that he expected that the "cost of living" adjustments for Social Security retirees will be less

than 3% this year and it is only fair that we keep our salary increases pegged to the COLA index.

Sheryl Dahl asked Mr. Golnar if last year with the vacating of Ken Kastelitz's position, did Department heads receive across the board pay increase adjustments? Steve Golnar stated that the salaries of the Department Heads, the City Manager and a number of other employees were adjusted in accordance with a survey that was done of salaries and revised position responsibilities to maintain a competitive organization. Mr. Golnar stated that this year Staffs recommendation was for increases of non-union salaries to be parallel with the union contracts. The Union Contracts have a 5% to 5.2% increase in them and Mr. Golnar felt that it would be fair to give non-union employees along with Department Heads and the City Manager a 5% increase to maintain the equity established by last year's adjustments.

Sheryl Dahl stated that the City Commission did already agree to a 5% increase for all non-union employees along with Department Heads and the City Manager to match union contracts.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3395 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTIMATING THE COST OF MAINTENANCE AND IMPROVING STREETS AND ALLEYS IN STREET MAINTENANCE DISTRICT NO. 1 IN THE AMOUNT OF \$383,211.00 FOR FISCAL YEAR 2003-2004 AND OF ITS INTENT TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS AGAINST ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT AND CALLING FOR A PUBLIC HEARING.** Sheryl Dahl asked how much of an increase was this from last year. Mr. Golnar stated that this was a 14% increase and was because Street Maintenance District has not been increased for a number of years. The infrastructure side stayed the same but that Staff determined that the Maintenance side should be increased particularly with the expansion of paved Street through use of rotomillings. The City needs to increase the amount, for maintaining a seven (7) year rotating chip sealing program. The Infrastructure Committee reviewed this proposal and passed it on to the City Commission to make the determination for the increase, because they felt that it was more "street maintenance" than "infrastructure replacement" related.

Sheryl Dahl asked if the City is down to one (1) Maintenance District. Steve Golnar stated that the City has one (1) assessment district for everybody. (But there are different assessments for improved and unimproved lots.)

Steve Golnar stated that the new rates would change the assessment to the average property owner owning two (2) lots from \$85.40 to \$97.36 per year or a change of \$11.96 for improved lots (from \$60.90 to \$70.00 per year or a change of \$9.10 for unimproved lots).

Sheryl Dahl asked about the Exhibit "B" for this Resolution if this would go into the newspaper for public notice and asked that the amount be changed to \$383,211.00 from \$283,211.00 and to add which equates to an annual increase of \$11.96 per standard City lot.

Lenny Gregrey provided comments in writing and stated that this is not the time to raise "taxes" for property owners. What the City needs to do is to reduce or scale back the expenditures for these projects or by extending the time frame for the proposed work. When these projects were approved there was a different economic climate existing and tax revenue were at a higher level. We, in our fiduciary responsibility, cannot continue funding projects in a spendthrift manner. We owe it to the public to be responsible in spending their money. The attitude of just increasing taxes is not the responsible approach to take.

All in favor, Motion passed.

Lenny Gregrey arrived at 8:30 p.m.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3396 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREETS LIGHTS THEREIN AND OF ITS INTENT TO LEVY AND ASSESS ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF SAID COSTS FOR FISCAL YEAR 2003-2004 ESTIMATED TO BE IN THE AMOUNT OF \$41,000.00 AND CALLING FOR A PUBLIC HEARING THEREON.** A public hearing will be held on July 21, 2003 on this Resolution for public comments. This Resolution is part of the 10 year Infrastructure Project. Also it was asked by the City Commission to have the "Exhibit B" for the public notice reflect the increase per average City lot.

4 in favor; Dahl, Lee, Blakeman and Ebinger, 1 abstain; Gregrey, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3397 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTIMATING THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO LIGHTS IN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 AND OF ITS INTENT TO LEVY AND ASSESS ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF SAID COSTS FOR FISCAL YEAR 2003-2004 ESTIMATED TO BE IN THE AMOUNT OF \$56,500.00 AND CALLING FOR A PUBLIC HEARING THEREON.** A public hearing will be held on July 21, 2003 for this Resolution for public comments. Also again the "Exhibit B" for the public was asked to reflect the increase per average City lot.

4 in favor; Lee, Ebinger, Dahl and Blakeman, 1 opposed; Gregrey, Motion passed.

The Resolution No. 3398 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING CONTRACT WITH FINANCE OFFICER AND AUTHORIZING CITY MANAGER TO SIGN CONTRACT FOR FISCAL YEAR 2003-2004** was postponed until the next meeting.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3399 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING 5% RAISE IN BASE RATE OF PAY FOR NON-UNION CITY EMPLOYEES FOR FISCAL YEAR 2003-2004.** Steve Golnar stated that this is consistent with the overall wage package and the union contracts for this fiscal year.

Lenny Gregrey commented that he was assuming that the employees benefiting from this increase did not get an equity raise last year.

Steve Golnar stated that some of them did and some didn't.

Lenny Gregrey stated that Ken Kastelitz salary was taken out of the budget and split over department heads and asked if the non-union employees were compensated for with an increase in pay.

Steve Golnar stated that a number of additional adjustments were made especially in Public Works Department moving from two (2) Superintendents to one (1) Public Works Director. Other people in the office also received an equity raise adjustment last year.

Michelle Lee asked how many non-union employees there are in the City. Steve Golnar stated that there are about 23 positions. Michelle Lee asked if these raises were based on union wages increases. Steve Golnar stated that the City tries to maintain parity and equity among the departments and what they receive in order to maintain employee harmony.

4 in favor; Ebinger, Blakeman, Lee and Dahl, 1 opposed; Gregrey, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3400 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING SIDEWALK REPLACEMENT AND REPAIR PROGRAM.** Bob Ebinger commented about the Option 3 of the Sidewalk Replacement and Repair Program which stated: "If the sidewalk repairs are not made by using Option 1 or Option 2, the City will make the repairs for you and will assess the cost against your property these costs are to include the full amount on your property tax bill, with interest at the rate of 6% per year to be paid over a five (5) year period of time." He asked if that interest rate was more than the amount that would be charged if the person took out a loan at a financial institution. Steve Golnar stated that the 6% rate was proposed for long term City legislation. He felt that this would be a common and reasonable interest rate.

Lenny Gregrey asked about the statement "the primary beneficiaries of a sidewalk repair program are everyone using Livingston's sidewalks", and commented that he felt this gives him the argument that this is not a responsibility for that individual property owner because everyone is benefiting from the sidewalks, so everyone should pay for the sidewalks. Steve Golnar stated that he was concerned with the means by which the City creates the revenue to establish a program for the long-term. State statues do not allow the Cities and Towns to repair sidewalks with street maintenance district funds even though the City has tried to change this legislation in the past. The statues do allow Cities and Towns to assess abutting property owners to pay for sidewalk repair. The program is an attempt to share the responsibility and aggressively pursue some level of repair and upgrade of the sidewalks which have not been addressed for a great number of years.

Paula Clawson, reporter for the Livingston Enterprise 401 South Main Street asked if people are on the priority list for two (2) to three (3) years at \$4.00 a square foot and then the City contractors says the rates have gone up to \$4.50 a square foot then are the people who are on the waiting list going to have an additional cost involved. Clint Tinsley commented that the City crews are doing the work themselves and if a cost increase is necessary, that people would receive advanced notice of such increases and that he wouldn't anticipate raising the cost per foot charge to those on the waiting list.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3401 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CTEP PROJECT SPECIFIC AGREEMENT FOR LANDSCAPING PROJECT FOR I-90 INTERCHANGE AND MEDIANS ON HIGHWAY 89 SOUTH AND BIKE PATH.** Steve Golnar gave background information and stated that this proposes the expansion of the CTEP project. The MDT has turned around a new scope of work for the City to move forward.

Lenny Gregrey made comments that this project was initially proposed at \$51,500.00 and asked how this project went from \$51,500.00 to \$119,000. Steve Golnar stated that the City expanded the project to include more vegetation and space along the bike path and this requires more than initially anticipated. Also added to the project is force account work which will involve City crews installation of water lines and the water line tap to extend water service to the rotary areas inside the cloverleaf intersections on both sides of Interstate 90. The initial project was bid at two (2) different levels – one to fit into the budget and the other one involved a more substantial level of planting. The Commission had decided to go with the more substantial landscaping project scope and budget and that is how we got to this amount.

4 in favor; Dahl, Lee, Blakeman and Ebinger, 1 opposed; Gregrey,
Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3402 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT FOR NELSON ENGINEERING SERVICES IN THE AMOUNT OF \$37,500 FOR EAST GEYSER SEWER MAIN REPLACEMENT PROJECT.** Sheryl Dahl asked if this project involves going under the tracks. Clint Tinsley stated that "no" it was not.

All in favor, Motion passed.

The Resolution No. 3403 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ALLIANCE DEVELOPMENT CORPORATION TO PROVIDE MANAGEMENT SERVICES FOR CDBG ECONOMIC DEVELOPMENT FUNDS** was postponed until the meeting on August 4, 2003.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3405 to amend with additive alternative bid to read – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSTRUCTION CONTRACT WITH JTL GROUP IN THE AMOUNT OF \$377,294.10 FOR THE STREET RECONSTRUCTION PROJECT FOR 3RD THROUGH 5TH STREETS FROM PARK STREET TO CALLENDER STREET AND THE ADDITIVE ALTERNATIVE BID OF \$30,443.00 FOR THE MOUNTAIN VIEW ESTATES SUBDIVISION STREET REPAIR.** Steve Golnar stated that the additive alternative bid is for repairs to the Denton Subdivision street work where there is a manhole extending above the road surface several inches and there is evidence of insufficient compaction of utility trenches.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3406 as amended to reflect the award bidding based on the unit costs for time and materials and not to exceed \$15,000.00 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSTRUCTION CONTRACT WITH MIKE ADKINS OF \$13,002.50 FOR THE MAYOR'S LANDING CLEAN-UP PROJECT.** Mr. Golnar did request the Commission's authorization to pay up to \$15,000.00 on a time and materials basis for this work due to the unpredictable nature of the project scope. He stated that the Project Manager, Gary Weiner, is overseeing the project budget. It is in his best interest to minimize the cost of the project because there will be another phase of this project going up the Fleshman Creek corridor.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3406 as amended.

All in favor, Motion passed.

Action Items:

A discussion of the Warm Springs transfer charges to the County and State reimbursement policy was reviewed and it was determined that this issue be considered resolved for the fiscal year 2002-2003 and that the policy for the future inmate billings be developed in coordination with the renegotiation of the EMS contract with the County, taking into consideration the provisions of Senate Bill No. 370. Steve Golnar gave background information relating to this issue.

Motion was made by Dahl, second by Ebinger, to authorize expenditure of \$348.00 to the Montana League of Cities and Towns for the purpose of filing a law-suit for damages or to pursuit claims in the likely bankruptcy proceedings of Northwestern Energy Marketing.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve payment of \$2,000.00 assess fee to Park County Humane Society. Sheryl Dahl stated that there was a contract signed with the County for the Park County Humane Society that the Commission approved earlier in the year.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to direct the City Attorney to prepare a Resolution stating the City Commission's intent to designate the Business Route, Historic District signs and City Center signs as determined by the MDT Signage Committee. Steve Golnar stated that this is the next step for the direction to MDT for these signs to be implemented.

All in favor, Motion passed.

A discussion to authorize the City Manager to hire a Water Attorney and consider a lease of the Old Water Treatment Plant was reviewed. Sheryl Dahl asked if someone was not going to actually own the building how much are they going to invest in leasing it and is this something that the City collectively wants to get into. She feels that there is going to be a huge cost involved to upgrade the Old Water Treatment Plant before putting it out to bid for lease. Mr. Golnar commented that at least two (2) of the interested parties were prepared to make substantial investments into this facility if it were leased. Bruce Becker stated that the City still needs to know their water rights.

Motion was made by Dahl, second by Gregrey, to authorize the City Manager to sign the letter of engagement with the firm of Moore, O'Connell and

Refiling for Water law services pending a favorable review of their capability to accomplish the job by the City Attorney and City Manager.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to direct the City Manager to prepare and distribute request for proposals for leases of the Old Water Treatment Plant, pending a favorable response from the Water Attorney that leasing of the facility would not harm the City's interests in its water rights.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger asked about East Side School repair status if there was anything new. He mentioned that the grass cutting needs to be done more efficiently and the mess under the Flag Pole should be cleaned up. Clint Tinsley mentioned that John Kaiser had called him on Monday and said that the roofer was going to repair the roof this week. Bob Ebinger also asked about the status of window scraping and painting. Clint Tinsley stated that the City did not pursue the window scraping and painting in the contract due to the extensive cost of new windows or scraping or painting of the windows.
- Bob Ebinger also asked if the files in the East Side School had been moved. Shirley Ewan stated that the shelving is built and in place in the Library section of the 1949 Addition so they can now move the files.
- Bob Ebinger noted a misspelling in the Livingston Sister Cities Committee update it should read "Sayonara" not "Sonora" party.
- Bob Ebinger stated that he would like to ask the City Commission and Historic Preservation people to take turns in providing tours to prospective buyers of the Old East Side School so that Steve doesn't have to do this every time.
- Sheryl Dahl asked about the "M" Street Park Improvement status and if this is completed. Steve Golnar stated that he had contacted the former President and let her know that the City was planning to review this with the Livingston Junior Woman's Club, Public Works Director and the Parks & Recreational Foreman to follow-up on their concerns.
- Sheryl Dahl asked about the progress of the impound lot being cleaned up. Steve Golnar stated that the cars from the Police Department have been sold and removed and the status will be updated at the next meeting.
- Sheryl Dahl asked if there was a Skate Park Committee meeting this Tuesday. Steve stated that he did not know for sure.
- Lenny Gregrey stated that he felt that the Historic Preservation Officer's name was misspelled and that it should be "Gregory" not "Gregrey".

Commissioner Lee was absent for comments.

Commissioner Ebinger Comments:

- He made comments that he had talked to one of the members of the Community Task Force for the donut area and asked them when they were going to meet because they had not met yet and are into the sixth (6th) week. After talking to the County Commissioner's he understands that the orientation and scheduling will be coordinated through the County Planning Board. A meeting should be scheduled for late in July.
- He also stated that after the Refuse Board meeting they County had asked if a City Commission member would represent this Board for the City. Vicki Blakeman stated that she will try to go to all of the meetings if she can. Mr. Ebinger also indicated an interest in attending these meetings.
- He stated that the Historic Preservation Officer will be joining the City Staff tomorrow, July 8, 2003 at 3:30 p.m. in the afternoon and wanted to let everyone know so that they could meet him. Jim Woodhull stated that he will be in the office at 9:00 a.m. tomorrow.
- He also stated that he would not be at the next City Commission on July 21, 2003.

Commissioner Dahl Comments:

- She asked when the budget was going to be done. Steve Golnar stated that he will complete a draft this week and provided a proposed schedule to the City Commission. Mr. Golnar stated that his intention was to present the preliminary budget at the August 18, 2003 City Commission meeting and schedule a special meeting for its final passage on August 25, 2003.
- She asked that the City Manager keep the City Commission updated on the happenings of the "donut area" Committee. She would like to know when their meetings are and what they are discussing.

Commissioner Gregrey Comments:

- He asked for clarification on the Monday curb side compost pickup, tree limbs, what is the size. Mr. Tinsley stated it is 4' in length in bundles with string or wire around them and to have them placed on the boulevards and make them visible. Mr. Ebinger commented that he had heard not to use plastic bags for the grass clippings and wanted some clarifications. Mr. Tinsley stated that yes you can use plastic bags on the boulevard pickup or put the clippings in a trash can loosely.

Chairman, Blakeman Comments:

- She commended the Fire and Police Departments for a very busy and active weekend and that they did a great job in keeping everyone safe.
- She also commended the Rodeo Association for yet another wonderful Rodeo.

Steve Golnar asked the City Commission which date they preferred for their first budget workshop either Monday, July 14, 2003 or Tuesday, July 15, 2003. The City Commission concurred to have their first budget workshop on Monday, July 14, 2003 at 7:00 p.m.

Public Comments given:

Julie LaDuke of 106 Arbor Drive, a member of the Montague Subdivision asked when and if the Green Acres Subdivision was going to be annexed. Steve Golnar stated that he has received recommendations from the City Planning Board for annexation of a couple of areas and as far as this subdivision but there is no definite decision made on this. Mr. Golnar stated that he would provide Ms. LaDuke better information at the next meeting. Mr. Golnar did state that the City is looking into a couple of subdivisions for annexation and would look into incorporating this subdivision request into that decision.

Motion was made by Ebinger, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 9:50 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
JULY 21, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, July 21, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and ~~Bob Ebinger~~.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Lee, second by Gregrey, to approve the consent items as follows:

- Approve July 7, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of June 2003.
- Approve Bills and Claims for FY 2003-2004 after July 1, 2003.
- Department Heads Monthly Reports and Other Minutes.
- Review Bid for Police Car and Award Bid to Veto Enterprises in the amount of \$19,786.00 with trade-in.

Sheryl Dahl asked if the Police Car bid included delivery and requested what the difference of the two (2) bids received buying locally and buying out-of-state. Also she stated that her opinion was that \$2,000.00 was not a big difference when looking at local taxpayers dollars and that she is a supporter of buying locally rather than going out of town.

Ms. Dahl also requested an error in the minutes be changed from Mountain Motors to Montana Motors.

Darren Raney stated that the bid from Veto Enterprises included a shotgun rack installed and that the actual price difference of the two (2) bidders was \$2,500.00. The cage and switch will be equipped in the new car and the radio also will be included.

Lenny Gregrey stated that this is over a 10% savings and that his opinion was that we owe it to the taxpayers to realize this savings.

All in favor of consent items, Motion passed.

Public Hearings:

A public hearing was held for the second reading of Ordinance No. 1929 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1803 AND CHAPTER 26, ARTICLE IV OF**

**THE LIVINGSTON MUNICIPAL CODE ENTITLED STREETS AND SIDEWALKS
CONSTRUCTION AND REPAIR.**

Rick Spellman of 226 South 8th Street asked for clarification if the improvements that were done north and south of Park Street were part of the special improvement district. Steve Golnar asked Mr. Spellman if he was talking about the area from 2nd Street to 9th Street around Front and Chinook Streets and from 9th to 6th on Callender and between Park and Callender on these Streets. Mr. Spellman replied "yes". Mr. Golnar stated that those were the Infrastructure improvements done as a result of the Street Maintenance District. Mr. Golnar stated that the sidewalks were not included in this special improvement project except for creating handicap assessability at the corners on the sidewalks and that is the reason why the City is proposing this Ordinance amendment. Mr. Spellman stated that to his recollection that the sidewalks were all replaced. Steve Golnar stated that most of the sidewalks were not replaced. The only sidewalks replaced were the one's abutting the Street across from the Washington School because there was no boulevard there, and the handicapped accesses at the corners and access sidewalks.

Mr. Spellman stated his reasoning against this Ordinance was compelled by the 13th Amendment of the Constitution of the United States stating "Neither slavery nor involuntary servitude except as a punishment for a crime where of the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction". He stated if a person elected to refuse to replace his or her sidewalk no one should put a lien against his house. The 14th Amendment states equal treatment under the laws and he would have argued this fact if sidewalks were replaced in their entirety in the Infrastructure projects mentioned above.

Pat Miller of 605 North Yellowstone Street stated that when this Ordinance was first put into effect in the '70's, the City could not legally force people to put in sidewalks and put it on the tax bill. Ms. Miller stated that it was resolved in another way. If people wanted to have their sidewalks replaced it was allowed and they could request it to be placed on their taxes, but if they didn't want to replace their sidewalks they didn't have to. She concluded by stating that she hoped that the Commission would do the right thing for the City and not put this on the tax levy all at once along with the street and lights assessment.

John Durden of 811 East Montana Street stated that he owns 14 lots on "I" Street and that 5 of the lots have no paved streets and that he tried to get the lots exempt from the last Street Maintenance Assessment District. He felt that the streets above Montana Street should be taxed not the ones below Montana Street. Mr. Durden also stated that on these 14 lots there are no sidewalks, no paved streets and that he has a ditch running through them and does not feel he should have to pay for the sidewalks because of other people's mistakes.

Bob Skillman of 522 North 11th Street stated that his feeling on the sidewalks being constructed and repaired was that the City has a lot of minimum wage people working and that the City needs to try and figure out some way besides raising taxes to accomplish this task, he thought that maybe the plan was too aggressive given the economic conditions and should be scaled back.

Sheryl Dahl stated that the Commission by Montana Law is not allowed to perform sidewalk repairs with street maintenance district funds. The sidewalks will be inspected for safety and repair needs and not everyone will have to fix their sidewalks. It will be mostly based on individual coming to the City and asking the City to repair their sidewalks. The City is not going to tax the whole City so everyone will not have to pay for sidewalk improvements at once. This Ordinance is proposing that homeowners pay for the sidewalk replacement or installation and they get a choice as to whom they want to fix them, either the City crews for a limited amount of footage per year or someone else. Property owners will have a choice when they get a notice from the City that they need to fix their sidewalks. They can pay for the sidewalk when it is done or have it put on their taxes if the City performs the work.

Rick Spellman stated that he felt that the City has the authority through a City wide special improvement district to have the sidewalks done and that is what he feels would be the appropriate avenue.

Bruce Becker stated that this Ordinance is amending an old law and is proposing to extend the payback from three (3) years to five (5) years for sidewalk construction and repair.

Lenny Gregrey stated that Rick Spellman has a valid argument but neither the City Commission or Mr. Spellman are judges or Attorney's. Mr. Gregrey commented that he personally felt Mr. Spellman was correct, but only the Montana Attorney General can make a rule on the application of a law if it is requested by a municipality for such an opinion.

Robert Vintner of 619 Bluebird Lane stated that if the City's insurance is responsible for accidents on the sidewalks then the City is responsible of the care and maintenance of the sidewalks.

Sheryl Dahl commented that she has owned a business in the City and her liability insurance covered people falling on the sidewalk in front of her business.

Rick Vanaken of 220 West Montana Street stated that his concern with sidewalks living on the North Hill that there are two (2) long stretches of road that leads to the North side hill that have no sidewalks. With young and old people walking on the North side hill, how do you get sidewalks placed on property where there are vacant lots abutting the street?

Steve Golnar stated that he felt that this would be part of a Special Improvement District if he was talking about total new sidewalks to the North hill and that would be combined with street, gutter, and storm drain development which would need to be engineered.

Motion was made by Dahl, second by Lee, to postpone Ordinance No. 1929 until the next meeting. Ms. Dahl asked City Attorney, Bruce Becker to research what Rick Spellman brought up in the 7-14-4109 Montana Code Annotated (MCA) and to get some clarification.

Lenny Gregrey requested that in Section 26-61 of the Ordinance No. 1929 that a statement be inserted in that section that property owner's that have a curb that has a grass boulevard are not required to maintain the curb.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3407 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS OF MAINTAINING AND IMPROVING STREETS AND ALLEYS IN STREET MAINTENANCE DISTRICT NO. 1 IN THE AMOUNT OF \$383,211.00 FOR FISCAL YEAR 2003-2004 AGAINST ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT.**

A public hearing was held for Resolution No. 3408 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, MODIFYING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREETS LIGHTS THEREIN AND LEVYING AND ASSESSING ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF SAID COSTS FOR FISCAL YEAR 2003-2004 ESTIMATED TO BE IN THE AMOUNT OF \$41,000.00.**

A public hearing was held for Resolution No. 3409 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING ALL PARCELS OF PROPERTY WITHIN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR 100 PER CENT OF THE ESTIMATED COSTS OF \$56,500.00 FOR MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO LIGHTS FOR FISCAL YEAR 2003-2004.**

Bob Tracy of 113 South 9th Street stated that he feels that this Resolution relating to taxes is not a very just tax for the simple reason he owns two (2) lots and now pays \$102.00 and with this proposal will pay \$156.00 which is a about a 50% raise on taxes. Mr. Tracy also owns a piece of property at the end of Lewis Street which has gravel streets and no street lights and that he has four (4) lots there plus some partial lots and pays taxes now of \$360.00 per year on this piece of property for street maintenance and street light tax and with this proposal will be paying over \$500.00 in taxes for just street maintenance and street light taxes. He concluded by saying he was against this.

Clint Tinsley, Public Works Director, stated that there was a difference between street maintenance and street lights. He stated that he thought

people were under the impression that costs were going to be higher than they really were proposed to be. Mr. Tinsley stated that he believed that street maintenance district costs were going to increase \$1.00 per month per building site, or two (2) lots. So an average household would see a \$12.00 increase per year on two (2) city lots. He commented that Steve Golnar stated that the average increase for a year for an improved lot was \$11.90. Clint Tinsley stated that the street maintenance district increase that Mr. Golnar quoted should be divided in two (2) to reflect \$5.95 per lot increase per year. Mr. Tinsley went on to say that the street maintenance district's expenses are split into two (2) different sections. One section is replacement and repair of the streets for new Infrastructure which is 6 to 9 blocks per year and the other section is the maintenance of streets, such as patching and chip seal. The reason for this increase is because the City is getting approximately 4,000 cubic yards of millings from the Interstate this year and the City's goal is to have all of the gravel streets paved with millings over the next year and a half. Much of the City's increase of cost is to take care of this upgrade of the streets.

Harold Stewart of 406 West Summit asked if the legal notice in the paper was it correct or not. He suggested that the notice be re-advertised with the correct information and to have the public hearing continued.

Shirley Ewan stated that the advertisement did not break down the amount of the assessment per lot it was the amount that the City was asking for in total.

A short break was taken at 8:35 p.m. to retrieve legal notice that was advertised by the Recording Secretary for the City Commission.

The meeting went back into session at 8:45 p.m.

Vicki Blakeman stated that the advertisement does say per City lot and asked Mr. Golnar and Mr. Becker if the totals for the streets maintenance would be a yearly total an average building site of \$23.92, which is two (2) City lots and for one (1) lot would be \$11.96. Ms. Blakeman also stated that the street lights public hearing notice stated there would be a \$5.53 increase per average lot and the other public notice for special lighting district stated there would be a \$7.63 increase per average lot.

It was determined that the use of "average lot" which was intended to describe two (2) City lots measuring 25' X 140' each, was confusing and the notices should be re-advertised.

Motion was made by Gregrey, second by Dahl, to table the public hearings until the next meeting on August 4, 2003 and re-advertise notices with proper figures on Resolution's No. 3407, 3408 and 3409 for public understanding.

All in favor, Motion passed.

Resolutions:

Motion was made by Dahl, second by Lee, to approve Resolution No. 3398 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING CONTRACT WITH FINANCE OFFICER AND AUTHORIZING CITY MANAGER TO SIGN CONTRACT FOR FISCAL YEAR 2003-2004.** Lenny Gregrey stated that he was not present at the last meeting when this Resolution was proposed. He stated that he finds it difficult to go for a 5% increase because of the economy of the United States is in a serious recession and that there are people in the City that are not going to see an increase of 3% in social security. Although he feels that City employees deserve a raise, he would agree to a 3% raise as opposed to a 5% raise. He concluded by saying that he will abstain from being present to show his support that employees deserve a raise but not 5%.

3 in favor; Blakeman, Lee and Dahl, 1 present; Gregrey, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3404 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CDBG LOAN AGREEMENT WITH BIG SKY SERVICES.** Steve Golnar stated that there was a representative from the Alliance Development Corporation Mr. Shellenberg, if anyone had any questions. He also stated that he would provide a payment schedule which identifies what the payments will be.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3411 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SEEK PUBLIC COMMENTS FROM THE LOCAL COMMUNITY TO CONFIRM THE INTERSTATE BUSINESS ROUTE AND THEREAFTER DESIGNATING AND CONFIRMING THE COMMUNITY'S PREFERRED "HISTORIC POINT OF INTEREST", "CITY CENTER" AND "VISITOR INFORMATION (?)" SIGN LOCATIONS TO THE MONTANA DEPARTMENT OF TRANSPORTATION.** A public hearing will be held on August 4, 2003 for this Resolution for public comments.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3412 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SUPPORT AND SIGN PRINTINGFORLESS.COM'S APPLICATION TO THE MONTANA DEPARTMENT OF COMMERCE FOR A COMMUNITY DEVELOPMENT BLOCK GRANT.** Bruce Becker, City Attorney stated that there was an amended Resolution for this and that it was provided to the Commission prior to the meeting. It reads now **"AUTHORIZING CITY MANAGER TO SUPPORT PRINTINGFORLESS.COM'S**

APPLICATION TO THE MONTANA DEPARTMENT OF COMMERCE FOR A \$400,000.00 COMMUNITY DEVELOPMENT BLOCK GRANT AND AUTHORIZING CITY MANAGER TO SIGN NECESSARY DOCUMENTS." Steve Golnar gave background information relating to this Resolution and stated that the amendments to this Resolution were put in at his request to make it clear the request for grant funds now included a revolving loan of \$235,000.00 which would be paid back to the City and a training grant of \$133,000.00 which would not.

Sheryl Dahl asked if the Commission had already approved CDBG early. Steve Golnar stated that the Commission authorized him to write a letter of support and sign the documents. Mr. Golnar stated that the Montana Department of Commerce requested this Resolution so they could incorporate the Resolution into the CDBG application for PrintingForLess.com before the application could be considered a complete application.

Lenny Gregrey stated that PrintingForLess.com's original CDBG application was money for a printing press and that was a hard tangible asset. He went on to say with this other request is there any available asset to provide the City with assurance of this loan. Steve Golnar stated that the collateral would be the same, a second position on the printing press.

Lenny Gregrey also stated that he would have liked to have some representatives from PrintingForLess.com present so that he could ask questions of them.

Steve Golnar stated that this was not the final Resolution accepting the funds and authorizing the City Manager to sign a contract with the State for use of these funds that a Resolution will be presented to the Commission for its approval if the State approves the loan application.

Vicki Blakeman stated that this is a long-standing company that has been in town for a while. She stated that this is the beginning of the process and she would like to see the City Commission agree to move forward.

Lenny Gregrey stated that he agrees with Ms. Blakeman if she could assure him that this is not the final word that there will be a second step and that a representative of the applicant will be present at the next meeting so that questions could be answered.

Steve Golnar stated that he assures the Commission that they will see this again before any money changes hands because the City will have to enter into a contract with the State. He will make sure that a representative of PrintingForLess.com is present when this contract comes before the Commission.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3413 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADJUSTING SALARIES FOR POLICE CAPTAINS FOR FISCAL YEAR 2003-2004, EFFECTIVE JULY 1, 2003.**

3 in favor; Dahl, Blakeman and Lee, 1 present; Gregrey, Motion passed.

Action Items:

Motion was made by Dahl, second by Lee, to authorize City Manager to apply for permits for Mayor's Landing / Fleshman Creek Restoration Project – Phase II and approve payment of \$150.00 for permit fee for Montana Department of Environmental Quality 318 permit authorization.

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to authorize expenditure of \$19,786.00 to Veto Enterprises for 2004 Dodge Intrepid with Police package and trade-in for 1996 patrol car.

Sheryl Dahl stated that she still feels the same way about buying a vehicle locally that you would have the warranty work done.

Lenny Gregrey stated that the City Attorney provided a bid preference opinion in the packet which stated that Montana Code does not allow the City Commission to accept a higher bid unless the State from which the lowest bidder resides, enforces a resident preference bid, and then the preference given must be the same as the preference in the other State. Montana Code Annotated 18-1-102(1)(b) states "provides that a public agency shall award "a public contract for the purchase of goods to the lowest responsible bidder without regard to residency". Mr. Gregrey stated that he is in agreement with buying locally when appropriate, but this is a 10% savings and is best for the taxpayer.

Michelle Lee asked for clarification of the estimate from Yellowstone Country bid if in fact it was \$21,994.64. Darren Raney stated that the \$3,034 for the Canfield Package #3, minus rear deck strobes would include the lights, switches, cage, siren; all of the equipment that was specified in the bid for proposals minus rear deck strobes. Mr. Raney concluded by saying that the \$18,960.64 was the base bid without the equipment.

Michelle Lee asked if Yellowstone Country had the same trade-in value, as did Veto Enterprises. Darren Raney stated that Yellowstone Country did not indicate any interest in the trade-in.

Steve Golnar asked Bruce Becker to clarify local preference. Bruce Becker stated that the memo states that there is no local preference that you can

accept a bid from whomever is the lowest responsible bidder. Mr. Becker did state that if the City Commission is interested in establishing a local preference then they would have to pass an Ordinance stating what percentage of local preference would be allowed by the City.

Lenny Gregrey stated that he would assume that local businesses do apply for bids outside of the City and in other States and that businesses would be at a disadvantage if the City Commission decided to have an Ordinance stating that the City of Livingston enforces a local preference law.

All in favor, Motion passed.

Steve Golnar stated that the next two (2) items on the agenda:

- 1). A draft of the proposed City/County Fire Rescue Aid Agreement; and,
- 2). A draft of the proposed City/County Interlocal Agreement to provide Ambulance Services, were provided for the City Commission's information. He stated that there will be a City/County Budget meeting on Thursday, July 24, 2003 at 4:00 and wanted the City Commission to have these items to review prior to the meeting. He asked for any City Commissions comments or concerns on these agreements.

Sheryl Dahl asked that the City provide the County with the Ambulance billing statements on a regular basis.

Jim Mastin, Fire Chief commented that there has not been an automated aid agreement between the City and County that the former automatic aid agreement was in fact a mutual aid agreement and that it expired two (2) years ago. He asked if this could be approved quickly as the ISO (Insurance Services Organization) is going to be here evaluating the Fire Department on the 19th and 20th of August.

Steve Golnar stated that this will be included in the City/County Budget meeting on Thursday, July 24, 2003. Also Mr. Golnar stated that there will be a City Commission Workshop on Monday, July 28, 2003 at 4:00 p.m. so that the City Commission can review what the County has proposed for Budget 2003-2004 then there will be a City/County budget discussion on Wednesday, July 30, 2003. He asked that the Department Heads be present and stated that the City Commission is welcomed to come to this preliminary meeting, but that it was not mandatory.

Vicki Blakeman asked if Rural Fire was in concurrence with the Automatic Aid Agreement. Jim Mastin stated that he has meet with Rural Fire and feels that they are in agreement to this agreement unless the County Commissioners have some issues.

Sheryl Dahl asked about the Warm Springs transfers a provided for in the proposed Ambulance Services contract. Jim Mastin stated that the Ambulance Service will bill the patient and if the patient can not pay then

they will not bill the County if the amount of funding proposed in the contract is agreed to by the County. Sheryl Dahl stated that she was of the understanding that the County was reimbursed by the State for Warm Springs transfers. Michelle Lee stated that the County only gets reimbursed from the State if the transfer is in custody of the State and being moved in a County jail.

Sheryl Dahl asked about the total capital support if the Fire Chief has generated any paper work explaining the need for the 100 watt mobile radios, stair chair and pulse ox equipment and the ambulance replacement. Jim Mastin stated that no paper work has been completed but that it was discussed with the County in two (2) meetings. Sheryl Dahl stated a follow-up sheet would be appreciated for the FY 2003-04 Budget. Steve Golnar stated that he has received an Ambulance replacement program summary from the Fire Chief and he will provide this to the City Commission when he provides it to the County Commission.

No action was taken on the draft of the City/County Fire Rescue Aid agreement. It was determined among the City Commission not to act on this until the Fire Department meets with the County and then to bring it back to the City Commission for their review after County approval.

No action was taken on the draft of the City/County Interlocal Agreement to provide Ambulance Services. It was determined again among the City Commission not to act on this until the Fire Department meets with the County and then to bring it back to the Commission for their review after County approval.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the flood way FEMA maps and if Steve could explain to him what this meant. Steve Golnar and Jim Woodhull explained with the map what this was about. Further information will be provided at a Community Workshop on July 30, 2003 at 6:00 p.m. in the Community Room of the City/County Complex.
- Lenny Gregrey asked about a letter received in the suggestion box requesting "annual or monthly parking permit for business owners". Steve Golnar stated that he wanted to let the Commission know about this suggestion, but was not in favor of it.
- Lenny Gregrey asked Police Chief, Darren Raney about the police department 10 hour shifts and the recent issue with holiday pay and if this was going to become a problem. Darren Raney stated that he did not feel that this would become a problem and that the critical periods have already passed, like July 4, 2003 and that the overtime was less than it was last year. Mr. Raney concluded by saying that he will keep a close look at this and will let the City Commission know of any expenditures that are unexpected.
- Lenny Gregrey asked about any workshop dates scheduled that were not on the calendar. Steve Golnar stated that there will be a

- preliminary budget meeting on August 18, 2003 and probably will be a Special Meeting on August 25, 2003 to pass the Budget because the City only has 30 days from the date that the City receives the final valuation of a mill. Also Steve stated that the City Commission should have Workshop's for Budget on August 7th and 11th, 2003 and the City Commission concurred. The meeting on August 7, 2003 will be held at 7:00 p.m. in either the Community Room or the West Room in the City/County Complex and the meeting on August 11, 2003 will be held at 7:00 p.m. and Lenny Gregrey will provide pizza before this meeting.
- Sheryl Dahl stated that she would like to thank those who moved the achieves at East Side School. Vicki Blakeman stated that the front of the building looks a lot better. Ms. Dahl asked if anyone had inquired on the East Side School and Steve Golnar stated that he had 6 to 7 people inquire about bidding on the East Side School and have requested a packet for bid. Mr. Golnar suggested the applications be due by September 30, 2003. He was concerned that there are some people interested that are from out-of-state and this would give them enough time to put their bid together.
 - Sheryl Dahl asked Steve if he had written the thank you letter to the Rotary Club. Steve stated that yes he has written that letter and has given it to Vicki for her signature also a letter to the Legion Baseball Board and the Summerfest Committee were awaiting Vicki's signature.
 - Sheryl Dahl requested Steve to write a letter thanking the Boy Scout's for their support and help in putting in the stairs at Sacajawea Park along the path.

Commissioner Lee had no comments.

Commissioner Ebinger was absent for comments.

Commissioner Dahl Comments:

- She thanked the Summerfest Committee for putting on another successful Summerfest and appreciate all City Staff for their hard work on this event.
- She mentioned that Skate Park Committee had a fundraiser at the Sports Bar Next Door on Wednesday, July 16, 2003 and had not heard how they did. Steve Golnar stated that he had talked to Tom Romans, Chairman of the Skate Park Committee and it sounded like they did not make any money.

Commissioner Gregrey Comments:

- He asked the City Attorney if there was a way, after hearing Rick Spellman's concerns about the law, if we could request an Attorney General's opinion on the City's ability to assess property owners for sidewalk improvements without having to go to the Supreme Court. Bruce Becker stated that he believes that there is a statute that states that the City can do this and will provide it to the Commission at the next meeting.

- He stated that the Public Service Commission authorized a 14% increase in the electric and wanted to know if the City had adjusted their figures on the budget reflecting this increase. Steve Golnar stated that yes it has been adjusted at an even higher percentage.
- He stated that he enjoyed the Summerfest and activities on Sunday.

Chairman, Blakeman Comments:

- She mentioned that there is going to be a Refuse Board meeting to make a decision on the Incinerator and she will be going to those meetings.
- She asked the City Commission to put together a Task Force for recycling in our City and that she knew of a few business people who would like to be on that Task Force and with the City Commission's consensus she would like to move forward. It was determined among the City Commission to move forward and advertise for these participants.
- She also stated that she really enjoyed Summerfest this year.

No public comments were given.

Motion was made by Dahl, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 10:05 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
August 4, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, August 4, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Lenny Gregrey, Sheryl Dahl, Bob Ebinger, Vicki Blakeman and Michelle Lee.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Corey Lussier, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Ebinger, second by Lee, to approve the consent items as follows:

- Approve July 21, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of July 2003.
- Approve Bills and Claims for FY 2003-2004 after July 1, 2003.
- Review special event request for Cowboy Mounted Shooting Association Parade to be held on August 22, 2003 at 5:00 p.m.
- Waive bandshell rental fee of \$50.00 for Mickey Rogers Cancer Fund Raiser.

Bob Ebinger indicated that in the minutes that it should reflect that he was absent from the meeting of July 21, 2003.

Sheryl Dahl asked about the claim from Park County for the Mayor's Landing Landfill charges and indicated that it was her understanding with the Mayor's Landing Clean-up that the County stated in a letter, "in a cooperative effort to clean up Mayor's Landing area that they would not charge the City for Landfill charges" and that now the City is being charged for those charges.

Steve Golnar agreed that that was the initial agreement with the County. That this arrangement was revised with the Refuse Board and County based upon Refuse agreement revisions and revised estimated quantities of landfill materials to be removed.

Mr. Golnar stated that the Landfill fee was agreed by the Refuse Board not to charge for sorted items that the City could deliver to the Landfill in a sorted manner from Mayor's Landing, but that they would charge for items that could not be sorted, because they would need to be buried. Mr. Golnar's suggestion was to pay the County for the Landfill charges and to pay the Contractor for their services due to the fact that both amounts came in under the authorized contract amount. Sheryl Dahl stated that she was very disappointed in the County charging Landfill charges because it was a

City/County joint effort and the County had previously agreed to waive landfill fees.

Sheryl Dahl asked about the request for the Cowboy Mounted Shooting Association Parade and their request to waive some of the fees and she commented that she feels that the City Commission waives the fee for the Chamber of Commerce Rodeo Parade and wanted to know Steve's opinion as to how he felt about waiving the fees.

Steve Golnar stated that generally he presents the cost of the fees to be waived to the City Commission and lets it be the determination of the City Commission as to whether to waive the fees or not. Mr. Golnar stated that this event is a good potential for the City and felt that waiver of these fees was appropriate for the first year and that these fees should be evaluated and planned as part of the event if it becomes a regular event.

Sheryl Dahl asked if there was a way that a letter could be written to the Chamber of Commerce as a donation of waiving the fees. Mr. Golnar stated that he would write a letter identifying what the value of the waiver is the City's contribution to this Chamber of Commerce event.

Ms. Dahl also asked to have Mr. Golnar write a letter to the Mickey Rogers Cancer fund raising effort about waiving of fees and that this is the City's way of supporting this type of an event.

Mr. Golnar commented that there was a representative from the Chamber of Commerce for the Cowboy Mounted Shooting Association Parade if anyone had any questions concerning this event.

All in favor of consent items, Motion passed.

Vicki Blakeman, Chairman, stated that there was an error on the figuring of the assessment of the special improvement lighting District No. 20 for replacing street lights on Resolution No. 3408 and also on the assessment for the levying and assessing all parcels of property within the special improvement lighting District No. 20 on Resolution No. 3409 and that these public hearings would be re-advertised properly and would continue at the next meeting on August 18, 2003.

Motion was made by Lee to change the order of the agenda of Resolution No. 3403 to be placed after action item no. 6, F - which was the City/County Budget coordination status and response to the County on the Ambulance funding concerns, because it is a City/County proposed shared area. There was concurrence with the City Commission on this proposal.

Public Hearings:

A continued public hearing was held for the second reading of Ordinance No. 1929 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1803 AND CHAPTER 26, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED STREETS AND SIDEWALKS CONSTRUCTION AND REPAIR.**

Vicki Blakeman asked the City Attorney for clarification of the second whereas in the Ordinance stating, "the City of Livingston has previously enacted Ordinance No. 1803 as codified by Chapter 26 Streets and Sidewalks, Article IV, Construction and Repair, requiring adjoining property owners to install and repair sidewalks".

Bruce Becker, City Attorney, stated that this Ordinance has been on record for a number of years and that the only thing that was being changed was the period over which the City was going to assess the pay back from three (3) years to five (5) years.

Phillip Burgin of 521 East Gallatin Street asked the City to take responsibility for their land. Mr. Burgin feels that this is not the property owner's responsibility to replace and repair sidewalks that the property owners are just responsible for the maintenance of the sidewalks and keeping debris off and shoveling of snow in the winter. He suggested that if the City raised the property taxes to \$20 per lot per year that this would give the City an ample amount of money to fix the sidewalks.

A letter was provided to the Commission from Sam Dore of 123 North "H" Street, outlining his recommendation for a City sidewalk repair and replacement program and that he had asked to have it part of the permanent record.

Rick Spellman of 226 South 8th Street stated that he wanted to thank Bruce Becker, City Attorney, for addressing one of his concerns that he had requested of him at the last public hearing held on July 21, 2003. He now understands that the State will allow the City to force property owners to repair or construct sidewalks. He stated that he felt this could be involuntary and asked the Commission to ask the City Attorney to review and reference MCA 7-14-4122 relating to the legality of this statute.

Bob Ebinger stated that the legality of this policy is not a question of this Ordinance that it is just changing the amount of time payments from three (3) to five (5) years.

Amanda Zakovi of 217 South 9th Street stated that she has a different approach to the sidewalk issue. She stated that she has lived in Livingston since 1944 and she does not recall the sidewalks ever being repaired since then. She also stated that she has been injured very badly from falling on a sidewalk. Ms. Zakovi commented that she felt that the City should move forward with a sidewalk replacement program and suggested that the City

and the homeowners work together to accomplish the repair of the sidewalks. She recommends to all City Commissioners of Livingston to leave their cars at home and take a walk to work or wherever you may be going and you will see what terrible condition that the sidewalks are in. Ms. Zakovi said that she did not ask anyone to pay her medical bills when she fell, but emphasized her sincere desire for the City and property owners to work together and resolve the issue of the City's damaged sidewalks.

Motion was made by Lee, second by Dahl, to approve second reading of Ordinance No. 1929.

Lenny Gregrey stated of the three (3) people that spoke tonight he was in agreement to their positions. He stated that his wife was injured on a sidewalk in need of repair. The sidewalks are in bad shape. This law is on the books which gives the City the authority to force property owners to repair and replace sidewalks.

Michelle Lee stated that she did agree with the speakers that spoke but commented that the authority that the City has under State Law has been there for a lot of years and that the City does not have another funding mechanism for sidewalks.

Phillip Burgin of 521 East Gallatin asked if there is a way to establish a street maintenance district and why can't the sidewalks be put in that assessment so that it can be assessed of property owners City wide and fund an annual sidewalk replacement program.

Steve Golnar stated that the street maintenance statute limits the City's ability to do work to the back of the curb. Sidewalks are not part of the City Street Maintenance program. The Legislature has not supported the replacement or repair of sidewalks as part of street maintenance. He suggested to ask the local legislators, which are Pat Wagman, John Esp and Bruce Malcolm to possibly change the laws for the future. There are liabilities associated with sidewalks and the City has to manage its risk as well as it can, and this is why the City is proposing this program.

All in favor, Motion passed.

A continued public hearing was held for Resolution No. 3407 - A
**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,
MONTANA, LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS OF
MAINTAINING AND IMPROVING STREETS AND ALLEYS IN STREET
MAINTENANCE DISTRICT NO. 1 IN THE AMOUNT OF \$383,211.00 FOR
FISCAL YEAR 2003-2004 AGAINST ALL PARCELS OF PROPERTY WITHIN
SAID DISTRICT.**

Harold Stewart of 406 West Summit commented that he had mixed emotions about the street maintenance fund. He stated that he lives at the end of Summit Street in a cul-de-sac that really needs some dust abatement on it.

But there are several issues that the City needs to look at. In all fairness to residents of the City the people that have paved streets in their subdivision, such as in the High Ground Subdivision on Blue Herron Drive where the residents voted to have the improvements of curbs, gutters and streets put in. Now they are going to be responsible for paying for paved streets that will be put in where there were gravel streets in areas other than their subdivisions. Mr. Stewart went on to say that the "paving" (use of roto-milling) will provide according to Mr. Golnar, would provide dust abatement and would lower the street maintenance and the cost to maintain those formerly gravel streets. He asked if this was a way to fund a one-time project and if not would the money be used for another project. He didn't feel that this was a way of funding. Is the work plan feasible as presented. He stated that he understood that it was mentioned at the last meeting that this Infrastructure project would take 1 to 1 1/2 years to be completed. He feels that the personnel of the City with this as an ambitious of a project this is will be spread thin and have a hard time getting the streets done. But if the City feels that this can be done in the time frame mentioned then to get the project done and save on maintenance.

Sheryl Dahl stated that the increase in the street maintenance district is not just for the roto-millings on paved streets. It's for the on going work and process of maintaining all of the streets and alleys in the City of Livingston. The Street Maintenance District was put into effect approximately nine (9) years ago and the reason that the City Commission did this was that there was a lot of restrictions on the gas tax money and they are not at the levels that they once were. Its to continue the project to make sure that the streets and alleys are maintained.

Steve Golnar responded to Mr. Stewart's concerns in stating that with more streets paved with roto-millings it would lower routine maintenance costs, but that these newly "paved" streets would need to be put on the rotating seven (7) year chip sealing program.

Bob Buettner of 619 Bluebird Lane stated that he lives in the Warren Addition and when he first moved out there he could not even get it graveled. So he and some others hauled gravel from Emigrant to have gravel in front of his home. He concluded by stating that the cost of this proposal looks a little high from his perspective.

John Schuler of 33 Loves Lane stated that even though he lives out side of the City limits he has property in the City and pays property taxes. He asked for clarification to his understanding the City is doubling street maintenance cost to the taxpayers per lot. He is a little bit confused as to how the City is going to raise \$383,211.00 with this tax increase. Steve Golnar stated that the total assessment is \$383,211.00 and that there are two levels of assessment one for "unimproved lots" and one for "improved lots". For an improved lot, the total cost per lot is proposed to be raised from \$42.70 to \$48.65, that's a \$5.95 per City lot per year increase. A "lot" measures 25' X

140'. Mr. Schuler stated that everyone in the City and Park County is going to be hit with some heating and electrical bill increases. He felt that "the doubling" of the street maintenance levy at this time is going to put a lot of the City's senior citizens on the decision whether to buy drugs, buy food, or pay taxes. He concluded by stating that this is not a good time for this street maintenance increase.

John Durden of 811 East Montana Street commented that the property that he has, he has owned for 35 years. It was mud hole from "I" Street to the 600 Block and he hauled gravel in and that there was no maintenance on that block. He asked as to his understanding that this roto-milling will go on for seven (7) years and why did the City patch the roto-millings that they put on last year a month before they put the chip seal on and the reason was when the City put the roto-millings down on the streets and dump-fill in a hole that is full of water and didn't accomplish anything because the ditch runs under the street.

Motion was made by Dahl, second by Ebinger, to approve second reading of Resolution No. 3407.

Sheryl Dahl asked Clint Tinsley, Public Works Director, in reference to a letter that was provided to the City Commission in an addendum from Patricia Miller as to her question of what will be done to the alleys maintenance. Clint Tinsley stated that there would be a long-term fix to the alleys where utilities need to be replaced. Other alleys such as T-alleys, the City is looking at a solution of using roto-millings to pave those alleys but will have to have a study as to whether the storm water retention would be feasible with the roto-millings but this will not take place until next year.

Sheryl Dahl also brought up a question that Patricia Miller asked in her letter as to whether the Commission move these funds into other departments to cover shortfalls. Clint Tinsley stated that this is only for street maintenance funding.

Sheryl Dahl stated that we all have to realize that the street maintenance assessment is to cover all of the streets in the City not just the streets in front of individuals homes.

Patricia Miller of 605 North Yellowstone asked does any part of this \$383,211.00 used for salaries? Shirley Ewan stated that yes one (1) full-time employee will be paid out of this which would approximately be \$27,496 per year and that this person will replace four (4) seasonal workers and that person is Ed Grow.

Lenny Gregrey stated that he has strong feeling about raising taxes, however taxes are here. He believes that the street maintenance and lighting districts came about as a result of CI-105 and the State Legislature in their wisdom

did this so they could provide monies for the Cities and Counties to operate. The public and the people will be voting on this and his vote is no.

Bob Ebinger stated when it comes to street maintenance in the community the whole community uses the roads so he finds it very acceptable for the whole community to pay the maintenance of the streets. As a community it is one of the Infrastructure improvements in maintenance that the City needs to contend with otherwise the community is going to put up with streets that they can't possibly deal with. He supports street maintenance but wishes that there was another way to fund it but he doesn't see any other way now and if the City doesn't have an on-going program for street maintenance it will just get worse.

4 in favor; Lee, Ebinger, Dahl and Blakeman, 1 opposed; Gregrey, Motion passed.

A continued public hearing was postponed for Resolution No. 3408 to readvertise with corrected figures - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, MODIFYING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREETS LIGHTS THEREIN AND LEVYING AND ASSESSING ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF SAID COSTS FOR FISCAL YEAR 2003-2004 ESTIMATED TO BE IN THE AMOUNT OF \$41,000.00.**

A continued public hearing was postponed for Resolution No. 3409 to readvertise with corrected figures - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING ALL PARCELS OF PROPERTY WITHIN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR 100 PER CENT OF THE ESTIMATED COSTS OF \$56,500.00 FOR MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO LIGHTS FOR FISCAL YEAR 2003-2004.**

A public hearing was held for Resolution No. 3411 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON OF ITS INTENT TO SEEK PUBLIC COMMENTS FROM THE LOCAL COMMUNITY TO CONFIRM THE INTERSTATE BUSINESS ROUTE AND THEREAFTER DESIGNATING AND CONFIRMING THE COMMUNITY'S PREFERRED "HISTORIC POINT OF INTEREST", "CITY CENTER" AND "VISITOR INFORMATION (?)" SIGN LOCATIONS TO THE MONTANA DEPARTMENT OF TRANSPORTATION.** No public comments were given.

Steve Golnar gave background information on this Resolution and stated that the change is of the signs is relocating the City Center sign from the center exit off the Interstate I-90 to the East and West exits to bring traffic to the downtown area. The Montana Department of Transportation wanted to hear public comment from local residents before they made that decision and wanted this on record.

Motion was made by Ebinger, second by Lee, approving the location of the signs to the east and west exits and requesting the other signs and to direct City Manager to take action to proceed with recommendations of Resolution No. 3411 in writing a letter to the Montana Department of Transportation.

All in favor, Motion passed.

Steve Golnar asked Peggy Glass, Communication Coordinating Director, to introduce her new Dispatcher, Lisa Harris. Peggy Glass did just that and stated that she had started July 15, 2003. All Commissioners welcomed her.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3414 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING FIRE MUTUAL AID AGREEMENT AND AUTHORIZING CITY MANAGER TO SIGN.**

Sheryl Dahl asked about the agreement under duration if this would be five (5) years. Jim Mastin, Fire Chief stated that it is for five (5) years with the option to amend or terminate.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3415 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING CITY/COUNTY FIRE AND RESCUE AUTOMATIC AID AGREEMENT AND AUTHORIZING CITY MANAGER TO SIGN.**

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3416 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CERTAIN CITY EMPLOYEES TO ACQUIRE FEDERAL SURPLUS FROM THE STATE OF MONTANA.**

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3417 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MODIFICATION TO TRAFFIC SAFETY CONTRACT #03-13(T) WITH THE MONTANA DEPARTMENT OF TRANSPORTATION.**

Bob Ebinger asked if this was an additional \$10,000.00 or is it a total of \$10,000.00 so it would only be an additional \$5,000.00. Bruce Becker and Steve Golnar concurred that this is an additional \$10,000.00.

Lenny Gregrey asked the City Attorney with the change in the law he understands that the Police Department can now confiscate vehicles from people with a 2nd offence.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3418 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO REDUCE COMMERCIAL GARBAGE RATES IN THE AMOUNT OF 10%.** A public hearing will be held next meeting on August 18, 2003 relating to this Resolution for public comment.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3419 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CONTIGUOUS LAND RECEIVING CITY WATER OR SEWER SERVICES TO THE CITY OF LIVINGSTON, MONTANA, WHICH IS LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST.**

Bob Ebinger asked about the map of this Resolution for the Kahle Subdivision if it would include both sides of the Bighorn Street. Jim Woodhull stated that yes it does.

A public hearing will be held on September 2, 2003 for this Resolution for public comment.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3420 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MEMORANDUM OF UNDERSTANDING WITH LOCAL 630 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS CLARIFYING EMERGENCY CALL BACK.**

Steve Golnar stated that a representative from the Local 630 IAF was present if the Commission had any questions.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3421 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MEMORANDUM OF UNDERSTANDING WITH PARK COUNTY FOR RECYCLING OF CORRUGATED CARDBOARD.**

Steve Golnar stated that the agreement was in the Addendum provided. In addition the City has revised the agreement so that all of County Commissioners will sign off of this Resolution in addition to the Refuse Board

the reason for this is because the Refuse Board is an Advisory Board and the Commissioners act as the Administrative Body for the County.

Sheryl Dahl asked about the business owners and the City residents that are not part of the lock box corrugated recycling program she felt that it was important that the City another line in the Resolution to state "that individual City residents are allowed to deliver corrugated cardboard to the Incinerator at no charge but needs to be flatten and sorted."

Clint Tinsley stated that the City picks up the corrugated cardboard and delivers it to the Incinerator so that residents won't be billed for it. Every business owner will have keys to the lock boxes so that they can drop off their corrugated cardboard.

All in favor, Motion passed.

Action Items:

Motion was made by Dahl, second by Ebinger, to direct City Attorney to prepare a Resolution of its intent to initiate a non-resident Ambulance Billing Policy adding a \$250.00 charge to non-County residents for Ambulance Services.

Sheryl Dahl stated that she would have to say that she is not in support of adding this non-resident charge. In the fact that the City is not getting a lot of funding from the County in this years budget and the EMS does need financial help that why she will support it.

Michelle Lee asked Bruce Becker if he had explored the option to charge non-City residents. Mr. Becker stated that he doesn't have an opinion right know.

Lenny Gregrey asked for clarification from Ms. Lee proposals. She stated yes non-City residents. Lenny Gregrey stated that the City shouldn't go in that direction now.

Jim Mastin, Fire Chief, commented that the numbers that the EMS Department came up with included City and County non-residents.

All in favor, Motion passed.

The City Commission reviewed and commented on the Upper Yellowstone Task Force Phase II recommendations.

Because the regular City Task Force representative, City Planner, Jim Woodhull, was not be able to attend the Task Force meeting on August 5, 2003 due to a conflict, the City Manager was asked by the City Commission to deliver the following concerns:

Recommendation No. 5 – "5/22/03 – Passed by Consensus – Establish financial incentives to help landowners, on a voluntary basis, to remove structures that no longer function properly or are obsolete."

Define "structure".

Recommendation No. 6 – "6/2/03 – Passed by Consensus – Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

Define "structure".

Recommendation No. 7 – "6/2/03 – Passed by Consensus – Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

Define and list of public structures.

Recommendation No. 8 – "6/2/03 – Passes by Consensus – Implement a solution to achieve hydraulically-balanced water surface elevations, with little or not backwater, in the channels separated by Ninth Street and Siebeck Islands."

The City objects to this recommendation, it is concerned about the impacts with such an action on the banks of Miles Park and any properties that the City controls along property which is within its jurisdiction.

Recommendation No. 9 – "6/2/03 – Passed by Consensus – Recommend that when the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study be lessened: Emigrant Bridge; Caster's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge." The City is generally in support of this concept and is in fact interested in Mr. Mosier's "Zero Backwater Standards Proposal" for scheduled reconstruction of bridges on the Upper Yellowstone River.

The City would be concerned about any possible impacts to City controlled property and property within its jurisdiction as a result of these actions specifically related to the I-90 Bridge and the Highway 10 Bridge East of Livingston.

Recommendation No. 13 – "7/8/03 – Passed by Consensus – That no additional Livingston Schools be constructed on McLeod Island."

The City objects to this statement as written but would support language which read, "That local jurisdictions should enforce state and local flood plain regulations in accordance with newly adopted maps".

Recommendation No. 23 - "7/22/03 - Passed by Consensus - All new and refurbished bridges should be designed to mitigate upstream and downstream negative impacts of sedimentation and gravel deposition."

The City suggests that this might be combined with recommendation no. 9.

Recommendation No. 31 - "7/29/03 - Passed by Consensus - A stakeholder group be developed to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Task Force recommendations."

The City objects to this recommendation as written. We are curious how the stakeholder group would be formed or established and would the City be represented or have the ability to voice their concerns and to participate in the debate on issues addressed by the Stakeholder group.

Recommendation No. 32 - "7/29/03 - Passed by Consensus - The U.S. Army Corps of Engineers include in their 205 Study an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the floodplain map."

The City objects to this recommendation as written. The City is concerned about the cost of remediation of landfills along the bank and loss of riverside trees if this option was pursued.

General suggestion: We suggest that the recommendations be organized under the "Task Force's topics of consideration" in order to facilitate a clearer understanding of the purpose of the various recommendations.

Addition suggestions: A list of definitions would be appreciated for such words as "structure".

The City Manager was also directed to develop additional recommendations to protect and enhance the City's interests.

The City Commission discussed considering the settlement offer on Mountain View Estates Subdivision (Denton Subdivision) street repairs.

Motion was made by Dahl, second by Lee, to direct the City Attorney to file suit against the parties to collect the damages amounting to \$30,443.00 which is the cost of completing these repairs.

Michelle Lee commented about the statement in the letter from Bruce Becker to Tim O'Hara Construction, George Denton and Rick Kerin it states that enclosed is a copy of the civil complaint filed, but which to date has not been served for your information and asked if the City was duplicating it's efforts.

Bruce Becker, City Attorney, stated that the suit is filed but he had concerns about a statue of limitations and at the time he filed the lawsuit the City did not know what the damages were and we do now because we have an estimate from JTL as to what it is going to cost to pursue a dollar figure.

All in favor, Motion passed.

A short break was taken at 9:40 p.m.

The meeting went back into session at 9:50 p.m.

The consideration of NorthWestern Energy settlement offer was postponed due to information not available.

A discussion for approval of an emergency payment for replacement of the main Dispatch Records Computer in the amount of \$1,715.00 to Rockin' Micro was reviewed.

Lenny Gregrey mentioned that he has looked at the invoice from Rockin' Micro and wanted to know what the brand was of the computer.

Steve Golnar stated that he would get the brand name of the computer and let the City Commission know at the next meeting.

Motion was made by Gregrey, second by Ebinger, to approve emergency payment for replacement of main Dispatch Records Computer in the amount of \$1,715.00 to Rockin' Micro and request the brand name of the computer from Rockin' Micro.

All in favor, Motion passed.

A discussion of the review of the FY 2003-04 City/County Budget coordination status and response to County on Ambulance funding concerns was held.

Steve Golnar gave background information for this discussion and went over the spreadsheet that he provided in the packet for the City/County Budget Coordination FY 2003-04 draft. He also provided for the City Commissioners his suggestions for the direction relating to ambulance funding and the level of service and they are as follows:

- Accurately reflect the true cost of Ambulance Service provision in the Ambulance Enterprise Fund proposed for FY 2003-2004.

- Show ambulance revenues from City and County mill levies and General Fund Subsidies provided by the City, and possibly the County, to support this operation.
- Revise the Ambulance Agreement to provide that in addition to the operating and capital funding provided by the County, the County would agree to pay for all uncollectable debt or bad debt write-offs incurred from County calls beginning July 1, 2003.
- Back-off on our commitment not to charge for Warm Springs transfers, but use the methodology use with the last bill of charging the Medicare rate if it is uncollectible from the patient.
- Implement charge for out-of-county residents. (Additional \$250.00 per call).
- Seek additional funding from Park County for FY 2003-2004.
- Consider trading off priorities with other City/County coordinated funding efforts.
- Aggressively pursue a mill levy election to increase County and possibly City mill levy support of ambulance operating budgets with a target of implementing such mill levies in FY 2004-2005.
- Consider City's ability to continue countywide ambulance service in the short-term (FY 2003-04) and the long-term (FY 2004-05 and beyond).
- Consider implementing an additional charge for out of City residents.

Sheryl Dahl asked for clarification stating to accurately reflect the true cost of Ambulance Service provision in the Ambulance Enterprise Fund proposed for FY 2003-04 and asked if this wasn't already done in the budget.

Steve Golnar stated that the ambulance budget at this time is not based on the actual costs of providing the service. This year it is closer by adding a full-time EMS Director and also adding a Fire Captain to the EMS budget to more accurately reflect the amount of man power. But, the Ambulance budget does not reflect the percentage of time that the Fire Fighters spend on the EMS activity. The City's proposal for funding from the County should identify about 82% of Fire and EMS response time for ambulance.

Sheryl Dahl asked how difficult would it be to code time cards when the fire fighters go out on an EMS run that its totally noted as EMS hours and that shows up on the Ambulance Budget and when there is a Fire code it to the Fire Budget.

Jim Mastin, Fire Chief, stated that he just recently found out that the ISO rating is based on a new formula for factoring ambulance runs and based upon 24 hours.

Sheryl Dahl mentioned that there has got to be some kind of methodology to help divide the hours spent on EMS runs and Fire calls and strongly suggested that the Fire Department pursue looking into a computer resource to elaborate this.

Jim Mastin stated that he is very comfortable with the accuracy of the general fund for fire calls.

Steve Golnar stated that that would still not be a true reflection of the actual cost of the EMS call because being there and being present is also a cost of being able to provide EMS response.

Sheryl Dahl agreed with the revised agreement and stated that the County will pay for all bad debt write-offs. She agrees with backing off on the City's commitment not to charge for Warm Springs transfers. She also stated to push the County in following through on a mill levy increase because the County has had the information about the Ambulance since April and knew that a decision needed to be made by July and they sat on it.

Michelle Lee asked with Steve's recommendations was there any more hours added in because the Gardiner Ambulance had shut down. Steve stated that just came up on Friday so "no" that is not figured into the proposed ambulance budget. Mr. Golnar stated that this is a short-term issue and is related to a workman compensation issue which they didn't have, but will soon.

Jim Mastin stated that the City needs to keep in mind that neither Paradise Valley nor Gardiner have a lot of resources.

Sheryl Dahl asked Steve if he had time to ask Bruce about the state statutes about City/County requirements to have ambulance service available to the public and to make a copy of state statutes and provide to the Commission prior to the City/County meeting.

Lenny Gregrey stated that the City and County has to come to a real serious realization as to EMS service and how much they want to provide to the public and how much the public is willing to pay for this service because the City is taking the brunt of the financial responsibility for providing this service to the City and County. If it requires this to be put on a ballot issue to have the public vote on it then so be it.

Steve Golnar stated that he had asked the County if they would consider the potential of moving that \$25,000.00 that the County identified as capital funds to operating funds at lease for the short-term this year. There response was that they were open to any proposal, but preferred to keep it in Capital.

Michelle Lee stated that if the County would do a trade-off in other areas of the budget.

Mr. Golnar stated that the City/County meeting that was scheduled for Wednesday, August 13, 2003, needs to be changed to either August 12th or 14th so that all three of the County Commissioner's can be present. It was

discussed and concurred to have the City/County meeting on Tuesday, August 12, 2003 at 4:00 p.m. in the County Chambers. Mr. Golnar suggested that the City and County have a workshop before August 12, 2003 on this proposed budget for the ambulance. Michelle Lee's suggestion was to have them be a part of the workshop scheduled on August 7, 2003 and to have a draft letter available to the County with chooses that they may need to make about the level of service and re-write the agreement for ambulance service prior to the meeting. It was a concurrence with the City Commission to empower the City Manager to move forward with these suggestions.

Resolution No. 3403 was re-introduced in the meeting.

Motion was made by Dahl, second by Lee, to postpone this Resolution No. 3403 until the City Commission meeting of September 2, 2003.

Sheryl Dahl stated that the reason why she is proposing this Resolution to be postponed is because the City is looking at budgeting and affordability of everything and the ambulance discussion with the County is unknown and before the City has the money allocated that will be going to organizations she wants to see that the City budget is in place.

Sharon Walker, President of ADC, made comments. She stated that there really isn't any comment that she can make and that she certainly understands why the City Commission wants to post-pone this request of the ADC. Ms. Walker thanked the City Commission for considering this proposal. She concluded by stating that ADC is running successfully and hopes to continue with the support of the City and County.

Sheryl Dahl asked Ms. Walker where her library was located that she has some books that she would like to donate. Ms. Walker stated to Ms. Dahl that the Library is in the First Interstate Bank but could bring them directly to her.

Michelle Lee suggested that in the agreement state in the Independent Contractor about the non-profit to add the wording of a C-3. Ms. Lee also stated that the effective date needed to be changed. Michelle stated that on item no. 12 of the agreement that it was missing the wording disability, gender and religion that these are also the federal recognized protected classes. Ms. Lee also mentioned on the composition of the ADC Loan Committee that the City representative be appointed by the City Manager and asked if that could possibly be part of the City Commission's appointments that go through the Commission.

Bob Ebinger asked to add in the Exhibit "B" of the ADC agreement that the City of Livingston be recognized and not just Park County.

All in favor of postponing Resolution No. 3403 until the City Commission meeting on September 2, 2003, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey stated for clarification about the response from American Bank should be to consider the downtown garbage can replacement that they did not commit to it and asked to show Mr. Erickson, of the American Bank, what kind of cans are available before he would commit and will turn over to the Manager of the Bank.
- Michelle Lee asked about the appendix C of the City of Livingston housing and economic development revolving loan funds how late they were filed. Shirley Ewan stated that default letters have been written to those that are behind and they have made some payments. Steve Golnar stated that something was better than nothing and the City would like to move a long and work with them.
- Sheryl Dahl asked Chairman, Vicki Blakeman, if she would state that in the "M" Street Park follow-up that should be representative of the Junior Woman's Club not BPW.

Commissioner Lee Comments:

- She stated that she is very much concerned with the Ambulance Service contract with the County and hoped that this can be resolved to benefit both the City and the County.

Commissioner Ebinger had no comments.

Commissioner Dahl was absent for comments.

Commissioner Gregrey had no comments.

Chairman, Blakeman Comments:

- She asked if the pigeon control option was coming back to the Commission as some kind of option. Steve Golnar stated that the pigeon control option that he suggests is to secure the underpass with screens rather than chicken wire or foam and paint that there would be more maintenance to the other suggestions. The City Commission asked Mr. Golnar to follow-up with a recommendation and get back to them at the next meeting.

Public comments:

- Bill Moser a freeholder, not a member of the Upper Yellowstone River Task Force, gave comments of his concerns of maintaining private property rights. He stated that 49% of the Upper Yellowstone River Water Shed is above 8000'. This means that the Spring run off is heat sun driven and rain driven and means that every single year that the citizens and the property of them in the City of Livingston are looking at 1/2 cubic mile of water coming at them. He stated that he was present to request the City Commission's concerns and responses to the Upper Yellowstone River Task Force's recommendations and that they have been working on this project for five (5) years. He

commented that the River is "meandering", which means that the River is shifting its course perhaps in the middle of the night and takes out anything in front of it. The City of Livingston has a 20' Sewer under the "Main" Street which means that all of that ground has been dug up and means that it is susceptible of the water if the River shifts, and taking out all of the buildings on both sides of Main Street. He asked that the City Commission look into the recommendations that the Upper Yellowstone River Task Force has developed and make their comments as the Task Force is interested in the overall benefit of the City of Livingston and Park County and all aspects.

Motion was made by Lee, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 10:55 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
August 18, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, August 18, 2003 at 7:30 p.m. in the Community Room in the City/County Building. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Dahl, second by Ebinger, to approve the consent items as follows:

- Approve August 4, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of August 2003.
- Approve Bills and Claims for FY 2003-2004 after July 1, 2003.
- Department Heads Monthly Reports and Other Minutes.
- Special event request for the Shriners Parade on September 20, 2003.

Bob Ebinger stated that he had looked at the Police Departments monthly report and asked if they were giving out-of-state vehicles parking tickets. Shirley Ewan stated that "yes" some vehicles that have been in the City of Livingston for a while have received parking tickets due to not changing their plates and the parking enforcement officer knows which cars those are. Darren Raney stated that the City otherwise does not give out-of-state vehicles parking tickets, just courtesy tickets.

Michelle Lee asked about the claim to Bob Celander and wanted to know what gal wax was. Steve Golnar stated that was for 15 gallons of wax for the Civic Center floor.

Ms. Lee also asked about the Shriners Parade special event request if they had requested waiver of fees. Sheryl Dahl asked if there had been a follow up letter on this special event request and that the Fire Chief was the only one that had signed off on it. Steve Golnar stated that he referred this special event to the Police Department and the Public Works Department and with Mr. Blakely to review this request. Darren Raney, Police Chief, stated that they have worked out that the street department will provide the barricades and the Shriners will provide the manpower to set up and remove them after the parade. Sheryl Dahl asked how the downtown businesses felt about having the streets closed off in the middle of the afternoon. Mr. Raney stated that the Shriners Committee informed him that they were working with the Chamber of Commerce on that issue. Steve Golnar stated that regarding the request for fee waiver there wasn't any

proposed fees for the Law Enforcement or the street closure fee associated with the parade and that would be \$100.00 and since it is on a Saturday the barricades would be provided on the Friday before. Mr. Golnar stated that this is an infrequent event and its not going to happen very often and that it brought activity to the donation and he would recommend waiver of any fees associated with this event. Sheryl Dahl asked Staff if they would get more information on this event so that the City Commission could make their determination as to whether to waive fees or not until the next meeting. Ms. Dahl asked of the special event request for the Shriners Parade to notify each downtown business and the Chamber of Commerce of the street closures and determine if they approved.

Motion was made by Dahl, second by Ebinger, to amend the consent items to postpone the special event request for the Shriners Parade for the next meeting until more information could be provided.

All in favor, Motion passed.

Lenny Gregrey stated that he had requested the brand name of the computer that was replaced in the Dispatch Department and Steve Golnar told him that it was a "Rockin' Micro", that the company builds their own computers.

All in favor of the consent items as amended, Motion passed.

A scheduled public comment was scheduled for Chauncey Whitright III of the Indian Memorial Dedication at the Little Big Horn Battlefield to thank Livingston for their support, but Mr. Whitright was not present.

Variances:

Motion was made by Ebinger, second by Dahl, to approve the Findings of Fact for Patterson Variance Request - Pete and Laura Patterson, owners of property located at 519 North 7th Street, requested a variance from the fence height requirements for RII zoning district. They wish to build an eight (8) foot high fence in their back yard and code requires that fences be no taller than six (6) feet in residential zones. Jim Woodhull gave background information relating to this variance.

All in favor, Motion passed.

Motion was made by Gregrey, second by Ebinger, to approve the Patterson Variance request.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve the Findings of Fact for Burns Variance Request - Bob and Patti Burns, owners of property located at 421 North 8th Street, are requesting a variance from the front setback

requirements for RII zoning districts. They wish to build a new, attached garage, which would be approximately fifteen (15) feet from their front property line code requires a twenty-five (25) foot front setback. Jim Woodhull gave background information relating to this variance.

Sheryl Dahl stated that she had checked out the neighborhood and that it was her belief that with the addition of their garage that there would only be 4' into the encroachment of the setback. Jim Woodhull stated that it would be 21' behind the sidewalk which is on the curb of the boulevard.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve the Burns Variance request.

All in favor, Motion passed.

Public Hearings:

A continued public hearing was held for Resolution No. 3408 - A
**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,
MONTANA, MODIFYING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO.
20 BY REPLACING STREETS LIGHTS THEREIN AND LEVYING AND ASSESSING
ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF
SAID COSTS FOR FISCAL YEAR 2003-2004 ESTIMATED TO BE IN THE
AMOUNT OF \$41,000.00.**

John Payne of 305 South "K" Street stated that he continues to look at this as raising property owners per lot taxes for improvement districts and new sidewalks and new lighting. The property owners on the east side of Livingston have serious sidewalk and lighting problems, he feels that the City is not getting the money into the proper areas for the actual assets that they are being voted on. He requested a global plan of the City's Infrastructure projects and the big picture of what this is going to do, so that people know exactly where this money is going and what the projects are.

Sheryl Dahl stated that under the law the City Commission has to budget their maintenance references and expenditures so that they spend the money on those stated improvements. As far as the money the City is raising to purchase new street lights, to ask Mr. Tinsley, Public Works Director, because he would know exactly where those street lights are going to go. Ms. Dahl stated that the other street light maintenance district resolution is to pay the electricity for all of the street lights in town. She concluded by stating that this money has to be spent where budgeted by law and not anywhere else.

Clint Tinsley stated that with 2003-04 funds, lights are being purchased for 3rd through 5th Streets from Park to Callender Streets.

Vicki Blakeman stated that the City does have a ten (10) year Infrastructure Plan and that Mr. Payne could review that at any time in the City Office to see when the east side of town will start improvements.

Lenny Gregrey asked Mr. Tinsley if he would elaborate on when the street improvement plan was to begin on the east side of town.

Mr. Tinsley stated that there are a lot of projects starting right now. The water project started today from "L" to "O" Street on Park and from "L" to "P" Street on Callender. The sewer lines replacement project is happening this year. Next year the water, sewer and street projects follow through and there will be new paved streets, new curbs and gutters, new street lights from "L" to "P" Street on Callender and from "M" to "O" Street lights will be done next year. The water main project will be done on "H" Street next year and the following year the State is going to replace curbs, gutters, sidewalks and street lights on "H" Street. A sewer main replacement between "E" and "I" Street on East Geyser has gone out for bid and bid opening will be on August 22, 2003. Mr. Tinsley concluded by stated that the City is working east from "B" Street for the next five (5) years and then they will work towards the downtown area after that.

John Payne thanked Mr. Tinsley for letting him know what projects were in place and that he now has a better understanding as to where his tax dollars are going.

No further public comments were given.

Motion was made by Gregrey, second by Ebinger, to approve Resolution No. 3408.

Sheryl Dahl commented that she was reading the response from Pat Miller and that Ms. Miller had a question as to how are property owners assessed and why do some people get assessed for the light use and some do not.

Jim Woodhull stated that when the light district was originally set up these properties in the City were included in the assessment if there was a light on any corner of the block in which they lived. That excluded a few places such as High Ground and the ones that are exclusively on Park Street because the State pays those power bills.

Pat Miller of 605 North Yellowstone Street asked "what about the people that live on the lower north side that don't have street lights and they are being assessed; is there a chance that they will have street lights and what is that program?" Ms. Miller asked how far do you have to be from a street light to be assessed? Ms. Blakeman commented that if you have a street light on the corner of the block, it doesn't matter how far away you live.

Mr. Golnar stated that if someone is getting their property assessed that does not have a street light on the corner of the block then they need to file a protest with Jim Woodhull, City Planner.

4 in favor of the Resolution No. 3408; Gregrey, Ebinger, Dahl and Blakeman, 1 opposed; Lee, Motion passed.

A continued public hearing was held for Resolution No. 3409 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING ALL PARCELS OF PROPERTY WITHIN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR 100 PER CENT OF THE ESTIMATED COSTS OF \$56,500.00 FOR MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO LIGHTS FOR FISCAL YEAR 2003-2004.** No public comments were given.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3409.

Lenny Gregrey stated since the posting of \$1.82 increase of the electrical cost residents know we have to pay the electrical bill and the electric company is having more problems than residents are and this is not an unreasonable increase of money to raise taxes to pay for electricity that the citizens are using.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3425 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REDUCING COMMERCIAL GARBAGE RATES IN THE AMOUNT OF 10%.** This was the only public hearing on this Resolution. No public comments were given.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3425.

All in favor, Motion passed.

A request to change the order of the agenda and move the action item no. 8, A before the Resolutions was a concurrence of the City Commission.

The action item no. 8, A was a request to consider fee waiver for rental of the Civic Center by the Tri-County Network Against Domestic & Sexual Violence for a "Women's Fair" celebration to be held on October 18, 2003.

AnnaMarie Linneweber, Executive Director of Tri-County Network Against Domestic & Sexual Violence, stated that October 18, 2003 is a celebration day for women and its also a Silent Witness National Women's Day and what they want to do is to kick off the year for fund raising with a special event for women. There will be spa's, massages, gift baskets, Park High School cheerleaders are going to do a style show of clothes that were donated to the shelter, and food, etc. and all businesses are going to collaborate a nice day for women and men. Mrs. Linneweber gave statistics about the Tri-County

Network Against Domestic & Sexual Violence in the City of Livingston. She stated that this organization is a non-profit organization and they provide services to families of domestic violence and sexual assault issues. Last year they worked with 235 brand new victims with direct services in the area. Their service area consists of Park, Meagher and Sweetgrass Counties. The majority of the people they work with, 90% of them come out of Park County. They provided shelter for 1247 days the last year that the shelter was used. They also had 605 in-person crisis contacts and 335 crisis line calls and that's with 1 1/2 people working this particular program. They also had some major State budget cuts this year so they are looking at some ways to raise funding and that's how this event got generated. AnnaMarie stated that they are asking for waiver of fee as it is a fund raiser and that \$75.00 has quite an impact on a family.

Bob Ebinger asked if there was liability insurance is their coverage. AnnaMarie stated that the shelter does carry liability so they would be able to provide proof of insurance.

Motion was made by Dahl, second by Lee, to approve waiver of fee for the Tri-County Network Against Domestic & Sexual Violence for the \$75.00 cost of rental for the Civic Center of a non-profit organization.

Sheryl Dahl stated that the reason why she did not waive the security deposit was because it would be returned after the event, that this is an insurance policy for the City.

All in favor, Motion passed.

Steve Golnar commented that he had invited Mr. Gregory Legge, the City's new Historic Preservation Officer to meet the City Commission and would like to introduce him to the City Commission at this time.

Mr. Legge stated that he hoped to make Livingston a more attractive place to live.

Sheryl Dahl asked that Mr. Legge provide the minutes of the Historic Preservation Committee meetings in the City Commission packets in the future to improve communications.

Bob Ebinger commented that he would like to say that he has had a month working with Mr. Legge and that he is very excited about his interest and ideas for the City and welcomed him.

Mr. Legge distributed his business cards to the City Commission.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3422 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH KEN KASTELITZ AS SUMMERFEST 2004 DIRECTOR AND AUTHORIZING EXPENDITURE OF \$1,500.00.**

Mr. Kastelitz was present at the meeting for any questions. Steve Golnar stated that he had provided a report from the Summerfest Committee in his City Manager comments for the City Commission's review.

Ken Kastelitz stated that they had a very successful Summerfest this year. They are really looking forward to the 2004 Summerfest. He commented that some vendors have already paid for their booths, because they really enjoy this event. They also already have some bands for next year. This event is growing every year.

Sheryl Dahl asked if the Summerfest Committee was going to raise the entrance fee for next year and if so would it affect the Summerfest attendance. Mr. Kastelitz stated that they would have to wait and see if it would be feasible for them to raise the fee and what the impact would be to the Summerfest.

Lenny Gregrey stated that the bands were probably the largest expense for the Summerfest and suggested to get sponsors for the bands. Mr. Kastelitz stated that they already had one sponsor for one of the bands for next year's Summerfest.

Mr. Kastelitz thanked all of the City Commissioners and the City Staff that were present at the Summerfest for supporting this special event.

All in favor, Motion passed.

Motion was made by Gregrey, second by Dahl, to approve Resolution No. 3423 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH JULIE BROWN AS ASSISTANT SUMMERFEST 2004 DIRECTOR AND AUTHORIZING EXPENDITURE OF \$750.00.**

All in favor, Motion passed.

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3424 with amendments to add in the second whereas, "and a fire truck at the rate of \$2,122.00 per day" and in the title of the Resolution to add, "Fire Truck" – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RATIFYING AGREEMENT WITH USDA FOREST SERVICE TO PROVIDE AMBULANCE WITH ADVANCED LIFE SUPPORT AND FIRE TRUCK.** Steve Golnar stated the need for the Fire Truck was not known until after the Resolution was written and suggested to add the Fire Truck and rental rate with operators to the Resolution.

Vicki Blakeman asked the Fire Chief if the Forest Service is here until the snow arrives, will the Forest Service use this engine that long. Mr. Mastin's response was that he will make it available to them as long as they need it, but will take care of the local residents first.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3426 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISH A NON-COUNTY RESIDENT EMERGENCY MEDICAL SERVICE BILLING FEE IN THE AMOUNT OF \$250.00.** Vicki Blakeman asked if the Commission would like to change this to a non-City resident. Sheryl Dahl stated that the Commission should keep the out of City differential separate from the out of County differential so to leave as written. It was the concurrence of the City Commission to leave the Resolution as written.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3427 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACKNOWLEDGING RECEIPT OF PRELIMINARY BUDGET, GIVING NOTICE OF A PUBLIC HEARING TO BE HELD ON SEPTEMBER 2, 2003, ON THE PRELIMINARY MUNICIPAL BUDGET FOR FISCAL YEAR 2003-2004 AND OF ITS INTENT TO APPROVE THE FINAL BUDGET OF SEPTEMBER 2, 2003 AND MAKING APPROPRIATIONS.**

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3428 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2002-03 BY INCREASING THE APPROPRIATION FOR AMBULANCE FUND #5510 IN THE AMOUNT OF \$60,873.00 DUE TO COST OVERRUNS IN WAGES, BAD DEBT EXPENSE AND CONTRACTUAL ADJUSTMENTS.** Sheryl Dahl asked with the approval of this Resolution when will the final total of the closeout of the end-of-year cash balance. Shirley Ewan stated as soon as she would get this budget out and that this is a non-cash expenditure.

All in favor, Motion passed.

Action Items:

The City Commission reviewed and commented on the FY 2003-04 City/County budget coordination status and response from the County on Ambulance funding concerns. The Commission also reviewed the proposed Ambulance Services Contract with Park County and the proposed additional County Ambulance Assessment and Millage.

Lenny Gregrey asked if it would be appropriate to table this since the City Commission was in discussion with the County this afternoon and that the City Commission is waiting for some answers from the County.

Steve Golnar stated that he would like to confirm the amount of cost sharing that the County would be providing the City and all of the other funds that are shared by the City and County.

Sheryl Dahl stated that she agreed with City Staff that the City Commission should encourage the County to participate in this cost sharing in order to move forward.

Michelle Lee commented relating to this and suggested to have a Resolution proposed for the next City/County meeting regarding this action item.

Motion was made by Dahl, second by Ebinger, to postpone the review of the FY 2003-04 City/County Budget Coordination Status and respond to Park County on Ambulance funding concerns; also to postpone the review of the proposed Ambulance Services Contract with Park County and proposed additional County Ambulance Assessment and Millage until the next meeting on September 2, 2003.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve the expenditure of \$3,908.00 for the replacement of the Civic Center tables. Steve Golnar stated that this impacts the FY 2003-04 budget and permission was needed as the budget had not been adopted.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to confirm the letter to Green Acres regarding the City's intent to annex and the connection of Ms. LaDuke's water line to Green Acres Transmission line in the meantime. Steve Golnar stated that the City has a verbal authorization from the County pending receiving a map identifying the streets that the City would propose to add.

Vicki Blakeman identified that Ms. LaDuke's request asked for a response by August 22, 2003 and she would like to extend that to August 29, 2003.

All in favor, Motion passed.

The City Commission reviewed and commented on the Upper Yellowstone Task Force proposed recommendations as of August 12, 2003.

A short break was taken at 8:50 p.m.

The meeting went back into session at 9:00 p.m.

Steve Golnar presented the Commission with updated recommendations of the Task Force with his suggestions from the last City Commission meeting, which was held on August 4, 2003.

9. Recommendation 7/29/03—Passed by Consensus

"The U.S. Army Corps of Engineers include in their 205 Study an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the floodplain map."

The City of Livingston objects to this recommendation as written. The City is concerned about the cost of remediation of landfills along the bank and the Corps of Engineers non-participation in funding landfill mitigation efforts. We are also concerned about the loss of riverside trees along the banks if these options were pursued. We would not be supportive of this recommendation, unless alternate funding for mitigation of old landfills can be located and trees can be saved, or replanted to maintain the park-like environment particularly along the reach from station #55,000 to #56,000.

14. Recommendation 5/22/03—Passed by Consensus

"Establish financial incentives to help landowners, on a voluntary basis, to remove structures that no longer function properly or are obsolete."

Define "structures" as "flood control structures".

17. Recommendation 6/2/03—Passed by Consensus

"Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

Define "structures" as "flood control structures."

21. Recommendation 6/2/03—Passed by Consensus

"Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

Define "existing public structures." We want to emphasize that property protection both public and private, particularly in the Livingston urban area is a prominent concern of the City.

24. Recommendation 6/2/03—Passed by Consensus

"Implement a solution to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands."

The City objects to this recommendation as written, we are concerned about the impacts with such an action on the banks of Miles Park and any properties that the City controls along with property which is within its jurisdiction. An analysis of the cumulative impacts of this type of an effort needs to be undertaken before any effort to "hydraulically balance" the river is undertaken.

28. Recommendation 7/22/03—Passed by Consensus

"All new and refurbished bridges should be designed to mitigate upstream and downstream negative impacts of sedimentation and gravel deposition."

The City wonders if this could be combined with recommendation #26 above.

29. Recommendation 8/05/03—Passed by Consensus

"That bridge design considerations on the upper Yellowstone River include examination of the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway 10 Bridge over the Yellowstone (east of Livingston) be evaluated to increase the flow capacity of the river through town, and that the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10 East Bridge be secured."

The City is generally in support of this concept, however we would be concerned about the potential impacts as the result this policy being implemented on the I-90 bridge and Highway 10 east bridge to City controlled property and other property which results from the implementation of a zero backwater design and how any detrimental effects may be mitigated.

31. Recommendation 7/08/03—Passed by Consensus

"That no additional Livingston Schools be constructed on McLeod Island."

The City objects to this statement as written but would support language, which read, "That local jurisdictions should enforce state and local flood plain regulations in accordance with adopted maps.

38. Recommendation 7/22/03—Passed by Consensus

"Fund an immediate study of the social carrying capacity of the Yellowstone River, to be conducted by researchers within the state university system with the cooperation of the Department of Fish, Wildlife and Parks and other state and federal agencies to quantify the current conflicts and potential future conflicts among recreational users and property owners, and impacts to fish and wildlife."

The City of Livingston is concerned with the broad direction given by this recommendation and the use of the term "social carrying capacity". We are concerned about limiting river corridor access to the public, recreational users and the potential economic impacts, which could result to our community and recreational industry. We are also concerned about the broad room for interpretation that such broad direction by the task force leaves to future consumers of this document.

46. Recommendation 7/29/03—Passed by Consensus

"A stakeholder group be developed to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Task Force recommendations."

The City objects to this recommendation as written. We are curious about how the stakeholder group would be formed or established. Would the City, flood way property owners, the Schools and Saint Mary's Church and School be represented or have the ability to voice their concerns and to participate in the debate on issues addressed by the stakeholders group?

Additional suggestion: Provide a list of definitions for such terms as "Structure", "public structure", and "social carrying capacity" if these terms are retained. The more advisable approach would be to clarify the meaning of these words were they are used in the recommendations.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the trees that were removed on the MRL property and how big were the trees. Bob Ebinger stated that they were quite large. Mr. Gregrey asked if they were transplantable. Bob Ebinger stated that they were disposed, because they were too big to replant. Steve Golnar stated that he had informed Eddie Miller to go ahead and cut the tree down following a review and recommendation by the City Tree Board. The City Tree Board stated that they wanted replacement of the trees and Lenny Gregrey suggested having a tree planted at the bandshell to replace the one that was blown down from the windstorm.
- Michelle Lee asked about the "B" Street Underpass bird dropping solution and funding. Steve Golnar stated that he will provide the information at a later date. Sheryl Dahl stated that the City has had this Underpass for a very long time and commented that the City is just throwing money away. The City will always have pigeons and if the City gets the pigeons under control under the Underpass then they will just go somewhere else. Steve Golnar stated that the student's mural proposal was what brought this issue up and there was also a concern about the cleanliness for passing pedestrians. Sheryl Dahl suggested that the mural be placed at the bandshell or the Civic Center instead of the Underpass. Steve Golnar stated that an underpass pigeon solution was not in the budget as of now but he would come back to the Commission with a suggestion at a later date.
- Clint Tinsley reminder everyone that September 6, 2003 was the Recreation Department's Golf Tournament to help the recreation program and asked that if anyone is interested they contact Cathy Pinter at the Recreation Department.
- Steve Golnar reminded the Commission of the August 27, 2003 tour of the Lewistown and Great Falls Landfill/Transfer Station with Park County. Mr. Golnar stated that the City is going to go on the Angel

Line Bus to Lewistown. Pam Payovich stated that Barb Williams had delivered a message stating that the bus would not be available. Steve stated that the County and members of the Refuse Board are going and would like to invite those City Commissioner's that can go to come and view these sites with him and Clint.

Commissioner Lee Comments:

- She stated that she had received a telephone call about the weeds on the MRL lots and wanted to know the status was. Clint Tinsley stated that he would follow up on this.
- She also stated that she received a telephone call from Linnea Pritchard and that she was interested in facilitating the Lighting Ordinance and asked to have a copy of this Ordinance sent to Ms. Pritchard at 101 North 5th Street. She also commented that the Pritchard's have an issue with light entering into their window at night on the second level of their house.

Commissioner Ebinger had no comments.

Commissioner Dahl Comments:

- She requested an e-mail address list for City Staff.
- She stated that with the annexation that will be happening in the future that City Staff may possibly need more man power. She wondered if the Department Heads had worked on a formula to evaluate this or is it based on population. Darren Raney stated that no formula has been developed and will just depend upon a pole in that particular area. He stated that they do have the School Resource Office (SRO), which was funded by the School District on a 75% basis, which will allow him to fill a currently vacant position to add to police staff. Sheryl Dahl just asked that the Department Heads work out a policy to determine how much more staff would be needed. Clint Tinsley stated that Jim Woodhull and him are working on a schedule to anticipate these concerns and they will provide this to the City Manager and Commission as soon as it is available.

Commissioner Gregrey Comments:

- He stated that Mr. Jim Burke stopped in his driveway and asked, "Why doesn't the City charge out-of-county people that use the boat ramp at 9th Street? He felt that this would be income to the City".

Chairman, Blakeman Comments:

- She stated that she had attended the Park County Environmental Council meeting the night before and the gentleman that was the speaker gave a speech on "Growth Planning" and that it was a very interesting and positive presentation.

Public comments:

- John Payne of 5237 US Highway 89 South commented that he is representing the citizens of the east side of town. He stated that he has had some conversations with the DNRC and Lawrence Siroky and that they have made the 205 Study the next hump for the City to jump over. He stated that our levy will never be certified according to the DNRC. He concluded by stating that we need to pay attention to the next step which is what is it going to take to get the levee certified and what is it going to take to address all of these other issues associated with recently designated Flood Way property. He felt that the funding was not all going to come from the Federal Government and that local funding should be developed.

Motion was made by Gregrey, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 9:50 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
September 2, 2003
(Tuesday)
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, September 2, 2003 at 7:30 p.m. due to the Labor Day Holiday on Monday, September 1, 2003 in the Community Room in the City/County Building. City Commissioners present were Lenny Gregrey, Sheryl Dahl, Bob Ebinger and Vicki Blakeman. Michelle Lee arrived at 7:35 p.m.

Staff members present were Bruce Becker, Steve Golnar, Clint Tinsley, Jim Mastin, Jim Woodhull, Peggy Glass and Pam Payovich. Absent was Shirley Ewan.

Motion was made by Dahl, second by Ebinger, to approve the consent items as follows:

- Approve August 18, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of August 2003.
- Special Event request for the Shriners Parade on September 20, 2003.
- Award bid for East Geyser Street Sewer Main Replacement project, between "E" and "I" Streets to A.M.E. Inc. of 6945 Grand Avenue, Billings, MT in the amount of \$61,478.60.

Bob Ebinger requested a word be changed in the minutes where it stated, "The more advisable approach would be to clarify the meaning of these words were they are used in the recommendation" by changing "were" to "where".

Bob Ebinger also asked about the claim from House of Clean for chemicals in the amount of \$1,048.91 and felt that this was a high figure. Steve Golnar stated that this was for calcium chloride and aqua magic which was for the swimming pool.

Michelle Lee asked about the claim from Delta Signs for the banner from House of Clean and what this was for. Sheryl Dahl stated that this was for the Recreational Program, that House of Clean supports this program by paying for support banner.

All in favor of consent items, Motion passed.

Steve Golnar stated that Gary Blakely from the Shriners, had requested a special event parade on September 20, 2003, and that the amount of insurance provided for this event was for \$1,000,000.00 and the City requires \$1,500,000.00 worth of liability insurance according to City Attorney, Bruce Becker, and asked the City Commission if they would waive

the additional liability insurance required for this event and stated that he had suggested to the Shriners that they look at their insurance coverage for future special events.

Gary Blakely stated that the Shriners are an organization that has been around for quite a long time. The first Shriners Lodge was established in Helena in 1982. He asked that the City Commission approve the parade and waive the fees. (The special event was approved with the passage of the consent items.)

Vicki Blakeman, Chairman stated that there were a number of Fire Fighters in the audience and that she would like to recognize them for their excellent service to the community.

Steve Golnar stated that the Fire Fighters Communication's employees and the Utilities Department should be recognized for their outstanding performance in preparing for and being evaluated by the ISO (Insurance Services Office), which evaluates the Fire Insurance rating for Cities. The City had an inspection on August 19th and 20th and the employees put a lot of time and effort in preparing for this inspection. Mr. Golnar also noted that Firefighters had provided assistance with a standby Fire Truck and Ambulance for the Forest Fires surrounding Livingston and asked Fire Chief, Jim Mastin, to update the City Commission.

Jim Mastin, Fire Chief stated that Doug Lobaugh started this effort back in January. He commented that all of the Fireman have done a significant and overall excellent job. Mr. Mastin also mentioned that the ISO Inspector stated that the City of Livingston did well in the evaluation, but will not find out for about 9 months on the final rating.

Mr. Mastin also mentioned that all of the Fire Fighters present volunteered to work extra hours to help with the Rough Draw Fires. They were on reserve whenever needed and would like to have them recognized for their efforts and dedication.

Public Hearings:

A public hearing was held for Resolution No. 3429 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2002-2003 BY INCREASING THE APPROPRIATION FOR AMBULANCE FUND #5510 IN THE AMOUNT OF \$60,873.00 DUE TO COST OVERRUNS IN WAGES, BAD DEBT EXPENSE AND CONTRACTUAL ADJUSTMENTS.** No public comments were given.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3429.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3430 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2003-2004, ESTABLISHING THE TAX LEVY, MAKING APPROPRIATIONS AND AUTHORIZING CITY MANAGER TO AMEND BUDGET.** No public comments were given. Steve Golnar stated that he had handouts to provide those people who may be interested in reviewing the budget and summarized the FY 2003-2004 budget. Mr. Golnar also stated that he had confirmed with Mr. Schilling, Chairman of the County Commission that the County had passed their budget earlier in the day and that Mr. Schilling indicated to him that the level of funding for jointly funded efforts with the County were approved at the same levels discussed at the last City/County meeting.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3430.

Lenny Gregrey stated that the City Commission will pass this resolution to move forward but commented that the City needs to resolve the issue with the County relating to the Ambulance funding and City and County cost sharing. Mr. Gregrey commented that the County's contributing \$65,000.00 for Ambulance Service doesn't even come close to the cost of the Ambulance Service being provided outside of City limits.

4 in favor; Gregrey, Ebinger, Blakeman and Lee, 1 opposed; Dahl,
Motion passed.

A public hearing was held for Resolution No. 3431 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING A NON-COUNTY RESIDENT EMERGENCY MEDICAL SERVICE BILLING FEE IN THE AMOUNT OF \$250.00.** No public comments were given. Vicki Blakeman asked who would this billing go to and if it would go to the person using the ambulance. Steve Golnar stated that it would be included with the actual charge for services and that it would be the responsibility of the individual being served and would be forwarded to an insurance carrier if the individual is insured.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3431.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3432 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS LAND RECEIVING CITY WATER OR SEWER SERVICES TO THE CITY OF LIVINGSTON, MONTANA, WHICH IS LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST INCLUDING THE KAHLE SUBDIVISION, THE PARKWAY MOTEL, PLAT 181 AND THOSE CERTAIN LOTS, PIECES OR PARCELS OF LAND LOCATED IN THE NE1/4NE1/4 OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M. DESCRIBED HEREINAFTER.**

Sheryl Dahl asked Bruce Becker, City Attorney to give the City Commission and the public his opinion of this the City's annexation authority for those who protested this action.

Bruce Becker stated that the City Commission adopted an Ordinance that stated that people who live outside of the City of Livingston and receive city water and sewer needed to consent to annexation if they wish to continue receiving those services. Mr. Becker went on to say relying on those Ordinances that the City Commission has adopted and passing the Resolution of its intent at the last meeting to annex the Kahle Subdivision and other areas in that location that these Resolutions reference that if those people that live in that area want to continue receiving City water and sewer services that they are deemed subject to annexation. Bruce went on to say that this is based on an Attorney General's opinion that has the status of law until it is challenged and changed in either the District Court or the Supreme Court. The Attorney General's opinion that applies to this action was upheld in District Court when it was objected to by Whitefish area residents and an appeal of the District Court's opinion is now being considered by the Montana Supreme Court.

Sheryl Dahl asked Clint Tinsley, Public Works Director, of the signatures received by the City how many receive City water and sewer in the Kahle Subdivision. Clint Tinsley stated all of the protests that he had seen receive City water and sewer.

Michelle Lee asked Bruce Becker when was the Attorney General's opinion issued. Mr. Becker stated that he did not recall the exact year but supposed in the 1980's. Michelle stated that this statute 7-2-4314 (d) was last amended in 1997. Bruce stated that he did not believe that the amendment referred to or affected the Attorney General's opinion.

David Wistey of 114 East Lewis Street stated that he had a copy of the Attorney General's opinion and that it is dated December 29, 1995. Mr. Wistey commented that Bruce Becker stated that the Attorney General's opinion is the final word. Mr. Wistey went on to say that he has a problem when he looks at MCA 7-2-4314, in that no where in that particular code does it say that property owners can be coerced by a local Ordinance passed by the City Commission. He feels that this statute should overrule an Attorney General's opinion. He also stated that he was asked by the City's letter of intent to come and comment on this area requested to be annexed and if he was prevented from protesting annexation then what was the point of him commenting. Mr. Wistey stated that the majority of property owners in this area were opposed to annexation and see no benefit by being annexed by the City. He stated that he read in the paper that the reason for the City annexing Green Acres was to raise property taxes, revenue for the City. Mr. Wistey concluded by stating that he would be willing to pay an annual fee not to be annexed.

Madeline Guggia of 7 Bighorn Drive commented that she was opposed to being annexed. She asked if the area is annexed does that mean they will get street lights, streets paved, gutters and sidewalks and who would pay for that expense. Steve Golnar stated that street lights typically the City provides streets lights through special improvement districts unless the area to be served is on the City's Infrastructure Improvement plan. The Kahle Addition is presently not on the Infrastructure Improvement list because it is not in the City. The City would assess that area after annexation for citywide infrastructure improvements and the area would eventually become part of the City's Infrastructure Improvement process. In the short term, if residents of the neighborhood wanted to pursue some improvements above and beyond what is currently there, they could do that through a special improvement district. As far as basic services they would be provided police, fire and garbage collection and street and water and sewer system maintenance. The City would look at the quality of the water pressure which serves the fire hydrants would be checked so as to ensure the necessary flows to allow the City to maintain their fire rating.

Jim Mastin stated that the fire rate for the City is a four (4).

Harold Eide of 5 Bighorn Drive stated that he was opposed to annexation.

Keith Youdan of 10 Cottonwood Lane stated that he was also opposed to annexation. He also stated that Cottonwood Lane is a paved foot gravel grated lane and he sees no way that street lights could ever benefit this Lane and garbage pickup would also, he believes, not be possible as this is only a 20' wide lane and can not be expanded.

Earl Stermitz of 6 Bighorn Drive stated that he is also opposed to annexation.

John Schuler of 33 Loves Lane stated that he owns property at 3 Carol Lane and is one of the subdivision's that does receive City water. As a director of the Glenn Water Addition Association he has a copy of the 1958 contract between the City of Livingston and the Glenn Brothers. In this contract it establishes the subdivisions right to hook onto the City water lines and extend them into the Glenn Addition. Mr. Schuler also commented that in this contract it states that the only way that the City can shut off the water line to this subdivision is if there is insufficient water supply to the City. He mentioned that he had provided this information to the City Manager a year ago and is providing this information to the City Commission before they decide to annex the Glenn Subdivision.

Bill Maloney of the Kahle Subdivision stated that he was opposed to this annexation. He commented that he owns the Super 8 Motel which is part of the City and the City decided to change their garbage pick-up and he feels that the new commercial garbage collection system is not a good method for the City of Livingston.

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3432. Sheryl Dahl asked if the City has a water agreement with the Kahle Subdivision similar to the agreement with the Glenn Subdivision. Steve Golnar stated that to his knowledge he was not aware of one. Sheryl Dahl requested that this be checked into before moving forward.

No action was taken.

Motion was made by Dahl, second by Ebinger, to postpone Resolution No. 3432 until the next City Commission meeting.

All in favor, Motion passed.

Scheduled Public Comments:

Becky Douglass of the Lewis and Clark Committee requested to work with the City in establishing a site for a monument statue. She commented that the Great Bend of the Yellowstone Lewis and Clark Heritage Commission is planning on giving the City of Livingston a statue of Sacajawea. It will be a metal, possibly bronze, statue of Sacajawea and her son. The child will be portrayed as a 20 month old, the age he was when he traveled through Livingston. Bids are being prepared by artists and they estimate the statue to be approximately \$150,000 to \$250,000. The Commission has begun fund raising and will put all donations for this project in an escrow account for protection from default. The statue is to be dedicated, July 15, 2006, 200 years from the date that Clark and his party were in Livingston. Many artists have contacted the Lewis and Clark Commission wanting to know the site because it will determine the composition and base for this sculpture. The site will also need to be known for potential donors. Sites that the Lewis and Clark Commission have suggested are the Vets and Rotary Park, Sacajawea Park, the triangle "Y" in the road that leads from the Park Street over to the Bozeman Hill, the Dental Building across from the High School, the middle of the Intersection of Park and Geyser and the Old Water Building Park. Ms. Douglas stated that Clint Tinsley, Public Works Director, feels that the location for the statue at the Triangle Park or the "Y" in the road that leads from Park Street to Highway 10 would be appropriate because such a statue is in the Urban Design Program. The "Y" would have much more visibility than the Old Water Plant, although the Old Water Plant would be a much more beautiful setting. However, a lot of kids do their sledding at the Old Water Plant and this could interfere with the statue. Another comment from the Lewis and Clark Commission members was that at the "Y" where would people park and who would want to go and look at the statue they felt that this would be a problem. She asked for the City Commission's suggestion for a site and would like to know by October 15, 2003 when they need to contact the artist that is selected. Ms. Douglas also stated there are going to be 12 signs put up in this area and two of them will be at the Old Water Plant on the river side where the boats are put in.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3403 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ALLIANCE DEVELOPMENT CORPORATION TO PROVIDE MANAGEMENT SERVICES FOR CDBG ECONOMIC DEVELOPMENT FUNDS.**

Michelle Lee stated that on the contract where it stated the Civil Rights Act of 1964 to add the words gender, disability and religion which are protective classes. Ms. Lee also stated that she had talked to Sharon Walker, President of the Alliance Development Corporation and discussed the effective date and time of performance and the Alliance Development Corporation stated that they would be open to a one (1) year contract instead of a two (2) year contract and Ms. Lee was hoping that the City would consider having a one (1) year contract instead of a two (2) year contract.

Bob Ebinger stated that he heard that the County was thinking about changing their contract also to a one (1) year contract instead of a two (2) year contract.

Michelle Lee stated that this contract should be reviewed before the next budget year and that was why she was proposing a one (1) year contract instead of a two (2) year contract.

Lenny Gregrey concurred with Ms. Lee and that she had brought this up several months ago about standards and means that this is an unknown quantity and that the City needs to see if they perform.

Bob Ebinger stated that the termination clause states that the contract can be terminated even if a two year agreement is entered into.

Motion was made by Lee, second by Dahl, to amend Resolution No. 3403 in section (4) to read: "This Contract takes effect on July 1, 2003 and will be reviewed by May 30, 2004. This contract will expire on June 30, 2004 and may be renewed at the City's discretion and the availability of funding and the Contractor."

Steve Golnar stated that Sharon Walker, President of the Alliance Development Corporation was in the audience for any questions from the Commission.

2 in favor; Lee and Gregrey, 3 opposed, Dahl, Blakeman and Ebinger, Motion denied.

Prior motion was made by Dahl, second by Ebinger, to approve Resolution No. 3403 as written.

4 in favor; Gregrey, Ebinger, Dahl and Blakeman, 1 opposed; Lee,
Motion passed.

Sharon Walker, President of the Alliance Development Corporation commented that she would like to thank the City Commission for their support always and anyway. Ms. Walker stated that the Alliance Development Corporation will work in the best interest of the City and that they do appreciate this and will take very seriously what the City has given the Alliance in faith and financial support and that she does understand the Commissions concerns and will work towards alleviating these concerns.

Motion was made by Ebinger, second by Lee, to approve Resolution No. 3433 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING BID AND AUTHORIZING CITY MANAGER TO SIGN CONSTRUCTION CONTRACT WITH A.M.E. INC. IN THE AMOUNT OF \$61,478.60 FOR THE EAST GEYSER STREET BETWEEN "E" AND "I" STREETS SEWER MAIN REPLACEMENT PROJECT.** Bob Ebinger mentioned that there was such a great discrepancy in the bids and was curious why this occurred. Clint Tinsley stated that those contractors are hungrier than the others and didn't know how else to put it. Mr. Tinsley stated that contractors even bid under the Engineers estimated costs.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3434 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CONTRACT WITH LIVINGSTON SCHOOL DISTRICTS NOS. 1 AND 4 FOR SCHOOL RESOURCE OFFICER.**

All in favor, Motion passed.

Action Items:

A discussion about the County's response to a proposed agreement for the City to provide Ambulance Services to Park County except for Cooke City and areas serviced by the Gardiner Ambulance District took place. Steve Golnar stated that he provided the responses of Mr. Schilling, Chairman of the County Commission, in the packet and would like to have the City Commission's feedback relating to the County's response. Mr. Schillings' perspective on the County's stance was as follows:

- The County's contribution will remain at \$65,000.00 for FY 2003-04.
- They are not interested in sharing the loss of the Ambulance Fund for FY 2003-04. (Mr. Schilling identified a continued concern about the County's potential loss in the Solid Waste fund as a result of the City paying a \$60.00 per ton fee to continue disposing of their garbage through the Park County Incinerator and Landfill).
- The County would agree to work toward the placement of a mail-in ballot for an Ambulance Mill Levy to be accomplished in February or March of 2004.

- Park County would like to have Ambulance Service to Gardiner as a possibility, if for some reason the Gardiner Ambulance is not able to provide such service.
- The City and County should establish a committee to work on the development of proposed funding and a mill levy need for an election to be accomplished in February or March of 2004. (The City Manager suggested that members of that committee include the Fire Chief, the City Manager, a City Commission representative and support from the Finance Officer. The County would want to involve their Finance Officer in addition to a County Commissioner or two).

Sheryl Dahl commented on Mr. Schilling's responses and stated that on the sharing the loss of the Ambulance Fund for FY 2003-04 with the County she feels that it is not fair that Mr. Schilling is comparing Ambulance service and public health and safety to the trash short fall. The City has a noted track record of the amount of money that is uncollected in the County and Ms. Dahl feels that the County should step up to the plate this budget season and help pay for it. Ms. Dahl concluded in stating that she feels Mr. Schilling is comparing apples to oranges with the ambulance service and garbage and this should not be compared.

Ms. Dahl also commented on the agreement with the County to work toward the placement of a mail-in ballot for an Ambulance Mill Levy and wanted to know who would pay for this. This is an absorbrant amount of money that the City did not budget for this fiscal year, Ms. Dahl stated, and the County hasn't budgeted for a mail-in ballot either.

Ms. Dahl stated that she did not vote for approval of the budget was because of some the short falls that the City will have in the next year budget, i.e.: the short fall of bad debt, expense in the Ambulance budget, however, with the EMS Director hopefully the Ambulance can do a lot better on bad debt collection and that she totally supports that position.

Sheryl Dahl asked to have these questions answered before the City moves forward with the budget because neither the City nor County can pay for a mail-in ballot.

Steve Golnar asked Ms. Dahl if she is proposing to have some sort of a payment for the ballot incorporated in the Ambulance Services agreement for the mail-in ballot as to who would pay for this. Ms. Dahl stated that the ballot issue is outside of the agreement. She stated that she understands that the agreement needs to be finalized and then the City will work on the ballot issues and other issues. However, Ms. Dahl did state that under the duration of the agreement she would like to see the actual percentage of expected County contribution in the wording. Her proposal read: "In the event that the mill levy is not approved, or in the event that the County is unable to meet the financial contribution of 38% to keep the EMS program

operating in the County". She stated in all due respect she just wants the County to pay for their share for the Ambulance services.

Also Ms. Dahl commented about the request of the County for Ambulance Service to Gardiner if for some reason the Gardiner Ambulance is not able to provide service and stated that she would like to know what is enough and feels that Jim Mastin and Bob Brown and others could determine what is enough before signing the contract.

Jim Mastin stated that the 38% is the number of ambulance calls outside of the City and did not believe that this figure should be used for the percentage of the cost.

Steve Golnar asked for clarification of what Ms. Dahl was asking in that she was concerned about what the Ambulance Service is tracking verses the actual costs are so that the City can determine what its budget will be for FY 2004-05.

Sheryl Dahl stated that she just wants a hard amount stated instead of the agreement as stated "In the event that the mill levy is not approved, or in the event that the County is unable to meet the financial contribution". Ms. Dahl asked could there be something added in the agreement to verify the financial contribution.

Steve Golnar stated that he would try to define that and bring it back at the next City Commission meeting.

Michelle Lee suggested that the City encourage a mail-in ballot for an Ambulance Mill Levy be targeted to be accomplished in January 2004 instead of February because there is a six (6) weeks time frame to get all of the ballots in after the balloting is initiated.

Michelle Lee also commented that having the committee work on the development of proposed funding and a mill levy election is only one part of the solution and is not the long-term solution. She asked that this committee be obligated to looking at the multi-jurisdiction piece of this that ultimately she feels that this is going to be the long-term solution to funding the ambulance and sharing the costs with the County and City.

Michelle Lee stated that she feels that the County is responsible for sharing the bad debt because they are receiving benefit of the ambulance service.

Steve Golnar stated that he has had this type of conversation with the County Commissioners a number of times and Mr. Schilling in particular has identified a concern about control and participation in management of the operation if the County is going to share in the debt associated with the Ambulance Service operation.

Lenny Gregrey stated that he concurs with both Ms. Dahl and Ms. Lee on what they have said about providing Ambulance Service to Park County. Mr. Gregrey commented that what Mr. Schilling stated, "that he had a continued concern about the County's potential loss in the Solid Waste fund as a result of the City paying a \$60.00 per ton fee to continue disposing of their garbage". He said the County asked the City to agree to this price because the City was going to go to Logan or someplace else. The City agreed with the County that the City would stay with the County's garbage disposal at the figure determined by them. He concluded by stating that this is a separate issue.

Mr. Gregrey also stated that the Ambulance Service to Gardiner issue should be figured by the distance involved in that he can make it to Gardiner round trip in two (2) hours. He stated that any time that the Ambulance goes out of the City that another Fire crew has to come in for back-up and this is an additional expense to the City. The \$65,000 contributed by the County is not cutting it and the City has to resolve this issue this budget year and he proposed to handle this by presenting an illustrated report to the County at the next City/County meeting.

Bob Ebinger and Vicki Blakeman concurred with what has been said by the other Commissioners and Ms. Blakeman asked if this is enough information for Mr. Golnar to move forward.

Steve Golnar stated that he will put together a proposed agreement, which reflects the issues discussed of the County, and bring back to the Commission for their review.

A discussion regarding establishing a non-city resident ambulance fee took place. Bruce Becker stated that if the City presents an agreement to the County with whatever the City agrees to do and turns around and adds on an additional fee he did not feel that this would be wise.

Vicki Blakeman stated that she has a problem with the consideration of having a non-city resident ambulance fee and asked the City Manager to bring back the proposal with more information.

Motion was made by Lee, second by Gregrey, to direct City Attorney to review City Code to designate the 400 Block of South "F" Street as a 15 mph School Zone. Mr. Gregrey stated that this is a no brainer as this is a School on the block and School's are 15 mph zones in the City.

Bob Ebinger asked if this would be during school hours. Bruce Becker stated that the Ordinance does say during school hours and when children are visibly present.

Darren Raney stated that this would be in effect from 7:30 a.m. to 5:00 p.m. while school is in session and at other times when there are school functions taking place or kids are noticeable present in the area.

All in favor, Motion passed.

The City Commission considered a Memorandum of Understanding with the Livingston Police Department to change the work schedule to four ten hour shifts per week for the remaining of their contract.

Steve Golnar stated that this was in follow-up to the Resolution passed for a trial period with police officers working four (4) ten (10) hour shifts per week. They requested that this continue for the remainder of the contract as it appears to be working in both the Police Chief's opinion and the Police Union's opinion.

Motion was made by Lee, second by Ebinger, to direct City Attorney to prepare a Resolution authorizing the City Manager to execute the Memorandum of Understanding for the remainder of the Police Union contract.

All in favor, Motion passed.

A discussion was held to engage outside counsel to assist City in responding to proposed Flood Plain and Flood Way re-designations.

Steve Golnar stated that this was a suggestion that was made at a prior City Commission meeting and he has visited with the City Attorney and they have determined that this makes sense to bring somebody in who has experience and background dealing with flood plain and flood way re-designations asserting the City case that is currently being proposed.

Bruce Becker stated that this is such a unique area of the law that he would request someone with experience to provide information to the City and he suggested that in the future the City may need to hire a hydrologist if the City Commission is not happy with the findings of the US Corp of Engineers.

Lenny Gregrey stated that Jim Goetz is a very good Attorney that he is aware that he has never loss a case. This is for the best interest for the east side residents in our City.

Motion was made by Lee, second by Ebinger, to move forward in engaging outside counsel, Jim Goetz, to assist the City with the flood plain and flood way issues. Steve Golnar reminded the Commission that there will be a cost involved in this engagement. Mr. Golnar also stated that the County would also like to coordinate with the City in flood plain and flood way response efforts. The County has not offered to join in any legal action at this time.

All in favor, Motion passed.

A discussion was held about the Commission's appointment of a tax increment district Urban renewal committee in coordination with Downtown Association.

Steve Golnar gave background information relating to this issue. He stated that he had asked the City Attorney about what procedures are necessary to move forward in appointing an urban renewal board or coordinating committee which would start to move this process forward.

Bruce Becker stated that this is a very complex area of the law. He suggested that according to MCA Code 7-15-4210 the first thing for the Commission to do was described as follows: "The City may not use the powers until it has adopted a resolution finding that: 1). One or more blighted areas exist, and 2). The rehabilitation, redevelopment or a combination there of is necessary in the interest of public health, safety, morals or welfare of the residents. Mr. Becker suggested that maybe this is where the Downtown Association could assist the City in preparing a finding as to what areas need to be fixed up. Once the blighted areas are established then a plan can be developed to take care of it.

Bob Ebinger asked Bruce Becker about MCA Code 7-15-4216 which states, "Urban renewal plan shall not be approved until a comprehensive plan which would include an urban renewal area has been prepared". Bruce Becker stated that there seems to be a correlation between a growth policy and comprehensive plan and the City is working towards this and he believes this would go hand in hand.

Vicki Blakeman asked Mr. Becker if the City already has the comprehensive plan, could it expand on that. Mr. Becker stated that there is an issue on that and that he did not have an answer for that.

Bob Ebinger questioned if the comprehensive plan could not be in effect until the City growth policy plan was developed. Bruce Becker stated that he noted in the codes that the State did use the term "comprehensive plan" in MCA 7-15-4216 and in another section they talk about the term "growth policy" so there may be in fact some sort of a legislative attempt could be in fact that they use both phraseologies.

Lenny Gregrey asked Vicki, since she is a part of the Downtown Association, would they raise money for this. Vicki Blakeman stated that "yes" they would be raising money and that it would not affect anybody outside of the district. Vicki stated that they would develop a base line of tax valuation and growth in the tax valuation in the designated district would be how the district would generate revenues.

Bruce Becker stated that the Commission needs to determine if the City Commission is going to establish blighted areas or the Downtown Association is going to do this.

Brenda Adams asked if the District Urban Renewal Committee was going to be like Red Lodge and implementing a sales tax. Vicki stated that she did not believe that there was discussion of this at this time. Ms. Blakeman concluded by stating that has to be done on a citywide level.

Steve Golnar stated that the State has some legislative impediments for communities pursuing a resort sales tax. To be able to implement a resort tax the population of the community must be 5,500 or less. The City of Livingston cannot pursue a resort tax vote because the City's population is over 5,500.

Brenda Adams commented that Red Lodge had wished that they had not pursued a resort sales tax because the City has seen a large decline in retail sales.

Steve Golnar suggested that the City Attorney, himself and representatives of the Livingston Downtown Business Association would discuss the strategy for developing an Urban Renewal District. They will then bring a Resolution back to the City Commission for their approval to move forward with the appointment of an Urban Renewal Committee for the Livingston Downtown area.

Brenda Adams stated that when the City gets into the Urban Renewal District and that the owner's downtown should pay for improving their businesses. Vicki Blakeman stated that tax increment financing was taxes that would come from the Downtown Business District. Brenda Adams commented that the only way that the City was going to improve the downtown district is if the City can get some retail stores in the downtown district. She mentioned that years ago there were stores such as: JC Penny's, Hennessy's, five Jewelry stores, shoe stores, women's specialty stores, three Western stores and now the City has nothing. We can't even buy a pair of tennis shoes with a brand name on them unless we want to go to Bozeman. She concluded by saying if the City of Livingston wants to see some economic growth then it should have to improve on taxes and tax relief then her suggestion was to invite these people to our community instead of going over the hill to do their business.

The City Commission was scheduled to review and consider a possible proposal for Green Acre Subdivision regarding utilities and annexation. Steve Golnar stated that there was no more information available at this time. He understands though, that there is some additional discussion going on about the Green Acre Subdivision but he has not heard of anything.

Roberta Publano, President of Green Acres Homeowner's Association, she lives at 105 Elm Lane and commented that as far as Mr. Golnar having no proposal from this organization she said that the organization gave their reply to him from his proposal and they are waiting to hear from him.

Steve Golnar stated that the letters in packets were the ones that he had received and that they stated that the Green Acres Homeowners' Association Board of Directors was not interested in annexation to the City of Livingston under the terms proposed by the City. With this he stated that he was waiting for more responses from the group due to his understanding that a committee was assembled by the Green Acres Subdivision to develop a revised response to the City.

Robert Pugliano stated that the people that Mr. Golnar was talking to were not members of the Green Acres Homeowners' Association Board and therefore they are not directors and asked Mr. Golnar to get back to the directors.

Steve Golnar stated that he would follow-up on the Green Acres Homeowners' Association and let the City Commission know as to how the City and the Association can agree on some resolution regarding Ms. LeDuke's request.

The City Manager's written comments were reviewed.

- Bob Ebinger thanked Mr. Golnar for the Solid Waste information that he provided in the packet.
- Michelle Lee stated that the Recording Secretary had the wrong e-mail address for her and provided the Recording Secretary with her correct e-mail address, which is livingstonlee@aol.com.
- Michelle Lee also stated that she would like to move forward with the Lighting Ordinance. Bob Ebinger concurred with Ms. Lee. Lenny Gregrey stated that he could delay this. Vicki Blakeman stated that she didn't have a problem with lights. It was requested by the Commission to have the Lighting Ordinance as an action item at the next meeting.

Commissioner Lee had no comments.

Commissioner Ebinger Comments:

- He asked for an updated list of those interested in the Old East Side School. He also stated that he would offer his assistance to the City Manager with the follow-up to interested parties relating to the sale of the school.

Commissioner Dahl was absent for comments.

Commissioner Gregrey Comments:

- He commented on annexation and stated that he felt that this was going to stir up a lot of controversy, and added that annexation is not new to any city in the United States that this is how a City grows. They annex the adjoining properties. It is a matter of process to increase the tax base for the entity. He believes that any outlying area that is not in the City that is receiving city water and sewer should be annexed and that is part of the growth process.

Chairman, Blakeman Comments:

- She stated that she was glad to see the letter from the County and their request for annexation of county roads.
- She also wanted to thank all of the City Staff for helping the Chamber of Commerce with the Cowboy Mounted Shooting Parade and working down at the Fairgrounds with all of the events going on down at the premises.

No public comments were given.

Motion was made by Gregrey, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 9:47 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
September 15, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, September 15, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Bob Ebinger, Vicki Blakeman, Michelle Lee, Sheryl Dahl and Lenny Gregrey.

Staff members present were Bruce Becker, Steve Golnar, Clint Tinsley, Jim Mastin, Jim Woodhull, Peggy Glass and Pam Payovich. Absent was Shirley Ewan.

Motion was made by Lee, second by Ebinger, to approve the consent items as follows:

- Approve September 2, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of September 2003.
- Department Heads monthly reports and other minutes.
- Reschedule October 20, 2003 regular City Commission meeting to October 21, 2003 at 7:30 p.m. in order to allow City representatives to attend Governor's Upper Yellowstone River Task Force meeting.
- Appoint James Sulages as a permanent Police Officer.

Bob Ebinger requested some words be change in the minutes. One of his requests was to change quit to quite on page 2 to read: "Gary Blakely stated that the Shriners are an organization that has been around for quite a long time." Another of his requests on page 12 was to change the word loss to lost to read: "Lenny Gregrey stated that Jim Goetz is a very good Attorney that he is aware that he has never lost a case. Also another of Mr. Ebinger's requests on page 13 of the minutes was to change the word it to if to read: "Bob Ebinger questioned if the comprehensive plan could not be in effect until the City growth policy plan was developed." Mr. Ebinger mentioned that on the bills and claims on page 21 the claim for the Minnesota Trapline Products to change the description to read: skunk traps instead of shunk traps. Mr. Ebinger also asked about the claim for the rental of the sheep's foot to Western Plains and what a sheep's foot was. Clint Tinsley stated that this is a piece of roller equipment that is used to compact gravel and dirt.

Michelle Lee asked about the sheep's foot as to how often does the City use this piece of equipment. Mr. Tinsley stated that to buy this piece of equipment would cost \$80,000.00 and the Public Works Department only uses this piece of equipment once a year for no more than two (2) months so the rental of the equipment is much more efficient for the City.

Sheryl Dahl asked about the claim to Mountain View Travel for the airfare to Las Vegas as who was this for. Steve Golnar stated that the claim was for two (2) Firemen, which were Kevin Harrington and Jeff Schoenen, to go to a "Swift Water Rescue Class" and become re-certified. Also Ms. Dahl commented about the cell-phone bills and that earlier this year there was discussion of noticing the cost of the cell-phone bills and would like to ask Staff to only use the cell-phone for business use not for personal use as much as possible. She thought that the cell-phone bills were quite high and that land lines are cheaper and asked Staff not to give their cell-phone numbers out to everybody and to use the phone for emergency's use only. The rest of the Commission concurred with Ms. Dahl's suggestions.

Also Sheryl Dahl asked about the East Side School that the City is re-bidding noting that the advertising fees are around \$1000.00 and she would really like to see this building sold.

Ms. Dahl asked to have the minutes from the Historic Preservation Committee meetings in the packet. Mr. Ebinger stated that the Historic Preservation Officer, Gregory Legge, was waiting to have the minutes approved from the Committee before presenting them to the Commission.

All in favor of consent items, Motion passed.

Vicki Blakeman, Chairman, congratulated James Sulvages of becoming a permanent officer for the City of Livingston as he has completed his year probationary term.

Ordinances:

Motion was made by Lee, second by Dahl, to approve first reading of Ordinance No. 1928 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1868 AND 1913, AS CODIFIED BY SECTION 9-150 OF THE LIVINGSTON MUNICIPAL CODE, BY ESTABLISHING A 15 MILE PER HOUR SCHOOL ZONE FOR ST. MARY'S SCHOOL BEING THE 400 BLOCK OF SOUTH "F" STREET.** Bruce Becker stated that there was a typo on page three (3) of the Ordinance that sub section (e) should be sub section (f) and that he would change this before signatures.

All in favor, Motion passed.

A public hearing will be held on October 6, 2003 for this Ordinance No. 1928.

Public Hearings:

A continued public hearing was held for Resolution No. 3432 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS LAND RECEIVING CITY WATER OR SEWER SERVICES TO THE CITY OF LIVINGSTON, MONTANA, WHICH IS LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST INCLUDING**

THE KAHLE SUBDIVISION, THE PARKWAY MOTEL, PLAT 181 AND THOSE CERTAIN LOTS, PIECES OR PARCELS OF LAND LOCATED IN THE NE ¼ NE ¼ OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M. DESCRIBED HEREINAFTER.

Robert Kahle of 4 Bighorn Drive stated that he was the developer of the Kahle subdivision and that he wanted to clarify that there were only 11 houses in the subdivision. There is only one house on Cottonwood Lane that has City Water and Sewer. He commented that out of the 11 houses that 8 of the people are retired. In that last four (4) years four of those 8 people's spouses have died and he feels that they are subject to being pushed around. When this subdivision was started he did not ask for City water and City sewer. Vern Reid was the Superintendent of the City at that time and he approached Mr. Kahle to put in the City Water and City Sewer. The City Commission voted that it was fine for this subdivision to hook up to City Water and City Sewer even if they were not in the City. Mr. Kahle at that time had in mind that there was only going to be one house and that he was going to put in a well and septic tank and that Vern Reid talked him into subdividing the land. Now, forty years later, he feels that the City is only interested in money. He doesn't see where the residents of the subdivision are going to get any additional service. He concluded that he understood that it would take 60% of the subdivision's vote before this annexation would pass but now has been told that has changed. Mr. Kahle stated that if the City wants to do something to do something with Park Street so that the residents of this subdivision can get onto Park Street without jeopardizing their safety.

Dave Wistey of 12 Bighorn Drive asked if the issues relating to the Attorney General's opinion brought up at the last meeting have been researched. Bruce Becker stated that the Attorney General's opinion is still valid. Mr. Wistey asked "Can the City annex a subdivision whenever they choose to do so?" Bruce Becker, City Attorney, stated "no" that it has to be contiguous, wholly surrounded or by petition. Mr. Wistey asked if any of those statutes applied to this subdivision. Mr. Becker stated that there are many statutes that apply. Mr. Wistey stated that Mr. Becker had commented to the Commission at the last City Commission meeting that the Attorney General's opinion considered statute 7-2-4314 MCA in rendering a decision. Mr. Wistey stated that in his review of the Attorney General's opinion it does not reference to 7-2-4314 MCA and that he feels the 1997 amendment to 7-2-4314 MCA section 1 (d) should be followed.

"If the area to be annexed contains less than 300 recorded parcels, the city or town council, after considering all written communication, may adopt a resolution approving the annexation and the boundaries of the city or town must be extended to include the platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed. An area annexed pursuant to this subsection may include land used for railroad purposes. A city or town council may not annex

by resolution an area containing less than 300 recorded parcels if the resolution is disapproved in writing by a majority of real property owners of the area proposed to be annexed. If the resolution is disapproved by a majority of the land owners, the city or town council may not on its own initiative propose further resolutions relating to the annexation of the area or any portion of the area, without petition, for a period of 1 year."

Mr. Wistey continued on to quote section 2.

"Except as provided in subsection (1) (d), further resolutions relating to the annexation of the area or any portion of the area may not be considered or acted upon by the council on its own initiative, without petition, for a period of 5 years from the date of disapproval by the voters as provided in subsection (1)."

Mr. Wistey stated that it seems strange that an Attorney General would rule on something of this importance without considering this particular statute.

Bruce Becker, City Attorney, said that the Attorney General did rule on this particular statute as the opinion concerns annexation of property receiving city services.

Dave Wistey stated that in the Attorney General's opinion he stated,

"That he disagreed with this view for several reasons. First, the legislature's choice of different language in the two code sections under discussion implies that a different meaning and effect were intended."

Mr. Wistey stated that the two code sections under discussion were quoted previously as being 7-13-4314 and 69-7-201 neither of which is a majority statute of 7-2-4314.

Bruce Becker stated that if you go to both of those sections you will find that there is no protest section in those two sections that the Attorney General has quoted. Mr. Becker went on to say that section 7-2-4314 MCA does not apply to annexation that it deals with municipal water and sewer supplies. The Attorney General's opinion applies to annexation of property with municipal water and sewer supplies.

Mr. Wistey asked what the purpose was in holding a public meeting. Chairman, Blakeman stated that the purpose of holding a public meeting is to get public input and this is the protocol for the Commission to follow for an annexation proposal.

Ms. Blakeman stated that approximately a year and a half ago the City Commission had several workshops relating to determining the cleaning up of

the City boundaries and this was in preparation for a growth plan update and the annexation of areas that were contiguous to the city so that the boundaries were all inclusive.

Mr. Wistey continued by addressing the Commission of the Ordinance No. 1925 that the Commission passed on April 7, 2003 that states, "Amending Section 14-13.2 of Ordinance 1329, as amended by Ordinance Nos. 1639, 1802, 1804 and 1868, requiring non-city residents and businesses to waive annexation as a condition of continuing to receive city sewer service." Mr. Wistey commented that he interprets this Ordinance as an agreement and asked: "How long is an agreement good for?"

Bruce Becker, City Attorney, commented that he did not know what the argument was of the parties. The Ordinance states that the City can disallow protests as a condition to continue receiving city water and sewer services. Also Mr. Becker drew attention to a letter that he had presented to the Commission in the packet on page 64 from the State Board of Health in reference to Dr. R. R. Kahle Subdivision and the State Board listed the sanitation restrictions on the said subdivision and that to get a subdivision approved, if they were not connected to city water and sewer then the residents of the said subdivision would have to go through a bunch of hoops for water and sewer and because this subdivision could hook into the city water and sewer they got by those sanitary restrictions.

Michelle Lee stated that this decision that was made by the 11th Judicial District regarding the Attorney General's opinion is actually on an appeal with the Montana Supreme Court and may get struck down.

Mr. Wistey asked the City Commission to wait until the decision of the Montana Supreme Court was made before passing this Resolution for annexation of the Kahle Subdivision.

Michelle Lee stated that the Ordinance rectifies that as a condition of receiving city services that the said parties of the Subdivision proposing to be annexed, invalidates their right to protest because they would be receiving the city services.

Sheryl Dahl stated that surround would not happen because the city cannot reach out beyond its boundaries and in order for the city to annex the residents have to be connected to city water and sewer services.

Mr. Wistey continued by stating that the Kahle Subdivision is a dead-end street in that they do not have through traffic. He went on to state that they will have a SID attached to their taxes for street lighting maintenance and commented that they would prefer not to have street lights in their subdivision.

Lenny Gregrey made comment that on page 62 of the packet it states that the City Manager had a conversation with Mr. Wistey of the Kahle Addition and that Mr. Wistey "heard that a ghost letter may exist but has not been able to come up with such a letter" and Mr. Gregrey asked what is this ghost letter. Mr. Wistey stated that he had heard from a few people that a similar letter, as the one read by Mr. Schuler at the last City Commission meeting, did exist but he has not been able to find the letter.

Mr. Gregrey stated that an agreement between two (2) parties should be recorded at the Clerk and Recorder's office in order to be an official letter and if this letter is not on record then it is not an official agreement.

Bill Maloney of 1124 West Park Street that he owns the Parkway Motel and stated that the mutual aid agreement with the Fire Department would not save any money if the Kahle Subdivision was annexed. He stated that he already pays a lot of city taxes so he knows how to get along with the city services. He continued by stating as far as the improved road is concerned he feels that they would have a worse street. He concluded by saying he is against annexation on this subdivision and asked the City Commission to wait for the Supreme Court to make their decision before passing this Resolution.

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3432. Vicki Blakeman, Chairman, commented that it was not the intent of the City Commission to declare a hardship on residents of this area. That they are contiguous to the City and as the City grows they have to incorporate land into the City in order to allow for the City to continue growing.

Harold Eide of 5 Bighorn Drive stated that there is only one (1) crossing to get north of the railroad tracks and asked to have another crossing to get north of the tracks. Vicki Blakeman stated that railroad crossings are a big issue and that it is something that the City is continuously working on.

4 in favor; Ebinger, Blakeman, Lee and Gregrey, 1 opposed; Dahl, Motion passed.

Resolutions:

Motion was made by Gregrey, second by Lee, to approve Resolution No. 3435 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING VIEW VISTA ROAD FROM ITS INTERSECTOIN WITH MAIN STREET TO MAYOR'S LANDING AND THAT PORTION OF "H" STREET BETWEEN THE CITY'S CORPORATED LIMITS AND ITS INTERSECTION WITH VIEW VISTA ROAD.** No comments were given.

All in favor, Motion passed.

A public hearing will be held on October 21, 2003 at the City Commission meeting for Resolution No. 3435.

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3436 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING THE COUNTY ROAD WHICH CONNECTS GALLATIN STREET TO BENNETT STREET, BENNETT STREET TO ITS INTERSECTION WITH U.S. 10, GARNIER STREET FROM BENNETT STREET TO SEAMAN STREET AND ALLSPAUGH STREET, GREEN AS SUBDIVISION.** It was identified that Seaman Street no longer exists and that the street is called Arbor Drive. City Attorney, Bruce Becker, stated that he would change the title of the Resolution to reflect this change so as to read: "Garnier Street from Bennett Street to Arbor Drive instead of Seaman Street". No comments were given.

All in favor, Motion passed.

A public hearing will be held on October 21, 2003 at the City Commission meeting for Resolution No. 3436.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3437 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ENDORSING A PROFESSIONAL STUDY TO DETERMINE THE EXISTENCE OF BLIGHT IN LIVINGSTON, MONTANA.** Michelle Lee asked if \$1,200.00 was not enough that there would be no more expense for the City. Vicki Blakeman stated that it was her understanding the City will not have to pay for any of the costs of this study, that they would be paid by the property owners.

Lenny Gregrey questioned if the Downtown Association realized that its going to cost them money and also realized if and when the street improvements are made, they are going to cost more money.

Sheryl Dahl stated that the money that the downtown businesses make off of the blighted areas will be stock piled until the businesses do the downtown improvements.

Cindi Fargo, Executive Director, Alliance Development Corporation commented that she is providing technical assistance to the establish the Urban renewal area to work through the definitions of the blight and define the district boundaries, examine the community and determine whether light exists and commented that there was a list of volunteers for this group.

All in favor, Motion passed.

Action Items:

A discussion was held for the review of the Staff recommendation on the Lewis & Clark Monument site.

Mr. Ebinger stated that he had attended the Lewis & Clark Bicentennial Meeting last week and stated that it was their unanimous choice to have the monument site in Jeson Park at the Depot Center. The Lewis & Clark Committee is going to propose this monument site to the Depot Center Board on September 16, 2003.

Judson → Lenny Gregrey commented that his selection would be the triangle located at the Sacajawea Park. The Bicentennial organization has a sign on the trail at this location and Mr. Gregrey feels that this would be the appropriate site for the monument. To add to this, Mr. Gregrey stated that the Women's Auxiliary takes very good care of this area and he is sure that they would be more than happy to have this monument at this site and that it is a positive. If tourists are interested in coming to our City to see this monument they would go to the river at the triangle and there would be adequate parking for the tourist's.

Sheryl Dahl concurred with Mr. Gregrey. Ms. Dahl asked if the Staff had asked how the Women's Auxiliary felt about putting the monument at the triangle park area. Mr. Golnar stated that he had not asked yet. Ms. Dahl also commented that she did not know how firm the Lewis & Clark Bicentennial Committee was on putting the monument at Jeson Park but that she is concerned about the parking issue at the Depot Center. She commented that with other events at the Depot Center the parking has been extremely terrible and feels that this would be another parking issue that the public would have to deal with.

Bob Ebinger stated that he had mentioned this concern to the Lewis & Clark Bicentennial Committee but that they were unanimous about having the monument at the Depot Center.

Steve Golnar asked if the City Commission would like him to follow-up on this matter and let them know the final results at the next City Commission meeting.

The City Commission concurred to Mr. Golnar's suggestion and asked him to contact the Women's Auxiliary and find out what their thoughts may be.

A discussion was held of the status of the Ambulance Services Agreement with Park County for FY 2003-04.

Steve Golnar stated that a committee is being recommended to review and develop the agreement between the City and County and to determine proposed mill levy and a financial plan for Ambulance. This committee would include Steve Golnar, Jim Mastin, Bob Brown, Lenny Gregrey, Ed Schilling and Linda Hendy. Mr. Golnar mentioned that he suggested a representative

from the Fire Council instead of the Rural Fire Department, as the Fire Council was a more broadly representative group which included the Rural Fire Department.

Lenny Gregrey commented since Commissioner Schilling was not at the meeting that he was appointed to this committee if in fact Mr. Schilling is in agreement to being on this committee. Mr. Golnar stated that he had informed Mr. Schilling what had taken place and Mr. Schilling said that he would be taking that responsibility.

Vicki Blakeman asked when the proposed first meeting would take place. Mr. Golnar stated that he was not sure as to when the first meeting would be, but that he suggested that the City needs to get back to the County to identify the representatives of this committee and to set the first meeting as soon as possible.

The possibility of engaging an outside counsel to assist the City with responding to Flood Plain and Flood Way concerns was post-poned until additional information was provided.

A review and consideration of the "Save the Night Skies" Ordinance was discussed.

Lenny Gregrey asked how this proposed Ordinance came about. He felt that the City of Livingston does not have a light problem and felt that it was not necessary to take on the responsibility of developing a "Save the Night Skies" Ordinance.

Bob Ebinger commented that he disagreed with Mr. Gregrey and that he had several people approach him with their concerns of the street lights and other lighting. Those people have some concerns and he feels that this should be developed for their benefit.

Michelle Lee commented that this is a starting point. That this Ordinance from Helena is just an example. She stated that Montana states that it is the "Big Sky State" and we need to be concerned about the skies above our town.

Lenny Gregrey commented that while on the Board of Adjustments when discussing the sign code and lighting there was a gentlemen that came and spoke to the Commission and said they said there was no problem with the sign at McDonald's. This meant that there was a "City" at this exit. He concluded by stating that there is a difference of opinion. Mr. Gregrey asked Mr. Woodhull to elaborate on the lighting Ordinance for the City. Mr. Woodhull stated that he believes that it just talks about the height of the fixtures and directing the light downward and beyond that he doesn't think that it is very specific.

John Mabie of 403 North 9th Street commented that he wanted to address the acorn lamps being installed for the street lights with the City Infrastructure Replacement program. He stated that he had written a letter to Mr. Tinsley, Public Works Director, in making comments about these lamps. Mr. Mabie stated that in his letter to Mr. Tinsley he commented and thought that the lights were beautiful in the daytime but at night they were very intrusive and invasive. Vicki Blakeman asked if this was one of the new historic lights. Mr. Tinsley answered "yes". Mr. Mabie thought that type of light was being disallowed but was not certain.

Clint Tinsley commented that he would try and see if he could get the acorn street lights to be diffused, or directed downward and see if that helped. He commented that the issue of using more diffusers is going to be an additional cost to the City and the Helena Ordinance phases out certain lights like sodium vapor lights in a 10 year period throughout the whole City. If Livingston were to pursue this aggressive of a program, it would mean a significant increase in the street lighting district fees.

Sheryl Dahl asked if the City was going to diffuse the light downward then how many lights would the City need in a block. Mr. Tinsley stated that there are already a number of projects in place and the City needs to determine some kind of system to identify what methods of diffusion to use. Mr. Tinsley said that in order to meet standards for vehicular traffic street lights, the City would need six (6) lights per block. The City of Livingston street lighting is more for aesthetics and for the purpose of bicycle and pedestrian walkway lighting which requires less lights.

Clint Tinsley also mentioned that the new historic lights are going up on Callender and 3rd Street towards downtown and that they are the base light for the downtown area in regards to the Livingston Downtown Patterns. He also stated that his crew has put in the light at Mr. Mabie's house a wire mesh, or a window screen, inside the glass and that it still hasn't seemed to be effective enough in dimming the light.

Bob Raney of 212 south 6th Street thanked the Commission for serving as a governing body for the City. He commented that the Helena Ordinance is a draft proposal and would like to see the City of Livingston developed their own Ordinance. He mentioned that he would be happy to serve on a committee to develop this Ordinance. Some of his concerns were the conservation of energy as he recognizes that the street lighting is costly and now since Northwestern Energy has become bankrupt, the State is seeing a 15% increase in the electricity costs, which will continue to increase. Mr. Raney suggested that the City, look at every alternative to reduce the use of electricity and save the taxpayers money. Another concern of Mr. Raney's was conservation of tax dollars. He asked the Commission to figure out a way to pass an Ordinance for proper street lighting in our community. After studying it he feels the City will find that the cost of the lighting will go down. He stated that he was also concerned about the new lighting district and the

acorn lights and lights in the middle of the block. Mr. Raney said that he does not want a street light on his block that he lives in the middle of the block that he likes to watch the night sky as he sits on his deck with his binoculars and telescope. Enjoying the night skies can be a difficult task if your neighbors put motion lights in their front and back yards that any kind of movement will force the lights to come on and shine in your house. Mr. Raney concluded by stating that this is a big issue now in our City and asked the Commission to move forward in developing an Ordinance to "save the night sky" and taxpayers dollars for many years to come.

Lenny Gregrey stated that the Commission should not go hastily with this action. One person's right is another person's annoyance. If a person wants to secure their property because of vandalism then they would want lights but on the other hand if a person doesn't want lights shining in or around their property then they would not want lights.

Michelle Lee commented that part of developing this Ordinance is to get public input and see what needs of the public need to be addressed in the Ordinance and make the Ordinance specifically for Livingston. She feels that this is an important step to take and develop a draft Ordinance so that people can give their comments with their concerns.

Bill Maloney of 1124 West Park stated that lighting is very important for business. He commented that before the McDonald's light was put out near Interstate 89 exit, you could drive by Livingston at night and not see the exit which was not good for business. Mr. Maloney suggested in order getting the aesthetics down low put the lights up high and also suggested to put small watt bulbs in the lights. "Some lights for practicality and some for decoration", he stated.

Bob Ebinger suggested having a committee developed before having the Ordinance developed.

Sheryl Dahl stated that she agreed with concerns about light pollution. The City Commission does have control over the light problem and they should support the issues and concerns of the public and look at commercial lighting and hold it to some standard.

Vicki Blakeman stated that she would like to see what the City has now and move forward from there.

The City Commission concurred in establishing a committee to develop an Ordinance and submitting ideas to the City Attorney, Bruce Becker.

Clint Tinsley commented that he did not think that a committee needed to be developed to design an Ordinance for the City. The issues that were talked about tonight are issues of the lights that have been put up by the City crews in the City. He felt that the City can get diffusers to put in the lights and

have the City Commission come down to view their effectiveness and then state their opinion.

The City Commission asked Clint Tinsley and Staff to develop the "Save the Night Sky" Ordinance with residents of the City's input.

Dave Wistey of 12 Bighorn Drive stated that as he mentioned earlier about annexation that Bighorn Drive does not have the advantage of any street lights and those people would like to keep it that way and not even have one (1) light.

Michelle Lee asked for a deadline with the Staff's recommendations. Mr. Tinsley stated that it would probably take approximately six (6) weeks before he could get the diffusers on the lights because they have to come from Pennsylvania and he would like to have his recommendation after the review of the diffusers has been analyzed by the Commission. The Commission concurred that the deadline could be of the recommendation from the Staff along with community input the first meeting of November.

A review and discussion of the invitation for the City Manager to serve on the Yellowstone Bridge East Park Street Advisory Committee was held.

Vicki Blakeman suggested that possibly instead of the City Manager if a City Commissioner could serve on this committee since the other members of the committee are elected officials.

Bob Ebinger volunteered to be on this committee as the City representative.

Michelle Lee stated that she noticed that there is a Chamber of Commerce representative to be appointed to this committee and was wondering if someone from the Alliance Development Corporation could be appointed to this committee relating to economic development.

Steve Golnar stated he had just mentioned this to the committee to have a Chamber of Commerce representative and would ask them in the letter telling them that Bob Ebinger was appointed to this committee and would ask if a representative could be appointed from the Alliance Development Corporation. Mr. Golnar noted that these meetings would be open to the public so that anyone could attend.

Sheryl Dahl asked what has happened to Larry Raffety Livingston Downtown Patterns study. Mr. Golnar stated that he understood that Mr. Raffety has about \$3,600.00 raised and is looking for about \$21,000.00 to \$25,000.00 to complete the project. Larry is going to bring this back to both the County and the City to requests some additional level of funding.

Mr. Golnar went on to say that he wants to know and hasn't heard how much David Evans & Associates, Inc. is going to be involved in the Yellowstone Bridge Advisory Committee.

Motion was made by Dahl, second by Blakeman, to have Bob Ebinger as the City representative on the Yellowstone Bridge East Park Street Advisory Committee.

All in favor, Motion passed.

A review of approval of a special event request for a Skateboard Contest at the McNair Skate Park on October 11, 2003 was discussed.

Steve Golnar stated that he brought this to this City Commission's attention now, because October 11, 2003 was not far away with the next City Commission meeting scheduled for October 6, 2003. He provided this for the City Commission's information in the packet. Mr. Golnar mentioned that there were a couple of things that were outstanding and he felt that they were important to bring to the Commission's attention. He stated that the event promoters have not provided him with proof of adequate liability insurance coverage and that they would need to coordinate with the Skate Park Board Committee. Mr. Golnar mentioned that there is a Skate Park Board meeting to be held on September 16, 2003 at 7:00 p.m. at the Clark's Crossing to talk specifically about this event.

Bob Ebinger noted that in the special event questionnaire that the group filled out the question relating to need for Emergency Medical Services. He felt these services should be mandatory due to the fact that the event could possibly have a lot of activity and wanted to know if the City would have any liability due to this request.

Lenny Gregrey stated at a football game someone pays for that service and if the promoters of this event want to pay for it then to go forward with the mandatory request of having the Livingston Emergency Medical Service required.

Steve Golnar commented because the timing is short, he stated that his proposal was to make the City Commission aware of this event and that coordinating with the Skate Park Committee. The City also needs to make sure that the promoters of this event have proper insurance coverage. The request will be reviewed with Staff to make sure that the concerns from the City Departments are addressed.

Sheryl Dahl asked if this was a Skate Park Committee event or was this just a request from the promoters. Mr. Golnar stated that this is the promoters event at this time and that he had talked to Tom Romans, Chairman of the Skate Park Committee, and Mr. Romans said he was aware and in support of the event request.

Sheryl Dahl asked if the Skate Park Committee determines to take over the event then would it become a City event and would the City's insurance cover the event requested.

Vicki Blakeman stated that she is uncomfortable of approving this special event request when the information needed has not been provided.

Steve Golnar concluded in stating that he was just making the City Commission aware of this event and that he has the same concerns as the Commission does and will hopefully get this information gathered after the Skate Park Committee meets. He also mentioned that he felt that there would not be enough time to wait on approving this if the promoters wanted to advertise.

Sheryl Dahl asked the Fire Chief how much it costs to use the Emergency Medical Services for a special event request such as this one. Mr. Mastin stated that he believed that it was \$100.00 but would make sure of the cost.

It was determined by the City Commission to leave this special event request to the discretion of the City Manager to determine if the event should be approved.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the Willow Trees in "G" Street Park being removed and said that there were protests provided by the property owners adjacent to the Park disagreeing to the removal of the trees.

Mr. Golnar stated that the issue was identified that there are three (3) large willow trees in the alley on "G" Street Park on the east side of the Park. The City is in the process of putting a new sewer line down that alley and that there is concern about cutting the roots because the sewer line is fairly deep.

Bob Ebinger stated that he understood that the sewer line was 5' deep.

Mr. Golnar went on to say that the sewer line will go from "G" Street Park down to Fleshman Creek area and the sewer line will be 8" instead of 6" due to the past experiences in that neighborhood. The trees were looked at and identified as possible liabilities because if the cutting of the roots on the upwind side of the trees would make them more susceptible for the trees to be blown over. Mr. Golnar stated that the evaluation of the City Tree Board members identified that the trees were in a deteriorating condition and their recommendation was to cut the trees down and replace them. Mr. Golnar continued by stating that an alternative was to

relocate the sewer line and in order to relocate the sewer line there is only a 20' wide alley and if you angle the sewer line to meet the fixed manhole in Geyser Street, the City would have to angle the sewer line to the other side of the alley where a new manhole would need to be installed and then angle it back in order to service all of the utilities down that alley. This would be at an additional expense of servicing the new manhole and re-routing a portion of the sewer line which was estimated to be \$4,000.00 to \$5,000.00.

Bob Ebinger commented that he feels that it is very important when the City determines next year's Budget to put some money towards replacement of trees.

Rebecca Canner of 409 South "F" Street made comments of the removal of the trees in the "G" Street Park. She stated that the residents in this area were not aware of the trees being proposed to be removed. Ms. Canner said that in the interest of infrastructure in the City she is strongly opposed to the removal of several huge willow trees from the park in order to replace the sewer line as if the trees were removed, they would have to be replaced and she would not see them in her lifetime because of the time it takes a tree to develop into its full growth. She asked the City to take care of the trees in a better manner to create healthier trees. She also asked if it would be in the best interest of the City if the residents of the area would hire an independent arborist in another city to come and look at the trees and voice their opinion of the situation at hand.

Sheryl Dahl stated that she concurred with Bob Ebinger in that she does not want to remove the trees because \$1,000.00 is not going to even cover the cost of replacing the trees already in the "G" Street Park. Ms. Dahl said that she would like to see if the project could be handled in such a way and where ever the trees are to see how deep the roots are and then determine if they have to move the trees out if they could move the project further down the alley while taking care of the trees just to keep the project moving. She would like to see a solution to this and the solution not to be removal of the trees.

Lenny Gregrey commented that Rebecca Canner made a good comment about the conflict of interest with a member of the Tree Board and stated that if Ms. Canner would be willing to pay for a second opinion then he would support her moving forward with her plan.

Sheryl Dahl stated that she thinks that the project is on a time frame so the City needs to move forward and do both hand in hand relating to the opinion of another arborist. She asked that the

opinion of the arborist be coordinated with Scott Nelson, the Engineer and Clint Tinsley, Public Works Director so that the Contractor can schedule whatever needs to take place to get the project done.

The Commission asked Steve Golnar if he would coordinate with them on the status of this concern.

Laura Bray of 409 South "F" Street made comment that she has contacted a local arborist and they stated to her that the trees were worth saving. She also asked that the members of the City Tree Board be evaluated and selected so as not to have a conflict of interest because if they do work for the City of Livingston they may feel uncomfortable in determining their decision in such a situation like this occurs.

The Commission requested that Mr. Golnar wait for the second opinion and get back to the City Commission as soon as possible relating to their opinion on these trees.

Gary Barnhart of View Vista Road asked when the road was going to be annexed. Bruce Becker, City Attorney stated that a public hearing will be held on October 21, 2003 at the City Commission meeting. Steve Golnar stated that the City was going to initially annex View Vista from the Main Street Bridge down to "H" Street to maintain the traffic flow around the Schools. The City has also requested to annex some of the Streets on the east side of the City by the Water Plant, Allspaugh, etc. and the County came back and asked the City to annex those streets and also from "H" Street down to Mayor's Landing. The City is also in the process of considering annexation of Mayor's Landing area.

- Lenny Gregrey asked about the Glenn Subdivision Water agreement and asked if this document was on file at the Clerk & Recorder's office. Bruce Becker, City Attorney, stated that he has seen the document but it is not in the Clerk & Recorder's office.
- Sheryl Dahl asked about the Rough Draw Forest Fire money and stated that these funds should be put into the revenue side of the budget and sit there until next June. Then the City could decide where it stands on the Budget. She suggested putting this into a CD or another investment vehicle.
- Sheryl Dahl also commented about the request of the Public Works Director to proceed the City Solid Waste transfer station to make sure that the County knows what the City is planning on doing and asked if there was a definite deadline with the County and City. Steve Golnar stated that at the last City/County meeting he had talked to two (2) of the County Commissioners and he identified this issue and concern and the City's intent to proceed because the City is going to be out of time to look at the City's options for Solid

Waste Disposal if it doesn't begin soon. The County understood the City's situation and the City identified their interest in working with the County for a mutual solution for the Solid Waste Disposal. Lenny Gregrey commented that there will be a Refuse Board meeting on September 16, 2003 at 2:00 p.m. and the members will determine what they are going to do.

- Bob Ebinger commented on the sign sketches by Jodi Litchfield relating to the CTEP Landscaping Improvement project and stated that he preferred the first one pillar style sign base over the second one that it looks more like a lineal landscape than the other one.
- Bob Ebinger stated that there was another individual interested in the sale of the East Side School John Banavich showed some interest and Mr. Ebinger was going to give Mr. Banavich a tour of the East Side School tomorrow. He mentioned that there was only two (2) weeks left until the bid date closes which is on September 30, 2003.
- Vicki Blakeman stated that she had heard from a couple of people in the City concerned about the water rights and would like to see the City go forward with the temporary change to in-stream flow rights, following the Attorney's recommendations for salvaging our water rights.
- Vicki Blakeman made comments on the Chamber of Commerce building remodel. She stated that the contractors are doing the tear up now and asked if the Chamber could put up a temporary sign on wheels on the street to let people know that the Chamber is open direction signs. This would be for a couple of months.

Steve Golnar mentioned that before the next City Commission meeting on October 6, 2003 that there was going to be a meeting with the Home Equity Partners at 7:00 p.m. and asked the Commission if he had their approval. The Commission did approve.

Commissioner Lee was absent for comments.

Commissioner Ebinger Comments:

- He mentioned that if anybody has the Hallmark Channel his documentary that he filmed in Turkey will be shown on Sunday, September 28, 2003 and will be on public television later. It is about early Christianity.

Commissioner Dahl Comments:

- She mentioned that before she moved to her new located she had several messages from concerned people about the "Red" Suburban for the Fire Department. She stated that their comments were that there had been a few near miss instances, because they did not recognize this to be an emergency vehicle. They were not able to see the lights and asked if the Fire Department was going to get a logo on the vehicle to verify that it was an emergency vehicle.

Jim Mastin, Fire Chief, stated that he was not aware of any near misses. The lights were put on the vehicle in the last month on the top and the back. Jeff Schoenen is working on some lettering for the logo. Steve Golnar stated that the light bar on the Red Suburban is not a typical light bar. It is a low profile light bar.

- Ms. Dahl wanted to clarify the reason that she voted against the budget at a previous meeting wasn't only due to the Ambulance Budget, and the necessity for a mail-in ballot to receive additional funding from the County. Her biggest concern lies in the fact that the budget was approved with a general fund cash balance of \$795,000.00 where the comfort amount was at \$750,000.00. Her opinion is that \$45,000.00 is not a big enough cushion to her. In conclusion she feels that if the City were to face an emergency such as a flood or any type of a disaster situation that this is not enough money to take care of the people in the City.
- She asked about the Impound Lot clean up and when it was going to be completed. Clint Tinsley stated that "yes" there is going to be a final clean up and they plan on moving the fence back as decided. Darren Raney, Police Chief, stated that the vehicle that is still there is tied up in court. Mr. Raney will find out more about it and report back to the City Commission. Sheryl mentioned that with the Skate Park Contest requested to be held October 11, 2003 it would be nice if the Impound Lot was cleaned up before then.

Commissioner Gregrey Comments:

- He asked about the 7th Street Foot Bridge status. Money was allocated at \$25,000.00 last year and he has not seen any foot bridge plans and would like to have an update if the project is going forward and when. Clint Tinsley stated that the foot bridge is going forward and has been advertised for requests for bids. The basic frame of the bridge was contingent upon the passing of the budget. The design has been drawn for the foot bridge to be built. With the weather permitting the bridge could be possibly done before this winter but probably not before Spring, Mr. Tinsley stated. Lenny asked that Mr. Tinsley have the drawings at the next meeting and commented that the money was allocated at the previous budget and why do we have to wait for this budget. Mr. Tinsley stated that by the time they got the bids in and the prints together they had a lot of problems of getting the forms ordered and delivered because they had to come from Michigan and trucking it here was too costly. So they changed the plans to regular steel and Mr. Tinsley thought that due to the fact that they did not get the steel until June that the bridge would not be able to be completed this year.
- He commented that in the paper tonight there was a picture of a bear on 9th Street Island with a garbage can and asked if it was a City garbage can. Clint stated that he did not see the paper and

doesn't know if the garbage can is a City garbage can but will find out and report back to the City Commission.

The City Manager was directed to research the Harley Davidson donation offer and make a decision as to whether the City would participate in 2004.

Points of view not recorded per Penny Gregory
Chairman, Blakeman Comments:

- She stated that she received a letter from SOWA concerning a request that the City and County pass an Ordinance relating to Jake Brakes on the Interstate. She asked the City Attorney to research this and get back to the City Commission at the next meeting.
- She commented that she was part of the Spay/Neuter Clinic that was held this past week-end and that they fixed 400 cats, 5 rabbits and approximately 205 dogs and there was 300 animals on the waiting list. The organization wanted her to share with the City Staff and public that this will reduce the population of these animals 75% to 80% at the Humane Society for the next 16 to 18 months. Ms. Blakeman also wanted to mention that the City residents volunteered well and they had wonderful food.

Public Comments:

- Roberta Pugliano of 105 Elm Street requested a copy of Resolution No. 3436 pertaining to the annexation of the View Vista Road. The Recording Secretary will provide this to her.

Motion was made by Gregrey, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 10:20 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
October 6, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, October 6, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Clint Tinsley, Jim Mastin, Jim Woodhull, Peggy Glass and Pam Payovich.

Motion was made by Lee, second by Ebinger, to approve the consent items as follows:

- Approve September 15, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of September 2003.
- Approval of fee waiver for the Civic Center for a Thanksgiving Dinner given by Tico Milie of J.O.Y. Ministries on Thanksgiving Day, November 27, 2003 and stating that this is a contribution from the City of Livingston.
- Review bids for the 1902 Original East Side School Building and associated grounds. Note: See enclosed letter extending bid deadline to October 31, 2003.
- Approve Special Event Request for Club Boxing on December 5, 2003 at the Civic Center contingent upon receipt of proof of insurance.
- Approve Special Event Request for Skate Board Event on October 11, 2003.

Bob Ebinger requested that in the minutes it be changed from Jeson Park to Judson Park where stated.

Also Bob Ebinger asked about the project that JTL is doing from 3rd to 5th Street from Callender to Park Streets why it's taking so long and when would it be completed.

Clint Tinsley stated there were several reasons why the project was not completed like not enough men and the Touch America fiber optic line damages just being resolved. He stated that the asphalt would start to be laid the following day.

Michelle Lee asked about the request from J.O.Y. Ministries for having a Thanksgiving Dinner at the Civic Center and if in fact that was what it was for. Mr. Golnar stated that "yes" this is for a Thanksgiving Dinner and the

organization will be giving coats and winter clothing away to those in need as well.

Sheryl Dahl asked about waiving the fee for J.O.Y. Ministries request for the Thanksgiving Dinner at the Civic Center and stated that she would like them to pay the security deposit and that it would be returned if everything was left in order at the Civic Center when the event was completed.

Motion was made by Dahl, second by Lee, to amend the consent items on the approval of the fee waiver for the Civic Center for a Thanksgiving Dinner given by Tico Millie of J.O.Y. Ministries for the security deposit to be paid and then returned if proper clean-up was appropriate.

All in favor, Motion passed.

Thomas Romans of 633 North Main Street gave comments about the Skate Park concert request. He asked if the Commission was going to waive the fee for the bandshell and the Skate Park.

Vicki Blakeman stated that at the last meeting it was the concurrence of the Commission that the sponsor of this event needed to provide proof of insurance and that the Skate Park Committee was seeking to be a co-sponsor of this event.

Thomas Romans stated that he had met with Mr. Golnar, and the sponsor Bill Gravely. In addition, MMIA determined that the Skate Park Committee could not be a co-sponsor for this event. Mr. Romans stated that Mr. Gravley is seeking to provide proof of insurance and that the Skate Park Committee will be a part of the event.

Sheryl Dahl asked if there was going to be porta-potties down at this event since the Skate Park now has their own bathroom facility. Mr. Golnar stated that he would confirm this issue.

Mr. Golnar also stated that Mr. Gravley had contacted the Recording Secretary, Pam Payovich, today and he stated that he would provide the schedule of events to his office Tuesday and Thomas Romans would provide the map and that he would have the proof of insurance provided to the City by Wednesday, October 8, 2003.

Lenny Gregrey commented that he had seen a piece of correspondence from the Tony Hawk foundation denying the application for the grant for the Skate Park and it was his interpretation from the letter that the Tony Hawk Foundation denied the City's request because they have a little bit of a Skate Park and this grant was for City's that had "no" Skate Park. He was wondering if the City could send them a letter and ask them to amend their by-laws for issuing grants. He suggested once they saw what the City had for a Skate Park they might be sympathetic to the City's needs to have help

in establishing a safe and nice Skate Park. Thomas Romans stated that the grant was for establishing a Skate Park and the City wasn't aware that was a requirement for this grant application.

Thomas Romans asked the Commission if the Skate Park Committee could pursue another direction for a grant which would be the Mountain Sky Grant. He stated that Clare Lemke has offered her assistant in writing this grant. The Commission gave permission to Mr. Romans to explore all possibilities for obtaining any funding that could possibly help in the development of the Skate Park and to ask Ms. Lemke for her help in grant writing for the Skate Park.

Mr. Romans also mentioned that the new signs were up at the Skate Park which state what can and what cannot be done at the Skate Park.

Sheryl Dahl asked again if Mr. Golnar had written a thank you letter to Tony Hawk Foundation considering the City in the gifts received from the foundation. Mr. Golnar stated that he had not written this letter as of yet but would pursue to do so as soon as possible.

Mr. Romans also mentioned that there were several local merchants that had donated a significant amount of merchandise and assistance to the Skate Park and would like to thank those involved.

Mr. Romans concluded by stating that this event hopefully will allow Livingston's Skate Park to get on a circuit of Skate Park's around the State of Montana so visitors could see and enjoy the Livingston Skate Park.

All in favor of consent items as amended, Motion passed.

Scheduled Public Comments:

A scheduled public comment was given by Carlo Cieri of 101 Elm Lane on the Green Acres Annexation and Utility extension. Mr. Cieri stated that he was given permission to speak tonight but since his permission was granted he commented that a few things had come up and with the negotiations on going between the City and the Green Acres Homeowners Association at this time he will reserve his comments until the October 21, 2003 City Commission meeting.

Brad Shepard of 210 Elm Lane commented about what the homeowners of the Green Acres Subdivision are looking for from the City in the annexation process. He stated that there is a Board of Directors of the Green Acres Homeowners Association and that he didn't necessarily speak for all of the homeowners of the subdivision although he is on the board. He said there are mixed feelings on the issue of annexation. The Board members have viewed annexation as a potential opportunity as long as it was done under the right conditions and would benefit both the homeowners of Green Acres

and the City. Mr. Shepard stated that the Green Acres Subdivision is sort of an unique subdivision in that they own there own water line. If annexation takes place the homeowners would like to be compensated for turning over the water line to the City and to be treated with good faith in negotiations so that the City and the Green Acres Subdivision Homeowners Association can come to an agreement and move forward.

A scheduled public comment was given by Dick Caruso of 203 Ash Lane on the background of the Green Acres Subdivision with his concerns and issues. He stated that the streets of the Green Acres Subdivision had never been accepted by the County because the developer's had never brought them up to standards so the property owners became the owners of the streets. He made comments that according to Ordinance No. 1927 which was passed in April of this year states if property owners do not agree to annexation then the City services would be shut off. Mr. Caruso stated he couldn't imagine, if this happened in Green Acres Subdivision, how devastating it would be to the homeowners with no City services. He concluded by saying that annexation is only the change in a geographical boundary that gives a duly constituted City a right to transfer the County rights for a plat of development to the City. Also Mr. Caruso stated that he was not against annexation per say that he believes that the plan put forward by the directors of Green Acres had merit and should be seriously considered by the City Commissioners.

Steve Golnar gave comments of the meeting that was held at 3:30 p.m. earlier in the day between the Green Acres Homeowners Association along with their Attorney and the City Staff. Green Acres representatives had identified a number of concerns and the City Staff had committed to respond back to them within 7-10 days. The 10th day is October 16, 2003, this should allow the Green Acres Homeowners Association time to respond back to the City at the October 21, 2003 City Commission meeting.

Public Hearings:

Motion was made by Ebinger, second by Lee, to approve Ordinance No. 1928 as written – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1868 AND 1913, AS CODIFIED BY SECTION 9-150 OF THE LIVINGSTON MUNICIPAL CODE, BY ESTABLISHING A 15 MILE PER HOUR SCHOOL ZONE FOR ST. MARY'S SCHOOL BEING THE 400 BLOCK OF SOUTH "F" STREET.** No public comments were given.

All in favor, Motion passed.

Resolutions:

Motion was made by Lee, second by Dahl, to approve Resolution No. 3438 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PONY EXPRESS ECONOMIC DEVELOPMENT LOAN SUBORDINATION AGREEMENT WITH PONY**

EXPRESS LUBE AND FIRST INTERSTATE BANK. Steve Golnar gave background-information relating to this agreement.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3439 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MONTANA DEPARTMENT OF COMMERCE FOR COMMUNITY DEVELOPMENT BLOCK GRANT ECONOMIC DEVELOPMENT PROGRAM FOR PRINTINGFORLESS.COM.** Steve Golnar gave background information relating to this agreement and referred the Commission to the Addendum provided which included a letter from the Montana Department of Commerce indicating that they had reviewed this contract and concurred with the agreement.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3440 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN LOAN AGREEMENT AND TRAINING GRANT AGREEMENT WITH PRINTINGFORLESS.COM.** Lenny Gregory asked if the applicant does not meet the hiring and training requirements that this contract holds what would happen. Steve Golnar stated that he believes that they would not get reimbursed that they have to prove that they meet those goals before they receive reimbursement.

Dan Rice of Printingforless.com thanked the City for preparing this CDBG loan grant. He stated that Printingforless.com has hired 10 people since April and in addition Printingforless.com has purchased and installed a press which will increase their production by 50% and that they have had consecutive record sales every month since April. This grant will allow Printingforless.com to work their Capital in a much more beneficial way so that by January 1, 2004 they can hire 18 additional people and they anticipate that this funding will allow them to continue their high rate of training and allow them to pay far above market wages. PrintingForLess.com is currently the largest on-line printing company around and they are based here locally. Mr. Rice stated once again PrintingForLess.com plans on staying in Livingston, Montana. They will continue to offer new products and service and that they are establishing the 1st and only company sponsored child care program in the State.

All in favor, Motion passed.

Motion was made by Ebinger, second by Dahl, to approve Resolution No. 3441 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MANAGEMENT CONTRACT WITH THE ALLIANCE DEVELOPMENT CORPORATION (ADC).** No comments were given.

All in favor, Motion passed.

Action Items:

A discussion was held for the review of proposed uses of the Rough Draw Fire & EMS revenues. Steve Golnar stated that the information on this proposal was provided in the packets and requested that the City Commission allow him to move forward to amend the budget as per this request for placement of revenues and expenditures proposed.

Michelle Lee asked what is "firehouse software agreement" and what does it do and why are we spending \$1,000.00. Jim Mastin stated that the Fire Department has had the "firehouse software" for some time and it's a way for them to do their incident reporting that they are required to do with the State. It can also do their maintenance and training records. He went on by saying that when the Fire Department purchased this software a few years ago they did not purchase the maintenance agreement along with it, so they have a software package that is not upgraded because it can not be upgraded if you don't have the maintenance agreement. Mr. Mastin stated this is why they need to purchase this software with the maintenance agreement in order to allow for them to continue meeting their requirement for reporting incidents with the State electronically.

Mr. Mastin also mentioned that by allowing the department to acquire some items which were not received under the budget process this will inspire morale and encourage employees to support this type of an effort in the future.

Motion was made by Dahl, second by Lee, to direct City Attorney to prepare a Resolution amending the FY 03-04 budget using the revenue for the Rough Draw Fire Complex proceeds use as a basis for that budget Resolution. Sheryl Dahl stated that she wanted to clarify her statements from the last meeting. She stated that it was some one's opinion that she wanted the Rough Draw money to go into the General Fund and that was incorrect. She commented that she wanted it to go into the Fire Department fund for the end of the season in case there was anything that happen but Jim Mastin has identified the needed uses of these funds and she agrees with the uses and she appreciates all of the hard work spent on the fires.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to confirm the appointment of the City Planner, Jim Woodhull, as Environmental Certifying Official for PFL - CDBG and authorize the Chairman to sign off on the letter to the CDBG Program Specialist of the Montana Department of Commerce.

All in favor, Motion passed.

Motion was made by Dahl, to move the discussion of future annexation strategy and timing to a Workshop to take place before the Green Acres annexation was to be proposed on October 21, 2003. It was determined after much discussion among the City Commission to have a Workshop on October 14, 2003 at 5:00 p.m. in the Community Room of the City/County Complex to discuss future annexation. Refreshments will be provided at the meeting.

A discussion was held to consider the application for a street / alley vacation for Thomas and Charlene Burns.

Motion was made by Dahl, second by Lee, to deny application from Thomas and Charlene Burns for abandonment of north of 10' of west Crawford and east of 20' of west Crawford adjoining that property and also to authorize the City Manager to engage the services of Western Microline Land Surveyor's to perform a re-survey of Block 22 Park Addition to the City of Livingston in order to identify if an encroachment on City property currently exists in order to allow the City to rectify this situation. Steve Golnar stated that the City shouldn't vacate the sloped side of the City's alleys and this request is asking just that. Mr. Golnar stated that a survey needs to be done of this property to identify if encroachment exists and the Commission concurred to do so.

All in favor, Motion passed.

A discussion was held to consider requests for exemptions to employee residency requirements of Pam Payovich and Al Fuhs.

Motion was made by Dahl, second by Lee, to approve employee exception to residency requirements for Pam Payovich and temporary exemption from residency requirement for Al Fuhs for a period not to exceed six (6) months from the effective date of his new full-time appointment.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey stated that he felt that the City of Livingston did not need a Motorcycle patrol just because it appears that they are getting something for free that there would be costs associated with this gift. He also felt that the City is not large enough to justify a motorcycle officer in that the City of Livingston is just a few blocks long. He also mentioned that a motorcycle officer couldn't transport a prisoner to make an arrest.
- Lenny Gregrey commented about the Gallatin National Forest Travel Management plan and the request that the City Commission get involved in this process. He stated that he read on a Bozeman Chronicle Editorial on this subject. He commented that the City Commissioner's represent the residents of Livingston for City affairs

and not to act as a proponent for some "special interest group" and that he felt this is wrong and not a service to the public as a whole.

- Bob Ebinger stated that he disagreed with Mr. Gregory on the Gallatin National Forest Travel Management Plan and felt that it is a discussion that the Commissioner's should want to have and thinks that this sample proclamation has nothing to do with alternatives it basically saying that we are looking for a balance travel plan to protect Montana land's and resources.
- Michelle Lee stated that she agreed with Mr. Ebinger and feels that Livingston should make a statement on this issue that Livingston is part of the community of the Gallatin National Forest and it's the duty of the Commission to take part.
- Vicki Blakeman stated that she felt that the Gallatin National Forest Travel Management Plan is a strong economic driver for City's and she thinks that the Commission should take a position with this type of resolution and that she supports this.
- Steve Golnar stated that he would provide a sample policy changing the name to Livingston where needed and bring back to the Commission.
- Michelle Lee asked about the Women's Auxiliary opinion of allowing Sacajawea Statute in Triangle Park to find what they said in response of the statute being placed there. Steve Golnar stated that he had not talked to the Women's Auxiliary as of yet but will talk with them soon. Lenny Gregory reported that the Women's Auxiliary is a committee of one person and that he has spoke with her and told her of the suggestion of having this statute put in Triangle Park. She was very supportive of this and commented that she was going to ask the City for some support and replace the cement monument to make it a more presentable place. This would be a perfect opportunity to beautify the Triangle Park with the Sacajawea Statute.
- Vicki Blakeman asked City Attorney, Bruce Becker, about the Flood Plain or Flood Way counsel if he found out anything while at the Montana League of Cities and Towns Convention. Bruce Becker stated that he would review this with the MLCT and get back to the Commission as soon as he had an answer and that Livingston is the only City that has this Flood Plain or Flood Way problem.
- Vicki Blakeman wanted to remind Mr. Cieri that the next meeting is on Tuesday, October 21, 2003 not on Monday, October 20, 2003 as usually scheduled.

Commissioner Lee Comments:

- She wanted to comment on the white car in front of PrintingForLess.com's business and asked to try and have it removed as it is taking up a parking space. Darren Raney stated that he would check into this and report back to the Commission with the results.

Commissioner Ebinger Comments:

- He asked about the engine compression brake device and wanted to know as to what the City can do about this. Bruce Becker stated that as of October 1, 2003 according to Statute 61-9-321, "that a commercial motor vehicle equipped with an engine compression brake device must be equipped with a muffler in good working condition to prevent excessive noise. An operator of a commercial motor vehicle that has an engine compression brake device with a factory-installed muffler or an equivalent after-market muffler may not be prohibited from using the engine compression brake device". Vicki Blakeman asked to have a letter follow-up to the Sowa's explaining this statute.

Commissioner Dahl Comments:

- She shared with all that her e-mail was incorrect on the e-mail address list and that her correct address is s_l_dahl@yahoo.com.
- She mentioned of the Harrison vacating lands request that she would like the Commission to have a policy on vacating land so that the Commission can randomly make accurate decisions based upon the policy in all areas of the City.
- She commented about the trees in the City and that Lincoln School did a wonderful job on tree maintenance and she suggested that the City Staff city-wide do the same on the tree maintenance. She also would like to have money put into the budget for a tree maintenance program for the City trees.
- She asked about the signage on the Fire Suburban that as of yet it has not been done. Jim Mastin stated that Jeff Schoenen is working on designing the signs for the Fire Suburban. Ms. Dahl asked if there is a dead-line for this and Mr. Mastin commented that this is being donated by Mr. Schoenen's brother.

Commissioner Gregrey Comments:

- He commented about the memo to Clint Tinsley about the "M" Street Park Willow Tree approach that this should be the "G" Street Park Willow Tree.
- He mentioned that he had a phone call from Henry Strecker of 423 South "F" Street and that he had concerns of the trees of "G" Street Park. Lenny went on to say that Mr. Strecker was present in the audience and would like to allow him to speak about his concerns.

Mr. Strecker stated that he had a concern relating to "G" Street Park taking about putting in an off-set sewer line and wanted to know if that was going to resolve the problem or was it going to create one. Steve Golnar stated that was the first recommended approach but that it has changed to shoot the pipe through without a bend. Mr. Strecker stated that the trees need to be taken care of in more of a proper way and that there is dead branches hanging

out of trees and possibly if someone is walking under them they could get hurt if the branch decided to fall off the tree and he does not want to see this happen to anybody.

- Mr. Gregrey commented of the proposal for declaring "blight" as a condition for applying for some grant money to use to improve the Downtown Area, and that he has some concerns about the word "blight", that he felt that it just didn't seem right. He provided his comments to the Recording Secretary, which is attached to these minutes.

Chairman, Blakeman Comments:

- She mentioned that she had received a phone call from Julie Danaher and that she had had a bad wreck on her bicycle on the Bike Path where the railroad crossing near Triangle Park and Vicki would like to see what the City can do to fix this if its up to the Railroad to let them know.
- She asked Mr. Mastin how many people showed up at the Pancake Dinner and he stated the last he knew of was 315.

Public Comments:

- TV Segments*
- Cindi Fargo PO Box 606 commented about the concerns that Mr. Gregrey expressed about the word "blight". She stated that she wanted to point out that we as a City have to look at those kinds of segments, as they are not the designs to cover the balance scenario. She went on by saying that the definition "blight" is not going to be taken lightly that it is to help the City of Livingston to implement goals that they have already set forth. She feels that there were several errors in judgment of that segment. She did also mention that the City has the power to decide what they want "blight" to be defined as in their Urban Renewal plan.

Lenny asked of the City Attorney to research the Federal law on "blight" provision and provide back to the Commission. He went on to say that everyone wants to do the right thing.

- Thomas Romans of the Skate Park Committee asked if the Commission would like him to provide an official list of the Skate Park Committee members. The Chair nominates and the Commission appoints. Steve Golnar suggested that Tom review this with the Vicki Blakeman, Chairman.

Mr. Romans also stated that there was a bicycle problem in the Skate Park and that he did not believe the City's insurance would cover this. He asked for the Commission permission to clean-up the Skate Park and wanted to know if the event requested was moving forward. He stated that Mr. Golnar worked very well with him to get the new half pipe ramp done smoothly. Mr. Romans

also mentioned that the items that were donated by the Tony Hawk Foundation were in Steve' office for protection. Mr. Romans stated that he will provide future costs for the future ramps for the Skate Park.

Clint Tinsley provided the Commission with the 7th Street Bridge plans to review in order to move forward with this project.

Motion was made by Gregrey, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 9:30 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

1

LIVINGSTON
CITY COMMISSION MEETING
October 21, 2003
(Tuesday)
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, October 21, 2003 at 7:30 p.m. in the Community Room in the City/County Complex due to a conflict on Monday, October 20, 2003 with the Governor's Upper Yellowstone River Task Force Convention at Chico. City Commissioners present were Bob Ebinger, Vicki Blakeman, Michelle Lee, Sheryl Dahl and Lenny Gregrey.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Clint Tinsley, Kevin Harrington, Jim Woodhull, Peggy Glass and Pam Payovich. Jim Mastin was absent.

Motion was made by Lee, second by Dahl, to approve the consent items as follows:

- Approve October 6, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of October 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve special event request for the Humane Society Pet Parade to be held on November 1, 2003 at 1:00 p.m. between Lewis and Callender Street and Main and Lewis Street.
- Award Bid for Fleshman Creek Enhancement Project Phase II to Mike Adkins Construction, Inc. in the amount of \$21,500.00.

Additional Bill on Addendum Item #3, B:

- Approve payment of \$2,225.60 to Livingston Welding for 7th Street Bridge Project.

Motion was made by Lee, second by Dahl, to amend her motion to add item #3, B of the Addendum to the bills for the consent items.

Bob Ebinger asked about the "public comments" in the minutes stating that it did not make sense about the statement that Cindi Fargo made stating, "She wanted to point out that we as a City have to look at those kinds of segments, as they are not the designs to cover the balance scenario." Mr. Ebinger suggested adding TV to segments so the sentence would read, "She stated that she wanted to point out that we as a City have to look at those kinds of TV segments, as they are not the designed to cover the balanced scenario."

Mr. Ebinger also asked for clarification of the two claims for Ruggles Excavation and what they were for. Clint Tinsley stated these claims were

for bedding gravel for the water project one East Park and East Callender Streets.

Michelle Lee asked what the MRL lease claim was for. Clint Tinsley stated that this is for a lease of the sewer line on Park Street that goes over the Montana Railroad and across the tracks on Loves Land and Mount Baldy.

All in favor of consent items as amended, Motion passed.

Variances:

A discussion for a variance request for Mr. Richard Bakosh, owner of property described as Lot 32, Block 65, Original Townsite, located at 120 North "D" Street, requesting a variance from the front setback requirements for Highway Commercial zoning districts was held. Mr. Golnar gave background information relating to this variance request.

Motion was made by Dahl, second by Ebinger, to approve the Findings of Fact relating to Mr. Richard Bakosh's variance request.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Variance Request for Mr. Richard Bakosh.

All in favor, Motion passed.

A discussion of a variance request for Mr. William O'Byrne, owner of property described as Lots 15 & 16, Block 31, Original Townsite, located at 501 North 5th Street, requesting a variance from the minimum lot size requirements for Medium Density Residential (RII) zoning districts was held. Mr. Golnar gave background information on this variance request.

Motion was made by Dahl, second by Lee, to approve the Findings of Fact of the variance request for Mr. William O'Byrne. Mr. Ebinger stated that it was an honest mistake of the previous owner that he did not intend to sell both houses without subdividing the property but appreciated his following up on this requirement.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve variance request for Mr. William O'Byrne. Sheryl Dahl stated that she checked out this request and stated that she felt that the houses were a natural separation already.

All in favor, Motion passed.

Scheduled Public Comments:

A scheduled public comment was on the agenda for Carlo Cieri of 101 Elm Lane relating to the Green Acres Annexation and Utility extension. Mr. Cieri postponed his comments until the public hearing of Resolution No. 3442 so that he would not have to speak twice about his concerns.

A scheduled public comment was given by Joel Reinholz of the Citizen Coordinating Committee to update the City Commission and the public on the status of the Urban Renewal Plan for the downtown area of Livingston and to the definition of "blight".

Lenny Gregrey commented that he felt there was a conflict of interest of two members of the Commissioners to participate if any action took place of the Citizen Coordinating Committee discussion. He felt that since Vicki Blakeman, being a business owner of Prairie Renaissance and is a member of the Citizens Coordinating Committee, and Bob Ebinger, being a director of a non-profit private business in a building in the area, that under MCA 7-15-4235 and 17-15-4239 which spell out conflicts should not partake in any votes relating to City Commission pertaining to the Citizens Coordinating Committee. Bruce Becker stated that he would follow-up on this concern and relay his opinion at the next City Commission meeting.

Mr. Reinholz stated that he prepared an outline describing where the Citizen Coordinating Committee is in the development of the Urban Renewal Plan. He provided these documents to the Recording Secretary.

Mr. Reinholz stated that the purpose of the Citizens Coordinating Committee is to conduct a study to determine the existence of the "blight" in the downtown area of Livingston. He went on to say that the members of this Committee include representatives from: the downtown business community, property owners, the financial industry - accounting, investing and banking, real estate professionals, residents, participation from the City, County and School District, legal professionals, retailers, food and beverage/hospitality, Historic Preservation Committee, the Livingston Chamber of Commerce, the Alliance Development Corporation, the Livingston Downtown Association, the arts community and the Livingston Depot Foundation.

Mr. Reinholz commented that some factors such as the growth, investment, maintenance, public safety, etc. may have an adverse affect. The following outlines the areas of study with regard to the finding of "blight": History of the area, physical boundaries, physical characteristics, commercial characteristics, land utilization/underutilization, land use patterns, density, land valuations/value of improvements, patterns of ownership, building conditions, health and safety and police/fire calls, vacancy rates, property values/tax valuation, streetscape conditions, zoning, parking, strip development, housing/residential character, adequacy of recreational opportunities, population/demographics, traffic, circulation, parking,

pedestrian access, amenities, land use planning and special projects/sub areas.

Mr. Reinholz concluded by stating that the goal of this Committee and of this study is to improve and enhance downtown Livingston for the benefit and use of the community, to reverse the trend of declining property values, to protect public investment in Infrastructure, to follow in the steps of pioneering investors, and to generate interest and investment in the downtown Livingston area which assures the District's function and vitality for generations to come.

Lenny Gregrey stated that there was an article in the paper wherein Mr. Vincent was talking about a downtown business owner who had bought the old J.C. Penny's building and has used it for a warehouse for their business. Mr. Gregrey commented that he happened to have a meeting with Mr. Bailey, the owner of this building. His comments to Mr. Bailey were that the defining of the process of "blight" could result in properties being condemned for various theoretical blight issues. Mr. Bailey's concerns were also that this building could be taken away from him due to the results of finding that this building should be used for another resource and he responded to this that if this building was taken away from him then he would leave Livingston.

Mr. Gregrey commented that Mr. Bailey's business is responsible for bringing numerous individuals to Livingston to visit the City and spend money and bring money to the City. Mr. Gregrey concluded that he feels that this definition of "blight" is a scheme that was put in by the Federal Government.

Mr. Reinholz stated that the comment referring to the J.C. Penny building was made by him, not Mr. Vincent and that he used this as an example of how the City could be "blighted". There are buildings in the downtown area that are not being used for the purpose that they were designed for. As far as eminent domain to condemn a building, that is the power of the City Commission and the Citizen Coordinating Committee doesn't have that authority.

Mr. Gregrey stated that the old J.C. Penny building stood vacant for six (6) years and that Mr. Bailey bought it and put it back on the tax roles and that he has made good use of this building.

Mr. Gregrey feels that the definition of "blight" was meant for other purposes and that it was used in other areas where there were conditions that existed that required a law like that to get the community straightened out. He also stated that in the footnotes in the definition of the word "blight" that the City Attorney provided to the City Commission in the packet, came from issues in New York City in the 30's and when we start comparing Livingston to New York City it makes him a little concerned as to the "blighted" area in the context.

*Private Property
City Commission
City Attorney
City Clerk
City Treasurer
City Auditor
City Engineer
City Surveyor
City Inspector
City Assessor
City Collector
City Recorder
City Clerk*

Bob Ebinger commented that in reading the information that the City Attorney provided to the City Commission it does not define how "blight" can be determined and Urban Renewal used to achieve positive things for the community in order to go after financing and other State funding that is available. He believes that it would be helpful if the City Attorney could provide the City Commission with some examples of how "blight" has been used in context that the City of Livingston sees it. He feels that this is a deadly term and needs to be well defined and applied appropriately. The community needs to be assured of what the City is going for and see positive use to clarify and dispel any impression of hidden agendas.

Mr. Tom Vincent, Best Western Yellowstone Inn and Vice Chairman of the Citizen's Coordinating Committee commented that one individual that they have sought out stated that "blight" is a term that the community is stuck with because that is the law. Lack of significant urban amenities may be a better definition than to use "blight" in determining if the community does have this type of situation. Mr. Vincent went on to say that if 50% of the retailers downtown took the next available space to come and made it a warehouse he felt that this was not what the citizens of Livingston would like to see. We need restaurants, galleries and retail establishments to build up the downtown area. The J.C. Penny building should not have been vacant for six (6) years. The fact that Mr. Bailey bought the building to use as a resource is a great alternative, although it would have been more efficient and economical for the downtown area if the building had been purchased and used for retail purposes.

Joel Reinholz commented that the Committee is prepared to put together a workshop for the City Commission and the public to present more information on Urban Renewal with knowledgeable people and wanted to know when a good time would be.

Michelle Lee asked City Attorney, Bruce Becker, if the City of Livingston could form their own definition of "blight" because this may resolve the issue of understanding of the word. She asked if the City could use both the State and Federal law in hand and derive their own definition specifically for the downtown area of Livingston so that the efforts of the Citizens Coordinating Committee will be utilized effectively. Bruce Becker stated that he would need more time to review this and his concern would be that this is a set of rules developed by the legislature that the City would probably have to follow. Ms. Lee clarified that she would like to see the word "blight" more defined just for Livingston in developing a vocabulary for the public. Mr. Reinholz stated that in the Urban Renewal study they would break down information such as sidewalk repairs where it specifies items so that it is not so broad.

Cindi Fargo of the Alliance Development Corporation commented that it was specifically understandable for people to have a concern about the definition of "blight". She stated that it is important to realize that the term "blight" is

not going to be around here very long that it is a tool that we utilize in order to make use of a law that communities use to meet their own agenda's in regards to community development and community improvement. Ms. Fargo stated that the committee is not applying any definitions or conditions on any particular property. The State law has the parameters of the definition of "blight" plus the guidelines that this committee is looking at and they are only looking at a few of those components. One of the components that the Committee is looking at is the condition of the City of Livingston's Infrastructure which has an influence on investment, public health, safety and welfare. Another condition that the Committee is looking at is the patterns of property ownership where an individual has a significant amount of property that is under some kind of exclusive control. The ownership the City has of the right-of-way area may have a history of affecting the way investment goes on in our community and the results may create deferred maintenance. She concluded by stating that the urban renewal plan must identify an area in which the plan will be carried out and identify strategies for addressing the blighting conditions.

Lenny Gregrey stated that he believes that the Commission operates under general powers and as a City the legislature gave them no authority to change the law. Also he commented relating to the discussion of sidewalks that Mr. Reinholz brought up in the Urban Renewal Plan, that the City has a plan with Entranco to develop sidewalks in the downtown area. Entranco mentioned several items that need to be taken care of in the City of Livingston's downtown area and Mr. Gregrey thinks that their suggestions have already been initiated through the Infrastructure Projects. Mr. Gregrey concluded by quoting, "once you get the camel's nose in the tent its hard to get the camel out of the tent", and stated that he just wants to see the City be very careful on how they proceed to make judgments without really thinking this thing through the end.

Cindi Fargo stated that Entranco did do a lot of work for the City and the important thing is that the City now needs a tool by which they can proceed to implement Entranco's issues. This is not another study that the Urban Renewal Plan is the tool that the City needs now to take what has been done and put them into place.

Sheryl Dahl stated that Livingston is not a boarded up downtown nor was Bozeman when they put their blight into place and suggested to look at what Bozeman has done with their tax district. Ms. Dahl commented that she looks at the boundaries of the "blight" area as a way for the downtown community that they can generate money. Business owners don't have the money and neither does the City. She concluded by stating that she looks at the "blight" as a way that the City can help the downtown area improvements so she supports the Urban Renewal Plan with the Citizen's Coordinating Committee.

It was the concurrence of the Commission to have a workshop on November 7, 2003 at the Best Western Yellowstone Inn at 4:00 p.m. with Jeff Badenack to discuss the issues and concerns of the definition of "blight" and the use of Urban Renewal with the public, school board officials, County Commissioners, City Staff, and the City Commissioners.

Public Hearings:

A public hearing was held for the purpose of annexing contiguous governmental land located in the View Vista Road and the Intersection with Main Street to Mayor's Landing and the portion of "H" Street between the City's corporate limits and its Intersection with View Vista Road.

Gary Barnhart of "H" Street and View Vista commented that he would like to disagree with the Resolution as written. His understanding was that the City wanted "H" Street to Main Street to begin with and that road is in good shape. But from "H" Street down to Mayor's Landing there are a lot of pot holes so therefore there would be a lot of maintenance and he suggested to have the City split that part of the road and have the County fix the road before the City takes it over. Mr. Barnhart understood that the City wanted the section from Main Street to "H" Street to control the traffic. He stated that there are two (2) four way stop signs on each end of that section and a school zone where the traffic is monitored already so it would be a benefit for the City to have it. He felt the City should have the County fix the roads before they assume the maintenance of the road, from "H" Street to Mayor's Landing, to save on cost.

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3442 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING VIEW VISTA ROAD FROM ITS INTERSECTION WITH MAIN STREET TO MAYOR'S LANDING AND THAT PORTION OF "H" STREET BETWEEN THE CITY'S CORPORATE LIMITS AND ITS INTERSECTION WITH VIEW VISTA ROAD.**

Sheryl Dahl commented that she was not concerned about the area of "H" Street to Main Street but she is concerned of the part from "H" Street out to Mayor's Landing. She mentioned that with the City looking at annexation of the roads her concern lies in the fact that she still does not see a plan and that she doesn't see how soon the City plans on bringing the land next to the roads into the City or is the City even looking at that. Ms. Dahl asked how is the City going to extend the sewer out to that part of the road and how much is it going to cost. Is there going to be more police and fire protection needed and with more road time there is going to be more traveling and was the money budgeted for maintaining that road in our Street Maintenance account. She would like to see a better plan from City Staff before even considering the annexation of these roads.

Gary Barnhart stated that as far as "H" to Mayor's Landing there are only two (2) private property owners, him and his mom. He commented that the only water line was installed in 1958 and that there is no sewer line. His Mom's line is over 1200 feet long and his line is 600 feet long and were installed at no expense to the City. He maintains this line even though he gets City water from the Fairgrounds. Neither one of these properties are within the 500 feet which the City requires to hook up to the sewer line. They have an easement that goes through the Geyser Campground goes across the Creek to him and his mom for future sewer. His last concern is that the road is a maintenance nightmare and to his knowledge the City doesn't have the equipment to maintain this road in the winter months.

Bob Ebinger commented that he has the same concerns as Ms. Dahl in the respect to how the City is going to afford this annexation with the maintenance fees and if in fact this was budgeted for.

Steve Golnar stated that the City Staff did look at this concern and that there is no additional expense to police in that area and as far as snow removal it has been discussed with the Public Works Director for road maintenance. As far as funding goes the City has not specifically identified how the cost will be covered, but Public Works has the capability of using roto-millings to absorb most of this cost.

Clint Tinsley commented that there was not specific road maintenance budgeted for "H" Street to Mayor's Landing. But the cost of maintaining the road would be fairly reasonable since the City has 47,000 cubic yards of recycled asphalt from the Interstate and with in house labor and chip and seal he believes that the budget could handle this cost.

Sheryl Dahl asked if "H" Street to Mayor's Landing was a conforming City Street.

Gary Barnhart commented that he believes that it is a 60 foot wide road.

Clint Tinsley stated that it was probably a 50 to 60 foot wide road but there isn't a 60 foot right-of-way for the road.

It was stated by the Commission during the Workshop on annexation that if the City annexed the street but not the abutting property, the City would control the dogs on the road but not on the private property, if it remained in the County.

Vicki Blakeman asked about snow removal if the City could handle this.

Clint Tinsley stated that the City has two (2) motorgraders, and a blade on front of a dump truck, which has not been used very much. He commented that he felt that the City has sufficient equipment for removal of the snow.

Lenny Gregrey commented that two (2) years ago when the ABC cast wanted to do the Peter Jennings special down at Mayor's Landing and at that time the City had to work with the County because they owned the road the County would have to have public hearings to close the road. He thought that some of his colleagues were very upset that the City could not have the control of the road during the planning of this event and encouraged Staff to annex this road. Fortunate for the City, the event switched over to the Miles Park Bandshell so the problem was resolved. He concluded by saying that if the City doesn't get this road that this issue may come up again.

No action was taken for the approval of Resolution No. 3442.

Motion was made by Dahl, second by Ebinger, to post-pone Resolution No. 3442 until the November 3, 2003 City Commission meeting in order to provide the Commission with more information.

Sheryl Dahl stated that what she would like to see from City Staff is a plan with proposed cost to each department if this land is annexed, because it is going to increase across the board and have a check list like the one the City has for the special event questionnaire.

4 in favor; Ebinger, Blakeman, Dahl and Gregrey, 1 opposed; Lee,
Motion passed.

A public hearing was held for the purpose of annexing contiguous governmental land described as being the County Road which connects Gallatin Street Bennett Street to its Intersection with U.S. 10, Garnier Street from Bennett Street to Arbor Drive and Allspaugh Street.

Carlo Cieri from the Green Acres Subdivision commented that he was against this annexation proposal of the Streets in this area. He stated that he felt that the City did not have the right to annex these streets. Mr. Cieri commented that Gallatin and Garnier Street was a Federal project a few years back. They came and did a street analysis and put the streets in and also put in the sidewalks. He stated that at the time when Bill Dennis was Mayor he refused to accept the street after it was done because it was 2" from the manhole covers and the City would have had to dig it up and then fill it in. Mr. Cieri commented that the lower end of the storm sewer is County owned and have the maintenance on the street. He went on to say that the City has a water-line on the east side of Gallatin Street and it is through an easement. The County gave the City the easement. He asked what the reason was for annexing the street. The Green Acres Homeowners Association have their own private water-line. The contract between the City and the Green Acres Subdivision dated in 1958 is still valid, Mr. Cieri commented.

Mr. Cieri stated that there was a rule of the City that states that if a homeowner is within 500 feet of the sewer or water line of the City then the

homeowner has to hook on to it. This was appealed last year. Then the City came up with a rule that if a homeowner is 500 feet from a sewer and water lines of the City's if the cost is different meaning more then the homeowner present cost then the homeowner doesn't have to hook up to the City's lines. He feels that the City is violating their own Ordinance on annexation. The City is going beyond City limits to annex roads that are County owned and the City isn't doing the infill first. He hasn't seen any plans that there is going to be infill first out to Green Acres. Mr. Cieri feels that the City and the Green Acres Homeowner's Association can work out an agreement between them for this proposed annexation but not until the Association knows that they are going to get what they deserve from their privately owned water-line.

Sheryl Dahl asked if there was a proposal to run a water-line up to Garnier.

Steve Golnar commented that there was a proposal to extend the Green Acres water-line to the LaDuke property and that was denied a number of times by Green Acres. So Ms. LaDuke has decided to drill a water well.

Joseph Sabol II, Attorney & Counselor At Law for the Green Acres Homeowner's Association stated that the people that live in the Green Acres Subdivision are not against annexation totally but only as it has been proposed to them. If the City were to get a proper plan in place so that the Association would know where they are heading then they may agree to annexation. When the City answers some of the unknown questions that the Green Acres Subdivision has asked of the City then they will feel more comfortable in pursuing annexation. He stated that the Association feels that the City is trying to control the Subdivision's own destiny, maintaining some control over their taxes, dictating and guiding how their subdivision will continue to be developed. Green Acres Subdivision has their own lighting districts that the residents of that area pay for themselves. He went on to comment that they do own their own water line and have for over 40 years. This is a pretty unique area that they do own their own water-line. They are concerned about the way this Resolution is being proposed. It strikes the residents of the area that it is an unusual way to go about annexation. The Green Acres Homeowner Association knows that there must be valid reasons why the City is doing the annexation this way but the Association would just like to know why streets first and then annexation next. If the City takes over the water-line of the Green Acres Subdivision, are the residents going to get compensated for it is one of the big questions that the residents have. They believe that the water line has some kind of value and would like to have a business-like negotiated solution take place before any annexation will go forward. He suggested to hire an engineer that has been agreed upon by the City and the Homeowner's Association to give the City and Green Acres an indication as to what this water-line is worth and what the life of this line is.

Lenny Gregrey stated that when he had a conversation with Mr. Cieri he had mentioned minutes of a meeting that had taken place that Mr. Cieri was aware of and was in his possession on how this issue of the Green Acres Subdivision to get their water took place. Mr. Gregrey asked if the Commission could get a copy of these minutes. He feels that there is value to the water line and an engineer should determine this and then the City can proceed past the conflict that the City and the Association are in.

Steve Golnar stated that the last letter that was sent to the Green Acres Subdivision on October 16, 2003 he had commented on the compensation concern of the Green Acres for their water system. In his comments he stated, "There is a limited value to the water line in Green Acres in its current state. It is a dead-end system, it is 44 years old, has no as-builts or construction plans, so the City will be required to put much investment into the system to bring it up to City standards, to improve flows and to meet the fire protection codes. By taking the system over, the City would also assume system maintenance and upkeep responsibilities and expenses which are currently the responsibility of Green Acres homeowners. However, in recognition of the unique circumstances associated with the Green Acres system, and in order to help off-set the cost of installation of sewer service throughout the subdivision, the City will allow a pay back agreement for new water service line connections to the Green Acres system not to exceed 10 years or an additional 100 taps at \$1,000.00 each if the Green Acres Subdivision agrees to convey its entire distribution system and all easements to the City." Mr. Golnar feels that this was a statement of compensation to the Green Acres Subdivision for their water-line to be approved by them and to off-set some expenses for the installation of a sewer system. He stated that he felt that the City offer was being mis-characterized by the Green Acres representatives at this time.

Mr. Sabol commented that this water system is 44 years old and to his understanding there are other water lines in the City that are also this old. He stated that in Mr. Golnar's letter it jumps out and stated that there is limited value to the water line and in his opinion that there starts to evaluate that there is some value to the water line but not much and kind of diminishes the value. The controversy is that you can't say you will give them something because you do not know if your getting a good deal or the Green Acres residents don't know if their getting a good deal. The maintenance responsibility will follow the annexation, as is the ownership of the line. He concluded by suggesting to let the person who is qualified determine what the value is of this water line.

Sheryl Dahl asked Mr. Sabol what the MCA code was on the State Law for statutory requirements for the proposed plan for annexation. Mr. Sabol responded stated that he wasn't sure what the code was but would get back to Ms. Dahl. Bruce Becker commented that the MCA code was in his comments relating to annexation in the packet.

Michelle Lee stated that since it was a private water system if there was any type of environmental tests done over the years and are they up to date.

Mr. Sabol commented to his understanding there has been a recent inspection of that water line he thought by the City, but was not certain, to check its integrity, what kind of materials it was made of to see what kind of shape it was in.

Clint Tinsley stated that the City does do water testing of the Green Acres water-line. The City does the service line hook-ups for Green Acres.

Michelle Lee stated that this annexation was a request of the County in a letter dated September 2, 2003 and she was curious that there seems to be some question as to why the City is doing this and made comment that the County asked the City to do this and asked if there was any residents of Green Acres that showed up at the County meeting that protested this proposal at the point of discussion and as to why the County didn't have a public hearing.

Mr. Sabol stated that to his understanding that it was something of a contrived situation where the City wanted these roads and asked the County to write a letter saying that you wanted the City to annex these streets so that the City could initiate the process.

Michelle Lee commented that she did not see how the County Commissioners could propose something of this nature without having a public hearing.

Gary Barnhart stated that the County has had no public hearings on this proposal of annexation of roads and his concern is how the County can give public roads away without having a public hearing.

Michelle Lee asked if there was any follow up to the County to ask them for their Resolution as well.

Mr. Sabol stated neither he nor the Green Acres Homeowner Association have requested a Resolution from the County.

Sheryl Dahl made comments that to her understanding that the Green Acres Homeowner Association is not against annexation that they just want to see the plan to have some value for their private water-line.

Mr. Sabol concurred with Ms. Dahl and stated that this proposal of annexation is good for the ground water, good for their property, good for the community, and good for the City but to do it right so that all parties involved are satisfied.

Lenny Gregrey asked if he understood Mr. Tinsley's correctly that the City is performing some services to the Green Acres Subdivision such as water

hook-ups and some other activities. He did not realize this; his understanding was that the Subdivision just brought the water from the City.

Clint Tinsley stated that the City does do ^{purchase.} service work out in the Subdivision and the City charges labor for the service and that the City has fixed fire hydrants and performed water quality check-ups.

Duane Huravitch of 107 Ash Lane asked why isn't Miles Lane included in this proposal for annexation. It appears to him that the City only wants to annex streets that are of legal width and have curbs and pavement.

Clint Tinsley commented that in the original plan showed the water lines to move the water systems going up Garnier Street and that's why Garnier was brought to the City's attention also with storm drain system even though it is the County's now the City is the only one to maintain that system in Garnier system. Miles Lane was not part of the City's utility extension plan.

Duane Huravitch asked if Green Acres Subdivision does get annexed then there will be a County road in the middle of everything. He also stated that there are only 10 foot right-of-way easements and no alleys in the backyards of Green Acres. If Green Acres gets annexed, how is the sewer going to work out. There is not enough room in that 10 foot easement with the gas, electric, cable and telephone and they are not in the same ditch. Some of alleys are overhead most of them are underground so that pretty much leaves the sewer lines to be in the street and he feels that will be an expensive hook-up for most of the residents out in the Green Acres Subdivision. He continued by saying that to get to the street everybody would have to bring their services around their houses, because sewer services currently come out of the back of their houses that flow to their septic systems.

Clint Tinsley stated that the proposed plan for utility extension is that the sewer line is in the street and in fact the City met with Green Acres Homeowner Association to make sure that Green Acres representatives agreed to this plan.

Roberta Pugliano of 105 Elm Street commented about Mr. Gregrey's statement of the City making connections to the Green Acres private water line. She stated in the City agreement with the Green Acres Subdivision signed by the City fathers on March 31, 1959 that is one of the paragraphs it states, "all service connections connected to the transmission line of the parties of the second part shall be made by the party of the first part, which the first part is the City, at the expense of the parties of the second part." This would answer Mr. Gregrey's question.

Christine Raihl made comments that she owns property at 402 and 408 Garnier Avenue and her big concern is that she has abandoned alleys and if Garnier is annexed will those alleys have to be opened up. These are alleys

that haven't been used for a long time that there is grass in resident's yards and this annexation is a concern for a lot of residents that are on fixed incomes and can't afford to pay for any more taxes. She stated that she is happy the way that it is having their well and their septic tank and they don't mind hauling their own trash. She concluded by saying that she was not aware of the annexation and feels that it should be delayed until the City and the Green Acres Subdivision can figure out a plan.

Dick Caruso of 203 Ash Lane asked a question at the last City Commission meeting in relations to Ordinances that were signed stating that if you want City services you must be annexed. He asked if the City Attorney gave Mr. Gregrey an answer to his question and if so what did Mr. Becker find out.

Lenny Gregrey stated that there were several memos received from Mr. Becker and that he would have to look at the memos to know if it was answered or not as he did not have them available.

Mr. Caruso asked Mr. Becker who owned the sewer and water lines in the Shelby case of the Ordinance on annexation. To Mr. Caruso's understanding it was told to him by the Mayor and the City Attorney of Shelby that the sewer and water line belonged to the City of Shelby and therefore that particular case is not a good example to use in evaluating the application of the City of Livingston's Ordinance as it is a different situation that applies to Green Acres Subdivision as the private property owners of Green Acres own their own water line.

Bruce Becker stated that he reviewed the Attorney General's opinion relating to that case and that was not one of the elements to his decision. It didn't talk about ownership whether private or public of the water lines. He concluded by saying this issue is before the Supreme Court and we will know in six (6) months.

Motion was made by Lee, second by Gregrey, to post-pone Resolution No. 3443 until the November 3, 2003 City Commission meeting in order to provide more information to the Commission - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING THE COUNTY ROAD WHICH CONNECTS GALLATIN STREET TO BENNETT STREET, BENNETT STREET TO ITS INTERSECTION WITH U.S. 10, GARNIER STREET FROM BENNETT STREET TO ARBOR DRIVE AND ALLSPAUGH STREET.**

Bob Ebinger agreed that the City should slow down this process until further information has been provided to the City Commission in order to move forward. He also commented that he does believe in annexation in order to allow for a City to grow but that he also believes that it's the right of the residents of the proposed annexed property if they want to be annexed that this would only make the residents unhappy citizens.

*Adel
Caro Caruso
Comments -
9/17/03
grow*

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Sheryl Dahl commented that she hoped that City Staff would have enough time to provide answers for the Commission that they have requested. She would like to propose that City Staff work with the Green Acres Homeowner Association and determine an agreed upon engineer and look at if there is any value in the Green Acres water-line. She also stated that she wants to know costs of every department and the Staff as to how this would affect them. Ms. Dahl stated that when the plan of annexation is proposed to have exactly what streets and alleys are included in the agreement. She concluded by requesting to have the City do this right with the best interest of all involved!

Steve Golnar commented that part of the challenge for the City is that infill efforts to obtain water services have been denied on a number of occasions by the Green Acres Homeowner Association because they own their water system out in that area so one of the reasons that the City is trying to develop or expand utilities into that area or combine utilities is to be able to encourage utility development and efficient infill development of property. He stated the question of City Staff being able to have these answers by the next City Commission meeting is probably "no" that this is a unreasonable time limit.

Sheryl Dahl suggested to have it post-poned until December 1, 2003 to be able to gather information in coordination with the Green Acres Subdivision representatives.

No action was taken to post-pone Resolution No. 3443 to November 3, 2003.

Motion was made by Dahl, second by Ebinger, to amend the post-ponement of Resolution No. 3443 until the December 1, 2003 City Commission meeting rather than the November 3, 2003 City Commission meeting in order to have sufficient time to gather more information to the Commission for their review.

Michelle Lee asked to have the cost estimates put into a fiscal note format so that it is a little easier to read. She will provide an example for which she is asking.

All in favor of post-poning Resolution No. 3443 until December 1, 2003 City Commission meeting, Motion passed.

A short break was taken at 9:50 p.m.

The meeting went back into session at 9:55 p.m.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3444 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MANAGEMENT CONTRACT WITH QWEST FOR LONG DISTANCE TELEPHONE SERVICE FOR THE CITY OF LIVINGSTON.** Bob Ebinger asked what the rates are. Steve Golnar stated that it is 5.75 cent per minute with a minimum charge of \$10.00 per month. Lenny Gregrey commented that it seemed to him that the City gets penalized when they switch over to a new service. Mr. Golnar stated that there will be no penalty as the City was dropped by Touch American and they switched to Sprint in the short-term as they do not require a contract. Mr. Golnar also mentioned that the City is not happy with Sprint and that the City would like to go with Qwest because they would have more predictable service and the cost per minute is cheaper.

4 in favor; Gregrey, Ebinger, Dahl and Blakeman, Motion passed.
Michelle Lee was absent.

Resolution No. 3445 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSULTANT SERVICES AGREEMENT WITH OLSEN ARCHITECTURE FOR THE DEPOT CENTER RESTORATION PROJECT NOT TO EXCEED \$45,000.00.** This Resolution was post-poned pending further clarification and will come back to the Commission at the next City Commission meeting on November 3, 2003.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3446 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MIKE ADKINS CONSTRUCTION FOR PHASE II OF THE FLESHMAN CREEK ENHANCEMENT PROJECT IN THE AMOUNT OF \$21,500.00.** Steve Golnar gave background information relating to this agreement and stated that this bid came in under what the City anticipated. The Project Engineer's estimate was \$35,000, so he asked for the Commission's approval to move forward.

4 in favor; Ebinger, Blakeman, Dahl and Gregrey, Motion passed.
Michelle Lee was absent.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3447 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSULTANT SERVICES/CONTRACTED SERVICES AGREEMENT SUPPLEMENT WITH JODI LITCHFIELD FOR LANDSCAPING PROJECT FOR I-90 INTERCHANGE, CTEP PROJECT NO. STPE 7499.** Bob Ebinger asked if this was a change order in the original proposal. Steve Golnar stated that the budget is the same amount and that the City is just revising the scope of work and putting more money into design because when they looked at the sign approach it was determined that we should go with a more of an architecturally developed sign that creates some representation of the downtown area rather than a standard sign. Because the project will not

have as high of retaining walls in the medians on either side of the interchange and the determination not to plant as many trees as were initially proposed in the cloverleaf area, the existing budget will allow for the design and construction of a sign which makes a statement and shows some uniqueness.

3 in favor; Blakeman, Dahl and Ebinger, 1 present; Gregrey, Motion passed. Michelle Lee was absent.

Action Items:

A discussion was held for the review of a Draft Revisions Ordinance to encourage snow shoveling in the City of Livingston.

Steve Golnar gave background information relating to this draft Ordinance for snow shoveling on sidewalks as the season is coming upon us. It has been brought before the City Commission in this draft form for some initial discussion to let Bruce Becker revise and for Public Works Director, Clint Tinsley to have some comment on it.

Bruce Becker stated that the current snow removal Ordinance is in Section 14-10 which deals with health and sanitation and has nothing to do with streets and sidewalks so he proposes to take it out of that section and put into Chapter 26 which is for streets and sidewalks. He went on by saying that the old Ordinance provided that the City could put this on the taxes and the only place that he can see where the City can put authority on this is on the old City Commission management authority so he took it out of there. The City now would be able to make civil municipal infractions as opposed to a criminal violations and that is what this Ordinance proposes. He also stated that he authorized the Code Enforcement Officer to issue the notice to appear.

Lenny Gregrey commented that he felt that the \$300.00 penalty is not an appropriate amount. He would like to see it start off with a fine of \$25.00 per day if the violation exists, so that the people would get the message. At \$25.00 per day and the people issuing these notices will not have the reluctance of writing these tickets. The City wants to get the streets cleared off and we do not want to penalize residents so as to send them to the gulag (prison camp in Russia).

Bruce Becker commented that \$300.00 was the maximum penalty provided for in the State Law.

Bob Ebinger commented that he would like to see a warning issued first before a penalty is assessed.

Sheryl Dahl suggested that such a warning be similar to the weed warning in the form of a letter.

Clint Tinsley commented that "yes" the City does send out warning letters for weeds.

Vicki Blakeman suggested something in the manner of a door hanger.

Clint Tinsley stated that in picturing this issue, he only has one (1) Code Enforcement Officer in Livingston and if the City gets 10 inches of snow it will be impossible to have just the Code Enforcement Officer authorized to give notices. He stated that he would have to take his employees from water or sewer or wherever to issue these notices because one person could not do this by themselves.

The Commission is concerned about fact that if the fee were too low then the people that receive notices for snow removal would just go ahead and pay it because to finding someone to help shovel a person's sidewalk is going to cost around the same amount.

Lenny Gregrey mentioned that Paula Clawson of the Enterprise walks a lot and shared with the Commission last year that there were certain residents that continually didn't shovel their sidewalks. Mr. Gregrey feels that these habitual offenders would be easy to identify. He suggested to make the fee a reasonable fine and have the penalty escalate as the person receives more notices.

Bruce Becker asked if the Commission would agree that the first fine shall not exceed \$50.00 and the second fine not to exceed \$300.00.

Shirley Ewan asked about the elderly people in the community that do not have anyone to shovel their sidewalks how is the City going to handle those residents.

Steve Golnar stated that one of the suggestions from the Fire Department was to have the senior assistance program help these Senior's if there were individuals that knows about this program, they could contact the Fire Department.

Bob Ebinger commented that he was raised in the West and made some change shoveling citizen's sidewalks.

Pam Payovich suggested contacting the school for them to have a group put together for the community services.

Vicki Blakeman asked Staff to follow-up and determines a solution relating to these issues and bring back to the Commission at the next City Commission meeting.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the Calendar of Events Candidate Forum on October 23, 2003 at 7:00 p.m. where the location was. Vicki Blakeman stated that it would be in the Community Room of the City/County Complex.
- Sheryl Dahl commented that she would be a little delayed for the meeting on October 22, 2003 as she had another meeting in Bozeman at 6:00 p.m. and asked if it could be later. The Street Light Illumination Demonstration at the Water Department Shop was changed to 7:30 p.m. instead of 7:00 p.m.
- Steve Golnar mentioned a Special Meeting of the City Commission is scheduled for October 30, 2003 at 7:30 p.m. to approve a payment for PrintingForLess.com for their CDBG loan.

Commissioner Lee was absent for comments.

Commissioner Ebinger Comments:

- As a reminder, he stated that he had seen Gary Weiner of the National Park Service and he had brought to his attention and so did Jeanne Marie Souvigney, that the City has not submitted requests for payment for the Mayor's Landing Phase I project and if the City doesn't submit this payment soon their budget will be over. Steve Golnar stated that he had sent that request in yesterday.
- He asked Clint Tinsley, Public Works Director, if he would extend the clean-up for leaves until Monday, November 3, 2003 instead of October 31, 2003 as everyone uses their bags of leaves for their Halloween decorating. Clint Tinsley stated that he had already talked to his crew about this and that they will extend leave pick-up until Monday, November 3, 2003.
- He asked about the variance request of Thomas and Charlene Burns if valid concerns had been answered. Steve Golnar stated that he did talk to Mr. Burns before he wrote his letter and thought that there had been some understanding of what happened and that Mr. Golnar was going to go to Mr. Burn's property and do a site review on the alley. Mr. Golnar did mention that the City has abandoned Crawford Street twice around Mr. Burn's property and he feels that it is unreasonable for Mr. Burns to ask for more. Sheryl Dahl stated that she had been by Mr. Burn's property and she would contact him and let him know about his concerns and how the City could handle them. Lenny Gregrey commented that he believed from Mr. Burn's letter that the City agreed with Mr. Burn's and wanted to get this resolved as of where the property line is for City and where Mr. Burn's property line ends. It was the concurrence of the Commission and Mr. Golnar to resolve this issue as soon as possible and move forward.

Commissioner Dahl Comments:

- She stated that she had walked through Callender Street and 3rd Street newly constructed intersection and commented that the "bulbed-out" street corners were it was looking very nice.
- She wanted to know if there was a proposed book drop off for the Library. Clint Tinsley stated that was in the plan.
- She asked about the Rough Draw Resolution for the Ambulance and Fire Department if it was moving forward.
- She reminded Mr. Golnar to write some thank you letters to the following people: Charlie at Kenyon Noble for the donation of lumber for the Skate Park, the Boy Scouts for the stairs along the River and the Tony Hawk Foundations for their donation of gifts for the Skate Park event.
- She asked about the status of the "M" Street Junior Woman's Club if that it been resolved. Steve Golnar commented that he felt that was already closed out. He mentioned that Mr. Tinsley and Mr. Miller had met with the Junior Woman's Club and in determining what the Junior Woman's Club request was is still an issue. Clint Tinsley stated that while meeting with the Club the only thing that was determined that needed to be done was the Cross Walk. Mr. Tinsley stated he had requested a letter from the Club to verify this approval of the "M" Street Park and that their next meeting would be in late October or early November.
- She asked about the trees in the City if the City is planning for Tree City USA.

Commissioner Gregrey Comments:

- He commented about the culvert that goes underneath to the Yellowstone River needs a lot of attention due to the beaver problem or debris. Mr. Tinsley stated that this last month to six (6) weeks that his crew has been cleaning out that culvert weekly but will begin to clean it up on a twice a week basis.

Chairman, Blakeman had no comments.

No Public Comments were given.

Motion was made by Dahl, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 10:35 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

1

LIVINGSTON
CITY COMMISSION MEETING
NOVEMBER 3, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, November 3, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Peggy Glass and Pam Payovich. Absent was Clint Tinsley.

Motion was made by Dahl, second by Lee, to approve the consent items as follows:

- Approve October 21, 2003 regular City Commission meeting minutes.
- Approve October 30, 2003 special City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of October 2003.
- Appoint Skate Park Committee.
- Approve City Manager's Nomination of Frank L. Minnick for Police Commission.
- Review proposals for purchase of East Side School Original 1902 Building.

Steve Golnar made comment that the City did not receive any proposals for the East Side School Original 1902 Building and suggested to revise bid specifications and put the School back out for bid.

Bob Ebinger stated that he had received a phone call from someone that was interested in the Building but wanted to know if the bid could be extended.

Mr. Golnar stated that he felt the School should be re-advertised and that the bid specifications should be revised, rather than extending the current bid period again.

Sheryl Dahl commented that with the City's financial state that this should be put on hold due to the fact that additional expenses would be incurred for re-advertising the School for bid. She suggested that the City should wait until cash flow improves and to let the new Commission pursue the bidding of the School at a future date.

Lenny Gregrey asked what the expense would be going through the re-advertising process.

Steve Golnar stated that it would depend on where the City re-advertised. If the City chooses to advertise in the Historic Preservation Magazine it would cost an additional \$475.00 for a two (2) month advertising fee.

Sheryl Dahl commented that the cost of advertising of the East Side School Building has cost the City around \$1,200.00 to \$1,500.00 for expenses.

Sheryl Dahl asked in response to the comments made by Lenny Gregrey at the last meeting relating to whether Vicki and Bob could be a part of the Urban Renewal Citizen Coordinating Committee decision process relating to the finding of "blight". Bruce Becker commented that he was working on this. Ms. Dahl commented because Vicki and Bob are business owners that they should be able to state whatever they would like to about the finding of "blight", but she did not know about them being a part of the Citizens Coordinating Committee. Mr. Becker commented that there is not a case law on this determination of conflict. He stated that there is a technical determination that needs to be made as to whether City Commissioners, who are business owners, or property owners within the district, can be involved or not and that he would follow-up on this.

Sheryl Dahl asked to have a word changed on page 6 of the minutes to read "blight" instead of light so as to read: "Sheryl Dahl stated that Livingston is not a boarded up downtown nor was Bozeman when they established that "blight" existed, and suggested to look at what Bozeman has done with their tax increment district".

Lenny Gregrey asked to add a sentence on page 4 of the minutes to read: "Mr. Gregrey concluded that he feels that this definition of "blight" is a scheme that was put in by the Federal Government to circumvent the U.S. Constitution allowing for condemning of private property for Government use."

Mr. Gregrey also asked for page 13 of the minutes to be changed from "brought" to "purchases" so as to read: "He did not realize this; his understanding was that the Subdivision just purchases the water from the City."

Mr. Gregrey asked that he would like to add the comments made by Carlo Cieri in the minutes when Mr. Cieri talked about the acquaintances of Ms. LaDuke being related to anyone on the City Commission or the City and if she was their girlfriend and doing a favor for her and that Mr. Gregrey's reply was that Ms. LaDuke was not his girlfriend nor did he even know who she was personally.

Bob Ebinger stated that on page 14 of the minutes he wanted to clarify his statement and what he meant to say was: "He believed in annexation but wanted to consider the rights of the residents to say whether they wanted to be annexed or not so they would not be unhappy citizens." Ms. Blakeman

asked if what he meant was that he would like to see the City Commission and Staff deal with the concerns of the citizens first before proposing annexation. Mr. Ebinger concurred.

All in favor of consent items, Motion passed.

Zone Change:

A discussion of a zone change and a public hearing for the zone change request was held.

Jim Woodhull, City Planner, gave background information relating to this zone change request. The request is for the Livingston Community Hospital, owner of property described as all of Lots 21 & 22 and the West 60 feet of Lots 29-32, all in Block 28, Park Addition currently zoned at Medium Density Residential (RII) and to change this to High Density Residential (RIII) to allow the Hospital to use these two houses as office space. Mr. Woodhull stated that the Zoning Commission recommended approval of this zone change request.

Sheryl Dahl mentioned that she had driven around in that area and made the comment that she felt the zone request looked like spot zoning and asked if the City could address this as such to allow them to use the space and gave an example of these circumstances. Jim Woodhull stated that the example that she gave was for a home office. Mr. Woodhull stated there are three (3) conditions that have to exist simultaneously to constitute spot zoning and the fact that both of these zones are residential would lead to the determination spot zoning did not exist.

Sheryl Dahl stated that she objected to putting two (2) RIII buildings in the middle of an RII area in order to allow the Hospital to have their business offices when if the Hospital expands elsewhere then these lots will continue to be RIII zone within an RII zoned block. Mr. Woodhull commented that these parcels are 6000' and 7000' square feet respectively which means that the maximum build out allowed by current RIII zoning would be a duplex on either parcel.

Bob Ebinger stated that he had talked to Mr. Woodhull about this request and wanted to know whether a variance was a more appropriate approach rather than a zone change. Mr. Ebinger asked is it possible to buy a lot next to these parcels and combine the properties and build something bigger. Mr. Woodhull stated that the lot next to these parcels is still in an RII zone so they would have to come and ask the Commission for a zone change in the case of combining the parcels.

Sheryl Dahl asked about the height requirement in an RIII zoning area and that even though they could only build a duplex, could they build it three (3) stories high. Jim Woodhull stated that three (3) stories cannot exceed 36' in

height for a RIII and 27' is allowed for height for RII is what the Ordinance states.

Michelle Lee asked if the City Commission could condition this zone change request for the purposes of not being able to go over 27' in height. Jim Woodhull commented that the Commission would have to change the Ordinance to limit height to 27'. Bruce Becker asked what kind of conditions does Ms. Lee want to put on this zone change. Michelle Lee commented that she would like to have the height changed on this to not allow over 27' in height. Michelle Lee mentioned that she did not want to see a huge building in one of these lots. Mr. Becker commented that would be awkward and that the Commission would have to come up with a different zoning height requirement for RIII.

Michelle Lee asked if the City could condition the Hospital's business license. Jim Woodhull stated that the City doesn't issue business licenses to hospitals.

Bruce Becker suggested that the City Commission consider creating a hospital corridor zoning that this would encourage all of the medical professional's to come together in the same area such as Billings and Missoula do with their medical professional's.

Lenny Gregrey asked Mr. Woodhull if the hospital indicated to him what the use of these spaces were going to be. Mr. Woodhull replied by saying computer and administrative offices.

Michelle Lee stated that she was very uncomfortable with the findings of fact in this instance because it states "short-term solution" and "interim solution" and she would like to have a permanent solution. She asked if it would be appropriate to amend these statements.

Sheryl Dahl asked why they could not have a variance instead of a zone change.

Jim Woodhull stated that variances are not used to allow uses in a zone that it was not designated for and "hospital", under our zoning code, is not allowed in a RII, variances apply to physical parameters such as set-backs and height limitations.

Michelle Lee asked if in fact this is for hospital use. She realized that they are administrative offices but could they in fact change the name of the intent so that the City would not have to have a zone change, possibly administrative addition. Mr. Woodhull stated that the use is secondary to the hospital and if the hospital didn't own these parcels, RIII wouldn't work for just any business office. If the hospital were to rent these offices to someone else they would have to make a special exception request to do so.

Vicki Blakeman asked if the hospital was RIII. Mr. Woodhull stated "yes" it is RIII.

Ms. Blakeman asked if there were other properties in this area that are RIII's also. Mr. Woodhull stated that the hospital, the Convalescent Center, the Clinic to the south and about six (6) lots to the north where the apartment buildings are across the street from the hospital were all currently zoned RIII.

Lenny Gregrey commented that the City has a situation here where the hospital about a year ago was probably considering folding up and stated that the City does have a new surgeon here who is generating a lot of work in the hospital for orthopedic work and they probably need extra space to continue an expansion in order to keep the facility in this area. He also stated that it is nice to have a hospital in Livingston and that everybody loves their local hospital and citizens use this facility.

Bob Ebinger commented that he is not against keeping the hospital in Livingston but what he is against is setting precedent by changing a residential area to a RIII. He just asks if the City could put a restriction on the height so that they know that the area will stay the same.

Sheryl Dahl asked again if the height could be reduced for RIII zoning.

Bruce Becker stated that the Commission would have to amend the RIII zoning height to accommodate this situation.

Sheryl Dahl asked why they couldn't reduce the height on a conditional use of the hospital.

Bruce Becker suggested that Jim Woodhull and him investigate this and bring it back to the Commission at the next meeting.

Sheryl Dahl and Michelle Lee suggested to have the hospital state specifically that this use is for their business offices only.

Mr. Gregrey stated that the discussion of this was a determination of height of the RII and RIII and made comment that it is only a nine (9) foot difference where RII is 27' and RIII is 36'. Bob Ebinger stated that could be another floor added.

Vicki Blakeman asked if there was any urgency for the hospital on this zone change request.

Jim Woodhull stated that he assumed there was because they have already requested permission to trench the street for their computer lines.

Michelle Lee asked if there was a way to have Staff bring back to the Commission a revised Ordinance No. 1930 and put in RII with conditions.

Bruce Becker stated that no matter what the Commission decided to do that notices of the Ordinance would have to be advertised three (3) times, so the soonest this could come back to the Commission for review would be December 1, 2003.

Mr. Gregrey stated that the discussion on building height is contrary to the fact that area is used to land helicopters in and he doesn't believe that the hospital is going to put up a 36' building for this reason and stated that he thinks that the Commission is hung up on something that doesn't exist.

Vicki Blakeman asked that the hospital is the only one that is requesting the use of these parcels and if someone else asked to use them for an office they would have to come back to the City Commission.

Jim Woodhull concurred with Ms. Blakeman's comments.

Vicki Blakeman stated that the fact is that this is in the hospital area anyway.

Bob Ebinger stated that he feels comfortable with this specific situation but he asked that Staff looked into the possibility of putting a limitation on the height requirements.

Vicki Blakeman asked Staff to develop something that addresses the height between RII and RIII.

Lenny Gregrey mentioned that there was no one that spoke against this zone change request at the Board of Adjustments meeting and he is certain everyone in that area was notified of this zone change request. When it was proposed to have the Branding Iron Subdivision zone changed the people from that area were concerned and showed up. The fact that there is no person present from the hospital area tonight leads him to believe that residents of the area are not concerned about this request. He concluded by stating that the Commission is making a "mountain out of a molehill".

Motion was made by Lee, second by Gregrey, to approve the Findings of Fact of the Zone Change request for the Livingston Community Hospital.

Motion was made by Lee, second by Dahl, to amend the Findings of Fact of the Zone Change Request for the Livingston Community Hospital to exclude in 2) the term interim solution and in 3) to delete the term short-term solution.

All in favor for the amendment of the Findings of Fact, Motion passed.

Sheryl Dahl asked for the use chart for RIII zoning and if in fact property with an RIII zoning designation could be occupied by a Lawyer when the hospital use ends. Jim Woodhull stated that he did not have a use chart for RIII zoning at hand and that a Lawyer could use these offices only if a special exception on the parcel were granted.

4 in favor of the Findings of Fact deleting the amendment and approving the original Findings of Fact as written; Lee, Gregrey, Ebinger and Blakeman, 1 opposed; Dahl, Motion passed.

Bob Ebinger stated that he would like to see Staff pursue a definition of RII ½ zoning that would apply to circumstances where the Commission would like to apply height restrictions.

The City Commission concurred with the request of Staff for a RII ½ zone.

A Proclamation was read by Chairman, Vicki Blakeman, for the recognition of Poppy Day on November 8, 2003 in honor of Veteran's Day, November 11, 2003 and Ms. Blakeman asked to add women to the sentence where it states: "I urge all patriotic citizens to wear a Buddy Poppy as mute evidence of our gratitude to the men and women of this country who have risked their lives in defense of the freedoms which we continue to enjoy as American citizens."

Ordinances:

Motion was made by Lee, second by Gregrey, to approve Ordinance No. 1929 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DELETING SECTION 10 ENTITLED ABUTTING OWNER TO KEEP SIDEWALK CLEAN AND SAFE OF CHAPTER 14 – HEALTH AND SANITATION, AND ENACTING A NEW SECTION IN CHAPTER 26 – STREETS AND SIDEWALKS BY ESTABLISHING A CIVIL OFFENSE FOR FAILURE TO REMOVE ICE, SLUSH AND SNOW AND ESTABLISHING A CIVIL PENALTY FOR VIOLATION.** This is the first reading. A public hearing will be held on November 17, 2003 relating to this Ordinance.

Bob Ebinger stating in reading this Ordinance he did not see where it stated anything about a warning before issuing a citation and thought that the Commission had concurred at the last meeting to have a warning.

Bruce Becker mentioned that it was his understanding that Clint Tinsley, Public Works Director, stated that he did not have the manpower to do that.

Sheryl Dahl stated that Mr. Tinsley stated to her understanding that the warning would be something in the nature of the weed violation letter.

Bob Ebinger thought as far as repetitive offenders that those people would be cited, but the City should have a warning given to other people who were not aware of this issue.

Steve Golnar asked if the City typically identifies when they are going to issue warnings prior to enforcing the law in the Ordinance's and is this what Mr. Ebinger is asking for a warning before a citation is issued placed into the Ordinance.

Bruce Becker stated that he feels that this is an enforcement nightmare because the person can state: "I didn't get a warning".

Bob Ebinger stated that a warning being issued makes the person aware that they need to shovel their sidewalk and then they will continue to do so, so as not to get a citation.

Bruce Becker asked how the warning would be issued.

Lenny Gregrey commented that if you send a warning it would have to be registered certified mail and this would be a notice of service.

Michelle Lee stated that she feels fines should double after ten (10) days of the warning and notice or if they don't pay it they get cited.

Bruce Becker stated that this couldn't possibly be done as a trial would not take place until six (6) months after warned and how could you double the fine then.

Lenny Gregrey stated that you have to have a trial before you can assess a fine. You cannot automatically assess the fine before the person is found guilty.

Michelle Lee commented that she would just like to see some incentive to get the citizens to pay for their fines.

Lenny Gregrey stated that the City Commission is trying to resolve two (2) problems. One being that they would like to see the sidewalks shoveled in a timely manner and the other if you give someone a \$25.00 ticket and they pay for it he guarantees that those citizens who are not disabled will be sure to shovel their sidewalks.

Mr. Gregrey also mentioned in the City Judge's letter that was provided in the packet for review he stated that the current citation that is used by the Livingston Police Department will not meet the requirements for a civil summons and complaint. He also stated that he would expect the City Government to clean its own sidewalks and public ways to comply with their own Ordinance.

Bruce Becker mentioned that in Judge Travis' statement may be the solution to this, as he states: "I trust that certain administrative steps will be taken before a summons is issued for a violation of this Ordinance."

Sheryl Dahl asked what administrative steps would this be?

Bruce Becker suggested to say direct Clint Tinsley to meet the personal service requirements, a note handed to the person stating this is a warning for shoveling your sidewalks, if you do not comply within 24 hours a citation will be issued. Mr. Becker's suggestion was to leave the Ordinance the way it is and to direct Staff to administer and issue warnings before a citation is noticed.

It was the concurrence of the City Commission that the Ordinance would pass on first reading as written and to have Staff develop administrative rules for enforcement. Disabled people would need to contact the City if they could not shovel their sidewalks for direction on who they may contact for assistance, such as the Fire and Rescue or having a group at the School or community services or even the Boy Scouts help.

All in favor of Ordinance as written, Motion passed.

Bruce Becker asked if it snows in December and the City issues a warning and then it snows in February do you need to issue another warning?

The Commission stated "no" that only one (1) warning per snow season.

Motion was made by Gregrey, second by Lee, to approve Ordinance No. 1930 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 3-.13 ENTITLED OFFICIAL ZONING MAP OF CHAPTER 30 ZONING OF THE LIVINGSTON MUNICIPAL CODE BY CHANGING THE ZONING DESIGNATION FOR LOT 21, LOT 22 AND THE WEST 60 FEET OF LOTS 29 THROUGH 32 OF BLOCK 28 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON FROM MEDIUM DENSITY RESIDENTIAL (RII) TO HIGH DENSITY RESIDENTIAL (RIII).** This is the first reading. A public hearing will be held on November 17, 2003 relating to this Ordinance.

Motion was made by Lee, to amend Ordinance No. 1930 to insert Section 3 - Severability to Section 1 and Section 1 to become Section 2 and then subsequent numbering to take place in that she feels Section 1 would simply state that there is a height restriction on this and what a severability clause allows you to do is that if any part of the plan is found invalid then the rest of it is not affected. No second.

Bruce Becker commented that this is a request for a zone change from a RII to a RIII and that this was not noticed for any other reason than for a zone change and puzzled with how to put a condition on a zone code that is not allowed without amending the zoning code.

No action taken.

4 in favor of the Ordinance No. 1930 as written; Lee, Blakeman, Ebinger and Gregrey, 1 opposed; Dahl, Motion passed.

Motion was made by Dahl, second by Lee, to approve Ordinance No. 1931 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTOIN 13.19 ENTITLED WATER SERVICE LINE AND SECTION 13-19.1 ENTITLED WATER SYSTEM DEVELOPMENT FEE OF CHAPTER 13 WATER REQUIRING THE TAPPING PERMIT AND WATER SYSTEM DEVELOPMENT FEE TO BE PAID AT THE SAME TIME OR BEFORE OBTAINING A BUILDING PERMIT AND DELETING REFERENCE TO UNIFORM PLUMBING CODE.** This is the first reading. A public hearing will be held on November 17, 2003 relating to this Ordinance.

All in favor, Motion passed.

Public Hearings:

A public hearing was scheduled to be held for Resolution No. 3442 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING VIEW VISTA ROAD FROM ITS INTERSECTION WITH MAIN STREET TO MAYOR'S LANDING AND THAT PORTION OF "H" STREET BETWEEN THE CITY'S CORPORATION LIMITS AND ITS INTERSECTION WITH VIEW VISTA ROAD.** This will be a continued public hearing at the November 17, 2003 City Commission meeting as the Commission and Staff are waiting for a decision from the County Attorney on the proper notice for the annexation of County Roads.

Resolutions:

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3448 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE SEWER RATES IN THE AMOUNT OF 1%.** A public hearing will be held at the December 15, 2003 City Commission meeting for public review and comment.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3449 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE WATER RATES IN THE AMOUNT OF 3%.** A public hearing will be held at the December 15, 2003 City Commission meeting for public review and comment.

All in favor, Motion passed.

Motion was made by Ebinger, second by Lee, to approve Resolution No. 3450 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ACCESS DATA CORPORATION TO PROVIDE ANNUAL SUPPORT SERVICES FOR SLEUTH SOFTWARE IN THE AMOUNT OF \$2,471.72.** Sheryl Dahl asked about how soon this would have to be paid for. Darren Raney stated that they want their money as soon as possible and that an invoice has already been received. It will be submitted at the next Commission meeting.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3451 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT AMENDMENT NO. 1 WITH SKILLINGS CONNOLLY.**

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3452 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING THE APPROPRIATION FOR FUND GENERAL FUND FIRE #1000.141.420401 IN THE AMOUNT OF \$23,573.09 AND FOR AMBULANCE FUND #5510.142.420710 IN THE AMOUNT OF \$23,200.91 BY TRANSFERING FUNDS FROM ACCOUNT #1000.341000 GENERAL FUND FEDERAL GOVERNMENT IN THE AMOUNT OF \$27,586.00 AND #5510.360000 AMBULANCE REVENUE IN THE AMOUNT OF \$19,188.00.** A public hearing will be held at the November 17, 2003 City Commission meeting for public review and comment. Sheryl Dahl asked if the City has actually received the money from the Federal Government. Shirley Ewan stated "yes" we have.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3453 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO EXTEND AGREEMENT WITH ROCKIN MICRO FOR COMPUTER MAINTENANCE FOR THE LAW ENFORCEMENT/DISPATCH COMPUTER NETWORK FOR ONE YEAR.** Michelle Lee gave a handout relating to this Resolution but in a broader view. She has reviewed all of the City computer and communications related expenditures and noted that to date the total expenditures are \$44,163.25 for technical communications. She suggested that the City have a technological analysis done for the communications and computer services because the City might consolidate some of these services and wondered if this could be pursued with Rockin Micro or by having them respond to a request for proposals.

Sheryl Dahl wanted to know if the price of the technical support was going up from last year.

Bruce Becker stated that in his agreement of the Resolution No. 3453 references the current agreement adopted by Resolution No. 3325 which was passed on September 26, 2002 and this states that rates are the same as last year.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3454 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2003-2004 BY TRANSFERRING FUNDS FROM GENERAL FUND ACCOUNT #1000 IN THE AMOUNT OF \$4,312.91 TO AMBULANCE FUND #5510.**

All in favor, Motion passed.

Action Items:

Steve Golnar stated that he had provided separately a November 5, 2003, letter to the Army Corp of Engineers for the letter of intent to participate in a cost sharing agreement with the Corps of Engineers for contributions of the Section 205 Study for a more thorough and detailed analysis of the flood problem and solutions for the Yellowstone River at Livingston, Montana. He recommended Commission approval for the City Manager to sign the letter.

Sheryl Dahl asked if the initial budget allocation of \$100,000 for this Study was already used up. Steve Golnar stated that he believed that is was, this was the reason that the cost sharing phase was being proposed.

Sheryl Dahl commented that before she would approve this she would like to read the information first in order to make a decision on whether to continue in cost sharing of the Section 205 Study for the flood protection measures and that the City could possible pay up to \$300,000.00 for the Corp of Engineers study.

Steve Golnar stated that there are two (2) phases of commitment to this project: the letter of intent; and, the cost share agreement. The letter of intent would get the City on the Corp of Engineers calendar and the cost sharing agreement would only be entered into after the City is comfortable that they have partners participate in the local cost share arrangement. Those partners would be the City, County and State in a cost sharing because impacts associated with control of flood levels and impacts on properties are going to extend beyond the city limits. The 205 Study would give the City an analysis of a couple of options prior to proceeding. Primary options to be considered would be the existing levee alignment and determining how far would a levee would need to go; evaluating and pulling back the levee to create greater capacity in the Yellowstone River channel to reduce the profile of the River and the need for the levee to be as high as otherwise required and, flowing water through the old channel of the Yellowstone River.

Mr. Golnar stated that the letter of intent could be refined and more detail from the Corp of Engineers obtained if the Commission wished. He felt that the letter could wait for the next meeting.

Vicki Blakeman asked if there wasn't a push to get this letter in from the DNRC to get their money and get the flood plain flood way maps done.

Mr. Golnar indicated that there is some urgency. He continued by saying that he had talked with the DNRC and they identified at the public hearing that they would wait for the Section 205 Study to be completed before they would seek to require the adoption of the flood plain and flood way maps. The detailed analysis phase of the Section 205 Study will take approximately 18 months to two (2) years. Over the course of that time the City should not have to worry about the flood plain and flood way maps being adopted by FEMA or DNRC. The City, State and FEMA will need to be working together to get a plan developed, Mr. Golnar concluded.

Motion was made by Dahl, to post-pone this letter of intent until the next meeting in order to give the Commission more time to review the Section 205 Study preliminary assessment report.

Lenny Gregrey stated that he felt that this is going to be the first and most important study that is going to effect Livingston and any procrastination would harm Livingston, approximately 250 residents, three (3) or four (4) Schools, County shops, etc. so the City needs to be aware of what needs to be done even though this is going to be very costly.

The Commission concurred with Ms. Dahl's motion.

A discussion was held to review MDT Directional Sign Proposal, and the costs for revising such signs.

Motion was made by Dahl, to post-pone the discussion of the MDT Directional Signs Proposal to talk to the State and MDT in order to see what they may have in their Warehouse and see if the City could bring the costs down. Ms. Dahl stated that she knows that the City didn't budget for this and would like to get the price down.

Michelle Lee mentioned that she still would like to see this project get done this year and doesn't want this to get behind the schedule.

The Commission asked Mr. Golnar if he would contact MDT and ask them if they might have, or know of any City in the State that might have any materials that the City could use in order to get the cost down for the directional signs.

A discussion was held of the order of the follow-up work with Moore, O'Connell, and Refling on preservation of historic water rights not to exceed \$6,500.00.

Bob Ebinger asked if it was more expensive to use these water rights than what we use now.

Sheryl Dahl stated that this is to get the plans started for protecting the water rights that the City currently has.

Steve Golnar stated that the City is diverting water from the Yellowstone River through the Lagoon and Fleshman Creek in order to use the City's water rights at present.

Motion was made by Dahl, second by Lee, to order follow-up work with Moore, O'Connell and Refling on preservation of City's historical water rights not to exceed \$6,500.00 and not to be done until January 2004.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to authorize expenditure of \$1,518.00 for Building Inspector travel and training to attend training for the "Master Code Official" certification. Steve Golnar stated that this was received after the bills and claims were in the system and that Duncan Edwards is going to class on December 1, 2003 and needs the money to reimburse him.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Sheryl Dahl asked about the Statue location in Sacajawea Park and asked for clarification.

Steve Golnar stated that the Depot Center decided that they did not wish to have the statue by the Depot. So the Lewis & Clark Committee is asking for a location and the City Commission had identified in the past that they thought that the Triangular location in Sacajawea Park where the War Memorial and Flag Pole are located would be a good space.

Bob Ebinger stated that he was at the Lewis & Clark Committee meeting when they had the discussion for the location of the Sacajawea Statute and he stated that the statue combined with the War Memorial and the Flag Pole would not fit together. They would need to have something moved and that is not the intention of the Committee to remove anything. The Bicentennial Committee feels very strongly about not removing the War Memorial. Steve Golnar asked then if there was another location that the Lewis & Clark

Committee suggested would be a good location for the statue. Bob Ebinger stated that the Lewis & Clark Committee suggested somewhere behind the Bandshell over near the River. Vicki Blakeman stated that the statue is a horse drinking water with Sacajawea and her son so the Committee would like to put the statue in the water. Ms. Blakeman stated that this would be a nice area for this statue and the City Commission concurred. Bob Ebinger also stated that the Commission didn't need to pursue the statue being located in the triangular location in Sacajawea Park any further.

The Commission made comments that they would like to have Staff review this area and confirm with the Commission at the next meeting that the area behind the Bandshell would be an appropriate place for the statue.

- Lenny Gregrey stated under Correspondence 3, F the word anonymous was spelled incorrectly and asked to have it changed.
- Lenny Gregrey also stated that under the calendar on November 12, 2003 at 10:00 a.m. is an Ambulance Committee meeting and at 2:00 p.m. is a Section 205 Study meeting that are not listed.
- Lenny Gregrey mentioned that on page 174 in the packet referring to the View Vista Drive from Main to Mayor's Landing service plan the word allot needs to be changed to a lot to read: This street needs a lot of work. Also Mr. Gregrey mentioned that under the Benefits section of this plan the last sentence of paragraph two (2) to change there to their to read: This would be a major impact to their livelihood.
- Sheryl Dahl commented under Correspondence 3, E that she would like to see the City pursue the "Preserve America Communities" 2003 / 2004 application. This application is for the designation of recognizing communities that protect and celebrate their heritage, use their historic assets for economic development and community revitalization, and encourage people to experience and appreciate local historic resources through education and heritage tourism programs. Bob Ebinger agreed with Ms. Dahl. Bob Ebinger also stated that Mr. Legge is really working hard for the City to pursue the historic development of the City.
- Sheryl Dahl also mentioned that under personnel related correspondence that it is really nice to get feed back relating to personnel that have been given a thank you for a job well done.
- Bob Ebinger commented on the anonymous letter from a concern citizen relating to the Infrastructure Project from 3rd to 5th between Callender and Park Street. He stated that numerous people were upset about it and that there needs to be something said about this project taking so long to be constructed. He felt that it was appalling and that it needs to be addressed with the Contractors that this is not acceptable of the City.

Lenny Gregrey commented that he felt that this could have been avoided had the City paid closer attention to the number of people working on that job and making sure that it was moving along at a faster pace. There has to be someone on this site supervising the projects that you cannot depend on the contractors keeping to the schedule.

Steve Golnar stated that the City does supervise the construction of projects but that one of the limitations that the City has is that they cannot directly "supervise" contractors or certain liabilities may arise. The City identifies the number of days that the project should take and when liquidated damages go into effect. Mr. Golnar stated that the City could look at tightening-up the contract language of their liquidated damage clause for future years.

Bob Ebinger also mentioned that he agreed with Mr. Anonymous that there were days that nothing was going on and then there were days that little was going on and up to the very end where there were worries that the City was going to get bad weather then that's when the construction began and happened within ten (10) days.

The City Commission would like to have Mr. Golnar follow-up on this and have him relay to the City Commission what the outcome is relating to the closeout of this project.

- Bob Ebinger asked about the bid for the Old East Side School. He wondered if it should go back out for bid and that he would like to pursue this in the respect that an individual who may be interested has contacted him. Steve Golnar stated that the City might look at a different way to pursue the re-advertisement of the Old East Side School without all of the cost. The City has a list of individuals who were interested and their e-mail's and addresses. His suggestion was to just advertise the bid in the Livingston Enterprise and send to the formerly interested parties and look at revising the specifications which might make it more attractive to those who may still be interested.

Vicki Blakeman asked if the City could write the interested parties a letter.

Steve Golnar could contact those interested parties and let them know what the situation is.

Commissioner Lee Comments:

- She stated that she wished to reintroduce her comments that she made earlier about the technology analysis and see if the City can

direct Steve to talk to Rockin Micro and see if they would like to do this analysis for the City coordinating this with Staff.

- She also mentioned the citizen looking at a proposed Lighting Ordinance would like to be scheduled on the December 1, 2003 City Commission meeting under Scheduled Public Comments and will provide information before the meeting. Bruce Becker asked if they were going to have a proposed Ordinance. Ms. Lee stated that the group did find an Ordinance from Idaho that was more explicit and Ms. Lee will provide this to Bruce before the meeting. Vicki Blakeman asked that she would like to hear from these concerned citizens first and then decide whether to pursue with an Ordinance.

Commissioner Ebinger Comments:

- He asked how to interpret Park County Attorney, Tara DePuy's, letter relating to annexation of County roads by City that was provided to the City Commission and Staff at the meeting. Bruce Becker directed the Commission to read the last two lines of the letter which read: "Based on the lack of contrary authority and the above case synopsis, it is my opinion that Park County followed the proper procedure in requesting the City of Livingston to annex County roads."

Commissioner Dahl Comments:

- She asked about system development fees specifically in the Northern Lights Subdivision Phase II & Phase III if there was a way under Montana Code to assess system development fees for the future overpass that will be needed in Livingston, Montana. To her understanding the system development fees are for how they impact the Infrastructure. Her concern is when the Northern Lights Subdivision Phase II & III is started it will impact the west side considerably. She wondered if the City could look into what areas would fees be assessed to on the west side to support a railroad crossing. Steve Golnar commented that this has been discussed before and that there is a potential of doing some sort of an assessment. He feels that the City would probably have to go broader than just new development with the assessment in order to be fair and equitable. Sheryl Dahl stated that the more houses that continue to get constructed on the west side of town then the more they will be impacted because the two (2) crossings are not working and then there will be three (3) crossings for the residents of that area to worry about. She asked if the City could use these funds for a feasibility study or for actual construction.

Mr. Golnar stated that the "system development fees" is a term of law which refers primarily to water and sewer systems and investments to fund their replacement or expansion. His understanding of Ms. Dahl's question was if off sight development

impact fees or something of that sort could be assessed of development which causes growth to help pay for improvements necessary to support growth.

- She asked again for the status of the thank you letter's that she requested at the last meeting still waiting to see those. Steve Golnar commented that a letter has been sent to the Boy Scouts and was sent directed from Eddie Miller, Parks & Recreational Foreman, and he will get a copy from him.
- She asked if Steve had heard from the Junior Woman's Club about "M" Street Park. Steve Golnar stated that no response has been received by him.
- She asked about the Green Acres proposed annexation. Is there going to be an Engineer hired for the Green Acres Homeowner's Association and the City and how this was going to be handled. Mr. Golnar stated that he is pursuing a time to get together with the Green Acres Association and has been in contact with Public Works Director, Clint Tinsley of this matter. He stated that he would provide the City Commission with information on how Staff plans to move forward with this issue. She suggested a possible Workshop be scheduled with the Green Acres Homeowner's Association in order to come to agreement on the City's proposed annexation plan for that area. Mr. Golnar stated that as of now, Staff is preparing a service plan for the Green Acres annexation.

Commissioner Gregrey had no comments.

Chairman, Blakeman Comments:

- She reminded everyone of the Urban Renewal Workshop being held on November 7, 2003 at 4:00 p.m. at the Yellowstone Inn. Cindi Fargo would like to have any questions that the City Commission may have concerning the Urban Renewal Plan by Wednesday, November 5, 2003.
- She mentioned that the City/County Task Force has asked her to speak at their Donut Area Visioning meeting and she wanted to ask the Commissioner's if they would provide her with comments of what they would like her to speak about relating to the City's vision at this meeting. She asked to have this information provided to her by November 7, 2003. The meeting is at 4:00 p.m. on November 19, 2003.
- She stated that she had received a phone call from a very concerned citizen talking about her taxes increasing over 18% this year and wanted to know why. Vicki told this lady that she would bring this up at the Commission meeting and do some research and get back to her.
- She wanted to know if the request for proposals for lease of the Water Works Treatment Plant was advertised yet. Steve Golnar stated that they will go out tomorrow, November 4, 2003 and that he would provide the Commission with copies.

- She commented about a letter from Netsy Durfey and her concern about the garbage collection at her residence and asked to have follow-up done by Staff.

Michelle Lee asked of the pending issues with MRL and stated that "B" Street and the Underpass wasn't included in the ideas of resolving the problems and also the pigeons problem wasn't included and asked to have them added to MRL's list.

No Public Comments were given.

Motion was made by Dahl, second by Lee, to adjourn the meeting there being no further business. Motion passed.

Bruce Becker made comment to remind everyone to VOTE tomorrow!

The time was 9:35 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
NOVEMBER 17, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, November 17, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Lee, second by Ebinger, to approve the consent items as follows:

- Approve November 3, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of November 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve Special Event request for the Christmas Stroll on December 12, 2003 sponsored by the Livingston Downtown Association and co-sponsored by the Livingston Chamber of Commerce.

Bob Ebinger asked about the claim for Brenntag West, Inc. for Ice Slicer of 32 tons and wanted to know what Ice Slicer was. Clint Tinsley stated that this is biodegradable material that the City combines with the sand that they spread on the streets at the Intersections during the snow season.

Bob Ebinger also asked about the claim for Invensy's Metering Systems for the Urban Design Framework. Steve Golnar stated that this was a typo that it should be described for software upgrade to the telemetry reading system for the water system.

Mr. Ebinger asked what the claim to Warmoth Enterprises for dust control oil was. Clint Tinsley stated the dust control oil is used on the streets that are too steep to asphalt over, in the coming year, for water run off.

Mr. Ebinger mentioned that it appears that the collections of the Livingston Fire/Ambulance claims are rising and that the City has collected 108% and the County 87% for the month. He asked if this was a chance occurrence, or if it was a reflection of improved collections. Mr. Golnar said it was more chance, a reflection of a significant amount of receivables and delayed collections.

Bob Ebinger asked about the Code Enforcement Monthly Report and wanted to know what the change of placement of garbage was due to. Clint Tinsley stated that when there are residents upset that their neighbors garbage cans

are placed by the resident property too close and so the City will move the cans for them.

Michelle Lee asked about the claim for Cellular One, Inc. for the pager service and wanted to know if the City could incorporate this into the cell phone system instead of having to continue to pay for both uses of the cell phones and the pagers. Mr. Mastin stated that this was cancelled last week and that it would not be in the claims any more.

Ms. Lee asked the claims for Rockin Micro of the computer maintenance and the computer replacement and what this was for. Mr. Mastin stated that the one claim for the computer replacement was for a computer in the main office of the Fire Department of their computer that crashed. Darren Raney stated that the claim for computer maintenance was the yearly computer maintenance contract for the sleuth software for the police department and dispatch that the City Commission approved at their last meeting.

Ms. Lee asked about the claim for Dr. Frank Seitz and what it was for. Mr. Golnar stated that this was for a personnel matter.

Vicki Blakeman asked about the claim for Insty-Prints for the Urban Design Framework and commented that she felt that it was pretty costly to have three (3) copies made for \$424.77. Pam Payovich, Recording Secretary, stated that there were 25 to 30 copies of colored prints in the book and that was why the cost was so high. Ms. Blakeman asked if this could be negotiated and Ms. Payovich replied by saying that these books were for the newly elected Commissioners and there would be no more copies made in the future.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

Brian Sparks, the Director of the Yellowstone Gateway Museum gave a presentation of the Downtown Business Association Calamity Jane Productions Committee 100 year celebration involving staged gunfights in the Summer 2004.

Mr. Sparks asked if the Commission would have an official Resolution written up in supporting the work of Calamity Jane in the community that involves doing several street gunfights with professionally phased gunfighters and that this would involve City Police, Fire and the Utility Department to help for security and blocking off the streets in order to support the Downtown Business Association for this event. Mr. Sparks stated that what the Downtown Business Association is asking for is the support from the City for up-front costs relating to getting this project started so that it will be self-supporting for the gunfighters and asked about the possibility of writing a grant through Montana Travel that would result in Calamity Jane touring the

Country by Roger Neal Productions out of California in commemoration of the 100 year celebration of the death of Calamity Jane. Calamity Jane would travel around the country and appear on shows such as Jay Leno, Letterman, the "Today" Show, People Magazine, etc. and of that talking about Livingston being the home of Calamity Jane there would be a tremendous amount of exposure in drawing people to Livingston for the tourist season. Mr. Sparks provided the Commission a packet with detailed financial information relating to the proposal of the Calamity Jane shows during the summer months of 2004. He mentioned that Myron Kovash, owner of the Clarks Crossing, has stepped forward to support Calamity Jane in the respect of putting the money up front in order for Calamity to get started in performing in Livingston. These performances will be in the basement of Clark's Crossing which they will be remodeling. Calamity will also perform occasionally at the Fairgrounds and weekly presentation at the Museum without any funds but Mr. Sparks is asking for support in order to pay the gunfighters for matching funds for the grant. Calamity will put on two (2) drama shows during the day and they will be her sole income, which will be one at the Clark's Crossing and the other one hopefully at a downtown Business which will be identified at a later date.

Steve Golnar asked how much of a grant they were seeking for support and how soon would they need it.

Brian Sparks stated that the grant application has to be in by December 1, 2003 and the grant amount is \$50,000.00. Their need is for two (2) payments of \$10,000.00 each one due January 1, 2004 and the other due February 1, 2004 in order to accomplish their efforts of getting support for Calamity Jane to be at Livingston, Montana for her 100 year celebration. Their request is for upfront costs for posters of \$3,000.00, \$20,000 of potential loans as their money will be returned if the grant application is successful.

To conclude Mr. Sparks stated that the benefits of these performances would be for the motels, taverns, restaurants, downtown businesses, etc. Calamity Jane during her performances usually has had around 300 to 400 people showing up during her past efforts. He also mentioned that Calamity Jane has made a four (4) year commitment for performances at Clarks' Crossing in Livingston.

Michelle Lee asked if the organization had received their letter of support of the business grant application for this event.

Brian Sparks stated that they have not requested this yet as fund raising would be starting this week.

Steve Golnar suggested that a Resolution of support be drafted for the next City Commission meeting relating to Calamity Jane's coming to the City of Livingston with her gun-fighting performances.

Public Hearings:

A public hearing was held for Ordinance No. 1929 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, DELETING SECTION 10 ENTITLED ABUTTING OWNER TO KEEP SIDEWALK CLEAN AND SAFE OF CHAPTER 14 – HEALTH AND SANITATION, AND ENACTING A NEW SECTION IN CHAPTER 26 – STREETS AND SIDEWALKS BY ESTABLISHING A CIVIL OFFENSE FOR FAILURE TO REMOVE ICE, SLUSH AND SNOW AND ESTABLISHING A CIVIL PENALTY FOR VIOLATION.** This was the second reading relating to Ordinance No. 1929.

Herb Beadle of 79 Merrill Lane also property owner of 1203 and 1205 West Crawford Street asked if this Ordinance was for the removal of snow after the first snow fall or keeping sidewalks clear of snow. Vicki Blakeman stated that it is after a snowfall. Mr. Beadle asked if after the wind and drifting snow then what would be the rules. Bruce Becker stated that the Ordinance's intent is to keep the sidewalks clear of snow.

Lenny Gregrey commented that he lives on Crawford and 9th Street and does not have any problem keeping his sidewalk clear of snow and has to continue keeping it clear of snow even if the wind blows and drifts the snow.

Mr. Beadle commented that he felt that the Ordinance was poorly worded as it says first snowfall and that this would put a burden on senior citizens or disabled people not being able to shovel their sidewalks he stated that they would have to hire someone to do this for them.

Bob Ebinger commented that at the last City Commission meeting it was the concurrence of the City Commission that they had a problem with citing people for the first time offenders and would like to have a warning issued individuals were cited. Also they wanted to have a public campaign in order to make this ticketing policy known to people before the City Commission would initiate this action. He also stated that this is not a new City Code just the act of it being implemented is proposed to be changed.

Bruce Becker stated that the current Commission of this offense is a criminal offense and that the City Commission is proposing to change it to a civil offense.

Mr. Ebinger stated relating to the concerns about senior citizens and disabled people, that the City is looking into the possibility of programs involving volunteers to help them, and that the City has no intention of citing those people based on their disability.

Sheryl Dahl stated that the City Commission asked City Staff to have an administrative program that would work with this Ordinance that would work with the whole community. She also mentioned that as for the \$300.00 fine

the Ordinance states that this amount is the maximum fine not initially the amount cited.

Steve Golnar stated that his suggestion was for the Commission to take no action on the second reading of this Ordinance No. 1929 so that City Staff would have time to initiate a publicity campaign to encourage neighbors to assist those that are not able to clean their sidewalks and to develop supplementary support for when necessary. Mr. Golnar also stated that once the administrative process is developed by City Staff it will be easier to move forward with a sidewalk cleaning enforcement code. He stated that Staff will try to address in their administrative plan a method to reduce the impact on elderly and disabled people. His suggestion was to bring this back with the City Staffs administrative rules and after a support system is developed in order to better fulfill the goal of keeping sidewalks clean and knowing what our resources are in March 2004.

Bob Ebinger stated that it is important to have the residents of the City be known of this Ordinance and what the City Staff wants to initiate before proposing it as a law and he asked if it could be brought back to the City Commission's review before March 2004.

The City Commission asked for the review of City Staff's administrative rules report to be established and brought back by the end of January 2004 or sooner.

Motion was made by Dahl, second by Ebinger, to post-poned Ordinance No. 1929 until the last meeting in January 2004.

All in favor, Motion passed.

A public hearing was held for Ordinance No. 1930 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 3-.13 ENTITLED OFFICIAL ZONING MAP OF CHAPTER 30 ZONING OF THE LIVINGSTON MUNICIPAL CODE BY CHANGING THE ZONING DESIGNATION FOR LOT 21, LOT 22 AND THE WEST 60 FEET OF LOTS 29 THROUGH 32 OF BLOCK 28 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON FROM MEDIUM DENSITY RESIDENTIAL (RII) TO HIGH DENSITY RESIDENTIAL (RIII).** This was the second reading relating to this Ordinance No. 1930.

Lenny Gregrey commented that he received a phone call from Tara Eddy who lives on South 9th Street by the Water Plant and she was concerned about the RIII designation three (3) story building.

Bob Ebinger stated that he also had received a phone call from Tara Eddy concerned about the (hospital RIII) zone change in a residential area and had many concerns similar to those the Commission had at the last meeting and she suggested a conditional office use and to leave it a RII zoning.

Mr. Ebinger commented that he has a brother in Los Angeles that stated to him that they have a "q - condition" that they attach to any zone which would qualify the concerns of the Commission and the residents of the City. This would enable the City to not change the zoning every time a circumstance like this is presented to the Commission. He suggested that the City adopt qualified conditions for these types of requests, if the State of Montana would allow the City to do this.

Lenny Gregrey stated that he saw Mr. Sam Pleshar from the Livingston Health Care Center in the audience and was wondering if he would like to elucidate on some of the Commissions concerns regarding the use of the building or whether or not it would expand to three (3) stories.

Bob Ebinger stated that he did feel that there wasn't any question for Mr. Pleshar on his proposal of the use of the building as he requested. Mr. Ebinger commented that he felt that putting a RIII zoning building amidst a RII Residential Zoning area was spot zoning. He felt that there are better ways of allowing the Hospital to change the zoning then as requested and stated that no one on the Commission is against the Hospital using this building as administrative offices.

Mr. Pleshar stated that this was a short-term request and that they have no intention of making the building three (3) stories high.

Mr. Ebinger commented that he felt that the Hospital didn't need to be held up in building these offices for administrative use for the Hospital but wanted to have a "q - condition" put on the Ordinance before passing.

Sheryl Dahl stated to Bob if he wanted to put conditions on this Ordinance then the City Commission would have to deny the Ordinance tonight and come back with new proposals at the next meeting.

Ms. Dahl stated that she was not against the Hospital using the offices for administrative use but what she was concerned about was if the Hospital were to sell the property then a RIII residential would be in the midst of a RII zoning area.

Michelle Lee stated that she was not comfortable in voting for this tonight in its current form.

Motion was made by Gregrey, second by Blakeman, to approve Ordinance No. 1930 as written.

2 in favor; Gregrey and Blakeman, 3 opposed; Dahl, Ebinger and Lee, Motion denied.

Sheryl Dahl asked if by next meeting something on the books to allow for special exceptions could be placed and that she knew that the request was

not allowed of RII zoning but asked if there was anything that could be looked at.

Steve Golnar stated that later on the agenda is an action item to consider drafting a proposed Ordinance defining RMU "Residential Mixed Use" Zoning classifications. This would be required to be proposed to the Zoning Board. The Zoning Board meets on December 17, 2003 and this would need to be put on their agenda. The City Commission would need to have two (2) readings in January before it would be able to become an Ordinance. The Ordinance would not have the force of later until effect thirty (30) after the passage. This would put the Ordinance in effect at the end of February.

Sheryl Dahl asked if this was the case of a special exception.

Bruce Becker stated that the City Commission would still need to go through the proper process of passing the Ordinance.

Michelle Lee stated that at the last meeting she asked about the possibility of using the severability clause to condition this Ordinance and this would not deny or require any changes in RII and RIII and asked if the City Attorney had investigated this at all.

*Lenny -
Please take
heed of
Ordinance.*

Bruce Becker stated that what Ms. Lee is proposing is to modify the Ordinance in its form and at that time the City Commission could have done that but this is not what the severability clause's purpose is of an Ordinance. The purpose of a severability clause is after you pass an Ordinance if a court doesn't like a part of the Ordinance the rest of the Ordinance stays in effect and only that portion of the Ordinance would be changed.

Michelle Lee stated that the question of this request of the zone change is the height and issues involving that. She asked if that is found to be a manner of an inaccurate action on the part of the Commission, a court of law, then the rest of the Ordinance would still have it's RIII section and the use of the building.

Sheryl Dahl asked it would be possible for the City Attorney to research this and get back to the City Commission. Ms. Dahl also commented that she would like to see the Hospital become a conductive business and asked if there was a way that the City Attorney could look into this request.

Bruce Becker stated that the Commission would be violating their own zone code.

Michelle Lee asked if you could amend a conditional exception.

Bruce Becker stated that the Commission still needs to follow a procedure to do this. The City has a RII and a RIII zone code and if the City Commission wants to modify the codes then they need to go through the proper process.

Sheryl Dahl concluded by stating that she didn't want RIII in this area but she would like to work with the Hospital and asked the City Attorney to look into all alternatives if in fact a conditional exception could be attached. Bruce Becker stated that he would get back to the Commission at the next meeting.

Lenny Gregrey asked the City Attorney, "now that the City Commission has denied this applicant of his request for a zone change, it is his understanding that the applicant has to wait a year before he can request another zone change"?

Bruce Becker stated, "yes" you are correct in that the applicant could not request the change of a zone code but the City Commission could amend the Ordinance.

Michelle Lee stated that with parliamentary procedure the City Commission still has the ability to reconsider and see if there is some action for a temporary use.

Vicki Blakeman asked Jim Woodhull, City Planner, if there was anything in the Montana Statutes about the qualifiers that Mr. Ebinger was talking about.

Jim Woodhull stated that the City's Zoning Code doesn't recognize a special exception process in the way that Ms. Dahl is asking. In RII there are certain uses that are special exceptions and RIII also has special exceptions but they are not the same as RII. Mr. Woodhull also commented that he didn't know how to modify a zone change request without modifying the zoning codes.

Bruce Becker commented that in his training and practice he had no recollection of a zone change being able to be done the way the Commission was asking. The only way would be to change the City's Zoning Ordinance and that requires a process.

A public hearing was held for Ordinance No. 1931 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTOIN 13.19 ENTITLED WATER SERVICE LINE AND SECTION 13-19.1 ENTITLED WATER SYSTEM DEVELOPMENT FEE OF CHAPTER 13 WATER REQUIRING THE TAPPING PERMIT AND WATER SYSTEM DEVELOPMENT FEE TO BE PAID AT THE SAME TIME OR BEFORE OBTAINING A BUILDING PERMIT AND DELETING REFERENCE TO UNIFORM PLUMBING CODE. This was the second reading relating to this Ordinance No. 1931.

No public comments were given.

Motion was made by Ebinger, second by Dahl, to approve Ordinance No. 1931.

All in favor, Motion passed.

A continued public hearing was held for Resolution No. 3442 - A **RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING VIEW VISTA ROAD FROM ITS INTERSECTION WITH MAIN STREET TO MAYOR'S LANDING AND THAT PORTION OF "H" STREET BETWEEN THE CITY'S CORPORATION LIMITS AND ITS INTERSECTION WITH VIEW VISTA ROAD.** This was a continued public hearing of Resolution No. 3442 pending a decision from County Attorney, Tara Depuy, relating to if proper notice for the annexation of County Roads was given. Ms. Depuy's decision was the County followed the proper procedure in requesting the City of Livingston to annex County Roads.

No public comments were given.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3442. Sheryl Dahl asked Mr. Golnar as to what he found out this afternoon relating to a possible letter on future annexation.

Mr. Golnar stated that Ms. Dahl had asked him to write a letter to Mr. Barnhart relating to the Resolution proposed it is for the purpose of annexing the roads only and the City does not intend on annexing Barnhart's property in the short-term. Upon the advice of the City Attorney Mr. Golnar was discouraged from writing a letter in making this kind of statement. Steve Golnar commented that there are certain instances that Public Works Director, Clint Tinsley, identified in his service plan comments that the City might want to annex this particular property in a case where the Fairgrounds seeks sewer service from the City or if the property was subdivided in separate lots needing more services and utilities. The cost of extending the City services would exceed the benefit to the City and Mr. Golnar does not recommend annexation of Mr. Barnhart's property at present.

Ms. Dahl also asked about the removal of snow for maintenance of these roads. Steve Golnar commented that the egress and ingress are the concerns along the street. The City would maintain the Street and the property owner would deal with clearing of the snow on their property. An actual survey of the property would not be done unless the City proposed a pedestrian and bike trail in conjunction with the road then the City would need to insure that they had property and right-of-way in order to do so.

The City will maintain the road if the road is annexed.

Bob Ebinger asked if the City does annex these roads if in fact it would circle S-S property which he understands then they could request annexation.

Clint Tinsley stated that S-S is circled currently and has City sewer and City water so the only other benefit would be garbage. If S-S would want to have streets and curbs and gutters then they would have to request this of the

City themselves.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3455 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING APPROPRIATIONS FOR GENERAL FUND FIRE #1000141 BY \$10,978.45 AND FOR AMBULANCE FUND #5510.142 IN THE AMOUNT OF \$4,300.00 AND TRANSFERRING THE BALANCE OF UNANTICIPATED REVENUE REIMBURSE LINE ITEMS DUE TO ROUGH DRAW FIRE AS SET FORTH IN EXHIBIT "A".**

No public comments were given.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3455.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3456 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY TRANSFERRING FUNDS FROM GENERAL FUND ACCOUNTY #1000 IN THE AMOUNT OF \$4,312.91 TO AMBULANCE FUND #5510.**

No public comments were given.

Motion was mad by Lee, second by Ebinger, to approve Resolution No. 3456.

All in favor, Motion passed.

Resolutions:

On the agenda was Resolution No. 3445 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSULTANT SERVICES AGREEMENT WITH OLSEN ARCHITECTURE FOR THE DEPOT CENTER RESTORATION PROJECT NOT TO EXCEED \$62,500.00.**

This Resolution was post-poned until the next meeting in order to finalize negotiations between the Depot and Olsen Architecture's.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3457 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2002-2003 BY INCREASING APPROPRIATIONS FOR LIGHT MAINTENANCE DISTRICT FUND #2400 IN THE AMOUNT OF \$13,300.00 AND CALLING FOR A PUBLIC HEARING.**

Lenny Gregrey asked what account in the budget did the \$13,300.00 figure come from. Steve Golnar stated that this would come out of reserves. This

shows up as a negative in the Street Lighting fund and would be covered from a transfer from another fund which could be General Fund or another fund or carried forward with a negative balance until it is paid off by the street lighting maintenance district.

Shirley Ewan stated that as of now the street lighting maintenance district has a negative balance and she will charge this account interest according to how much the City draws from the checking account for that amount of money and then when the street lighting maintenance district account does not have a negative balance then she will move the cash interest into the General Fund and leave it at a negative balance until the end of the year. If the account has a negative balance then the street lighting would have to borrow money.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3458 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH HEALTHēWEB INC. (HeW) TO PROVIDE HIPPA COMPLIANT SOFTWARE TO TRANSMIT HEALTH CARE DATA FOR LIVINGSTON FIRE AND AMBULANCE AND BUSINESS ASSOCIATE AGREEMENT.** The City Commission asked it as to how much this software will cost. Mr. Golnar stated that it would be \$15.00 per month.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3459 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ELECTRONIC DATA INTERCHANGE (EDI) ENROLLMENT FORM WITH AGREEMENT CNETERS FOR MEDICARE AND MEDICAID SERVICES AND ITS CONTRACTORS, BLUE CROSS/BLUE SHIELD OF MONTANA.**

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3460 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DECLARE THAT A BLIGHTED AREA IN NEED OF REDEVELOPMENT AND REHABILITATION EXISTS WITHIN THE CITY OF LIVINGSTON, MONTANA, TO DETERMINE THE BOUNDARIES OF THE BLIGHTED AREA AND TO ADOPT A RESOLUTION OF NECESSITY.** Jeff Badenock from Missoula was available by phone to answer any questions relating to this Resolution and the general topic of urban renewal in Montana. Also present was Cindi Fargo, Executive Director of the Alliance Development Corporation, for any questions or concerned to be answered. Steve Golnar commented that the documents provided to the Commission and Staff were the Urban Renewal Study and the Urban Renewal Plan. The document that

the Commissioners need to adopt relating to the Resolution was the Urban Renewal Study.

All in favor, Motion passed.

A short break was taken at 9:30 p.m.

The meeting went back into session at 9:36 p.m.

Motion was made by Dahl, second by Lee, to reconsider Ordinance No. 1930 relating to amending section 30.13 entitled official zoning map of chapter 30 zoning of the Livingston Municipal code by changing the zoning designation for Lot 21, Lot 22 and the west 60 feet of Lots 29 through 32 of Block 28 of the Park Addition to the City of Livingston from Medium Density Residential (RII) to High Density Residential (RIII).

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to amend Ordinance No. 1930 and add in Section 1 to add a sentence to the effect: "the RIII is hereby conditioned not to exceed the height of 27'."

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to approve Ordinance No. 1930 as amended.

All in favor, Motion passed.

Action Items:

A discussion was held to consider authorizing the City Manager to sign a letter of intent to participate in cost share with the Corps of Engineers for a Section 205 Study to perform a more thorough and detailed analysis of the flood problem and solutions for the Yellowstone River at Livingston, Montana.

Steve Golnar stated that he will provide the City Commission separately with the minutes from the Section 205 meeting on November 12, 2003 and he briefly summarized what occurred. Mr. Golnar did mention that the Corp of Engineers indicated to him that they would provide a detailed budget of what the Section 205 would include by November 21, 2003. Steve also stated that he understood why the Commission would not feel comfortable authorizing him to sign the letter of intent until the Corp of Engineers provided him with the detailed budget for the Section 205. He concluded by stating that the letter of intent doesn't tie the City to participating financially it just basically initiates the process and identifies to the Corps of Engineers the City is going be the lead agency.

Sheryl Dahl wanted to know if the money in this cost sharing would come out of this year's budget or next year's budget.

Steve Golnar stated that the City would need to make payments for a year at a time which would be with the federal fiscal year which ends in October. The expectation is that the City and partners would come up with the matching share for any money spent in that year. He will provide more information at the next City Commission after the Corp of Engineers provides him with the detailed budget.

Motion was made by Lee, second by Dahl, to approve the Staff's recommendation for the Sacajawea Statue to be located in the Park area near River Drive behind the Bandshell. This would allow for the statue to be located in the Sacajawea Park area and there is ample room to allow for placement and access to the statue. Lenny Gregrey requested to Bob Ebinger because he is on the committee for this statue to be sure that the statue can be moved if it needs to be at a later date. Bob Ebinger stated that it could be moved at any time if necessary.

All in favor, Motion passed.

Motion was made by Lee, second by Dahl, to direct the Planning Board to draft a proposed Ordinance defining RMU "Residential Mixed Use" Zoning classification and "q - condition" (special exceptions) application. Sheryl Dahl stated that she noticed that there was no mention of height in this proposed draft. Jim Woodhull stated that the yard requirements would include height. Steve Golnar asked that Bob Ebinger provide him with his research so that Staff can get the idea of what "q - condition" means in order to reflect the Commission's desires.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to direct City Attorney to prepare a Resolution amending City Personnel Policy to revise definition of immediate family to include "grandparents".

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to authorize adding Alliance Development Corporation Executive Director to City of Livingston Health Insurance Pool with the understanding that the ADC and Director will pay the actual cost of coverage.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Lenny Gregrey asked about the flood plain variance not valid due to conflicts with Intentional Residential Code adopted by the City stated

in the Correspondence/Status Reports. He commented that he had brought this up at the meeting on November 12, 2003 when the Federal and State people were present and he understood that we are operating under the old situation and the property in question is in a "flood plain" not a "flood way" and until it is designated a flood way then we can still give a building permit out as requested.

Jim Woodhull stated that Mr. Gregrey was correct in that the current flood plain that is in force in Livingston was established in 1987 there is not a flood way officially designated by FEMA at this time. There is no building being built because of flood regulations. The variances that were issued prior to the City adopting the International Building Code is where the conflict is as the International Building Code has in it stipulations of flood plain and our previous building code did not.

Steve Golnar stated that he would follow up on this issue as the difference of a flood plain to a flood way and the old maps and the new maps.

- Michelle Lee asked under the project status that she did see the Interstate signs mentioned there and wanted to know the status of the signs. Steve Golnar stated that he will bring back the cheapest prices that he can develop from the State and will provide at the next meeting.
- Ms. Lee asked about the technology plan and what the status is with this issue and requested this of City to consolidate all of the technologies relating to computers, cell phones, internet, pagers, etc. by the end of March 2004.
- Bob Ebinger commented on the status of the project for the Railroad Bed Conversion Concept and stated that he was glad to see someone else interested on working on the possibility of converting the Old Railroad Track into a Bike and Pedestrian Trail from Livingston to Gardiner and would like to encourage the City to support her.

Lenny Gregrey commented that when the railroad abandoned the track the property owner's near the tracks took possession of the tracks so if this person wants to pursue this Bike and Pedestrian Trail she will have to coordinate with these property owners.

- Bob Ebinger also mentioned Calendar of Activities and Events on November 19, 2003 the Visioning Workshop for the donut area planning is at 6:30 p.m. not 4:00 p.m.

Vicki Blakeman mentioned that there would be a conflict with the Commission Orientation Workshop on that day because it was scheduled to be at 5:00 p.m. and Steve Golnar stated that this was just a suggested date that he needs to get in five (5) sessions for the new Commissioner's and suggested either November 20, 2003 or

November 24, 2003 for the tour during the day and the workshop's in the evening.

Sheryl Dahl commented that she felt that a list of Committee's should be provided as soon as possible as far as where they meet and when so that the new Commissioner's can think about what committee's they would like to be on.

- Sheryl Dahl thanked Steve for getting the thank you letter's done that she requested at the last meeting. She would still like to see a Tony Hawk thank you letter done for the Skate Park Committee donations of items for the Skate Park Committee fund raising events.
- Ms. Dahl asked if the Green Acres Subdivision meeting on annexation for November 18, 2003 was post-poned until further notice. Steve Golnar stated, "yes" until their Attorney can coordinate a convenient date with the City. Sheryl Dahl commented that she would like to see this meeting happen soon so there is enough time to discuss issues and concerns in order for the Commission to act on the proposal for annexation of that area as a governing body.
- Vicki Blakeman asked about the Solid Waste Tonnage charts that there were actually two charts and if they were the same. Steve Golnar stated that "yes" that one of them was in color.

Commissioner Gregrey Comments:

- He stated that he had received a phone call from Mr. Jack Bauer on Robin Lane and Mr. Bauer asked him how does he report a street light on his street that is out. Mr. Gregrey told Mr. Bauer that he needs to contact the Public Works office. Mr. Bauer called Mr. Gregrey back a few days later and told him that the street light was still out and Mr. Bauer stated that he had called the Public Works office and Northwestern Energy and Mr. Gregrey asked how to resolve this problem.

Clint Tinsley stated that the Public Works office keeps a list of lights that are not working in the City and they call Northwestern Energy to come and fix them every month and to his knowledge none of the lights have been fixed for approximately the last three (3) months.

- He also stated that Tara Eddy had called him about the zone change and she mentioned concern about RIII designation on the zone change for the hospital and also mentioned the Water Treatment Building lease proposal that the City still have use of the grounds and the exterior of the building not to be changed and the number of vehicles to be able to be parked in that area stays to a minimum.

Commissioner Dahl Comments:

- She asked as to why the Commission has not seen any action on S-S annexation.

Steve Golnar stated that he was requested to hold back on this from the Urban Renewal Committee because pursuing that area's annexation could be problematic in coordination with pursuing the development of the Urban Renewal District.

Sheryl asked so when this area is annexed will the entire tax base go into the Tax Increment District.

Steve Golnar stated "no" that the base level, the taxable value of the property would continue if annexed and would go to the City, County, School District and the State but anything above that base taxable value if their property grows, constitutes the "tax increment". The tax revenues from the increased taxable value of the property go to the tax increment district.

- She wanted to know what the status was on the car in front of PrintingForLess.com and wants to make sure something happens. Darren Raney stated that there isn't really anything that the City can do. The car is legally parked and the tags do not expire until the end of May.
- She asked Jim Mastin about the lettering of the Fire Department Suburban and Mr. Mastin stated that the labeling has been ordered.

Commissioner Ebinger Comments:

- He asked about the S-S annexation cost to the residents would be. Steve Golnar stated that it would be a cost to the owner and that would be the owner's decision if they wished to pass the expense on to the residents.
- He mentioned that he will be out of town next week.
- He stated the he had also talked to Tara Eddy and he did state to her that the City would probably lease the Water Works building to someone with very little impact for parking vehicles and that it would not negatively effect the residential uses adjacent to the end of the Park.
- He mentioned that the Old East Side School sure looks nice and that everyone has cleaned this building up effectively. Mr. Ebinger also stated that the alarm in the building is making a strange noise and would like to have this checked into for fire hazard reasons and commented that there is a window broken in the building. Shirley Ewan stated that she had that window fixed and the following day it was broken again. Mr. Ebinger also asked that the building be locked securely that there is evidence that people have been in there writing statement on the boards.
- He mentioned that he had received a possible request from someone from BBC that might want to use the Old East Side School

Gym

for a film producing project for two (2) weeks and wanted to note that he would not advise this but possibly on a longer term basis.

Commissioner Lee Comments:

- She requested there to be a phone call to Mr. Sam Pleshar on the reconsideration of the zoning change for the Hospital so that he is aware of the all of the developments.
- She thanked those that have put a lot of effort into the Urban Design Plan but she was concerned that there would be some people that would not find out about it and would like to see prior to the public hearing on December 1, 2003 if residents of the blighted area could be made aware of by letter of the public hearing.
- Ms. Lee announced proudly that she was engaged.

Chairman, Blakeman had no comments.

No Public Comments were given.

Bruce Becker mentioned that he would be absent for the next meeting in December.

Motion was made by Dahl, second by Lee, to adjourn the meeting there being no further business. Motion passed.

The time was 10:20 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
DECEMBER 1, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, December 1, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey, Michelle Lee and Bob Ebinger.

Staff members present were Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich. Bruce Becker was absent.

Motion was made by Dahl, second by Ebinger, to approve the consent items as follows:

- Approve November 17, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of November 2003.
- Approve Request of Waiver for two (2) hour parking in the downtown area for the Christmas shopping season from December 15, 2003 through January 2, 2004.

Michelle Lee asked about the claim for TJ's Exxon and as to why the City was paying for fuel. Darren Raney stated that this was on a night shift on a weekend that the gas pump at the bulk plant was not work and that the owner was out of town and the officer needed fuel for the police car.

Michelle Lee also asked about the claim for Montana Edge printing for maps, layout and historic preservation walking tour. Bob Ebinger stated that this was paid for through those funds from the State obtained by the City Historic Preservation Office.

Bob Ebinger requested that on page 16 of the minutes that the word "Gym" be added to his comments about the Old East Side School for a film producing project so as to read: "He mentioned that he had received a possible request from someone from BBC that might want to use the Old East Side School Gym for a film producing project for two (2) weeks and wanted to note that he would not advise this, but suggested possibly on a longer term basis.

Bob Ebinger asked about the claim for Davis Business Machines for the copier maintenance and why it was so much. Shirley Ewan stated that this is figured by how many copies the machine does on an annual basis and the copies that the figure was derived from was over 246,000 copies for the amount to be \$4,439.92.

Bob Ebinger asked about the claim for the National Trust for Historic Magazine for the East Side School advertisement and if there was any problem being over 30 days. Pam Payovich stated that there had been no problem in correspondence with the National Trust for Historic Magazine of determining the amount to be paid with the discount.

Bob Ebinger commented that it might be a good idea to start a week early on the waiver of the 2 hour parking during the Christmas Shopping season and suggested to push it up to December 8, 2003 instead of December 15, 2003.

Motion was made by Bob, second by Dahl, to amend the consent items to move the 2 hour parking waiver up for the Christmas Shopping season to December 8, 2003 from December 15, 2003.

Lenny Gregrey made comments concerning the minutes on page 7 and 9 reference the zone change requested by the Livingston Hospital, the City Attorney advised the Commission that the Commission could not add language to the existing zoning designations without following the requirements of publishing a public hearing. A public hearing and two separate votes, and a 30 day waiting period before the change would take effect. This is due proves. The sentence that was added to the RIII designation is not legal. He understands that the Commission changed the zoning designation from RII to RIII and that the sentence put into the Ordinance relating to the height restriction of RIII would not apply, if challenged. He concluded by stating that he wishes the Commission in the future to take the City Attorney's advise.

All in favor of the amendment to the consent items, Motion passed.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

A proposed Lighting Ordinance was provided to the Commission from Michelle Lee, which she was asked by residents to propose to the Commission to develop a similar Lighting Ordinance for the City of Livingston.

Bob Raney of 212 South 6th Street spoke on his feelings of this Lighting Ordinance that was provided from the City of Hailey, Idaho. He stated that he would like to see an Ordinance such as this restricting lighting in neighbor's yards so that this would bring more awareness to night's skies. He commented that he was very much in agreement with the fact that the City agree to have a public hearing on this Lighting Ordinance so that the Commission can get a better feel for what the whole community feels towards this proposal of a Lighting Ordinance for the City. Mr. Raney also mentioned that with the large crowd present that the awareness of this issue would be directed to those who might provide their opinions of the nights

skies in the City of Livingston. He offered his assistance on working on this Ordinance in January with the City in order to move ahead with this Lighting Ordinance.

A scheduled public comment was given by Cindi Fargo, Executive Director of the Alliance Development Corporation in order to bring the Commission up to date on what the ADC was doing.

Ms. Fargo stated that the information that was given to the Commission is not the ADC's full report for the year that it was only for the last couple of months so that the Commission could see what direction the ADC is going and that the ADC will provide the City with their annual report in January as agreed upon.

A brochure was provided to the Commission for their review of projects and successes of ADC. Ms. Fargo indicated that the brochure outlined the importance of what the Alliance Development Corporation's function is as a vital resource outlining their current projects and how they work for clients in the community. Ms Fargo went on to say that the results anticipated by the Alliance Development Corporation's efforts is also provided on this brochure and the membership of the ADC is also included.

Ms. Fargo mentioned regarding the Urban Renewal Study & Plan that the Alliance Development Corporation has served an important role as a provider of technical support to the Citizen's Coordinating Committee in order for them to get the Urban Renewal Study & Plan adopted by the City. The ADC is continuing to work with the downtown business's to help address their needs as far as marketing and business expansion, etc.

Bob Ebinger asked if the Alliance Development Corporation was still a 501c(6) organization. Cindi Fargo stated, "yes" that they are still a 501c(6) organization.

Bob Ebinger also asked about the other groups such as the Council. Ms. Fargo stated that she has some new ideas for the Council that she would like to bring to their attention in the new year.

Lenny Gregrey stated that he had received a letter from Mr. Stephen Hughes and had spoken to him on the telephone and that he had some questions of this Urban Renewal Study and Plan and Mr. Gregrey suggested that he come to the meeting but saw that he was not present. Cindi Fargo commented that if Mr. Hughes would like to contact her office and she would be more than happy to answer his questions.

Public Hearings:

A continued public hearing was held for Resolution No. 3443 - A
**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,
ANNEXING CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING THE**

COUNTY ROAD WHICH CONNECTS GALLATIN STREET TO BENNETT STREET, BENNETT STREET TO ITS INTERSECTION WITH U.S. 10, GARNIER STREET FROM BENNETT STREET TO ARBOR DRIVE AND ALLSPAUGH STREET. This was a continued public hearing pending some issues in proposing these streets to be annexed by the City of Livingston.

Brad Shepard of 210 Elm Lane spoke against this proposal to annex the streets in the Green Acres Subdivision as to the way the City had proposed to annex the streets. Mr. Shepard quoted a letter from the Green Acres Homeowners' Association's Attorney, Joseph Sabol, which he provided to the Recording Secretary for the permanent record. In this letter some major points that Mr. Sabol stated were:

"My primary and overriding concern is that I believe good planning and orderly development dictates a comprehensive plan and that annexation is best not conducted in a piecemeal fashion. The annexation of streets as opposed to development areas or existing subdivisions is a unique approach. In this circumstance, I do not see that such a unique approach accomplishes any beneficial goal. I believe it would be better to consider the annexation of the subject streets in conjunction with the annexation of Green Acres Subdivision, which, as the City has indicated, is imminently on the horizon for consideration."

"I am concerned that the statutorily required plan for annexation, which mandates various specifics that must be addressed prior to annexation, has not been followed through on relative to the streets which are the subject of the December 1st hearing."

"Nearly everyone concerned and involved in this annexation process is aware that there is a pending Supreme Court decision regarding the annexation of properties, which could effect the annexation of the subject streets, and will most likely effect the annexation of proposed annexation of the Green Acres Subdivision. Because the City has not made known to the Association or me any urgency or immediacy in completing these annexations, it would seem prudent to err on the side of caution and annex these streets and consider the annexation of Green Acres after having the benefit of the Supreme Court's decision. This may afford the luxury of avoiding additional cost and expense, as well as avoiding wasted time by having to fine tune or redo all or portions of the annexation process by virtue of the Supreme Court's decision."

As quoted, Mr. Sabol's recommendation was to the Green Acres Association, and (the City Commission); added by Mr. Shepard, "To urge the Commissioners of Livingston to defer a decision relative to the annexation of the subject streets until such time as the Commission has had the benefit of considering the plan and future comments concerning the plan prepared by the City for the Green Acres annexation. In such fashion, the Commission will have the benefit of the right hand knowing what the left hand is doing."

Again, because no emergency or immediacy has been demonstrated which would necessitate the annexation of the subject streets at this time, it would seem most appropriate to consider the annexation of the subject streets in the near future when the annexation of Green Acres is also being discussed."

Mr. Shepard's opinion of annexation was that the streets should be annexed at the same time the subdivision would be annexed so that the Green Acres Homeowner's Association and the City of Livingston could enter into a contractual agreement for annexation. He asked the City Commission to do a complete packet instead of a piecemeal approach. He firmly believes that the Association should negotiate with the City regarding conditions under which the Green Acres Homeowner's Associate would support annexation. Services and annexation should go hand in hand. He hopes that the City and the Green Acres Association can come to a mutual agreement in the future.

Bob Ebinger mentioned that there is a workshop scheduled with the City and the Green Acres residents with their lawyers on December 11, 2003 at 6:00 p.m. in the Community Room of the City/County Complex.

Roberta Pugliano of 105 Elm Lane commented that she too was also opposed to the annexation of the streets in the Green Acres Subdivision and quoted a letter that she provided to the City Commission. In this letter she quoted: "her husband and her have previously submitted a letter protesting annexation of Gallatin, Garnier and Allspaugh Streets, but they did not carry their concerns far enough".

Ms. Pugliano went on to state, "The City has no utilities in these streets and there are no apparent plans for providing sewer and water to properties adjacent to these streets within the next five years. The only possible explanation for annexing 1.2 miles of rural streets is that the City desires to annex Green Acres Subdivision with its 106 lots and 81 homes. Since Green Acres is not contiguous to the City, the city limits have to be brought out to the subdivision."

Ms. Pugliano in her letter asked "what about the winter maintenance of these roads? There can be plenty of snow drifts; snow fencing and plowing are essential. School buses pick up our kids and emergency services are needed at times. Are these rural roads going to be plowed every morning when there is snow on the ground and the wind is blowing?" She concluded by stating "this annexation of the roads is a devious ploy to annex Green Acres." Ms. Pugliano had drawn a map showing the plans for annexation in the Green Acres area and stated that there are no plans to annex this area until five years from now.

Carlo Cieri of 107 Elm Lane commented on annexation of the streets and stated that he was against this proposal. He stated that he felt that if the City annexed the streets that the County still owns the streets. Steve Golnar

stated that the City would then own the streets, if they were annexed not the County and the City would control the right-of-way of the streets.

Mr. Cieri went on to say in annexing Green Acres he felt that the City wants to own the waterline and the City plans shows that the waterline goes down Miles Street, but the City is not annexing Miles Street and wondered how the City is going to loop the waterline if they are to follow their own plans. He stated that no one in the Green Acres area needs the annexation and how this came about was that Ms. LaDuke requested to hook into the Green Acres waterline.

Vicki Blakeman stated that there is a study that does take in the Montague Subdivision if in fact this is the property that Ms. Cieri is talking about between the City and Green Acres Subdivision and that this is all property that the City plans on extending services to so that in-fill development can take place.

Mr. Cieri stated that a letter written by Mr. Golnar stated that owner's in the Green Acres Subdivision could sell their property without the approval of the City and wondered why and if that is true because of the annexation. Steve Golnar stated that was the letter relating to Ms. LeDuke's request and that it was not relating to selling Green Acres Subdivision residents property it was relating to signing waivers of annexation because the property was within a certain distance from utility lines.

Tim Stephens of 106 Tana Lane stated that the people in the Green Acres subdivision do not feel that they are getting compensated for their waterline if the City wants to annex the streets and that it should be a package agreement.

Karen Durow of 105 West Pine Street stated that she doesn't want to have to pay for a garbage can that would be all of the benefit that that residents would get if the streets were annexed in the Green Acres Subdivision.

Dean Anderson of 108 Maple Street stated that he felt that the annexation of the streets has not been proposed in an effective rightful way. He felt that the City and County had not demonstrated a good development procedure to propose this annexation together with the community for good will and cooperation.

Dennis Springer of 112 Spruce Lane stated that it would be his recommendation to table this Resolution until all issues can be looked at by all and develop and establish a value of property with a good plan in the process and work it out in good faith.

Richard Caruso of 203 Ash Lane stated that he feels that it is hard for him to talk about the annexation of these streets and not consider the entire problem that the residents of Green Acres have been faced with and talked

about for months. "It just seems like every time we appear in a hearing and we bring up things we post-pone the hearing." He feels that this is becoming a very expensive process and it could have been avoided if the City would have dealt with the Green Acres residents in a reasonable manner to begin with. The plans seem to be coming along all the time and have recently received a map explaining where the sewer and water lines will go and now it is understandable what the City is proposing to annex. Mr. Caruso commented that these problems have brought up on a continuous basis. He concluded by stating that he is against annexation in the way the City is proposing to annex the streets.

Motion was made by Lee, second by Gregrey, to approve Resolution No. 3443.

Bob Ebinger stated that he had given this a lot of thought and he thinks that annexation of roads is not a bad idea but he is not at this time in favor of annexing these roads. He agreed with the comments from Dennis Springer that maybe we should table this Resolution until after this workshop with the City and the Green Acres residents on December 11, 2003 in order to determine if this can be done in a cooperative manner.

Michelle Lee stated in reading through the documentation that has been provided to the Commission from the City Attorney, Bruce Becker, dated November 26, 2003 he included a letter from the County Attorney, Tara Depuy, which states "the Supreme Court affirmed the judgment of the District Court, holding that a street is an annexable "tract or parcel" of land. Ms. Lee commented that the Supreme Court has already upheld the fact that you can annex in this manner and she is aware that there is this continuation of services or on the basis of services pending before the Supreme Court and this has already been upheld by two (2) District Courts. She concluded by saying that she feels it is doubtful the Supreme Court would overturn two (2) District Courts. She also mentioned that she has some concerns about the original contract due to the fact that the laws have changed substantially since then and she feels that there may be parts of the contract that are not in accordance with the current laws. She concluded to state that she feels that this should move forward with this as a representative of the city residents who the Commission represent to compensate for the services and legalities will work themselves out with the Supreme Court has already been upheld by two (2) District Courts with the fact that the Supreme Court would probably not overturn the two (2) District Court decisions and as a condition for annexation she feels that the City should move forward with this annexation of roads.

Lenny Gregrey stated that he concurred with Ms. Lee and that he did not agree with the Commission Ebinger that the Commission should post-pone this Resolution as Mr. Caruso says that the City Commission keeps on post-poning. He concluded by saying that Green Acres is a separate issue from all of the other factors that people are relating the proposed annexation to and

this may or may not happen in our lifetime but it will be resolved eventually. He would like to move forward with this Resolution and the meeting on December 10, 2003 will still go on and when you have an Attorney representative one (1) group and another representing another group you have to pay attention to "your" Attorney.

Sheryl Dahl stated that lack of planning of the proposed annexed roads is why this Resolution has been post-poned because it was a great idea in the beginning for the City to get the roads from the County but just recently the plan was received and that along with that plan she does not see the financial end of the plan. Ms. Dahl stated that she voted against the current budget because it is very tight and with the Section 205 Study coming up how is the City going to pay for maintenance of these roads budget season. She would like to see a cooperative agreement with the County and the City in plowing the roads in the Green Acres Subdivision so that if in fact the City does annex the roads is the County going to plow the other roads within the Subdivision and the City plow just the roads that are annexed. She would like to have a complete plan including the financial part of the plan. As stated in MDA 7-2-4732 (3) - Contents of plan for extension of services - A method must be set forth by which the municipality plans to finance extension of services into the area to be annexed. She would like to propose to meet on December 11, 2003 and put this Resolution on hold until the Commission sees the plan and then we will know what the financial outcome is going to be for the next fiscal year.

Ms. Lee stated that it is important that we annex these roads so that the Ambulance service and the street maintenance can start being planned for the next budget for the fiscal year.

Vicki Blakeman stated that she would like to make a comment to Mr. Springer that annexation is not just for money. It is also to encourage in-fill and proper extension of utilities and have a feasible growth pattern for the City.

Motion was made by Dahl, second by Ebinger, to post-pone Resolution No. 3443 until July 2004.

3 in favor; Ebinger, Blakeman and Dahl, 2 opposed; Lee and Gregrey, Motion passed.

A short break was taken at 8:50 p.m.

The meeting went back into session at 9:00 p.m.

A public hearing was held for Resolution No. 3461 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2002-2003 BY INCREASING APPROPRIATIONS FOR LIGHT MAINTENANCE DISTRICT FUND #2400 IN THE**

AMOUNT OF \$13,300.00 AND CALLING FOR A PUBLIC HEARING. This was the second reading relating to this Resolution No. 3461. There were no public comments on this Resolution No. 3461.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3461.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3462 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING THAT A BLIGHTED AREA IN NEED OF REDEVELOPMENT AND REHABILITATION EXISTS WITHIN THE CITY OF LIVINGSTON, MONTANA, AND DETERMINING THE BOUNDARIES OF THE BLIGHTED AREA.** This was the second reading relating to this Resolution No. 3462.

Steve Golnar stated that the City Planner, Jim Woodhull, has reviewed the legal description that was provided by Fred Hall, a local surveyor in the addendum to the packet before the proposed District.

There were no public comments relating to this public hearing of Resolution No. 3462.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3462.

Michelle Lee asked if residents of the City that own property in that area were to be sent notices of this Resolution and wondered as to how these expenses were paid for. Clint Tinsley stated that the expense of the mailing could be paid from the Utility Department or the General Fund and then assessed to the tax District when they start getting their monies coming in and have them pay the City back. The options are open on how the Commission would like the mailing paid for.

Vicki Blakeman asked if these notices would be sent out separate or with water bills. Clint Tinsley stated that they would be sent out by themselves so that they can make it clear as to what the City is proposing.

Bob Ebinger stated that on the Livingston Urban Renewal Plan report on page 7 of that report under title Infrastructure there is a typo and asked to have it changed. It should read does not odes so as to read: "It stands to reason that the private sector will not invest in an area that does not command attention and investment by the public sector."

Bob Ebinger also stated that one of his concerns about this report was taking care of planning today. His concern was that the review on removing structures should also be reviewed by the Historic Preservation Office and approved by the City Commission because the removal of structures should be the decision of the City Commission's with the Historic Preservation office recommendation as the Agency's decision.

Bob Ebinger also mentioned on the Urban Renewal District report on page 21 under financing the third paragraph the "Commission" is referred to as the "Council" and this should be changed to "Commission".

Mr. Ebinger stated also that on page 10 of the report that the last sentence should have a capital letter to read "Low".

Cindi Fargo commented that she felt that the Group did revise with the Historic Preservation Office's review on the removal of structures in the report. Bob Ebinger stated that he thought that was just for demolition not for removal of structures and asked to have them added to removal.

Lenny Gregrey commented on the Resolution No. 3462 of the Findings of Study (a) the substantial physical dilapidation; deterioration; and then under (i) deterioration of site; No glaring examples of deterioration of site were uncovered. Mr. Gregrey feels that this is a language difficulty. As he stated at the last meeting he spoke to several areas of this study are uncomfortable to him. He understands that the City needs to get the blighted designation to assist the downtown area to form the District to benefit from the tax increment and the language needs to be changed if the blighted area is going to correct the problem. He stated that on (d) stating that this condition will result in continued increase in emergency service calls and commented that none of that is going to change. People are going to get old and sick and they are going to need ambulance service. This plan does not help that so why is it there. Under (h) stating that there were a high number of emergency services calls in the Study Area in relation to the rest of the City and how is this relate to unsanitary or unsafe conditions and how will this program change that. He feels that if this program can't changes these circumstances then they should not be in the plan. The language needs to be changed. He concluded that he would not obstruct this plan from going forward but that he will vote "present" and that's it. He stated that he felt that if the language isn't going to change things then don't put it into the plan.

Cindi Fargo stated that there are two (2) points in the study and the plan that are seemingly in conflict, but in fact are not. One is a general description of the area and in that case they say there are some deteriorating conditions and the other is very specific when the report talks about glaring examples that would require us to site specific properties which are glaring examples and that is not the organization intention through this study to identify particular properties unless they were extreme public safety hazards.

4 in favor; Dahl, Lee, Blakeman and Ebinger, 1 No; Gregrey, of approval Resolution No. 3462, Motion passed.

Ordinances:

Motion was made by Dahl, second by Lee, to approve Ordinance No. 1932 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING THE URBAN RENEWAL PLAN FOR THE LIVINGSTON URBAN RENEWAL DISTRICT WITH TAX INCREMENT FINANCING PROVISION, PURSUANT TO CHAPTER 7, PART 42 AND 43 OF THE MONTANA CODE ANNOTATED.** This was the first reading of this Ordinance.

Michelle Lee mentioned that at the Planning Board meeting that was held earlier in the evening that they approved the Urban Renewal Plan that was dated November 17, 2003 not the one dated November 26, 2003 because the Planning Board did not have the November 26, 2003 update. Ms. Lee stated that she had some recommendations in the respect to the November 18, 2003 version of the plan so she would like to share them so that they can be integrated in the plan since this is the first reading. Her recommendations were as follows:

1. Under Actions by the City items number 1 and 3 she feels does conflict with the Comprehensive Plan. She feels that the language in number 3 could be construed improperly by residents of that area who do not have the working knowledge and that it look like spot zoning and she does not want to confuse them.
2. Also Ms. Lee would like to have the City Commission expand the Planning Board by one (1) non-voting member and that member be a person from the Urban Renewal Board or the Citizen Coordinating Committee.

Ms. Lee stated that the reason for these recommendations are substantial and that these projects can be expedited when need be and the explanations of the two (2) boards integrated.

Jeff Badenack of the Missoula Urban Renewal District was present by telephone and stated that one issue regarding the process and the language that was suggested was that the process that was in place with respect to zoning would be followed. He thinks that it would be very helpful to have that language understood by all.

Mr. Badenack commended the suggestion of adding a non-voting member to the Agency Board from either the Urban Renewal Board or the Citizen Coordinating Committee to the Planning Board stated that he applauded the City for any suggestions that they can make to enhance communications as these projects can be completed.

4 in favor; Lee, Ebinger, Dahl and Blakeman, 1 No; Gregrey, of approval of first reading of Ordinance No. 1931, Motion passed.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3445 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSULTANT SERVICES AGREEMENT WITH OLSEN ARCHITECTURE FOR THE DEPOT CENTER RESTORATION PROJECT NOT TO EXCEED \$45,000.00.**

Michelle Lee stated that she had to withdraw from any action of this Resolution as she is a member of the Depot Center and this would be a conflict of interest. Vicki Blakeman noted that there was a letter provided in the addendum to the packet from Montana Department of Transportation stating that the Community Transportation Enhancement Program (CTEP) acknowledges the selection of Olsen Architecture for this project and the reimbursement procedure of this project.

Steve Golnar mentioned that there is a phase II of this project where the City will define the scope of work as of the design and construction. Also he mentioned that the City is paying for this with CTEP funds and the Depot Center will provide the match.

4 in favor, Gregrey, Dahl, Ebinger and Blakeman, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3463 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING APPROPRIATIONS FOR SOLID WASTE FUND #5410 IN THE AMOUNT OF \$99,000.00 BY TRANSFERRING FUNDS FROM CASH RESERVES, LOWERING ANTICIPATED REVENUE IN THE AMOUNT OF \$34,900.00 AND CALLING FOR A PUBLIC HEARING.**

Lenny Gregrey commented that he was a little confused about the math in this Resolution that the Manager is requesting \$99,000.00 and in the whereas's is an amount of \$34,900.00 and \$14,000.00 and that comes up to \$48,100.00 and the difference of the \$99,000.00 and the \$48,100.00 is \$50,100.00 and he asked where is that figure coming from.

Clint Tinsley stated that in the Capital Outlay the 940 account there is a \$65,000.00 figure there and it was for a garbage truck which the City did not purchase and the \$14,000.00 is what the City paid for garbage cans that they did not budget so that is a difference of \$51,000.00.

Lenny Gregrey stated that he would like to have the difference covered in the Resolution so there is no confusion.

Mr. Gregrey asked that this Resolution be changed to include another whereas of \$50,100.00.

No action taken.

Motion was made by Dahl, second by Gregrey, to post-pone Resolution No. 3463 until December 15, 2003.

All in favor, Motion passed.

Motion was made by Lee, second by Ebinger, to approve Resolution No. 3464 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE PERSONNEL MANUAL BE INCLUDING GRANDPARENTS IN THE DEFINITION OF IMMEDIATE FAMILY FOR PURPOSES OF FUNERAL LEAVE.**

All in favor, Motion passed.

On the agenda was Resolution No. 3465 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING MAPLE STREET FROM THE END OF ALLSPAUGH STREET TO TANA LANE.** This Resolution was not even considered relating to the Resolution No. 3443 that was post-poned until July 2004 and this Resolution is relating to additional streets in the Green Acres Subdivision.

Motion was made by Lee, second by Dahl, to approve Resolution No. 3466 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING POSITION DESCRIPTION FOR FIREFIGHTER/EMT-I.** Steve Golnar gave background information relating to this position description. He stated that the City is in the process of filling a vacant position which will be created when the City moves an individual who is a Firefighter EMT to the EMS Coordinator position and since the position description has not been revised recently the City Staff has revised this position to reflect current needs and a higher level of starting certification. (Emergency Medical Technician – Intermediate).

Mr. Golnar stated that in the position description proposed for Firefighter/EMT-I under "Education and Experience and Requirements" there is a statement stating the employee must refrain from the use of tobacco products on and off duty. Mr. Golnar thought that the off duty section was problematic to the City and suggested that the "off duty" be deleted also, under the probation for a should read "a minimum of 1 year".

Jim Mastin stated that the accountability for this position should be changed for "Fire Chief or Chief's Designee" and under the summary of work "medical emergency" should be hyphenated.

Mr. Mastin commented that the requirement of new employees to refrain from the use of all tobacco products on and off duty, the Billings and Great Falls departments have this requirement and in the larger departments it's the same. He stated if the Commission was not comfortable with this requirement that he would take the "off duty" out and leave prohibiting the use of tobacco on duty. The reason of this is because of the hypertension, heart related, respiratory and cancer related issues that in the last 15 years

the fire department around the State and County have had some very high costs relating to these issues and may used as sick leave uses.

Motion was made by Lee, second by Dahl, to amend Resolution No. 3466 to strike out the words off duty in the Education and Experience and Requirements section stating "Must refrain from the use of all tobacco products on and off duty", to strike out off duty so as to read: "Must refrain from the use of all tobacco products on duty". This would be problematic to the City if stated in this job description.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to approve Resolution No. 3466 as amended.

All in favor, Motion passed.

Action Items:

Proposals for the Old Water Works Building lease were reviewed.

Rod King of Montana Classic Sports gave comments about his proposal to lease the Old Water Works Building. He stated that he and his partner have been looking for a place in Livingston to bring their business from Denver for the last year or more. It had come to their attention that this building was available from John Bailey. Mr. Bailey suggested to him that he may want to get in touch with the City and see if there was a possibility to work out a use of this building that might suit their business and be manageable for the City. They have had Architects looking at this building for them to determine whether it would be feasible for their business and have made a proposal to the City based upon what they felt they would like to do with the building.

Michelle Lee commented that in Montana Classic Sports lease proposal she noticed that they do not want to pay the property taxes and she asked why.

Rod King stated that was a miss understanding on his part. He was not aware that there would be any property taxes to pay because leasing from the City would not be the same as if they were to own the building. He was modeling his proposal after leases he was familiar with at the Denver Airport and proposed to provide a payment to the City in recognition that no property tax would be paid by them as lessee. Mr. King stated that in their proposal it states that they would give back a portion of the sales of the company to the City for the use of the building.

Bob Ebinger stated that he had received a call from Tara Eddy and she voiced her concern what the City was going to do with the Water Works building as she lives in the area. Also a realtor had contact Mr. Ebinger and wanted to

know what the impact was going to be on this building and he stated to both of them that he wanted to see the least amount of impact on the building as possible in that neighborhood seeing that it is a residential area.

Mr. Ebinger commented that in Montana Classic Sports proposal it speaks of adding on to the building, putting up a fence and re-shaping the hill and parking up to five (5) parking spaces for customers and also five (5) parking spaces for employees and he commented that would be a concern to him as parking is not a good idea in that area, due to a large amount of traffic.

Mr. Ebinger went on to say that he still would like to have Montana Classic Sports bring their business to Livingston but he feels that the Old Water Works Building is not the best place for the business and suggested that they go to the Alliance Development Corporation or the Downtown Association in an existing commercial area and allow them to help find a different building for their business.

Rod King stated that they had met with many residents of that neighborhood and that the cars that they talked about for parking the five (5) of those vehicles that would be owned by employees would be housed in a garage that they propose to enclose in a portion of the building. Their business is not intended to be a walk in business that it would be primarily operated as an Internet business.

Mr. King stated that the only reason they proposed to have a fence was only to identify where their property is and where the City's property is and provide a little security to their business. They would like to work with the City to insure that anything that they propose would not be a high impact on the community.

Sheryl Dahl asked of the proposal of the lease from Montana Classic Sports that in their plans they stated that there would be an addition to the building of approximately 2500 square feet and asked Mr. King if he could explain what this was.

Mr. King stated that on the east side of the hill there is a large concrete slab and an underground tank and it appears that could be used as part of the construction.

Sheryl Dahl asked as far as zoning is concerned what would be allowed to operate in that space.

Jim Woodhull, City Planner stated that since the City owns the property he did not feel that the zoning would have to be changed the property is zoned "public" and the neighborhood area is RII zoning.

Lenny Gregrey asked Mr. King what type of fence were they thinking of putting around the building.

Mr. King stated that they have not picked anything specific but he would have the Architect look at it having the neighbors and the City give their opinions and commented that they are not talking about a six (6) foot chain link fence.

Mr. Gregrey asked about the boat ramp in the proposal and what they are thinking of doing.

Mr. King stated that the boat ramp is something that could be worked out with the City and that it is the one across from the Old Water Works building not at Mayor's Landing as stated in the proposal.

Fred Paoli made comments of his proposal for the lease of the Old Water Works building. He stated that his law firm has been in the City of Livingston for going on 10 years and now Kevin Brown has joined his law firm.

Mr. Paoli stated that they had bought the Miles Building and has had that renovated and hoped that everyone has seen the kind of work that they like to do. When they got the Miles Building completed on the inside they realized that they had outgrown their space and have not moved their business from yet 112 West Callender Street. He went on to say that their law firm consists of three (3) lawyers, three (3) secretaries and commented that is all the bigger that they want to get. This space is perfect for their needs and they don't need the whole building and in their proposal they suggest that the two (2) story structure on the north end of the building be reserved for community use. They would only need five (5) parking spaces as they do not have clients coming and going all of the time and he feels that there will be no impact on the area. Mr. Paoli stated that they do not need any of the land other than a picnic table in the back to have their lunch on and they do not need to build a fence. The building will be restored to its historical nature inside and out and he feels that it would be tragic to have the building added on to or doubled in size.

In conclusion Mr. Paoli asked that the City would negotiate the final terms of how the build out will go and the lease with him and his partner and asked the Commission to look at what the community would want.

Bob Ebinger asked about the difference of the maps of the proposed building and to which one was the one that would be the accurate proposal. Mr. Paoli stated that the one in the addendum is the proposed map of the building including the bathrooms.

Sheryl Dahl commented to Mr. Paoli that in his proposal he talks about knocking down the concrete wall. Mr. Paoli stated that in order to restore the building to its historical nature that you would have to take that away and restore any damage that was caused where they added the cinder blocks to the wall.

Lenny Gregrey asked of the drawing of the building and in the drawing is a dotted line and he stated that he assumes that is the property that goes with the lease of the building.

Steve Golnar stated that was the intention of the proposed lease. Trees on the property surround the underground tank and he suggested that if there is going to be any property associated in the lease that it would be on the inside of the trees not all the way to the edge of the property.

Tara Eddy of 604 South 9th Street stated that this is an important issue to her and her family because they have sledded on this hill for years and stated several others do the same. She stated that her first concern about extending this building and using the slab of concrete. If anyone has ever sled on the hill, that is where you wait in line to sled down the hill. Also she commented that if the land were re-contoured then the people sledding on the hill would go into 9th Street. She commented that the evergreen trees being proposed to be planted would grow extremely large and that there would be no view of the mountains from her house. She is opposed to the parking spaces taking up green space on the property. This building is a landmark and would like to keep it that way.

Dave King of 625 South 11th Street commented on the proposal of the lease of the Old Water Works building. He stated that he choose to live in this neighborhood because it is a quite and relaxing atmosphere. He is opposed to having a commercial business in a residential area and he feels that it will impact the community. He asked the City Commission to extend this lease proposal so that other people can have a chance at bidding on it and have a study of the area of what the impact would be. In conclusion Mr. King stated is it fair to give up something to get something.

Sheryl Dahl commented that she is looking at the proposed leasing of the building as a preservation of the building because the City does not have the money to restore the building.

Lenny Gregrey commented that he had received a phone call from a resident on that block and complained that the building was in disrepair and that there were kids using the building as a hangout and was un-slightly so the City is looking at using the building to put into use and clean up for the neighborhood.

Michelle Lee asked as to who ever gets this lease could have an open house so that the community can be comfortable with what ever decision is going to be made of the building.

Bob Ebinger stated that the Old Water Works building is not at this time a historical building on record but is surely qualified to be.

Motion was made by Lee, second by Ebinger, to direct the City Manager to negotiate a lease between Paoli & Brown and the City of Livingston for the Old Water Works Building.

Michelle Lee stated that she felt that Paoli & Brown proposal was more for the historic preservation of the building, less impact, and that it is important to preserve that area.

Lenny Gregrey stated that he would like to see more revenue produced from this building and not six or thirteen years down the road. He commented that he felt that attorney negotiate for themselves which is reasonable. He would like to see the City take a better approach towards revenue of this building.

Sheryl Dahl asked if the Park Clinic has been contacted that they need to start moving their files out of the building. Steve Golnar stated that he has contacted Mr. Pleshar and gave him the opportunity to give the City a proposal to lease the entire building or to vacate the premises once leased. Mr. Pleshar returned his call later and told Mr. Golnar that they were not interested in leasing the entire building and would remove their files when the lease of the building is in effect.

Sheryl Dahl made comment to MCS that she hoped that they can find a location for their business and that we, the City, would welcome them to our community. She stated that she just didn't want to see an addition on the building or a fence around the building in order to keep the site in view of the area.

Tara Eddy wanted to know if there was going to be a public hearing on this proposal.

She was told by all that she could make public comment but that there will not be a public hearing. This would be adopted by a Resolution which does not require a public hearing.

3 in favor; Ebinger, Lee and Dahl, 2 opposed; Blakeman and Gregrey, to direct the City Manager to negotiate a lease between Paoli & Brown and the City of Livingston for the Old Water Works Building, Motion passed.

Motion was made by Lee, second by Dahl, to direct City Attorney to prepare an Ordinance revising Building Codes and direct City Attorney to prepare a Resolution establishing a new Building Permit Fee Schedule for second City Commission meeting in January 2004.

All in favor, Motion passed.

Motion was made by Dahl, second by Lee, to refund \$150.00 to Thomas Burns that was requested for the street abandonment fee.

Steve Golnar stated that he had contacted Mr. Burns to let him know what his recommendation was and Mr. Burns thought it was unacceptable that he should get the full amount because he was not involved in the process of the street abandonment request.

Motion was made by Dahl, second by Lee, to amend her motion to refund \$225.00 to Thomas Burns that was requested for the street abandonment fee.

4 in favor; Dahl, Lee, Ebinger and Gregrey, 1 opposed; Blakeman,
Motion passed.

Motion was made by Lee, second by Dahl, to appoint the City Manager to serve on the Upper Yellowstone River Citizen's Advisory Group for the City of Livingston.

Steve Golnar stated that he would ask one of the Commissioner's to go in his place if in fact he did not have the time to participate but will make a sincere effort to make time to attend.

All in favor, Motion passed.

On the agenda was a review for of committee vacancies for 2004 and this was for the Commission's information and review.

Michelle Lee stated that as of December 18, 2003 the committee's that she is on would need to be filled.

There is a vacancy on the Historic Preservation Board and 2 vacancies on the City Tree Board. These positions will be advertised to be filled.

Motion was made by Dahl, second by Lee, to approve the draft letter to the County on the proposed contract with Park County for a price not to exceed \$50 per ton for operating a transfer station and paying a contractor to dispose of the City's garbage.

Clint Tinsley stated that this letter is because of Laura Nicholi who represents Montana Water Association and she was asked to help the City on Solid Waste options. Her goal is to work with the City on composting and work with the County on visions that they need to do in the future and try to get the City and County together on working this issue out to benefit both the City and County. She asked the City to write a letter to the County that they are committed to this.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to post-pone the City Manager's Evaluation Session as scheduled on the agenda and have a special meeting for both the City Attorney and the City Manager's Evaluations on Wednesday, December 10, 2003 at 5:30 p.m.

Michelle Lee stated that she would like to have them separate.

Motion was made by Lee to have both evaluations public and a special meeting in order and to consider to terminate the City Manager contract and if the City Attorney's is public then to have it on December 18, 2003.

Sheryl Dahl stated that the City Manager has the right to privacy.

4 in favor; Ebinger, Blakeman, Dahl and Gregrey, 1 opposed; Lee, to post-pone the City Manager's Evaluation Session as scheduled on the agenda and have a special meeting for both the City Attorney and the City Manager Evaluations on Wednesday, December 10, 2003 at 5:30 p.m., Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger asked of the City/County Planning Board letter from Larry Lahren that he needed a map to understand. Jim Woodhull stated that this did not apply to the City since there is not a City/County Planning Board.
- Bob Ebinger stated that he has not yet received the information on the "q" conditions but will provide the Commission and the City Manager when received.
- Michelle Lee asked on Calamity Jane additional work being done asked what the additional work was. Vicki Blakeman stated that they are having a public work session tomorrow.
- Michelle Lee asked about the snow removal if the City is taking out ad's and paying for it. Steve Golnar stated that the City would work with the paper and will have a proposal for the Commission at the next meeting.
- Lenny Gregrey reminded the Commission that Traci & Jamie Isaly have requested a variance of their property on the east end of town and they are due their rights of the process and not to have it stopped at the City Planner's office or the City Manager's office. Steve Golnar stated that Ms. Isaly will be providing a letter by the next City Commission meeting

Commissioner Lee Comments:

- She asked where the Resolution was for the Gallatin National Forest Travel Plan that the Commission had requested. Steve Golnar stated that he has got some information from the Gallatin National Forest and he needs to figure out what to say. His understanding from the City and County was to have something in

support of a travel plan, but not to have a commitment to any specific proposed option. He will try to provide a Resolution at the next meeting.

Commissioner Ebinger Comments:

- He asked that when the Commission is given an addendum not to print on the back because you can't pull it out and put it into the packet.

Commissioner Dahl Comments:

- She too also asked for the addendum to be single sided.

Commissioner Gregrey Comments:

- He stated that Chairman, Vicki Blakeman reminded him that he had lost an election wager. He had promised if the 4-year term that was on the ballot passed that he would take the Commission out for dinner and asked the other Commissioners to pick a date and a location.

Chairman, Blakeman had no comments.

No Public Comments were given.

Motion was made by Dahl, second by Ebinger, to adjourn the meeting there being no further business. Motion passed.

The time was 11:40 p.m.

ATTEST:

APPROVED:

 Pam Payovich
 RECORDING SECRETARY

 Vicki Blakeman
 CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
DECEMBER 15, 2003
7:30 p.m.

The Livingston City Commission met in regular session on Monday, December 15, 2003 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Bob Ebinger, Vicki Blakeman and Lenny Gregrey. Sheryl Dahl arrived at 7:35 p.m. Michelle Lee was not present, as she had resigned as City Commissioner as of December 15, 2003 because of her change of residency.

Staff members present were Bruce Becker, Steve Golnar, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass and Pam Payovich.

Motion was made by Ebinger, second by Gregrey, to approve the consent items as follows:

- Approve December 1, 2003 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of December 2003.
- Department Heads Monthly Reports and Other Minutes.
- Approve a one (1) lot minor subdivision request from Mrs. Della Baldwin – She wishes to create a 1 lot minor subdivision by dividing the existing Tract 3 of C.O.S. 634, located in the northeast portion of the Minnesota Addition, into Lots 1 & 2 so that she can sell the existing house on Lot 2 while retaining the majority of the original tract.
- Approve waiver of Civic Center fee for the Annual Christmas Dinner.

Lenny Gregrey requested some changes in the minutes. On page two (2) of the minutes Mr. Gregrey requested "proves" to be changed to "process" to read: "This is due process." Also Mr. Gregrey requested on page 10 of the minutes the word "changes" to be changed to "change" to read: "He feels that if this program can't change these circumstances then they should not be in the plan." Mr. Gregrey also requested on page 15 of the minutes the word "there" be changed to "their" to read: "Their business is not intended to be a walk in business that it would be primary operated as an Internet business." Mr. Gregrey requested on page 20 of the minutes to change to work "officer" to "office" to read: "Lenny Gregrey reminded the Commission that Traci & Jamie Isaly have requested a variance of their property on the east end of town and they are due their rights of the process and not to have it stopped at the City Planner's office or the City Manager's office.

Sheryl Dahl mentioned about the Alliance Development minutes on October 14, 2003 on the update of collections of groups receiving monies from the Alliance Development Corporation to be sure to keep track of those loans and try and encourage people to pay back their loans. Mr. Vincent stated that

the Corporation has notified an Attorney and they will be given 15 days to respond with a payment plan.

Sheryl Dahl stated that on the consent items relating to waiving the fee for the use of the Civic Center for the Annual Christmas Dinner that a security deposit shall be collected and then returned if the facility is left in good shape.

All in favor of consent items, Motion passed.

Introductions:

Steve Golnar introduced new employees of the City. The employees were Duncan Edwards, the City's new Building Official and Inspector and also Ronald Swanson, a new City Police Officer. Darren Raney commented that Mr. Swanson worked 9 ½ years for the Sweetgrass County Sheriff's office and is married and has two (2) children.

The City Commissioners welcomed the new employees working for the City of Livingston.

Scheduled Public Comments:

Judy denBoer of 425 ½ South "F" Street spoke of her concerns about the parking and garbage cans at her rental property on "B" Street, 306 & 306 ½ "B" Street. Ms. denBoer commented that she couldn't sell this property because of historical "red light" district and felt that it was bad press. She was concerned, as she has put a lot of money and time in trying to get her parking for her residents of her property. She stated that there has been a truck in front of her building for approximately four (4) months and its been in that street for about six (6) months and she asked if the Commission would consider allowing for residential parking permits for parking areas that are a problem.

Ms. denBoer also commented on the three garbage cans on her property and stated that she has tried to move them so that they are not adjacent to her property. She asked if these could be moved.

She also mentioned that Bozeman has a parking permit for residential parking for \$10.00 per year and suggested that possible this could be something that the Commission would consider for the Livingston residential areas.

Bob Ebinger asked if the truck was the perennial weekly problem. Ms. denBoer commented that yes it seems that there is always a vehicle in front of her property that is not a renter.

Sheryl Dahl asked if there was anything in the City's Parking Ordinance that allows for permits.

Steve Golnar stated that he would have to look into it.

Bruce Becker commented that the City does not have a permit system currently in the Parking Ordinance except for handicap.

Steve Golnar stated that this would require a new legislation if the Commission wanted to allow for parking permits for residential parking.

Steve Golnar asked to clarify the garbage situation that he did really understand the concern.

Ms. denBoer stated that she only has one on her property but adjacent to her property there are two (2) more garbage cans.

These issues will be reviewed and a recommendation as to what can be done to resolve Ms. denBoer's concerns of the parking and garbage issues will be provided from Staff.

Vicki Blakeman mentioned that the next public comment scheduled for the Calamity Jane Program had changed from Dave Waylander to Bobby Parks.

Bobby Parks, with Edward Jones Investments, representing the Calamity Jane Productions and gave an update as to where the organization is for this program. Mr. Parks stated that there are two (2) signed contracts with the Moose and Clarks Crossing for four (4) years with the Calamity Jane Productions. He commented that the organization has a commitment from the Livingston Chamber of Commerce to be Calamity Jane Productions umbrella through the Chamber for tourism. Mr. Parks stated that the organization has raised \$8,000.00 in the past 2 ½ weeks for donations and to take care of advertising for next year. PrintingForLess.com has given the organization their first 1000 posters for free and the posters will start going on sale starting in January and to promote what is going to start next summer. Also he commented that the State has pledged 900 free press packs to go out to New York Times, Washington Post, CBS News, and large news media for Livingston and the Calamity Jane Productions.

Lenny Gregrey asked if there was going to be a request for City funding for the Calamity Jane Program. Mr. Parks replied that "no" there is not going to be a request for funding from the City.

Mr. Parks commented that starting in January there will be separate groups involved in the road closures for these productions and will keep Darren Raney, Police Chief, involved in these decisions and if he would like to sit in on these meetings. The productions will start in mid-May so they would like to have practice runs starting in January to ensure the proper safety

measures involved with the Gun Fights of the Calamity Jane Productions in Livingston.

Steve Golnar asked if a Resolution of support from the City was still being asked for by the Calamity Jane Productions. Bobby Parks stated that he was not aware of this request but would let the Commission know.

Jerry Strickland from True Value Hardware was scheduled to give a public comment for a request for 15 minute parking spaces but Erica Strickland spoke on his behalf.

Ms. Strickland stated what they would like to propose a change on the South 100 Block of Main Street some parking spots from 2 hour to 15 minute parking. She stated that she feels that this would benefit the entire block and make the downtown area more accessible for those who come in for quick visits and particularly from 11:30 a.m. to 1:30 p.m. when parking is almost non-existent.

Sheryl Dahl stated that this is a good subject to bring up at this time because with the new seating of the new Commission they will have to review the Parking Ordinance and address what areas they want to allow in the parking 2 hour zoning, so there is a possibility that the Commission would request City Staff to review this proposal of 15 minute parking spaces availability in the downtown area.

Vicki Blakeman suggested having the downtown merchants impose some self regulations on their employees parking downtown because it is a continuing issue and she feels that it is the center of problem for the downtown parking. The employees are not being policed and this has always been a problem. Ms. Blakeman also stated that she did not feel that 15 minute parking spaces were going to resolve the downtown parking because our Parking Enforcement Officer cannot get around that quickly. She commented that she would like to work with the Downtown Association and business owners to start working on the parking issue solutions.

Steve Golnar stated that the Parking Ordinance will be reviewed 60 days after the seating of the New Commission.

Bob Ebinger requested that whenever this issue becomes an agenda item for a Commission meeting to have Jerry and Erica Strickland notified.

Public Hearings:

A public hearing was held for Resolution No. 3468 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING SEWER RATES IN THE AMOUNT OF 1%.** This was the second reading relating to sewer rate increases.

Ed Schilling, property owner of 310 South 2nd Street asked what the increase of the sewer rates going to be used for.

Clint Tinsley stated that the power increase that the City has in sewer alone is going to be a 4% increase just in power. Also Mr. Tinsley stated that the Sewer Plant will need to be upgraded within 5 to 6 years and the City will need to come up with approximately \$5,000,000.00 for this upgrade.

Motion was made by Ebinger, second by Dahl, to approve Resolution No. 3468.

Bob Ebinger commented that Clint Tinsley provided the Commission with the cost of each household affected by this increase and it averages out to be approximately \$.60 increase per household.

All in favor, Motion passed.

A public hearing was held for Resolution No. 3469 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING WATER RATES IN THE AMOUNT OF 3%.** This was the second reading relating to water rate increases.

Brenda Adams of 802 East Butte Street stated that her concern now is that the City wanting to look its best, that there are people in this town that can hardly afford to pay for their water now. She feels that this would increase the fire rating because with the last few years of drought and lack of rain, people have not been keeping their lawns green due to cost of the water.

Ed Schilling property owner of 310 South 2nd Street commented that the Commission should take into account for example like Big Timber not having any water meters and then the City felt that they needed them so they put them in and then the trees took a big hit because of the cost of water. The City had to eventually give a lot of water away because the City residents were not watering their trees and the Commission did not want to see any fire hazards take place. He concluded by stating that he asked the Commission to keep this in mind with this increase of water rates.

Judy denBoer of 425 ½ South "F" Street stated that with the increase of water rates that she would not be watering her lawn and so in fact this will cause her trees to eventually die. She commented that she cannot afford the water bill as of now.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3469.

Bob Ebinger asked Clint Tinsley what the water rate increase would be approximately per household.

Clint Tinsley stated that is a difficult figure as in the summer time it would be higher than in the winter uses but would be divided by how many gallons of water consumed by how many households.

All in favor, Motion passed.

A public hearing was held for Ordinance No. 1932 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING THE URBAN RENEWAL PLAN FOR THE LIVINGSTON URBAN RENEWAL DISTRICT WITH TAX INCREMENT FINANCING PROVISION, PURSUANT TO CHAPTER 7, PART 42 AND 43 OF THE MONTANA CODE ANNOTATED.** This was the second reading of this Ordinance.

Joel Reinholz, Chairman of the Citizens Coordinating Committee and a member of Downtown Association and also an owner of property in the area of the Urban Renewal Plan thanked everyone that has worked on this plan. Mr. Reinholz stated that this plan was developed as a working plan for the future and to modify specific projects. He stated that we do not know what materials or resources will be available in 15 years to pursue these projects. It will be the City Commission's job to appoint an Urban Renewal Agency and the Committee is to work with that Board to identify specific projects and their solutions and priorities. He hopes that the community will continue with their help and input in this process. He stated on behalf of the Citizens Coordinating Committee and the Downtown Association he would be happy to support this Ordinance No. 1932.

Ted Madden of 16 9th Street Island stated that he thought that this was a great plan and ideas. He asked with the Livingston Comprehensive Plan if this would take away the fiscal flexibility that the Commission has in terms of a 15 year commitment of appreciation on this District and if this would tie the hands of the Commission? He stated that the integrity of the downtown is essential to the success of the Livingston Schools. He asked in reading the plan what would be the dollar figures of this plan and how will this effect taxes for the community?

Vicki Blakeman stated that this program is dependent upon private investment in the District and this will determine how much funding will be received and so there is no way to know how much funding will be received.

Joel Reinholz stated that after the first year we would be lucky to see \$40,000 in the tax increment fund because Livingston is not a large community. He went on to say that the tax increment fund growth depends on how much investment the district residents put into their properties.

Steve Golnar stated that there is a potential for a bond issue to be entered into between year 1 and year 15 of the tax increment financing district and that bond issue can be for a period for up to 20 years and so there is

potential to finance some specific improvements with that revenue stream until those improvements are completed.

Joel Reinholz commented that for every year the Board will set up projects and establish a budget and surplus money that is left over that is not identified will be turned back to the City and School District.

Ted Madden asked does that 15 year commitment have to be in the Ordinance to be able to make those decisions or is there a legal statute that has to be followed.

Bruce Becker stated 15 years by law is the most it can be unless there is a bond issue then it can be extended.

Sandra Miller of 101 North "E" Street asked if there was going to be a combination of taxes and bond issues to pay this off every time.

Vicki Blakeman stated that the mechanism allows for a bond issue and this does not necessarily mean that there will a bond issue.

Sandra Miller asked so the money will be pre-taxed.

Vicki Blakeman stated yes and that it will be just that District where the improvements are being made.

Sandra Miller asked what the appropriate definition was of "blight".

Joel Reinholz stated that it is the States' definition, which he read: "blight is a substantial, physical, dilapidation, deterioration, defendant construction material or arrangement and/or obsolescence of buildings after improvements whether residential or non-residential".

Dixie Burlingame of 116 North "C" Street asked how this would affect her as a property owner. She asked how it was going to affect her ownership of her home in the way she would want to fix her home and if there was going to be any tax consequences or anything that the City is going to say that she would have to pay.

Cindi Fargo stated that there is no portion of the proposal that affect home owners in the sense of taxes. The tax increment comes from the existing taxes.

Happy Brewer of 122 South "Q" Street asked does this deal with flood way or flood plain that everyone on the east end of town pay taxes for the west end homeowners taxes.

Vicki Blakeman stated that this is not the appropriate time to be asking this because this is for the Urban Renewal Plan.

Ann Hallowell of PO Box 1445 asked why the Urban Renewal Agency would have the right to enforce the provisions of this Plan or other documents entered into pursuant to this Plan and asked that Agency be deleted so that the City Commission would only have this right to enforce this Plan.

Mr. Becker commented that the City Commission oversees the Agency by State statutes.

Ms. Hallowell asked that this project be simple and durable and to stick with the downtown area only.

Bob Ebinger stated that the Plan has to have all of the issues in the Plan in order to allow flexibility to implement the Plan over 15 years.

Tom Vincent stated that if the Plan is too finite in direction that the District would not get the tax increment funding. The funding has to come from improvements so that you can support marginally fundable projects.

These items were established by the State's definition of "blight".

Ms. Hallowell stated that the Ordinance stated that the Urban Renewal Plan shall be evaluated but no where states that the Urban Renewal Agency of appointees shall be evaluated and how long their terms are and if they can be removed at any time.

Steve Golnar stated that the appointees have four year terms and starting the first year having staggered terms; one for a one year term; one for a two year term; one for a three year term; and two for a four year term. Anyone of these members can be removed for inefficiency, neglect of duty, or misconduct in office. (MCA 7-15-4234). All of these members are appointed by the City Commission.

Brenda Adams stated that she is excited and concerned about this Plan. The taxes are not involved in this Urban Renewal.

Joel Reinholz stated that this Plan does not create taxes that the tax increase stays in the District for improvements. He stated that he believes that what will come of this Plan is the shared cost improvements of sidewalks for the downtown that will be involved between tax increment and the SID costs instead of the owners having to pay for all of the improvements themselves.

Rik Pittendorfer of 109 South "B" Street and owner of the Ballet stated that he is more worried than excited. He feels that this is an ambitious Plan but no one really knows where the economy is going.

Mr. Schilling states that the Plan states that the Livingston Redevelopment Agency will have these funds and that they will be handled by the City of

Livingston and asked if the City of Livingston plans on charging Administrative Fees.

Steve Golnar stated "no" that the City does not plan on charging Administrative fees.

Mr. Schillings asked if a bond issue is involved in this Plan.

Steve Golnar stated that there is a potential to fund a bond issue with the revenue stream which is identified with the tax increment financing District. This is a way of accomplishing improvements by borrowing money based on that revenue stream. This would be a bond issue voted on by the residents of that District secured by the TIF money.

Bruce Becker explained what TIF money is.

Kevin Lackey of 123 West Geyser Street stated that he saw this Plan for the first time this evening and is very concerned about the implementation of this Plan. If you want to improve the sidewalks then go ahead and implement this instead of having this Plan. He feels that it's his right to have improvements as a property owner to do as he chooses to his home. He also asked to change the Ordinance No. 1932 in Chapter IV to state that the Agency does not have specific powers of litigation without the consent of the City Commission.

Mary Beebe of 219 South "E" Street stated that one of reasons that people do not agree with this Plan is that they have not followed the development of the Plan all of the way through with the City Commission meetings. One of the reasons that people are in favor of the Plan is because they got the information from attending the meetings.

Thomas Lackey of 123 West Geyser Street asked what the appeals process was of this Plan instead of going to Court. He wanted to know if any ones property could be identified as "blighted".

Joel Reinholz stated that this blighted area has already been identified by the City Commission by Resolution and can not be changed in this Plan.

A short break was taken at 9:55 p.m.

The meeting went back into session at 10:02 p.m.

Motion was made by Dahl, second by Ebinger, to approve Ordinance No. 1932.

Sheryl Dahl stated that she has been an advocate of this Plan from the beginning of the development of the Plan. She stated that her father has property in this District and she feels that the restoration of downtown would

not have happened without the efforts of the City. The businesses have to do a cost sharing and what we have today is much more that what we had in the 1980's. She stated that those who do have property in that District will have the opportunity to receive funding for improvements. She feels that this Plan is a winning situation and is solid and will be a benefit for the whole community.

Motion was made by Dahl, second by Ebinger, to amend under Chapter IV of Ordinance No. 1932 to add under specific powers the following additional wording, "the Agency cannot enter into litigations without the consent of the City Commission".

All in favor of amendment, Motion passed.

Bob Ebinger stated that he feels that this Plan is a great opportunity for programs that are not available to improve the downtown to attract tourism. He stated that fixing up the Infrastructure is going to be very expensive and any kind of additional financial assistance outside of the tax increment is a great asset and a solution to improve the community. This will be a Plan implemented with public input and the final decision will not be made from the Agency without the consent of the City Commission.

Lenny Gregrey stated that he has heard several comments from individuals that have concerns that he has had from the beginning of the development of this Plan. He stated that he is convinced and he has strong opinions of the community entering property owner's buildings for inspectors to subvert the eminent domain and he is not going to give up his constitutional rights. He concluded that he has a sympathetic ear to those who have spoken against this Plan and stated that he cannot vote in favor of this Plan.

Vicki Blakeman stated that she has seen public pressure does help and the City Commission will listen. She stated that she sees this Plan as a tool to implement improvements in the downtown area which the City does not have currently.

Motion was made by Dahl, second by Ebinger, to approve Ordinance No. 1932 as amended.

3 in favor; Dahl, Ebinger and Blakeman, 1 opposed; Gregrey, Motion passed.

Resolutions:

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3463 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING APPROPRIATIONS FOR SOLID WASTE FUND #5410 IN THE AMOUNT OF \$99,000.00 BY TRANSFERRING**

FUNDS FROM CASH RESERVES, LOWERING ANTICIPATED REVENUE IN THE AMOUNT OF \$34,900.00 AND CALLING FOR A PUBLIC HEARING.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3467 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO TRAFFIC SAFETY CONTRACT #2004-10-08-14 AND 2004-13-01-14 WITH THE MONTANA DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$11,000.00 FOR OVERTIME WAGES AND EXPENSES TO CONDUCT SATURATED TRAFFIC ENFORCEMENT PATROLS DURING CHRISTMAS, MEMORIAL DAY AND THE 4TH OF JULY.**

Vicki Blakeman asked if this program has worked well in past years.

Darren Raney stated that yes it did work well in the past years.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to approve Resolution No. 3470 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE REGULATIONS FOR MOUNTAIN VIEW CEMETERY ALLOWING GRANITE FOUNDATIONS.**

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve Resolution No. 3471 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING BUILDING PERMIT FEE SCHEDULE.**

All in favor, Motion passed.

Action Items:

A letter of resignation was received by the City Commission for Michelle Lee's resignation as of December 15, 2003 as she has changed her residency in Bozeman.

Motion was made by Dahl, second by Gregrey, to approve Michelle Lee's resignation as City Commissioner and declare a vacancy of a City Commissioner.

All in favor, Motion passed.

The Commission reviewed the applicants for City Commissioner vacancy. The Commission deferred this decision to the New Commission in 2004.

Steve Golnar asked for the City Commission's input for interview questions to the applicants for City Commissioner. Also interviews will be set up the first week of January after the 5th.

Vicki Blakeman appointed Bob Ebinger to be the new City Commission representative for the City Planning Board, as Michelle Lee was the City Commission's representative on this Board.

Motion was made by Dahl, second by Gregrey, to approve the City Commission Chairman's appointment of Bob Ebinger to the City Planning Board.

All in favor, Motion passed.

Applications for the City Tree Board and the Historic Preservation Committee were reviewed. These applicants were referred to the 2004 Commission. The applicants to the City Tree Board are Dick Murphy and John Schuler and the applicants to the Historic Preservation Committee is James Snyder.

A review of Jamie and Traci Isaly's request for investigation and clarification of the variance process for building in the flood plain was held.

Steve Golnar gave background information relating to this variance request being denied with the information provided in the packet.

Bruce Becker stated that there were two sets of laws one is the flood plain flood way law and the other is the International Building Code. Both allow for construction in the flood plain with certain criteria but the building code is more specific and it actual tells how the construction is to take place so to his determination the building code takes precedence.

Jamie Isaly stated that he is a little confused as to where to go with the decision made that their variance request was denied.

Traci Isaly stated that they felt that they have followed the procedures to request a variance and paid a fee to apply for the variance and with the variance being denied why did they even go through this procedure.

Jim Woodhull stated that at the time the Isaly's variance was requested it was valid until the City adopted the International Building Code. Under the 1997 Uniform Building Code, which was the previous adopted Code, there was no regulation of building in the flood plain contained in that Code. We had what is known as a zoning process for flood plain variances. The International Building Code that the City now has adopted because it addresses flood plains within that Code is different and conflicts with the City's previous process. At the time the Isaly's applied for the flood plain variance, Mr. Woodhull stated that he was not aware of the content being in the International Building Code. If the building Code is the ruling Code the

City Ordinance has to be changed to reflect that the only variance process there will be is to the Building Board of Appeals.

Lenny Gregrey asked if the 2000 International Building Code is the current Code that the City is abiding under.

Mr. Woodhull stated yes and there is an appeals process and it does apply to flood plain variance requests.

Jamie Isaly asked so with that in mind what is the G105.7 (Conditions for issuance.) Variances shall only be issued by the Board of Appeals based upon the process of the International Building Code.

Duncan Edwards stated when the State adopted the International Building Code with the appeals process on a variance the applicant would come to him as the Building Official and he would let them know what the appeals process entailed. Mr. Edwards went on to say that once that information is brought to him as the Building Official if it is within the flood plain, resistive construction as in outlined in Section 327 of the International Code Section "G" would apply. If it did not conform he would issue a letter of denial and then he would instruct the applicant that they have the ability to request to go to the Board of Appeals.

Mr. Edwards commented that with the International Building Code the Board of Appeals does not have the authority to waive requirements of the Code in the flood plain.

Traci Isaly asked what the point was to have a process like that if the Board of Appeals does not have the authority. Ms. Isaly stated that she felt that was a waste of time.

Mr. Edwards stated that is up to the Board of Appeals. But the Board of Appeals can consider those restrictions under Section "G" of Section 327 of the International Building Code.

Motion was made by Gregrey, second by Ebinger, to refund the variance fee of \$15.00 to Jamie and Traci Isaly.

3 in favor; Dahl, Gregrey and Ebinger, 1 present; Blakeman, (she is a relative of the people requesting the variance), Motion passed.

Jamie and Traci Isaly stated that they wanted to clear this situation of the variance request up with the City so that other residents that have property in the flood plain will know what the procedure is when requesting a variance.

Vicki Blakeman stated that Ms. Dahl brought to her attention that in the Ordinance No. 1932 a request was asked to direct Staff to advertise for applicants for the Urban Renewal Agency.

Motion was made by Dahl, second by Ebinger, to direct Staff to advertise for applicants for the Urban Renewal Agency to be considered for appointment at the January 5, 2004 City Commission meeting.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to direct Staff to pursue a review of development related fees.

All in favor, Motion passed.

A discussion of authorizing a variance from City Code requiring 50% build out in subdivisions before an SID is initiated was held. Steve Golnar gave background information relating to this request. A Resolution was provided in the Addendum that was adopted by the City for establishing its Special Improvement District Policy in March of 1996.

Clint Tinsley provided his recommendation for a request for SID's for Sewer and Water extensions for the Palace Addition in the packet. He commented that the more requests for extensions of water and sewer than the better chance of the City getting a better interest rate.

Sheryl Dahl stated that she drove by that area and agreed with Clint Tinsley that the area is piece mealed together with vacant lots and she believes that if they were on City sewer and water it would be a benefit to the entire area.

Motion was made by Dahl, second by Gregrey, to authorize Clint Tinsley to move forward with a preliminary plan and cost estimate for water or/and sewer in Palace Addition, Glenn Addition (after annexed) and 500 and 600 blocks of North 9th and North 10th Streets and contact property owners with cost estimates to determine their interest in pursuing an SID.

Lenny Gregrey stated that Mr. Tinsley stated that the cost was \$1,800.00 the last time in pursuing an engineer for a cost estimate of water and sewer and extension and wanted to know if there could be a limit not to exceed \$2,000.00.

No action taken.

Motion was mad by Gregrey, second by Ebinger, to amend the motion in pursuing of the preliminary plan and cost estimate for water or/and sewer in Palace Addition, Glenn Addition (after annexed) and 500 and 600 blocks of North 9th and North 10th Streets not to exceed \$2,000.00.

All in favor, Motion passed.

All in favor of motion amended, Motion passed.

Motion was made by Dahl, second by Ebinger, to authorize donation of 4 portable office panels to Livingston Food Bank and direct Staff to inform First Interstate Bank of the transfer of these panels to a non-profit corporation.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to approve publicity campaigns for snow removal.

Sheryl Dahl asked if City residents were going to send notices out to residents something like what Bozeman does in letting residents know what is going to happen with snow removal.

Darren Raney, Police Chief, stated that Bozeman's notice refers to an Ordinance that they have already in effect. So before the City issues a notice to residents to make sure that the City has an Ordinance in effect complying with the notice. Once the Ordinance is adopted there is a 30 day waiting period.

All in favor, Motion passed.

Motion was made by Ebinger, second by Dahl, to direct City Attorney to prepare a draft Ordinance revising Chapter 27 "Public Rights of Way" relating to street opening permits and fees.

All in favor, Motion passed.

Motion was made by Dahl, second by Gregrey, to amend the donation of the 4 portable panels from Livingston Food Bank to Livingston Food Pantry.

All in favor, Motion passed.

A review of the Ambulance Committee progress and discussion of the levy ballot issue time frame, cost and City Commission approval of ballot language schedule was held.

Steve Golnar gave background information relating to this issue. He stated that the Ambulance Committee has been working closely together with representatives of the City Fire Department, the Rural Fire Department, the City Commission, the County Commission, the Finance Officer of the County and the Ambulance Billing Clerk from the City to try to develop a solution and a proposal for funding of the Ambulance operating deficit for City and County benefits. Mr. Golnar stated that the City is focusing on supporting a mill levy mail-in ballot issue language and the cost sharing between the City and

County in March 2004. The cost of doing the mail-in ballot would be approximately \$14,030 and splitting that between the City and County based on population would be 43.65% for the City which would amount to \$6,124.00 but would pay up to \$6,500.00. This would come from the Ambulance Fund, or the Commission's Legislative Budget which was mistakenly budgeted twice for ADC contributions. He concluded asking the City Commission to authorize and support moving forward with this mail-in ballot election so that this can be implemented by January 8, 2004 which is the deadline for the mail-in ballot issue to be provided to the State.

Motion was made by Gregrey, second by Ebinger, to authorize and support mill levy ballot issue and cost sharing proposal by indicating to the County Commission that the City will pay up to \$6,500.00 for support of the Ambulance levy mail in ballot process.

Sheryl Dahl asked where this was coming from because the City has already spent the ADC contribution mistakenly budgeted twice. Steve Golnar stated that he has not had adequate time as he just received this proposal before the packet was run to look for where the monies will come from but will get back to the Commission as soon as he determines where it will come from.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger, to direct City Staff to pursue a third party opinion on the value of Green Acres Water System in coordination with Green Acres Homeowner's Association.

All in favor, Motion passed.

Provided for the City Commission's review in the packet was a proposed Resolution for supporting the National Forest Management that protects and maintains roadless lands of the Gallatin National Forest.

Sheryl Dahl asked if this Resolution is for City of Livingston and Park County or is it going to be proposed separately.

Steve Golnar stated that at the City/County meeting it was suggested that we try to have a City/County Resolution on the proposed Gallatin National Forest Travel Plan. This is being proposed to the City Commission first and if they have any changes it will go then to the County.

Lenny Gregrey asked that of the six alternatives to be considered in this Resolution if the City was recommending any of them. Bob Ebinger stated "no".

Mr. Gregrey went on to say that he has stated his opinion on this and he is in agreement with the editorial page of the Bozeman Chronicle which was

referring to the same process that the City of Bozeman was going through "why are you wasting time on this?"

Bob Ebinger stated that he felt that this was not a waste of time.

The City Manager's written comments were reviewed.

- Sheryl Dahl mentioned on the Interstate Center City signs re-configuration plan between exit no. 330 and exit no. 333 that the City Center sign is down and perhaps when the State replaces it if it could be requested to be proposed in accordance with the new sign plan.
- Sheryl Dahl also mentioned about the beavers she would support a workshop with the neighborhood of this situation. Vicki and Lenny stated that the City Commission did have a meeting at the City Commission. Steve Golnar stated that the meeting was not publicly advertised.
- Sheryl Dahl asked about the 5th and Park Street Workshop with the Department of Transportation. Clint Tinsley stated that the City Staff has come to the conclusion that this project is going to be about a \$40,000.00 project and we already have \$180,000.00. So the State Highway Department and the City's Engineer and himself have gotten together and talked about how they could do the best project with the \$180,000.00. So several options will be implemented at the 5th and Park Intersection.
- Bob Ebinger mentioned that there will be a City/County meeting on January 7, 2004 at 4:00 p.m. that was not on the calendar.
- Vicki Blakeman mentioned that the "H" Street Public Hearing is on December 18, 2003 at 7:00 p.m.
- Steve mentioned that the Infrastructure Committee meeting to be held on December 19, 2003 at 3:00 p.m. at the Utility office he would like to make sure that the Commission and the Commission Elect attend so that they can determine who they may want to sit on this committee because the terms of two Commissioner's that are on that Board now conclude in 2004.

Commissioner Ebinger had no comments.

Commissioner Gregrey Comments:

- He stated that this was a marathon meeting tonight and quoted "stick a fork in me, I'm done".

Commissioner Dahl Comments:

- She wanted to thank everybody that it has been an honor serving on the City Commission and that she has enjoyed it.
- She asked for follow-up on the dry runs of the Grievance Procedures that the City Commission has asked.
- She requested about approaching MCS (Montana Classic Sports) for purchasing East Side School possibly. They would be close to the

Fly Fisherman's Association and in the downtown. Vicki Blakeman asked if the City could entertain the sale at this time. Steve stated that the City would need to advertise the School for sale again in order to comply with the sale of City Property Ordinance.

- She suggested to possibly change the City Commission meetings to start at 6:00 p.m. rather than 7:30 p.m. since the meetings have become lengthy.
- She mentioned 3rd and Callender Urban Infrastructure pilot program and commented that it really looks good. She likes the metal pieces put in.
- She wanted to mention on her outgoing a thing on the budget, she would like to encourage the New Commission to possibly looking at making budget cuts.
- She stated that she will miss everyone!

Chairman, Blakeman had no comments.

Public Comments:

Tara Eddy of 604 South 9th Street wanted to thank the Commission for not entering into lease negotiations with a retail commercial business at the Water Works Building which is in a residential area. She asked the City Commission to please address the concerns of the residential area around the Water Works Building as outlined in the December 8, 2003 letter from Paoli and Brown.

Roberta Pugliano of 105 Elm Street in Green Acres stated that she is not a City tax payer but asked now that View Vista Drive has been annexed she would like to bring to the City's attention the Street in front of Park High School and with a lot of activities the pavement is no longer wide enough to handle two lanes of traffic that your wheel is off of the side of the street and it is rough. She asked that in the City's maintenance plan for this street not to be put down at the bottom of the 7 year Plan.

Motion was made by Dahl, second by Gregrey, to adjourn the meeting there being no further business. Motion passed.

The time was 12:12 a.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION
SPECIAL MEETING
December 10, 2003
5:30 p.m.

The Livingston City Commission had a special meeting on Wednesday, December 10, 2003 at 5:30 p.m. in the Community Room in the City/County Building for the purpose of City Attorney, Bruce Becker, and City Manager, Steve Golnar's 6 month evaluations. Present were Lenny Gregrey, Bob Ebinger and Vicki Blakeman. Sheryl Dahl and Michelle Lee arrived a few minutes later during the meeting.

The City Attorney's evaluation was undertaken first. It was noted by the majority of the City Commission that the City Attorney's performance met standards. It was requested that the City Attorney be more assertive as the sole beacon of legal authority at Commission meetings by Chairman, Blakeman. The majority of the City Commission noted that the City Attorney's work load is significant. He was asked to bring the City Code book and Title 7 of the Statutes to future City Commission meeting. Other direction and requests were also made. The Commission concluded by identifying that they wished to ensure that the City Attorney's office is capable of responding to the challenges that the City will face in the future and if more help is needed in that office, then a proposal should be forwarded to the Commission.

Mr. Becker concluded by requesting the City Commission to let him know before a City Commission meeting if the Commission has any legal questions so that he can properly research them.

The City Attorney's evaluation concluded at 6:55 p.m.

The City Manager's evaluation began at 7:00 p.m. Pursuant to Section 2-3-203 (3) MCA, the meeting of the City Commission was closed to the public after Chairman, Blakeman determined that the demands of the individual's right to privacy clearly exceeded the merits of public disclosure.

Motion was made by Lee, second by Dahl, to adjourn the meeting there being no further business. Motion passed.

The time was 9:10 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION