

LIVINGSTON
CITY COMMISSION MEETING
JANUARY 5, 2004
7:30 p.m.

The Livingston City Commission met in regular session on Monday, January 5, 2004 at 7:30 p.m. in the Community Room in the City/County Complex. City Commissioners present were Vicki Blakeman, Sheryl Dahl, Lenny Gregrey 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 Gregrey, to approve the December 15, 2003 regular City Commission meeting minutes.

All in favor of the December 15, 2003 minutes, Motion passed.

Motion was made by Ebinger, second by Dahl, to approve the December 10, 2003 special City Commission meeting minutes.

All in favor, Motion passed.

Motion was made by Dahl, second by Ebinger to adjourn the meeting in order to turn the reigns over to the new Commission. Vicki Blakeman, Chairman, thanked the outgoing City Commissioners and presented a plaque to each identifying their years of service in recognition of their commitment as being a part of the City Commission.

Lenny Gregrey stated his exiting comments. Some of his comments were to wish to say that he had enjoyed working with his entire fellow Commissioners, the City Manager, the City Attorney and all of the City Staff with whom he had come in contact with in the past two years. He also stated that to the contrary of the public's perception of the work that has gone on to run the City of Livingston, the City personnel that he has observed these past two years have the best interests of the public and the City of Livingston at heart 95% of the time. Mr. Gregrey stated that in order to get the 100% mark, he suggests that everybody when presenting a project for adoption ask themselves, "can we afford this and do we really need it?"

Mr. Gregrey presented the City Manager, Steve Golnar, Bruce Becker, Clint Tinsley and Vicki Blakeman with a photo of himself in his backyard holding an umbrella stating, "although I lost the Water Well Battle with you in 2001 I did win the War in 2002."

He provided his comments to the Recording Secretary.

Sheryl Dahl thanked the Staff and her fellow Commissioners for their dedication to the City of Livingston and stated that she felt that the City Staff was very good to work with and wished the upcoming Commissioners much success and everyone else as well.

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

A short recess was taken at 7:42 p.m.

The meeting went back in session at 7:55 p.m.

Roll Call was given by Pam Payovich, Recording Secretary, for the new City Commissioners. Present were Steve Caldwell, Mary Beebe, Bob Ebinger and Vicki Blakeman. A fifth Commissioner will be appointed at the January 20, 2004 City Commission meeting after interviews have taken place.

Bob Ebinger nominated Vicki Blakeman, as Chairman of the City Commission, second by Steve Caldwell.

Vicki Blakeman was elected to be Chairman.

Steve Caldwell nominated Bob Ebinger, as Vice Chairman of the City Commission, second by Mary Beebe.

Bob Ebinger 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.

Steve Golnar mentioned that Caron Cooper did not want to continue serving on the City Board of Adjustments and that this position would need to be advertised before an appointment can be made.

Bob Ebinger stated that the City Tree Board was interested in changing their membership to seven (7) members instead of five (5) members because one of the members that was thought to be taken off is still interested in being on the board and asked if their could be an amendment to the Ordinance. He also stated that he would like to have Eddie Miller, Parks & Recreational Foreman as a voting member for the board.

Bruce Becker stated that an amendment would need to be developed for the Ordinance addressing membership and also the voting status of this board.

Steve Caldwell asked about the legality of the City Commissioners serving on Committees that were advisory to the Commission.

Bruce Becker stated that the City Commissioners were liaisons for City appointed Committees.

Steve Golnar disagreed with the term liaison because the City Commissioners do vote on these Committees and cautioned of potential conflicts.

Steve Caldwell was asked to be a representative for the Infrastructure Replacement Committee and the Commission will wait until the other Commissioner is appointed before they appoint another Commissioner to this Committee.

Mary Beebe was asked to be a representative of the City Commission for the Skate Park Committee.

Chairman, Vicki Blakeman, nominated Doug Truex for a one (1) year term, Victor Robbins for a two (2) year term, Lynn Chan for a three (3) year term, and Bobby Parks and James Walter for a four (4) year term to the Urban Renewal Agency as this is a new committee adopted by the City Commission by Ordinance No. 1932.

Motion was made by Caldwell, second by Ebinger to approve and confirm the Chairman's nomination and appointments of the City Boards.

All in favor, Motion passed.

Vicki Blakeman volunteered to the City Planning Board as a City Commission representative.

Motion was made by Ebinger, second by Caldwell, to approve Chairman, Vicki Blakeman's appointment of herself to the City Planning Board.

All in favor, Motion passed.

Vicki Blakeman asked what Commissioners would serve on the Alliance Development Corporation, the EMS Committee, the Livingston Urban Transportation Committee, also known as the "Transportation Coordinating Committee" (TCC), the Park County Detention Committee and the Sister City Committee.

Bob Ebinger agreed to serve on the Alliance Development Corporation as a City representative.

Mary Beebe agreed to serve on the EMS Committee as a City representative.

Bob Ebinger agreed to serve on the Livingston Urban Transportation Committee as a City representative.

Steve Caldwell agreed to serve on the Park County Detention Committee as a City representative.

It was determined among the City Commission to wait until the fifth (5) Commissioner was appointed to the Commission to determine who would represent the City on the Sister City Committee.

Motion was made by Caldwell, second by Ebinger, to approve the Commission's appointments to the City Boards.

All in favor, Motion passed.

Bob Ebinger asked the City Manager if he would provide the Commission with the members of the Mayor's Landing Committee Task Force.

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

- Accept Bills and Claims for 2nd half of December 2003.
- Accept Bid for Sewer Jet Trailer.
- Approve Special Event request for Club Boxing on February 6, 2004 at the Civic Center contingent upon receiving revised insurance certificate naming the City of Livingston as additional insured at 414 East Callender and also having Liquor Liability Insurance up to \$1,000,000.00.

Bob Ebinger asked what a Sewer Jet Trailer was.

Clint Tinsley, Public Works Director, stated that a sewer jet trailer is for cleaning sewer lines.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

Becky Douglass proposed a different location for the Sacajawea Statue. She commented that this will need to be in place by July 15, 2006 and that the Commission had chosen behind the Bandshell at the Sacajawea Park. Ms. Douglass stated that this location would probably not work as this is proposed to be a very large statue at 1 ½ times the size of life size including the base of the statue that the statue will stand on. She stated that because of the copyrights of artists the statue cannot be moved once it is in place without the artist's permission.

Ms. Douglass commented that the Lewis and Clark Heritage Committee are proposing the following locations for this statue:

1. The waterpark next to the boat ramp which is next to the Park Clinic, that this location is as close to the area where Sacajawea stopped by during her expedition as they can determine;
2. Between the horseshoe pits and the tennis court in Sacajawea Park;
3. Near the dock by the lagoon in Sacajawea Park;
4. On the other side of the tennis courts near Pompey's Playground in Sacajawea Park; and,
5. Behind the Bandshell in Sacajawea Park.

Ms. Douglass stated that the Committee needs a sign off from the City Commission in order to move forward with the location of the Sacajawea Statue.

Ms. Blakeman, Chairman, asked Clint Tinsley, Public Works Director, if he had a preference as to where this statue could be located.

Clint Tinsley stated that the only concern that he had was the Park beside the boat ramp had a levee in it in 1997 and commented that this location could see similar developments in the future.

Bob Ebinger stated that he has a concern for being able to move this statue because all of these locations are in the flood way and that the City has no idea what implementation of Section 205 Study and flood protection measures may be involved and stated that the Committee cannot ask the Commission to approve not allowing to have the statue moved.

Steve Golnar suggested locating the statue across from the boat ramp across River Drive on the Water Works Building grounds.

Vicki Blakeman asked Ms. Douglass if she could provide the City Attorney with a copy of the contract so that the City Commission can move forward with direction as to where this statue would be placed to best benefit the City.

Ordinances:

A review was held for a draft Ordinance No. 1933 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ALLOWING DOGS TO RUN AT LARGE ON VIEW VISTA DRIVE FROM "H" STREET TO MAYOR'S LANDING.**

Bob Ebinger stated that in part "D" of Section 4-41 – "Failure to restrain a dog", it states, "a person may allow their dog to run unrestrained by leash or other restraint on View Vista Drive from its intersection at "H" Street to Mayor's Landing Park so long as the dog is under voice command", and he commented that he goes down to Mayor's Landing daily and that he has no

problem viewing dogs on View Vista that the owner's have control by voice command of their dogs and they are very well mannered. Mr. Ebinger mentioned though, that he is concerned about dog owner's following or having their dog running behind their vehicle. It could be very dangerous for the animal with the traffic flow for the dog, other motorists or other people walking their dogs.

Mr. Ebinger also mentioned that he would like the Ordinance to reflect that not only Miles Park be designated as to picking up dog feces but to also have that recommendation at Mayor's Landing.

Steve Golnar stated that Mayor's Landing is not in the City limits so the City cannot legislate that as an area requiring picking up dog feces.

Ms. Blakeman suggested to have it changed to city wide within City limits.

It was suggested to discuss the issue of the dogs running behind or following vehicles to have this discussion at the City/County meeting which will be held on Wednesday, January 7, 2004 in order for the County to have their direction included in this Ordinance.

Dogs running "at large" seemed very broad. It was suggested to revise the Ordinance to read, "under voice command".

The Commission reviewed a draft Ordinance No. 1934 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1920 AS CODIFIED IN CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE BY CLARIFYING DUTIES OF THE BUILDING OFFICIAL, DELETING THE MODEL ENERGY CODE, THE UNIFORM HOUSING CODE, THE PLUMBING CODE AND SIGN CODE AND GENERAL HOUSEKEEPING.**

Vicki Blakeman asked since the model energy code is being deleted who would do the inspections on plumbing or electrical. Jim Woodhull stated that the State would do the plumbing and the electrical.

Clint Tinsley stated that the Building Official is certified in plumbing and that the City Staff is reviewing this to determine whether it would be beneficial to the City to take over the plumbing inspections.

Clint Tinsley asked to have "Building Inspector" changed to "Building Official" and to delete "Superintendent of Services" under Section 6-55 – "Development water and sewer main extensions, street installation."

Vicki Blakeman asked when does the Development Review Committee meet. Clint Tinsley replied the first and third Wednesday of every month.

These Ordinance will be brought back to the Commission for first reading on January 20, 2004 City Commission meeting.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3472 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING ITS CAPITAL ASSET POLICY.**

Bob Ebinger asked that under "Standardized Forms" part "A" that "City Manger" be changed to "City Manager" and also to add "if" to "if it is to be sold or traded."

Bob Ebinger also asked to add "inventory" under "Periodic Inventories" to read, "A periodic inventory will be taken by someone."

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3473 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN LEASE WITH LIVINGSTON SCHOOL DISTRICT #4 FOR GUY WIRE INSTALLATION IN BLOCK 78 OF THE ORIGINAL PLAT TO THE CITY OF LIVINGSTON.**

Bob Ebinger asked about the height of the tower and John Gregory, Technology Manager of the Livingston Public Schools, commented that the existing tower stands at about 30' and the tower when erect from the ground will be 50'. The guy wires are necessary in order to support the tower in the wind of Livingston.

Mr. Gregory identified for the City Commission where the guy wire will be specifically constructed from a drawing provided.

Steve Golnar stated that he had proposed a 10 year term on the lease and to have an annual payment on it. The Commission might want to consider a shorter term lease, but he thinks that the construction of the tower would be quite an investment on the School's part and a 10 year lease is reasonable.

No action was taken to approve Resolution as stated.

Motion was made by Ebinger, second by Caldwell, to amend Resolution No. 3473 to provide a provision to take down wire and tower if the School District were to move or terminate business at that site before the end of the lease and to include one (1) payment for the 10 year lease period.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3473 as amended.

All in favor, Motion passed.

Action Items:

Granting conditional approval of the Branding Iron Ridge Subdivision preliminary plat proposed by Home Equity Partners was considered.

Steve Golnar stated that the Development Review Committee has reviewed the plans for the Branding Iron Subdivision in coordination with the Developer and the City Planning Board has reviewed the plans and they both recommend granting conditional approval of the Branding Iron Ridge Subdivision Preliminary Plat.

Motion was made by Ebinger, second by Caldwell, to approve granting conditional approval of the Branding Iron Ridge Subdivision Preliminary Plat.

Steve Caldwell stated that there was some concern voiced in an analysis of storm water management and there doesn't seem to be any direction in the plans and wanted to know if this would be addressed.

Scott Nelson, Engineer, provided to the Commission drawings of the plans for the storm water drainage for this subdivision development and explained the complete plans of this project by the Home Equity Partners.

Jim Woodhull, City Planner, gave background information relating to this request of conditional approval. Mr. Woodhull stated that Staff recommended conditional approval of this Subdivision. Final approval of the subdivision plat will be considered after the infrastructure is developed.

All in favor of granting conditional approval of the Branding Iron Ridge Subdivision Preliminary Plat, Motion passed.

A review of the approval of the scope of work revision for 5th and Park Street Intersection Engineering and Construction was held.

Motion was made by Caldwell, second by Beebe, to approve scope of work revision for 5th and Park Street Intersection Engineering and Construction and to direct City Attorney to development a contract amendment.

Steve Golnar gave background information relating to the revision of the scope of work for 5th and Park Street Intersection engineering and construction.

Also Mr. Clint Tinsley described the plans relating to the project and the costs involved.

Bob Ebinger asked if there was any plan or way to guarantee customer service to Taco Johns so that they do not get another major hit of down sales of business because of re-construction of 5th and Park Street.

Clint Tinsley stated that at the meeting of the Committee it was discussed that Taco Johns should not get a major hit because the drive up window will always be open and that the Committee felt like it will not impact Taco John's business.

All in favor, Motion passed.

A review was held to approve the Commission vacancy questionnaire and the interview schedule on January 6, 2004 and January 8, 2004.

Motion was made by Ebinger, second by Caldwell, to approval the proposed Commission vacancy questionnaire and approve final format.

All in favor, Motion passed.

The Commission considered the Park County Donut Task Force request for extension of work schedule. The settlement agreement between the City and the County, Greater Yellowstone Coalition and Park County Environmental Council, can be adjusted by mutual consent of the parties. The deadline was December 31, 2003 for the Donut Task Force work schedule.

Steve Golnar stated in the Addendum that was provided to the Commission, there was an additional letter from Tara Depuy, County Attorney, speaking of her concerns relating to the extension of the Donut Task Force request for extension of work schedule. Ms. Depuy's main concern was that the settlement agreement between the parties was signed in May of 2002 to completely rewrite the comprehensive plan and zoning regulations for the former "donut" area and they have one year from that date to review and/or draft a plan by the Planning Board including a 30 day protest period before the County Commission. She also mentioned in her letter that once the rewrite of the comprehensive plan and zoning regulations for the zoned area around the City of Livingston is finished, the process before the County Commission will take at least six weeks.

Motion was made by Ebinger, second by Beebe, to extend the Park County Donut Task Force schedule to March 31, 2004.

All in favor, Motion passed.

A discussion to approve the Ambulance Mill Levy Mail-in Ballot language was held.

Steve Golnar provided information relating to the proposed Ambulance service projected revenues and expenses for the mill levy. Mr. Golnar stated that what the City is trying to do is to equalize the mill levy on a countywide basis taking into consideration what is currently being assessed both of the City and the County residents. Currently in the City the Ambulance mill levy

is 3.26 mills and in the County it is 2.14 mills. The deadline for the approval by the Secretary of State was December 24, 2003 so that the Ambulance mill levy increase could get on the ballot for a March 3, 2004 election day for the mail-in ballot. The concern is developing some sort of balance between the City and County for what is acceptable and what does everyone feel like they can support in order to encourage the voters pass the mill levy increase support Ambulance operations in the County.

A meeting with the City and County will be held on January 6, 2004 relating to the Ambulance Mill Levy and the Mail-In Ballot language.

Motion was made by Caldwell, second by Ebinger, to approve amounts provided by City Manager, Steve Golnar's Ambulance Services projected revenues and expenses column "D" amounts and the mail-in ballot language provided with accurate amounts included and to change the word "was" to "were" on page 2 of the proposed Resolution in the "Official Ballot Ambulance Mill Levy Election" section of the Ambulance Services Projected Revenues and Expenses estimated costs based on historical costs spreadsheet provided.

All in favor, Motion passed.

It was suggested by the Commission to have Steve Golnar clarify for the voters what the mill levy will entail so that they understand the dollar impact of this decision.

The City Manager's written comments were reviewed.

- Steve Golnar commented on the procedures for accepting public participation and comments to the Commission that the Commission needs to tighten up on our process. The Commission suggested that this be discussed after the new Commissioner is appointed.

Commissioner Ebinger Comments:

- He asked that the Commission revisit the City Tree Board membership to take action to change members from 5 to 7.
- He welcomed the two new Commissioners and stated that it is a very rewarding experience.
- He stated that he would not be at the February 2, 2004 City Commission meeting.

Commissioner Beebe Comments:

- She stated that she was glad to be sitting on the Commission and thanked Staff for preparing her for her new position.

Commissioner Caldwell Comments:

- He echoed the comments that Ms. Beebe stated and that he looks forward to working with City Staff and the Commission as a whole.

Chairman, Blakeman Comments:

- She welcomed the new Commissioner and stated that she looked forward to interviewing the applicants for the vacant Commission seat to be appointed at the January 20, 2004 City Commission meeting.

No public comments were given.

Motion was made by Caldwell, second by Beebe, 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

It would out of character for me if I didn't have something to say at my final commission meeting, so, bear with me for a few more minutes before I depart this room.

First, I wish to say I have enjoyed working with all of you – my fellow commissioners, the City Manager, the City Attorney, and all of the city staff with whom I came in contact with these past two years. It was my pleasure to have worked with you.

Second, contrary to the public's perception of the work that goes on to run the city of Livingston, the city personnel I have observed these past two years have the best interests of the public and the City of Livingston at heart - 95% of the time. To get to the 100% mark, I suggest that, everybody, when presenting a project for adoption, ask themselves, "***can we afford this and do we really need it.***"

Tonight the City manager presented me with a "certificate of service" and not to be out done I have something for Steve Golnar, Bruce Becker, Clint Tinsley, and Vicki Blakeman. ***I had a lot of fun working with each of you and I hope you enjoyed it half as much as I did.***

After I announced I was not seeking re-election a friend of mine told me I needed to run because, "We need someone on the commission to stir the pot." I now donate to the new City Commissioners a wooden spoon for one of you brave souls to pick up and stir the pot when necessary.

In conclusion, to make a point at times, I have paraphrased lines from classic movies and tonight is no exception. I will paraphrase one word from **Citizen Kane**, voted as the greatest movie ever made. In the movie, the star, Orson Wells utters the word "***Rosebud***" on his death bed and all through the movie a reporter interviews Kane's co-workers to learn what the great man was trying to communicate on his death bed. Tonight I leave you with two words; "***Lemon Bars.***"

Lenny Gregrey, 1/5/2004

AMBULANCE SERVICES: PROJECTED REVENUES & EXPENSES

<i>combined services for Park County & City of Livingston</i>		<i>Recommended Option</i>						
<i>estimated costs based on historical costs</i>		Projected	ESTIMATED	ESTIMATED				
<u>REVENUES</u>	BUDGET	YE	BUDGET	AMBULANCE				
	FY04	FY04	COMMITTEE	BUDGET	FY05	12/23/2003	12/24/2003	1/5/2004
			New Levy A.	New Levy B.	New Levy C	New Levy D.		
			Committee	Ed's Proposal	Committee/Jim			
310000 TAXES								
CITY OF LIVINGSTON (3.26 MILLS)	27,827	27,827	-	-	-	-	-	-
COUNTY-WIDE MILL (VALUE \$29,924)			See subsidy below*	subsidy below*	subsidy below*	subsidy below*		
330000 INTERGOVERNMENTAL								
CORPORATE LICENSE TAX	119	119	119	119	119	119	119	119
PERSONAL PROPERTY	119	119	119	119	119	119	119	119
STATE ENTITLEMENT	7,024	7,024	7,024	7,024	7,024	7,024	7,024	7,024
ACCOUNT TOTAL	7,262	7,262	7,262	7,262	7,262	7,262	7,262	7,262
340000 CHARGE FOR SERVICES								
STATE/FED GOVT.		14,090						
BAD DEBT RECOVERY	3,000	1,536	3,000	3,000	3,000	3,000	3,000	3,000
AMBULANCE SERVICES	442,687	477,359	457,500	457,500	457,500	457,500	457,500	457,500
COUNTY CONTRIBUTION	65,000	65,000	-	-	-	-	-	-
TRANSFERS IN: GENERAL FUND	50,366	54,679	-	-	-	-	-	-
ACCOUNT TOTAL	561,053	612,664	460,500	460,500	460,500	460,500	460,500	460,500
360000 GIFTS & CONTRIBUTIONS	400	1,000	400	400	400	400	400	400
370000 INTEREST & DIVIDENDS	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
380000 OTHER FINANCING SOURCES	-	-	-	-	-	-	-	-
REVENUE TOTAL	597,542	649,753	469,162	469,162	469,162	469,162	469,162	469,162
EXPENSES								
AMBULANCE ADMINISTRATION								
SALARIES & BENEFITS	32,060	22,129	38,530	38,530	38,530	38,530	38,530	38,530
PROFESSIONAL SERVICES	7,400	7,400	7,600	7,600	7,600	7,600	7,600	7,600
ACCTG & COMPUTER SERVICES	2,529	2,529	2,600	2,600	2,600	2,600	2,600	2,600
ACCOUNT TOTAL	41,989	32,058	\$ 48,730.37	\$ 48,730.00	\$ 48,730.00	\$ 48,730.00	\$ 48,730.00	\$ 48,730.00
AMBULANCE OPERATING								
SALARIES & BENEFITS	356,696	375,804	397,578	397,578	372,578	397,578	397,578	397,578
OPERATING SUPPLIES	17,100	16,895	36,475	36,475	36,475	36,475	25,775	25,775
PROFESSIONAL SERVICES	15,550	22,924	17,000	17,000	17,000	17,000	17,000	17,000
Training	-	-	6,500	6,500	6,500	6,500	6,250	6,250
810-812 LOSSES & BAD DEBT	71,500	77,000	175,000	175,000	115,000	115,000	115,000	115,000
CELL PHONES	900	900	1,000	1,000	1,000	1,000	1,000	1,000
NEW AMBULANCE FUND			125,000	50,000	50,000	50,000	50,000	50,000
CAPITAL OUTLAY	1,500	1,500	33,600	33,600	23,600	23,600	9,900	9,900
ACCOUNT TOTAL	463,246	495,023	\$ 792,152.75	\$ 717,153.00	\$ 612,153.00	\$ 621,503.00	\$ 621,503.00	\$ 621,503.00

O.T. reduced \$ 25,000?

FACILITIES							
UTILITIES	3,340	3,340	3,340	3,340	3,340	3,340	3,340
BUILDING RENTAL	12,000	12,000	12,000	12,000	-	-	-
ACCOUNT TOTAL	15,340	15,340	\$ 15,340.00	\$ 15,340.00	\$ 3,340.00	\$ 3,340.00	\$ 3,340.00
City Mechanic	2,325	2,347	\$ 2,352.00	\$ 2,352.00	-	-	-
DEBT SERVICE PAYMENTS	18,116	18,116	\$ 17,116.00	\$ 17,116.00	\$ 17,116.00	\$ 17,116.00	\$ 17,116.00
OTHER UNALLOCATED COSTS							
COMPENSATED ABSENCES	500	500	500	500	500	500	500
LIABILITY INSURANCE	14,184	17,422	15,000	15,000	15,000	15,000	15,000
VEHICLE INSURANCE	1,164	2,370	1,200	1,200	1,200	1,200	1,200
INTEREST	-	19	46	46	46	46	46
DEPRECIATION	15,163	-	15,163	15,163	15,163	15,163	15,163
ACCOUNT TOTAL	31,011	20,311	\$ 31,908.62	\$ 31,908.62	\$ 31,908.62	\$ 31,908.62	\$ 31,908.62
INTERFUND TRANSFERS							
OFFICE OVERHEAD	800	800	800	800	-	-	800
ACCTG/AUDIT	1,003	1,003	1,003	1,003	-	-	1,003
COMPUTER SERVICES	1,200	1,200	1,200	1,200	-	-	1,200
FACILITY	410	410	410	410	-	-	410
COMMUNICATIONS	1,510	1,510	1,510	1,510	-	-	1,510
CENTRAL STORES	450	450	410	410	-	-	410
ACCOUNT TOTAL	5,373	5,373	\$ 5,333.00	\$ 5,333.00	\$ -	\$ -	\$ 5,333.00
EXPENSE TOTAL	577,400	588,567	\$ 912,932.74	\$ 837,932.62	\$ 713,247.62	\$ 727,930.62	\$ 727,930.62
REVENUE OVER(UNDER) EXPENSES	20,142	61,186	\$ (443,770.74)	\$ (368,770.62)	\$ (244,085.62)	\$ (258,768.62)	\$ (258,768.62)
Subsidies							
Paradise Valley Services			21,420	18,000	18,000	18,000	18,000
Gardiner Ambulance		?	4,000	4,000	4,000	4,000	4,000
YNPI/Cooke City Ambulance			3,000	3,000	3,000	3,000	3,000
LIVINGSTON AMBULANCE			443,771	368,771	244,086	258,769	258,769
			\$ 472,191	\$ 393,771	\$ 269,086	\$ 283,769	\$ 283,769
			New Levy A.	New Levy B.	New Levy C	New Levy D.	
			15.78	13.16	8.99	9.48	
			city (3.28 current)	12.52	9.90	5.73	6.22
			county (1.14 current)	13.64	11.02	6.85	7.34

-12,000?

-2352?

Keep

Meeting 1:30pm Tuesday 1/6/04

- write-off + bad debt #'s 2003
- Can we live with Ed's proposal?
- What happens if the mill levy doesn't pass?
- overtime reduction \$25,000?
- Review revenues + uncollectibles again.

LIVINGSTON
CITY COMMISSION MEETING
JANUARY 20, 2004
(Tuesday)
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, January 20, 2004 at 7:30 p.m. in the Community Room in the City/County Complex due to the Holiday on Monday, January 19, 2004, Martin Luther King's Birthday. City Commissioners present were Bob Ebinger, Vicki Blakeman, Mary Beebe and Steve Caldwell.

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 Caldwell, second by Ebinger, to approve the consent items as follows:

- Approve January 5, 2004 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of January 2004.
- Department Heads monthly reports and other minutes.

Bob Ebinger asked about the refund for Cigarette License to several businesses. Shirley Ewan stated that D&R Vending has the vending machines in those establishments and should pay the license which is \$15.00 per machine and not the Business being refunded.

Bob Ebinger also asked what the claim for Olness & Associates for \$11,250.00 was for. Shirley Ewan stated that these are the Auditors for the City and that the audit was done.

Steve Caldwell asked about the claim for Larry Raffety and was he a subcontractor for Jodi Litchfield and why did we pay Mr. Raffety. Steve Golnar stated that yes Mr. Raffety is a subcontractor for Jodi Litchfield and that he received a bill from Larry Raffety so he authorized the bill to be paid but if the Commission would like for him to change that he would issue the check to Jodi Litchfield and then she can pay Larry Raffety. The Commission concurred that they would like the check to be written to Jodi Litchfield instead of Larry Raffety.

All in favor of consent items, Motion passed.

Appointment of New Commissioner:

An appointment of a new commissioner by a majority vote of the City Commission was held. There were eight (8) applicants for this appointment

to be chosen from as two (2) applicants withdrew their application before interviews were given.

The Commission first voted for three applicants and then from the three top applicants one (1) applicant was chosen. The votes were submitted by secret ballot. Mr. Becker, City Attorney and Pam Payovich, Recording Secretary took the tallies of the votes. After the voting was completed Frank Horiel was identified as the successful applicant to be appointed to the City Commissioner. His term of office shall be until January 3, 2005. Mr. Horiel's Oath of Office was scheduled to take place at the next City Commission meeting on February 2, 2004.

Vicki Blakeman, Chairman, thanked all of the applicants for applying and stated that it was a tough decision for the Commission to make that they were all good applicants.

Variances:

Mr. Richard Adams owner of property located at 822 East Butte Street requested a variance from the front setback requirement for RII (MH) zoning districts. He wished to build a new house on this lot, which would be approximately twenty (20) feet from the front property line. City Staff recommended approval of this variance request. Mr. Woodhull, City Planner, gave background information relating for this variance request.

Motion was made by Ebinger, second by Caldwell, to approve the Findings of Fact of Mr. Richard Adams variance request.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve variance request for Mr. Richard Adams.

All in favor, Motion passed.

Ordinances:

Motion was made by Ebinger, second by Caldwell, to approve Ordinance No. 1933 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ALLOWING UNRESTRAINED DOGS UNDER VOICE OR OTHER CONTROL ON VIEW VISTA DRIVE FROM "H" STREET TO MAYOR'S LANDING, REQUIRING REMOVAL OF DOG FECES FROM CITY PROPERTY AND RIGHT OF WAYS AND CREATING A CRIMINAL OFFENSE FOR EXERCISING A DOG BY USING A MOVING MOTOR VEHICLE AND ESTABLISHING A PENALTY FOR VIOLATION.**

No action taken.

Steve Golnar stated that at the City/County meeting, Gary Barnhart was present and asked instead of starting the voice control at "H" Street if it could start at the Driving Range. Also Mr. Golnar stated that there was a letter enclosed from Helen Barnhart who also objected to the Commission's Ordinance which proposed to allow voice control of dogs at "H" Street.

It was suggested by City Attorney, Bruce Becker, that if there is a plan on View Vista Drive where voice command is permissible that it needs to be a fixed landmark so that dog owner's and Code Enforcement personnel have a common understanding of what the rule is in order to implement the law.

Motion was made by Ebinger, second by Caldwell, to amend Ordinance No. 1933 to replace "from "H" Street to Mayor's Landing," to read: "allowing from the beginning of the Driving Range, with a specific sign which allows people to begin voice command with your dog, to Mayor's Landing".

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Ordinance No. 1933 as amended for the first reading. A public hearing will take place at the next City Commission meeting, which will be held on February 2, 2004.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Ordinance No. 1934 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1920 AS CODIFIED IN CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE BY CLARIFYING DUTIES OF THE BUILDING OFFICIAL, DELETING THE MODEL ENERGY CODE, THE UNIFORM HOUSING CODE, THE PLUMBING CODE AND SIGN CODE AND GENERAL HOUSEKEEPING.** A public hearing will be held relating to this Ordinance on February 2, 2004 at the City Commission meeting.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Ordinance No. 1935 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE BY INCREASING THE SIZE OF THE TREE BOARD FROM FIVE MEMBERS TO SEVEN MEMBERS.**

No action taken.

Bob Ebinger stated that since the last meeting of the City Tree Board it was asked that Eddie Miller is the City Forester and everyone of the Board thought that he should be a voting member. He stated in addition he would like to see in the Ordinance that if two meetings are unexcused absences that a vacancy would be declared.

Bruce Becker stated that this requirement relating to unexcused absences would need to be written in the Tree Board's By-laws instead of having it stated in the Ordinance.

Motion was made by Ebinger, second by Caldwell, to amend Ordinance No. 1935 to include the language under "members" to include the Parks and Recreational Foreman as a voting member.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Ordinance No. 1935 as amended for first reading. A public hearing will be held relating to this Ordinance at the February 2, 2004 City Commission meeting.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1936 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF CHAPTER 30 ZONING OF THE LIVINGSTON MUNICIPAL CODE BY DESIGNATING ZONING CLASSIFICATIONS FOR RECENTLY ANNEXED PROPERTY DESCRIBED AS LOTS 1 THROUGH 14 OF PLAT 9502 ALSO KNOWN AS THE KAYLE ADDITION AS RII, THE PARKWAY MOTEL LOT DESCRIBED BY PLAT 438 AS HIGHWAY COMMERCIAL, PLAT 181 AS RII AND THE LAND DESCRIBED BY THE DEED RECORDED AT ROLL 65, PAGE 1170 AS RII.** A public hearing will be held relating to this Ordinance on February 2, 2004 at the City Commission meeting.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1938 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1928, AS CODIFIED BY SECTION 9-150 OF THE LIVINGSTON MUNICIPAL CODE, BY ESTABLISHING A 15 MILE PER HOUR SCHOOL ZONE ON VIEW VISTA DRIVE FROM THE INTERSECTION OF MAIN AND VIEW VISTA TO THE INTERSECTION OF "H" STREET AND VIEW VISTA DRIVE.** A public hearing will be held relating to this Ordinance on February 2, 2004 at the City Commission meeting.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Ordinance No. 1939 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1926 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING, AND STANDING; ESTABLISH A NO-PARKING ZONE ON "H" STREET BETWEEN BUTTE STREET AND VIEW VISTA DRIVE.** A public hearing will be held relating to this Ordinance on February 2, 2004 at the City Commission meeting.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3474 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT AMENDMENT NO. 2 WITH SKILLINGS CONNOLLY.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3475 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO SUPPORT NATIONAL FOREST MANAGEMENT THAT PROTECTS AND MAINTAINS ROADLESS LANDS OF THE GALLATIN NATIONAL FOREST.**

All in favor, Motion passed.

Action Items:

A discussion to consider proposed RFP for the Old East Side School was held by the City Commission.

Bob Ebinger stated that the suggestions pointed out by the City Manager that he provided in the packet were valid in that one of which would take a Workshop in order to determine what the Commission should propose to do with the Old East Side School.

It was determined that the Commission would have a Workshop on Wednesday, February 25, 2004 at 7:00 p.m. to discuss the Old East Side School in the Community Room of the City/County Complex.

The Commission asked that the City Manager to write a letter to those that have shown interest in the sale of the Old East Side School and let them know what the Commission has decided to do.

A review of a draft Ordinance No. 1929 was held. – **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 Ordinance was brought back to the City Commission from it's consideration after City Staff had developed a public information program relating to the City's concerns with keeping the sidewalks clean. Outside assistance was also to be secured to allow for alternatives for some property

owner's to pursue getting their sidewalks clean in the event that they are sick or elderly or out of town owner's.

Darren Raney stated that the Commission needs to determine what Ordinance that they want in order to enforce this and let the public be known of their decision. He also stated that there has been a publicity campaign airing on KPRK and that asked for comments from the public about this proposed Ordinance.

Vicki Blakeman asked Mr. Raney if he was comfortable with the way the Ordinance was written. Mr. Raney stated that he did feel comfortable with the way the Ordinance is written.

Steve Caldwell stated that he felt that in other communities that they have had much success in determining how this Ordinance should be enforced.

Dave Wistey of 12 Bighorn Drive stated that in the current snow removal Ordinance for snow shoveling that it states that every person failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor and committing a nuisance. He asked the City Attorney about the penalties for a misdemeanor.

Mr. Becker stated that a misdemeanor is defined by state law as a "criminal offense punished by a fine not to exceed \$500.00 and/or imprisonment not to exceed six months."

Mr. Wistey asked how many fines were issued in the last year.

Clint Tinsley stated that there were five (5) warnings given that he was aware of.

Mr. Wistey asked the Chairman, how she would define a nuisance.

Ms. Blakeman stated that she would like to give some background on this Ordinance and commented that the City Commission and the City Staff wanted to make an Ordinance that was enforceable and that the current Ordinance was not enforceable according to the City Judge.

Steve Golnar stated that the current Ordinance as written establishes failure to clear snow and ice as a criminal offense and that the City wanted to change it to a civil offense instead, so as to be able to enforce the Ordinance more efficiently.

Mr. Wistey stated that he has a problem with the way the Ordinance is written. He provided the Commission with photos taken by him on December 31, 2003 and they were photos of the Livingston Enterprise side of the street and another on the other side taken from the old Wilcoxson's building. He also stated that Bozeman has an Ordinance that provides that

the offending party is first noted in 24 hours and then they are sited if they did not comply.

Mr. Wistey stated that he felt that the City is trying to earn revenue. Ms. Blakeman stated that the City is trying to site the habitual offenders that do not clear their sidewalks.

Steve Golnar stated that the City has looked at the Bozeman Ordinance and wanted to know how Staff felt about enforcing that particular Ordinance.

Clint Tinsley stated that it would take a lot of manpower to enforce such an Ordinance as what Bozeman has. He also stated that Mr. Wistey has a point about the fact that we really are looking at an unenforceable Ordinance with the elderly and disabled residents of the City and those that cannot afford to hire anyone to shovel sidewalks. He feels that the only way that City Staff can enforce an Ordinance of this sort is to write tickets to all residents that are not complying with the Ordinance.

Steve Golnar asked Darren Raney to respond. Mr. Raney stated that Bozeman takes their Ordinance very seriously.

Clint Tinsley stated that whatever the City Commission decides they want to do that he will enforce it.

Steve Caldwell stated that he feels that as with every other Ordinance the Code Enforcement Officer has some discretion in the ticketing part of his job and in providing information to the public. He feels that the City is talking about a safety issue and public safety is not a cost free transaction and the City Commission needs to recognize this.

Bob Ebinger stated that the community asked the Commission to do this, as there is a problem in the City.

Mary Beebe stated that keeping the Ordinance the way it is doesn't seem enforceable. People in the community do walk a lot and this is a problem in not keeping sidewalks shoveled and their needs to be awareness of the community.

Vicki Blakeman stated that putting the unpaid tickets on their water bill would be effective.

Darren Raney stated that it could be put on property owner's property taxes.

Vicki Blakeman stated that the main purpose of this Ordinance is to get the snow off of the sidewalks.

The Fire Department does have a senior citizens assistance program which provides senior citizens and disabled persons help to prevent injuries.

Motion was made by Ebinger, second by Caldwell, to bring Ordinance No. 1929 off of the table. This Ordinance will be re-advertised for a public hearing on February 2, 2004 at the City Commission meeting.

All in favor, Motion passed.

A discussion to consider to request support for the City of Livingston for Livingston to Gardiner Bicycle Path Project was held by the City Commission.

Steve Golnar gave background information relating to this proposal. He suggested to the City Commission indicate it's support for investigating the feasibility of pursuing the development of such a path. He also stated that he felt that the information was too limited for the City Commission to make an informed decision as to whether they should support this effort in the long term as this is in the County and not in the City.

Bob Ebinger commented that he would encourage a letter of encouragement for this.

Tammy Dalling of Gardiner pursuing this project was present and she stated that she had contacted the Rails to Trails organization and they do not do any of the foot work as to pursuing the trail they suggested to contact the Montana Department of Transportation who suggested contacting Northern Pacific Railroad. She stated that they would need support from the City, County and Gardiner before moving forward in pursuing this trail between Livingston and Gardiner.

Bruce Becker suggested that to Ms. Dalling research in the Clerk and Records office be done to evaluate right-of-ways in the years between of 1978 and 1982 and who owns the tracks between the Railroad and the adjoining landowners.

Tammy Dalling stated that what she is looking for from the City is direction and support.

The Commission gave their consensus to Ms. Dalling to move forward with this project.

A letter of support to the Library indicating the City's intention to maintain Library funding reviewed by the City Commission.

Steve Golnar proposed some changes to this letter. The changes proposed were to change 7 mills in the City to 8.52 mills where stated in two sentences. He also asked if all of the Commissioners would like to sign this letter instead of him and to carbon copy the Park County Commission. The Commission stated that "yes" they would all like to sign this letter and to concur with the changes suggested.

The City Commission reviewed a proposed letter of support for the County Resolution calling for an election and imposition of additional mill levy to defray costs in providing Ambulance Service for an indefinite period of time.

Jim Mastin stated that he had met with Ed Schilling, Bob Brown, Lauren Reinhart and Sandy Parker and a representative from Gardiner and will have more specific information by the next meeting.

Steve Golnar suggested some changes to the letter which included: to add in the first sentence, "posing to the voters of Park County", as an insertion; and in the last paragraph of the last sentence to delete "desperately".

The Commission agreed to sign this letter individually instead of just the City Manager.

Bob Ebinger asked about the letter from the Park County Commissioners to the Livingston Park County Friends of the Library and if the County understood that the expansion of the Library when completed would not be turned over the County completely.

Steve Golnar stated that he felt that there was some misunderstanding by the County and that he would clarify to them that it would 50% City and 50% County owned after the completion of the expansion.

The City Manager's written comments were reviewed.

- Bob Ebinger commented about the lease of the Old Water Works Building since the City Attorney has stated that a public hearing is not required if they would inform Tara Eddy of the lease when negotiated. Steve Golnar stated that he would contact Ms. Eddy when the lease was completely negotiated and provided in the City Commission's packet so that Ms. Eddy could review the document.
- Bob Ebinger asked about the water line of the Green Acres Homeowner's Association if the Montana Rural Water Association had been contacted. Clint Tinsley stated that he had contact Montana Rural Water Association and asked if they would value the water line of Green Acres and they stated that they did not want to value this water line. The Montana Rural Water Association commented that they did not want to value the water line.

Vicki Blakeman stated that she would like to have City Manager write a letter to Green Acres Homeowner's Association to set a meeting to let them know that the City has not found anyone that wants to value the water line. It was determined among City Commission and City Staff to have a meeting with the Green Acres Homeowner's Association to discuss their water line on Thursday, February 12, 2004 at 7:00 p.m. in a room of the City/County Complex.

- Bob Ebinger asked about the Donut Task Force time extension request and the response from the County. Steve Golnar stated that County

Attorney, Tara Depuy isn't only concerned about the Task Force extension but how this effects the schedule. Mr. Golnar stated that he would let the Commission know when a decision is made by the County Planning Board.

- Mary Beebe stated that she had received a call from a concerned resident that asked about the Incinerator if there was any way that the City could help keep the Incinerator. Steve Golnar stated that the City's concern has been the cost of disposing of garbage and the decision to whether the Incinerator stays or goes was the County's.

Commissioner Caldwell had no comments.

Commissioner Beebe had no comments.

Commissioner Ebinger Comments:

- He asked if some other Commissioner could substitute for him of the Transportation Coordinating Committee (TCC) meeting tomorrow at 1:00 p.m. Steve Caldwell stated that he would substitute for Mr. Ebinger for the TCC meeting.

Chairman, Blakeman Comments:

- She stated that she had been approached by Bob Fleming of the Refuse District who asked if the City could participate in a small facility group that would make decisions in order to set prices for the transfer station. It was suggested to have a group of six members and those members would include: two (2) from the Refuse Board; two (2) from the City Commission; the Manager of the facility and the Public Works Director.

Ms. Blakeman stated that this group would have an Interlocal Agreement in order to make recommendations to the both Commissions and asked for the consensus of her fellow Commissioners to move forward with the City Manager and City Attorney to develop an agreement. She felt that this would be a good way for the City to work with the County and the Refuse Board.

Bruce Becker asked if this would be a planning board. Vicki Blakeman stated that it would be an operational board. Bruce Becker stated that he would have to check to see what kind of powers the Refuse Board would have without the County.

Ms. Blakeman stated that this proposal came from a meeting on January 28, 2004 at 8:00 a.m. and asked to have the City Attorney work up an Interlocal Agreement for this group to be formed without joining the Refuse District.

- Ms. Blakeman also commented that Bernie Rustad has a large piece of property east of the City and the he has been working on a project through the USDA and the Natural Resource Conservation Service and that he would like to put his property in the Farm and Ranch Protection program. In order to do this he needs a public entity to facilitate this. He has requested from the City a letter of intent in pursuing this

property. He wants to keep this property in agricultural. She feels that this is a great opportunity for the City and that the City could pursue grants for this project. In order to do this, she asked for another Workshop to be scheduled with the City Commission and City Staff with Mr. Rustad.

No public comments were given.

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

The time was 9:37 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
February 2, 2004
7:30 p.m.

The Livingston City Commission met in regular session on Monday, February 2, 2004 at 7:30 p.m. in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe and Vicki Blakeman. Bob Ebinger was absent.

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 Caldwell, second by Beebe, to approve the January 20, 2004 regular City Commission meeting minutes.

All in favor, Motion passed.

The Oath of Office of the appointed Commissioner, Frank Horiel, was given by Pam Payovich, Recording Secretary.

Roll Call was given by Pam Payovich, Recording Secretary, for the new City Commissioners. Present were Mary Beebe, Frank Horiel, Vicki Blakeman and Steve Caldwell. Bob Ebinger was absent.

Positions of the remaining City Board vacancies were determined.

The Board of Adjustments vacancy will be re-advertised.

Vicki Blakeman, Chairman, nominated Frank Horiel to be the City Commission representative for the Infrastructure Replacement Committee.

Motion was made by Caldwell, second by Beebe, to accept Chairman, Vicki Blakeman's nomination of Frank Horiel to be the City Commission's representative for the Infrastructure Replacement Committee.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to accept the withdrawal of Bob Ebinger, City Commissioner, as a City representative for the Alliance Development Corporation Committee to eliminate any conflict of interest.

All in favor, Motion passed.

Vicki Blakeman, Chairman, nominated Frank Horiel to be the City Commission representative for the Sister Cities Committee.

Motion was made by Caldwell, second by Beebe, to approve Chairman, Vicki Blakeman's nomination of Frank Horiel to be the City Commission's representative for the Sister Cities Committee.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- Approve Bills and Claims for 2nd half of January 2004.
- Award bid for TV Camera Inspection, Vapor Root Killing and Cleaning of Sanitary Sewer Lines to Pace Construction in the amount of \$25,958.30.

Mary Beebe asked what Vapor Root Killing was. Clint Tinsley stated that the TV Camera Inspection, Vapor Root Killing and Cleaning of Sanitary Sewer Lines is all a part of the process for cleaning sewers. The root killing in sewer lines has increased over the course of 5 to 6 years due to the drought. The roots of trees are coming into household sewers. Vapor Root Killing is a foam process that goes down the sewer line and wraps around the tree roots and kills the roots. Mr. Tinsley concluded by stating that this process will start next month.

Steve Caldwell asked about the claim from Park County for the GIS share and the GIS Department Plotter Map budget. Steve Golnar stated that the City pays 1/3, the County pays 1/3 and the Rural District pays 1/3 of the GIS Coordinator position and also the City pays a 1/3 of the Map Plotter for the GIS Department.

All in favor of consent items, Motion passed.

Public Hearings:

Motion was made by Caldwell, second by Beebe, 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.**

Steve Golnar stated he had a visit from Lee Harris today in his office and Mr. Harris wanted to make some comments about this Ordinance but had another meeting to attend. On behalf of Mr. Harris of Callender and 7th Street absence Steve stated that Mr. Harris is concerned for those who were not able to clear the snow from their sidewalks and for physically the elderly and those who can't afford to pay for snow removal and would like to see these contingencies addressed in the Ordinance.

Mr. Golnar stated that the City Staff will encourage the City residents of Livingston to be more neighborly and that there is a current Senior Citizen's Assistance Program through the Fire Department but that the City could not commit to cleaning the sidewalks of the above people in all instances.

Vicki Blakeman stated that to her understanding the Commission had decided to go with Police Chief, Darren Raney's public awareness campaign in order to notify the public of the safety and health reasons as to why the Commission was going to enforce this Ordinance No. 1929. In this document she stated that Mr. Raney recommended that warnings would be combersum and slow down the process of accomplishing sidewalk snow removal and cause more paper work. Mr. Raney stated that discretion needs to be used in issuing tickets where there is an elderly disabled or financially constrained person involved. He stated that he didn't think that this would need to be in the Ordinance that this is just a procedure to follow in order to comply with the Ordinance adopted.

Frank Horiel asked how much of a problem snow removal was now? Vicki Blakeman stated that it is a significant issue and that there have been some complaints from residents.

Mr. Horiel asked if the City is taking the snow removal Ordinance off of a criminal offense and changing it to a civil offense. Ms. Blakeman confirmed this. Mr. Horiel asked if it would be easier to issue citations to those people who did not comply. Ms. Blakeman stated "yes" that's the reason why the Commission wanted the offense changed from criminal to civil was so that the Code Enforcement Officer could issue tickets. A criminal offense can only be enforced by the Police. Public Works Director, Clint Tinsley confirmed that no additional people will be hired in the City to enforce this Ordinance.

Steve Caldwell stated that he would like to see some way that the City could encourage both formal and informal efforts to help Senior Citizens and those disabled residents. This is what the media campaign was to do to provide awareness to the public.

No public comments were given at this time.

Later in the meeting Steve Golnar asked if Mr. Harris could make his comments about the Ordinance No. 1929 now that he had arrived at the meeting.

Mr. Harris asked if the Commission had made any provisions in this Ordinance for the people who are physically unable or financially unable.

Vicki Blakeman stated according to our Chief of Police that is within the discretion of Staff enforcing the Ordinance and will be addressed on a case-by-case basis.

Fire Chief, Jim Mastin, stated that the Fire Department has a Senior Citizens Assistance Program that they would be happy to help those in need of having their sidewalks shoveled.

All in favor of Ordinance No. 1929, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1933 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ALLOWING UNRESTRAINED DOGS UNDER VOICE OR OTHER CONTROL ON VIEW VISTA DRIVE AT THE DRIVING RANGE TO MAYOR'S LANDING, REQUIRING REMOVAL OF DOG FECES FROM CITY PROPERTY AND RIGHT OF WAYS AND CREATING A CRIMINAL OFFENSE FOR EXERCISING A DOG BY USING A MOVING MOTOR VEHICLE AND ESTABLISHING A PENALTY FOR VIOLATION.**

Lee Harris of 202 South 7th Street stated that he takes strong exception to this Ordinance that there was nothing in the Ordinance which recognizes the people who are physically unable to walk or run their dogs. He was personally aware of the past history of over 30 years that dogs have been able to run from the High School parking lot to Mayor's Landing along or beside their cars without having to use voice command. He asked why all of a sudden has this become a problem?

Vicki Blakeman stated that the Commission has had several complaints from people walking their dogs or just walking in that area that people walking their dogs beside their vehicles have no control of their dogs. For the safety of the dogs and the people walking they wanted this provision added to the Ordinance. The dogs could get run over or the dogs could attack people.

Mr. Harris stated that he is physically unable to walk his dog and asked what he could do to exercise his dog. Frank Horiel suggested that Mr. Harris take his dog in his car down to Mayor's Landing and then let the dog run within 20 yards from him which is allowed under the voice command Ordinance.

Vicki Blakeman stated that the City cannot have dogs running at large on City Streets.

View Vista Drive is a City Street now and greater control of dogs was requested by residents that walk their dogs and walk in that area and also by residents of the vicinity.

Gary Barnhart of 55 View Vista Drive stated on behalf of his mom and himself that he would like to thank the Commission for addressing this problem of the dogs and hopefully resolving the issues and concerns that he has had.

No action was taken to approve Ordinance No. 1933 as written.

Steve Caldwell suggested that throughout the Ordinance he would like to see it consistent in references changing the term "their dog" to "a dog" since there are times when individuals walk other people's dogs.

Motion was made by Caldwell, second by Horiel, to amend Ordinance No. 1933 to change the reference to dogs in this Ordinance to singular non-possessive to read: "a dog" instead of using the term "their dog".

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1933 as amended.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1934 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1920 AS CODIFIED IN CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE BY CLARIFYING DUTIES OF THE BUILDING OFFICIAL, DELETING THE MODEL ENERGY CODE, THE UNIFORM HOUSING CODE, THE PLUMBING CODE AND SIGN CODE AND GENERAL HOUSEKEEPING.** No public comments were given.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1935 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE BY INCREASING THE SIZE OF THE TREE BOARD FROM FIVE MEMBERS TO SEVEN MEMBERS.** No public comments were given.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Ordinance No. 1936 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF CHAPTER 30 ZONING OF THE LIVINGSTON MUNICIPAL CODE BY DESIGNATING ZONING CLASSIFICATIONS FOR RECENTLY ANNEXED PROPERTY DESCRIBED AS LOTS 1 THROUGH 14 OF PLAT 9502 ALSO KNOWN AS THE KAHLE ADDITION AS RII, THE PARKWAY MOTEL LOT DESCRIBED BY PLAT 438 AS HIGHWAY COMMERCIAL, PLAT 181 AS RII AND THE LAND DESCRIBED BY THE DEED RECORDED AT ROLL 65, PAGE 1170 AS RII.** No public comments were given.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Ordinance No. 1938 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1928, AS CODIFIED BY**

SECTION 9-150 OF THE LIVINGSTON MUNICIPAL CODE, BY ESTABLISHING A 15 MILE PER HOUR SCHOOL ZONE ON VIEW VISTA DRIVE FROM THE INTERSECTION OF MAIN AND VIEW VISTA TO THE INTERSECTION OF "H" STREET AND VIEW VISTA DRIVE. No public comments were given.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1939 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1926 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING, AND STANDING; ESTABLISH A NO-PARKING ZONE ON "H" STREET BETWEEN BUTTE STREET AND VIEW VISTA DRIVE.**

Gary Barnhart of 55 View Vista Drive asked if cars were going to be ticketed or towed away if parked along "H" Street between Butte Street and View Vista Drive.

Darren Raney stated that they will be ticketed when in violation, but that cars will be towed when they are obstructing traffic.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3476 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MORRISON MAIERLE, INC. FOR ENGINEERING SERVICES FOR THE STRUCTURAL ASSESSMENT OF THE BURIED CONCRETE RESERVOIR PORTION OF THE OLD WATER WORKS COMPLEX.** Steve Golnar gave background information relating to this Resolution. He stated that this was to determine the structural integrity of the concrete reservoir that is buried under the Old Water Works Complex and to determine ways to ensure a safe and stable surface.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3477 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSTRUCTION EASEMENT AND AUTHORIZATION TO ENTER AGREEMENT WITH FRIENDS OF LIBRARY FOR CONSTRUCTION OF ADDITION TO LIBRARY.**

All in favor, Motion passed.

Action Items:

The City Commission reviewed a proposed Emergency Vehicle parking request from Livingston Health Care and the Fire Department. Jim Mastin gave background information relating to this request. Mr. Mastin stated that the proposed parking space was along Crawford Street on the west side of the Livingston Health Care whereas the current ambulance parking is in the parking area behind the Livingston Health Care. It was also stated that the Livingston Health Care would furnish and pay for the signs required for this request if approved.

Motion was made by Caldwell, second by Beebe, to approve Emergency Vehicle parking request from Livingston Health Care and the Fire Department for an Ambulance parking slot after patients have been delivered. This parking area was to be located on Crawford Street by the Emergency Room.

All in favor, Motion passed.

The City Commission reviewed the proposal for forming a Trail/Open Space Committee.

Steve Golnar stated that he was still in the process of assembling information from other communities and their Trails Committee's in order to bring a Resolution back which creates a Trails and Open Space Committee for the City Commission's consideration. It was asked by Commissioner Caldwell if a joint Committee with the County should be developed. The City Manager encouraged the City Commission to start with a Trails and Open Space Committee which would address the City and surrounding areas within approximately 5 miles.

A discussion to consider a request for exception of Police Officer residency requirements for John Leonard was held. The Police Chief and City Manager reviewed Mr. Leonard's request and recommended approval.

Motion was made by Caldwell, second by Beebe, to approve Mr. Leonard's request to live outside of the city limits.

All in favor, Motion passed.

The City Commission discussed authorizing City funding for the Missouri River Drug Task Force (MRDTF) for FY 2004-04 in an amount of \$8,400.00 subject to review of MRDTF contract by City prior to authorizing City Manager's signature.

Steve Golnar gave background information relating to the Missouri River Drug Task Force funding. He stated that the necessity for making this commitment at this time is so that it can be incorporated into the grant request for next fiscal year's (July 1, 2004 to June 30, 2005) funding for this regional drug enforcement entity.

Steve Caldwell asked how effective this program has been in the past. Darren Raney stated that he feels that this program has been very effective. Mr. Raney commented that with the other problems surrounding the community that drugs did not need to be on top of them. This program has had a good impact on the community and kept the drug violations down.

Motion was made by Caldwell, second by Beebe, to approve authorizing City funding for the Missouri River Drug Task Force for FY 2004-05 in an amount of \$8,400.00 subject to review of contract by City prior to authorizing City Manager's signature.

All in favor, Motion passed.

The City Commission reviewed the location for the Sacajawea Statue that has been requested by the Great Bend of the Yellowstone Lewis & Clark Committee. Steve Golnar stated that the location proposed for the Sacajawea Statue is on the grass between the Boat Dock and River Drive near the Lagoon. He stated that he felt that this would be a good permanent location.

It was asked by the City Commission to have Steve Golnar, City Manager write a letter to the Great Bend of the Yellowstone Lewis & Clark Committee and ask them who would declare ownership of this statue; who has the responsibility of the maintenance of this statue after it is in place; and, who would hold the liability of the statue after it is in place for the safety of the public and the possible damage of the statue.

Motion was made by Horiel, second by Caldwell, to approve the location of the Sacajawea Statue on the grass between the Boat Dock and River Drive near the Lagoon with contingencies as stated above.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve appointment of Dick Murphy to the Livingston City Tree Board. He will complete the seven member Board that was approved earlier in the evening by Ordinance No. 1935.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve the CDBG - Community Development Block Grant for Printingforless.com (PFL) Draw #2 in the amount of \$30,000.00.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve the claim for Printingforless.com in the amount of \$30,000.00.

All in favor, Motion passed.

Mr. Golnar reported that Dan Rice from Printingforless.com was ill, but offered to attend the next meeting if the Commission had any questions relating to the CDBG grant for Printingforless.com draw #2 or the status of the Printingforless.com project.

The Commission stated that they would appreciate an update from Mr. Rice if he could be available at the next meeting.

The City Manager's written comments were reviewed.

- Steve Caldwell commented about the request by Green Acres to meet either on February 10, 2004 or February 19, 2004. He could not meet on February 19, 2004 and he knew that Bob Ebinger would not be back until February 12, 2004. Mr. Caldwell continued by stating that Green Acres, not the City of Livingston, should pay for an appraisal of the water line system if they want to sell it to the City. It was asked that this be reviewed when Mr. Ebinger is present at the Commission meeting. Also it was determined to have the City Manager write a letter to Green Acres Homeowner's Association and ask them if they want to meet and if so when pointing out that there are a number of new members on the City Commission and the need to address this water system valuation issue.
- Vicki Blakeman asked that everyone attend the meeting on February 4, 2004 with the Calamity Jane Productions at the Fairgrounds at 5:30 p.m. Note: The City Commission was provided copies of concerns and letters received. Additional concerns and letters had been received in the City Office and were circulated at the meeting.
- Steve Golnar commented that he would like to inform the City Commission about a tree in the middle of the alley between South 11th Street and West Geyser and West Crawford Streets which is going to be removed in conjunction with a sewer replacement project. The tree is above the sewer line and the City Tree Board has recommended removal.

Commissioner Caldwell Comments:

- He stated that he would like to welcome Frank Horiel to the City Commission and is looking forward to working with him.

Commissioner Horiel Comments:

- He stated that he is looking forward to working with his fellow Commissioners.

Commissioner Beebe Comments:

- She echoed what Steve Caldwell stated in welcoming Frank Horiel to the City Commission.

- She stated that the EMS Committee continues to meet in order to define the public information packet for the mill levy and that she encouraged a resident to register to vote today.

Chairman, Blakeman Comments:

- She stated that both Mr. Caldwell and herself will continue to work with the Refuse Board and that there is a meeting on February 3, 2004 with the County representatives to try and work out the logistics of the garbage situation with the City and County.

Public Comments:

Lee Harris of 202 South 7th Street commented that he feels that the Commission was not interested in helping the elderly or the physically disabled and financially incapable in the community in the two (2) Ordinances that were purposed earlier this evening and thanked the Commission for their time.

Steve Golnar reminded the Commission that there was going to be a brown bag luncheon for the Ambulance Mill Levy and current City/County issues with the Rotary Club on February 23, 2004 at noon in the Community Room of the City/County Complex. There will also be tours of the Fire/Ambulance Department, Jail, Communications Center and GIS Department given at that time. Also there will be a public information meeting on February 23, 2004 at 7:00 p.m. and February 26, 2004 at 7:00 p.m. for the Ambulance Mill Levy in the Community Room of the City/County Complex.

Steve Caldwell stated that he would be absent from February 20, 2004 through February 24, 2004.

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

The time was 9:04 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
February 17, 2004
(Tuesday)
7:30 p.m.

The Livingston City Commission met in regular session on Tuesday, February 17, 2004 at 7:30 p.m. due to President's Holiday on Monday, February 16, 2004 in the Community Room in the City/County Complex. Commissioners present were Bob Ebinger, Vicki Blakeman, Frank Horiel, Mary Beebe and Steve Caldwell.

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 Caldwell, second by Ebinger, to approve the consent items as follows:

- Approve February 2, 2004 regular City Commission meeting minutes.
- Approve Bills and Claims for 1st half of February 2004.
- Department Heads Monthly Reports and Other Minutes.
- Approve Special Event request for Club Boxing on March 5, 2004; April 9, 2004; and, May 14, 2004 to be held at the Civic Center.

Bob Ebinger asked about the claim from BSN Sports Supply Group for the gym mats and whom they were for. Clint Tinsley stated that these were mats that were budgeted for the Civic Center.

Mr. Ebinger also asked about the claim from Leister Electric, Inc. and what this claim was for. Clint Tinsley stated that the claim was for the new lights in the Civic Center that were also budgeted for. The lights take less energy and are not as bright.

Mr. Ebinger asked about the claims for Robin Housekeeping and Montana Clean and as to why there are two (2) cleaning business bills. Steve Golnar stated that Robin Housekeeping is for the Utility Office and Montana Clean is for the City/County Complex.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

Dan Rice, Director for Printingforless.com provided a report on the current status of the company's development. Mr. Rice commented that the City and Printingforless.com had entered into a CDBG grant agreement and the funding from that agreement had enabled Printingforless.com to purchase a press and to provide training of their employees. The first draw from this

training grant was approved to Printingforless.com at the last City Commission meeting. He stated that Printingforless.com currently has 83 employees and of those employees 70% are residents of Park County. Since they have received this training grant on October 1, 2003 they have hired 17 new employees. Eight (8) of them currently reside in Park County and four (4) are looking for a place to live in Park County and also 8 of the 17 new employees were low to moderate income people according to federal guidelines. Part of the agreement with the City was that Printingforless.com would hire 30 people over the next two (2) years. They currently have 17 openings which they expect to fill by the end of May 2004. Printingforless.com includes individuals who are technology services representatives, programmers, information technology people, administrative assistants, press operators, printing services, and is the only business in the State of Montana that has a State licensed employer owned day care for their employees who have children.

Mr. Rice commented that Printingforless.com has been working towards a bigger location for their business and hopefully will find property soon in order to initiate the growth of their company in a larger building in Park County. Their intentions are to be in a new building by mid 2005 if not sooner.

Mr. Rice invited the new Commissioners to tour the business at their convenience. The City Commissioners determined that a tour would be set for March 4, 2004 at 3:00 p.m.

Comments and concerns relating to eliminating the 5th Street Train Track Crossing and replacing it with an overpass was given by Trygg Heintz of 112 North Yellowstone Street.

Mr. Heintz stated that he had been in contact with the MRL Headquarters in Missoula and they shared with him that the best way to pursue his request for the reduction of the noise of trains was to approach the City Commission. After talking with MRL Headquarters he stated that he would like to propose an overpass possibly at the west end near the freeway junction to help diminish the noise of the trains and eliminate the road-grade-crossing at 5th Street. He stated that MRL officials had admitted that there has been increased efficiency of MRL operations (higher train traffic) within the past years and Mr. Heintz stated that this is diminishing the quality of life in the City of Livingston. He suggested that in some instances traffic engineering projects have been funded by a temporary toll-booth which could be established to collect a small fee for the users of the facility, such as a bridge or overpass, until the cost of construction has been allayed.

He concluded by stating that he feels that Livingston needs to look at resolving the train traffic noise issue seriously in order to make the community more attractive and allow it to grow. He stated that the negatives of allowing the noise from the trains doesn't facilitate the potential

of our community growing that it disturbs thought, creative work, disturbs art, disturbs meditation, disturbs reading, disturbs sleep and the spirit of those that want to succeed in their lives through their work in the City of Livingston.

Vicki Blakeman stated that there is a meeting scheduled next week with the Railroad and that the overpass on 5th and Park Street is the number one priority topic of discussion.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3478 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT AMENDMENT NO. 3 WITH SKILLINGS CONNOLLY.** Steve Golnar stated that this amendment only extends the time frame of the contract and does not increase the amount of money involved in this project.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3479 - **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.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3480 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH MISSOURI RIVER DRUG TASK FORCE FOR FY 2004-05.**

All in favor, Motion passed.

Action Items:

A draft Ordinance No. 1940 – Revising Chapter 26 of the Livingston Municipal Code – Street Opening Permits and New Fees was reviewed by the City Commission for their consideration.

Steve Golnar stated that the intention of this Ordinance is to revise Chapter 26 of the Livingston Municipal Code, to clean up some old language and that Chapter 27 has been added for street opening permits and new fees.

Motion was made by Ebinger, second by Caldwell, to direct City Attorney to bring this Ordinance revising Chapter 26 of the Livingston Municipal Code –

Street Opening Permits and New Fees back on first reading at the first City Commission meeting in March 2004.

All in favor, Motion passed.

Some dates for a meeting with Green Acres Homeowner's Association were reviewed and the Commission discussed a possible agenda for a meeting and strategy. It was determined to have a meeting on March 3, 2004 at 7:00 p.m.

Steve Golnar gave background information relating to the City's discussions with the Green Acres Homeowner's Association and the previous Commission's agreement to pursue engineering services at no cost in order to better define the issues, but also with the caveat that the City was not bound by such a value.

Mr. Caldwell questioned if the City should pay for a water system over 40 years in age. Mr. Horiel also questioned if the City should pay for an Engineer to create a value for a system that the City would not agree to pay. Mr. Golnar was instructed to communicate that the City did not want to pay for a valuation of the system or to purchase the Green Acres System. The Commission would like to consider other alternatives for bringing the parties together.

The City Manager was asked by the City Commission to write a letter to Mrs. Pugliano, President of the Green Acres Homeowner's Association, to schedule this meeting date on March 3, 2004 at 7:00 p.m. and what the Commission so desires for the purpose of this meeting with Green Acres Homeowner's Association.

An appointment of a city representative to fill the unexpired term of Gary Blakely on the City Donut Planning Area Task Force was discussed. Mr. Blakely was appointed to this Task Force as a liaison with the City Planning Board and has submitted his resignation from the Donut Planning Area Task Force.

Steve Golnar stated that he feels that the Commission needs to fill this position soon or there is no point in doing so as the Donut Task Force work will be completed as of the end of March. He stated that it is important have the City fully represented on this Donut Task Force.

It was suggested by the Commission that they determine this appointment by the first of March.

A discussion was held to authorize procurement of used Pickup Truck for the Fire Department. The cost of which will not exceed \$20,000.00.

Steve Golnar stated that because the local City Code is inconsistent with State Statutes he was requesting that the City Commission waive the \$10,000.00 expenditure bidding requirement established by the City Codes for the purchase of a used Pickup Truck for the Fire Department. He also asked the Commission to direct the City Attorney to revise the Livingston City Code to eliminate this conflict.

Motion was made by Caldwell, second by Ebinger, to waive the \$10,000.00 expenditure bidding requirement.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to direct the City Attorney to revise the Livingston City Code to comply with State Law by eliminating the second paragraph under Section 2-90 (Advertisement for Bids) which reads: "The requirements for bids, for expenditures for up to \$10,000.00, maybe waived by the City Council."

All in favor, Motion passed.

The Commission reviewed the City Manager's plan for expenditure of \$10,165.00 to order Interstate "City Center" sign replacement and installation at East and West Interchanges consistent with the Interstate Business Loop.

Pat Grabow of 204 East Callender asked if the City Commission would consider if this sign could be brown and read "Historic City Center" which she felt would attract people into the downtown area of the City.

Bob Ebinger stated that this request had been made by the City to the Montana Department of Transportation and that they had indicated that this sign is the closest sign that Livingston could get to highlight the location of downtown. The MDT had indicated to the City that Butte had a sign which was brown and stated "Historic City Center", of this because Butte was a nationally registered historic city and that Livingston is not.

Vicki Blakeman stated that a brown sign will be off the Interstate on both the East and West Interchanges for the historic area signs.

Motion was made by Caldwell, second by Beebe, to direct City Manager to order construction and installation of Interstate "City Center" signs at East and West Interchanges and ratify expenditure of \$10,165.00 from line item #4010.000.4118180.940 - Capital Improvement Fund - Capital Outlays.

All in favor, Motion passed.

A discussion was held to authorize City Commission Miscellaneous Professional Services Expenditures of up to \$3,000.00 for Urban Renewal Agency orientation and training for the remainder of FY 2003-04.

Motion was made by Caldwell, second by Ebinger, to authorize City Commission Miscellaneous Professional Services Expenditures of up to \$3,000.00 for Urban Renewal Agency orientation and training for the remaining of FY 2003-04.

All in favor, Motion passed.

A review plan for funding asbestos inspection training for Building Official for \$900.00 was held.

Specifically relating to the City's interest and concern, both the Old East Side School and the Old Water Treatment Plant will require inspections for asbestos prior to any remodeling occurs. It is the Building Official's assessment that the cost of training to create his ability to perform these inspections will be less than the cost of contracting for outside help to perform the inspections on the Old East Side School and the Old Water Treatment Plant.

Steve Golnar suggested using \$900.00 from City Commission Miscellaneous Professional Services Expenditures and moving that expenditure authority to the Training Fund in the Building Department which is also in the General Fund, instead of what he suggested in the packet.

Motion was made by Caldwell, second by Ebinger, to ratify City Manager's budget transfer as stated above.

All in favor, Motion passed.

A discussion to approve City of Livingston Federal Appropriation Projects by priority for FY 2004-05 was held.

Steve Golnar had added to this project list some other projects and was curious if the Commission would like to add these suggested projects to the Federal Priorities list.

Motion was made by Ebinger, second by Caldwell, to approve City of Livingston Federal Appropriations Project by priority for FY 2004-05 as: 1). Railroad Crossing; 2). Corps of Engineers Section 205 Study; and, 3 Assistance in improving/extending Public Infrastructure to current fringe properties.

All in favor, Motion passed.

Some discussion about authorizing storage of Library materials at East Side School 1949 Addition during the Library expansion of construction was held.

It was determined not to take any action at this time to wait until the next City Commission meeting to determine this decision.

The City Manager's written comments were reviewed.

- Bob Ebinger asked where the refunds for the Liability Program Dividend received of \$15,794.00 and the Workers Compensation Program Dividend received of \$6,476.00 account went into. Shirley Ewan, Finance Officer stated that they go back into the funds that they were paid out of as interest income.
- Vicki Blakeman asked about the letters that were received prior to the meeting tonight. She commented that for the past two (2) days the Refuse Board has been making some interesting recommendations and she felt that the City needed to write a letter to the County in support of their decision to close the Incinerator. It was suggested to take out the word "previous" in the draft letter proposed by the City Manager.
- Vicki Blakeman also asked about the other letter provided from the GYC/PCEC. Steve Golnar stated that he wanted to know if the Commission wanted to reply to this letter. The City Commission asked that the City present its response to this letter to the City/County meeting on March 3, 2004.

Steve Golnar asked who would be able to attend the Rotary Brown Bag on February 23, 2004 at noon so that he could get a count for the seats and lunches. Bob Ebinger, Frank Horiel, Shirley Ewan, Jim Woodhull and Darren Raney will be attending.

Steve Golnar also asked who would be attending the meeting on March 2, 2004 at 5:00 p.m. through 9:00 p.m. for the Urban Renewal Authority Orientation Session with Jeff Badenock. Bob Ebinger, Steve Caldwell, Mary Beebe and Frank Horiel will be attending.

Mr. Golnar asked who would attend the MRL meeting on February 24, 2004 at 9:00 a.m. Bob Ebinger, Vicki Blakeman, Steve Caldwell, Clint Tinsley and Steve Caldwell will be attending.

Commissioner Caldwell had no comments.

Commissioner Beebe Comments:

- She stated that she had received a call from Amanda Scobey and that she wanted to thank the Commission for the Sidewalk Ordinance.

Commissioner Ebinger Comments:

- He asked about the projects that were done on Callender Street from 8th Street down to 2nd Street. He wondered if the piles of dirt were

going to be picked up by the City or if this was up to the homeowners. Clint stated that they would be picked up by the City.

- He commented that there is a National Main Street meeting to be held in May in Albuquerque and asked that a City representative attend this in coordination with other community representatives.

Commissioner Horiel had no comments.

Chairman, Blakeman Comments:

- She stated that Ms. Lee had requested an effort to coordinate more efficient managing of communications related technology and would like to see if the new Commission is still interested in pursuing this issue. The Commission indicated general concurrence.
- She commented that it was time for the Big Brothers and Sisters Bowling Tournament and that it will be held on March 13, 2004 and was asked to get together a team. Bob Ebinger, Mary Beebe and Vicki Blakeman volunteered and Steve Caldwell stated that he would pledge a donation.

No Public Comments were given.

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

The time was 9:15 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
March 1, 2004
7:30 p.m.

The Livingston City Commission met in regular session on Monday, March 1, 2004 in the Community Room in the City/County Complex. Commissioners present were Frank Horiel, Steve Caldwell, Bob Ebinger, Mary Beebe and Vicki Blakeman.

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 Caldwell, second by Ebinger, to approve the consent items as follows:

- Approve February 17, 2004 regular City Commission meeting minutes.
- Approve Bills and Claims for 2nd half of February 2004.
- Approve Selection of Nelson Engineering & Associates for Infrastructure Projects.
- Approve Selection of Nelson Engineering & Associates for SID Projects.
- Appoint Mark Rehder to fill the unexpired term of Gary Blakely on the Donut Area Task Force.

Bob Ebinger asked about the Livingston Masonic Lodge #32 claim for property taxes. Steve Golnar stated that this is for property taxes because the City currently owns jointly with the Masonic Lodge and the Elks Club in San Bernadino County, California.

Steve Caldwell asked to change a typographical error on the minutes on page 7 under Commissioner Beebe's comments that Amanda Scobey should be Amanda Zakovi.

Mary Beebe stated that Frank Horiel decided to volunteer for the Commissioner's Bowling Team for the Big Brothers and Sisters Bowling Tournament on March 13, 2004.

All in favor of consent items, Motion passed.

New employees for the City were recognized. Nathan Wulf for the Fire Department and Matt Tubaugh for the Police Department.

Jim Mastin, Fire Chief, introduced Nathan Wulf. He stated that he was the first Paramedic hired with the Fire Department. Mr. Mastin also stated that Mr. Wolff has a lot of experience in emergency medical service through the military. He has worked for Livingston Hospital and has been a reserve for

the Fire Department. He also teaches a paramedic class that has three (3) of the firemen attending.

Mr. Wolff approached the Commission and the Commission and Staff introduced themselves to Nathan.

Darren Raney, Police Chief, introduced Matt Tubaugh. He stated that Mr. Tubaugh was from out-of-state and has worked for several sheriff departments in Colorado, Iowa and is a graduate in the Police Academy in Ohio. Mr. Raney stated that his family ranches up the Boulder River and stated that the Police Department was very happy to welcome Mr. Tubaugh.

Mr. Tubaugh approached the Commission and the Commission and Staff introduced themselves to Matt.

Vicki Blakeman, Chairman, welcomed the new employees and thanked them for coming and introducing themselves to the Commission.

Proclamations:

A Proclamation was read by Chairman, Vicki Blakeman for "Smoke Free Day" on March 5, 2004 and encourages everyone to take part in activities on this day designed to protect Livingston adults and children from exposure to secondhand smoke.

Scheduled Public Comments:

Wally O'Hara spoke on the solid waste disposal issue of the Incinerator being closed.

Mr. O'Hara stated that he was representing "Park County Concerned Citizens" on the Solid Waste Disposal issue. He stated that this organization started with three (3) members and as of today there is sixty (60) members and the organization is growing. He commented that the organization is evenly split between members of the City and the County.

He stated that the members of this organization don't intend to run for office but that they want to ensure that the City of Livingston and Park County is the "best" place to live. He stated that the City of Livingston is 47% of Park County. He stated that the City built the Incinerator in 1982 and that there was \$3,000,000 invested in it. On the December 31, 2002 the residents of the City and the County paid off the debt of the Incinerator with the interest acquired from the BN lawsuit that amounted to \$711,813.92. This incinerator services 5800 family units in all of Park County. The County claims that it cost about \$40.00 per ton to burn garbage in the incinerator and of that \$27 per ton for the landfill was an agreement between the City and County that the City would subsidize the landfill with this \$27 per ton.

Mr. O'Hara stated that the organization requests that the County and City hire a qualified Manager with a degree in Business to manage both the Incinerator and the Landfill. He commented that everything that goes into the Incinerator or the Landfill would have to go across a scale and be weighed in order to determine the amount of garbage we are disposing of. If we can get this put together by the end of one (1) year we will know exactly how much it would cost for the Incinerator and the Landfill. He is requesting exact figures. He stated that the City shouldn't make a profit from the County and the County shouldn't make a profit from the City. The organization isn't trying to tell either the City or the County how to prepare their budgets, this is just a suggestion in order to determine the exact amount of garbage. He feels that the Incinerator and the Landfill should be run as a business and insists on it running under the DEQ requirements.

He concluded by asking the City to meet in the middle with the County and get on the same page with honest figures on the cost to run the Incinerator and the Landfill and to look at the future of area residents.

Thomas Burns gave a public comment on the appeal to resolve problem relating to the strip of property that the City owns along side of his own. Mr. Burns provided a map of the property in the alley in the section of an unused portion of Crawford Street that has been used in prior years as a neighborhood dump. This property is a City lot and not an alley stated Mr. Burns.

Mr. Burns requested from the City to:

1. Post a *No Dumping* sign there in the alley because his neighbor continues to dispose of their tree branches.
2. Replace the wooden barrier that was cut down several years ago allowing his neighbor's cars and trailers to be parked there and to remove the signs that were placed ten feet back from where the original barrier was.
3. Replace the trees that were cut down by his neighbor so as to bring the area back to its original natural state.
4. Inform his neighbor not to park in the intersection at the end of the alley.

Mr. Burns also stated that regarding the 10 foot wide strip of the unused Crawford Street that half of this property is sloped and unusable as a walkway or roadway. He stated that since this City lot is *not* an alley or roadway having a curb, sidewalk, fire hydrant, and a mature tree blocking the west end the trees on the slope would not impact its primary use as a walkway.

Mr. Burns proposed that the 29 foot width of City property be designated a City Park or that the Southern 14 foot portion, which includes the slope, be designated a boulevard so that the existing trees remain intact, some of which have been there for over six years. These trees form a natural barrier

or guardrail for the protection of pedestrians (and emergency vehicles) as well as beautifying the walkway that many use to access Sacajawea Park via the 7th Street Bridge. Trees also help strengthen the flat section of the walkway from soil erosion.

Mr. Burns also proposed that he maintain the entire property as he has for the past seven years by pruning trees and cutting and watering the grass. He stated that in the future he will ask the City's permission to make changes on the property before he plants trees or shrubs.

Mr. Burns thanked the City Commission for their time.

Lani Hartung of 430 South 6th Street gave a public comment on her concerns about the City property on Block 22 of the Park Addition.

Ms. Hartung thanked the Commission for allowing her to respond to Mr. Burns' comments and to hear her concerns. She stated that Mr. Burns is correct when he stated that property "B" that he referred to in his comments that was provided to the Commission is beside the 19 foot lot that was deeded to the City where there is a 10 foot easement along side of that lot. She also stated that the property "A" that Mr. Burns referred to was not abandoned by the City because Chief Raney has concerns about Fire Trucks being able to access the Lagoon in case of an emergency. Ms. Hartung stated that the reason for the barriers that Mr. Burns referred to as being cut down soon after he moved into his house was because one of his vehicles was parked in that area.

She commented that the trees that she cut down were choke cherry trees and were the size of her little finger and that she cut them down because they were spread along the fence.

The 10 foot easement is for protecting the City's lot 9 and maintaining this access. She stated that the hill in that area is used for a sledding hill by several community kids and has been for approximately 34 years. She felt that if trees were planted in the easement that they would be in the way for the children to sled down this hill.

Ms. Hartung stated that when the previous owners, the Waylander's, asked the City to abandon a portion of Crawford Street the City retained the 10 foot easement and she feels because every City lot has a 10 foot easement.

She stated as far as Mr. Burn's maintaining that area there is still tall grass under the snow that was never cut last summer.

Ms. Hartung also commented that the Burns' have also placed landscaped rocks not only in the alley easement but also in the street easement. They had placed fence posts across City property on 7th Street last summer and Public Works Director, Clint Tinsley, asked them to remove them and they

did. The reason was so that children could ride their bicycles down in that area.

She also stated that Mr. Burn's had placed an underground sprinkling system in this area that was currently still in place.

Ms. Hartung apologized to the Commission for bringing them into what has been characterized to her as a neighbor dispute. She concluded by asking that the status quo be maintained in order to allow kids to use the hill for sledding if possible, dog walkers and joggers to be able to use the area, and keep it open for utility and emergency use to protect the interest of the residents in the community.

Ray Richards of the Masonic Lodge #32 gave public comments about the disposal of property in San Bernardino County, California, that the City of Livingston, the Livingston Elks Lodge and the Livingston Masonic Lodge own jointly.

This property was deeded from Mr. Bryant Skillman a long time Livingston resident.

Mr. Richards commented that this property is jointly owned by the above mentioned and it needs to be determined among the parties whether to sell the entire property or revise the ownership of the property. He also asked the City to pay 1/3 of the back taxes that have not been paid.

Mr. Richard's suggestions for the solutions for consideration regarding this property were as follows:

1. List property with a local Realtor.
2. Deed the property to one or all counterparts in the 29 palms area.
3. Gift to another non-profit organization.
4. Research ways to list property on an Internet sales page i.e.: ebay.
5. Hold a public auction, perhaps sealed envelope bids to be collected by the City for a period of time and opened at a Commission meeting. High bidder may purchase the land and must additionally pay all closing costs. This method would assure a permanent resolution to the problem at hand and might bring some immediate revenue into each of the City, Elks Club and Masonic Lodges coffers.
6. The last option that he could think of would be to have the 3 parcels re-deeded so as to reflect individual ownership. This would allow each of the entities to do with their five acre parcel what they wish.

Mr. Richards concluded by stated that whatever proposition that the City agreed on that evening he would take back to the Masonic Lodge to be voted on during one of their regularly scheduled meetings.

Later in the meeting on the agenda there was an action item to discuss this issue with the Commission as to what they would like to propose. Mr. Richards was asked to stay for that discussion.

Ordinances:

Motion was made by Caldwell, second by Beebe, to approve first reading of Ordinance No. 1940 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ENACTING A NEW CHAPTER 27 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED WORKING IN THE PUBLIC RIGHT OF WAY, BE ESTABLISHING A PERMIT SYSTEM AND REVISING CHAPTER 26 STREETS AND SIDEWALKS.** There will be a public hearing on this Ordinance on March 15, 2004 at the City Commission meeting.

Mr. Horiel asked if Section 26-37 had to be in the Ordinance, this section was titled, "Playing Games in Streets".

Bruce Becker, City Attorney stated that this section has been on the books for a long time. Darren Raney, Police Chief stated that this was probably added to the Ordinance as a result of a child being injured while playing in the street from a passing vehicle or that a child was on a bicycle playing in the street and was struck by a vehicle. Mr. Raney stated that this has not been a problem recently.

Motion was made by Horiel, second by Caldwell, to revise Ordinance No. 1940 to delete Section 26-37 - "Playing Games in Streets" from the City Code.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1940 as amended.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3481 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN LETTER OF INTENT TO COST SHARE WITH THE ARMY CORPS OF ENGINEERS A MORE THOROUGH AND DETAILED ANALYSIS OF THE FLOOD PROBLEM AND SOLUTIONS FOR THE YELLOWSTONE RIVER AT LIVINGSTON, MONTANA.** Steve Golnar gave background information relating to this agreement and also had additional information provided to the Commission relating to the agreement. He stated that this is just a letter of intent that it was not an agreement with the Army Corp of Engineers. The agreement between the

Corps and the City would be brought to the City Commission for their approval, once funding partnerships are better delineated.

Bob Ebinger asked if it was definite that the flood way maps would not be changed until September 2006. Steve Golnar replied by saying "yes" that was his understanding that it was post-poned until the Section 205 Study is complete. He added, this is assuming the City is moving forward affirmatively and consciencely in pursuing this project.

Steve Caldwell asked for clarification as far as this project starting when the City's in-kind matching efforts would be counted when the letter of intent is signed or when the cost sharing agreement is signed. Steve Golnar stated that he assumed it would be when the agreement is signed, but remembered Mr. Johnson with the Corps suggesting the letter of intent begins the "in-kind" clock. He stated that he would contact the Corps of Engineers to verify.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3482 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AGREEMENT WITH NELSON ENGINEERING & ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR SPECIAL IMPROVEMENT DISTRICTS.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3483 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AGREEMENT WITH NELSON ENGINEERING & ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR INFRASTRUCTURE PROJECTS.**

All in favor, Motion passed.

Action Items:

A discussion was held to consider the Library's request to store materials in the Old East Side School during their expansion construction.

Motion was made by Horiel, second by Caldwell, to approve to store material in the Old East Side School for the Library during their construction for expansion on a permanent basis and determine a specific room in the School so that the Library employees can access their materials periodically.

All in favor, Motion passed.

A discussion was held to consider Livingston Masonic Lodge and Elks Club proposal to sell their portion of three (3) lots jointly owned with the City in San Bernardino County, California, which was donated in 1997.

Motion was made by Caldwell, second by Beebe, to authorize marketing for the San Bernardino County property that is jointly owned by the City, Masonic Lodge and the Elks Club for a six (6) month period.

All in favor, Motion passed.

A discussion was held to review the response from Green Acres Homeowner's Association regarding meeting on future annexation and to identify preferred new meeting dates.

The City Commission directed the City Manager to write a letter to Green Acres Homeowner's Association letting them know that March 23, 2004 (Tuesday) at 7:00 p.m., and March 25, 2004 (Thursday) at 7:00 p.m. the Commission would be available to meet with them regarding future annexation of Green Acres and discussion of the water line.

A discussion was held to ratify amendment to FY 2004-05 Federal Legislative Projects by priority to include Sewer Plant and Utility Line upgrades.

Motion was made by Caldwell, second by Horiel, to ratify amendment to FY 2004-05 Federal Legislative Projects by Priority to include Sewer Plant and Utility Line upgrades.

All in favor, Motion passed.

A discussion was held to authorize payment of \$696.00 to Montana League of Cities and Towns (MLCT) for pro-rated share of initial expenses related to 2004 Municipal Health Insurance study.

Motion was made by Caldwell, second by Ebinger, to authorize payment of \$696.00 to Montana League of Cities and Towns for pro-rated share of initial expenses related to 2004 Municipal Health Insurance study.

All in favor, Motion passed.

A review of Draft Ordinance No. 1941 was viewed - Deleting the \$10,000.00 City Bidding Requirements for Public Contracts and Purchase of Equipment and Supplies which is in addition to State Bidding Requirements and direct that it be scheduled for first reading on March 15, 2004 City Commission meeting.

The Commission reviewed the Ordinance and asked the City Manager to bring this back to the next meeting for first reading with the revisions requested by the City Commission.

The commission discussed a proposed response to Park County, Greater Yellowstone Coalition and Park County Environmental Council regarding Citizen's Task Force responsibilities and County Attorney's February 17, 2004 letter referencing "Time Line for Neighborhood Plan, Growth Policy Plan, Zoning for former Donut area".

Mr. Golnar had stated he would provide a letter to the Commission in preparation for the City/County meeting on March 3, 2004. No letter was provided at the meeting, but Mr. Golnar and the Commission discussed what should be in the letter.

Steve Golnar stated that he would like to confirm with the Commission that Mark Rehder has been appointed to the Citizen's Task Force earlier in the meeting and the Citizen's Task Force for the Donut Area and Settlement Agreement participants will be notified of his appointment.

Mr. Golnar stated that there is a disagreement among the membership of the Citizen's Task Force of the Donut Area with regard to their role as a Task Force. He stated that it was his understanding the Task Force is to interpret the information that they have gathered and to make the policy recommendations relating to planning in the donut area, not just hold public meetings and provide information.

After receiving direction from the City Commission, Mr. Golnar will prepare a letter for the City/County meeting and the Citizen's Task Force for the Donut Area meeting, both of which were scheduled to take place on Wednesday, March 3, 2004 at 4:00 p.m.

A discussion was held to direct City Attorney to develop Easement Agreement for drilling of cathodic well by Northwestern Energy in Clark Street Right-Of-Way near the Intersection of "M" Street and Clark Street.

Steve Golnar gave background information relating to this and stated that this line was damaged during the Freshman Creek restoration project.

Motion was made by Caldwell, second by Ebinger, to direct the City Attorney to develop an Easement Agreement for drilling of a cathodic well by Northwestern Energy in Clark Street right-of-way near the intersection of "M" Street and Clark Street.

All in favor, Motion passed.

Mr. Golnar commented that he would like to have Northwestern Energy be required to indemnify the City for any liability associated with construction or maintenance of this facility and that utility locates be called for by Northwestern Energy prior to their initiating digging on this project.

A discussion was held to approve the selection of Olness & Associates, P.C. as independent audit firm for the year ending June 30, 2004 with an option for the fiscal years ending June 30, 2005 and 2006 and direct City Attorney to prepare contract.

Steve Golnar stated that there were seven (7) bids received for audit services and that Olness & Associates, P.C. Certified Public Accountants and Junkermier, Clark, Campanella and Stevens P.C. were the top two (2) proposals received. He also stated that he thought that it was important to maintain continuity and familiarity with the financial systems and audit team during the transition to GASB 34 compliance and suggested to stay with Olness & Associates for the fiscal year ending June 30, 2004 with the option of renewing their contract in 2005 and 2006.

Motion was made by Ebinger, second by Beebe, to approve selection of Olness & Associates for audit services for the fiscal year ending June 30, 2004 with the option of renewing their contract in 2005 and 2006.

All in favor, Motion passed.

A discussion was held to direct Staff to advertise proposed Building Department Budget Amendment for FY 2003-04 in the amount of \$15,000.00.

Steve Golnar stated that because of increases in building activity in the City of Livingston he asked to add staff to the Building Department that would require a Budget Amendment in the amount of \$15,000.00 to complete FY 2003-04.

Motion was made by Caldwell, second by Beebe, to direct Staff to advertise a proposed Building Department Budget Amendment for FY 2003-04 in the amount of \$15,000.00.

All in favor, Motion passed.

A discussion was held to direct City Manager to pursue an investigation of the feasibility of the City developing the East Side School into Governmental Offices, storage spaces and other uses. This action was in follow-up to the City Commission Workshop on February 25, 2004. The City Manager requested formal direction from the City Commission prior to proceeding with this effort.

Motion was made by Caldwell, second by Ebinger, to direct City Manager to pursue an investigation of the feasibility of the City developing the East Side School into Governmental Offices, storage space and other uses completed by May 15, 2004.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger stated that he is concerned about the moving of the statue in Sacajawea Park and that it could not be moved without the consent of the Artist and he was wondering if this had been verified. Vicki Blakeman stated that this was a standard boiler plate and that the statue could be moved in the event of an emergency such as a flood.
- Bob Ebinger commented that the response letter to the Sowa's was a little bit too late and he would like to see a more timely turn around for a response to a resident who has a question in the future.
- Bob Ebinger asked about the diagonal parking on the East Side 2nd and "B" Streets and as to why this has not been pursued as the City Commission asked to have it pursued. Steve Golnar stated that there was a study done and with the measurements of the streets and following MDT's rules as we would have to eliminate the boulevards and would be backing into the traffic lanes which is what MDT identified as a concern. Mr. Ebinger suggested to let residents know what is going to be done and when as far as the parking downtown. This will be proposed at the next TCC meeting.
- Bob Ebinger commented of the City Managers comments where the wording stating, "Mr. Schilling indicated that he would like to have the decision to if the Incinerator is to continue, or which transfer contractor the County will be using by mid March 2004", and asked that if be changed to whether. Steve Golnar stated that he felt that it should be left to if, as this was what he meant.
- Bob Ebinger asked about the warnings being sent out about the sidewalk program and stated that he had a call from a resident that lived on "H" Street and that he did not live on the corner and referred him to the City Manager if he had a problem with it.
- Vicki Blakeman asked about the "Memorandum of Understanding" letter that was sent to the railroad and she requested to have Steve follow-up on going under the tracks on 5th and Park Street. Steve Golnar stated that he is waiting for the agreement to be, responded to from the Railroad.
- Vicki Blakeman also asked the Mayor's Landing Freshman Creek project and what needed to be done to complete this project and when would it be initiated. Steve Golnar stated that the revegetation of the River Corridor needs to be completed and the purchasing and placement of a Bridge and he was waiting for right of way documentation to determine the appropriate point to access to the bridge. This project will be coordinated with Gary Weiner with the Natural Park Services Rivers and Trails Program who is the Project Manager.
- Vicki Blakeman also asked about the March 11, 2004 schedule "Making More Capital Available" and what this meant. Steve Golnar stated that this was a training session by the Alliance Development Corporation

(ADC) about revolving loan funds and will be from 10:00 a.m. through 1:00 p.m. with lunch included.

Commissioner Caldwell had no comments.

Commissioner Beebe had no comments.

Commissioner Ebinger Comments:

- He asked what the project was occurring down at "H" Street and View Vista. Clint Tinsley stated that the cable company, Bresnan Communications, is doing some service in that area.

Commissioner Horiel Comments:

- He asked how the City deals with public comments such as what occurred tonight. Bruce Becker stated that because such public comments were not advertised on the agenda tonight, they would have to be put on the agenda at a future City Commission meeting for discussion or action. Vicki Blakeman stated that it takes two (2) or more Commissioners's to Place an item on the agenda. Mr. Horiel asked that we let Mr. Burns and Mrs. Hartung know what the City is planning on doing with the concerns that they brought to the City Commission tonight. Bruce Becker also asked that one of the Commissioner's surrender the information provided to them from Mr. Burns and give to the Recording Secretary, Pam Payovich, for the record. It was also requested that the information that Ray Richards from the Masonic Lodge provided be given to the Recording Secretary.

It was determined to have Mr. Burns and Mrs. Hartung situation on the agenda at the next meeting.

Chairman, Blakeman had no comments.

No Public Comments were given.

Motion was made by Caldwell, second by Ebinger, 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

LIVINGSTON
CITY COMMISSION MEETING
March 15, 2004
7:30 p.m.

The Livingston City Commission met in regular session on Monday, March 15, 2004 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Bob Ebinger, Vicki Blakeman and Frank Horiel.

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

Motion was made by Ebinger, second by Caldwell, to approve the consent items as follows deleting item D:

- A. Approve March 1, 2004 regular City Commission meeting minutes.
- B. Approve Bills and Claims for 1st half of March 2004.
- C. Department Heads Monthly Reports and Other Minutes.
- D. Request for use of Civic Center for the "Restoration Family Victory Center" by the J.O.Y. Ministries on April 17, 2004 tentatively.

Bob Ebinger asked about the claim for Berg Excavation for Sewer Repairs for the Poole House and what it was for. Steve Golnar stated that it is the residence of the Pfohl's located at 413 South 11th Street where the tree was removed from the alley and that there were sewer repairs to be done after the tree was removed.

Bob Ebinger also asked about the monthly activity report from the Chief of Police and that 2 hour parking tickets totaling 380 tickets was getting to be a significant amount of parking tickets. He also stated that there was a letter that was received from a resident in regards to the concerns of the parking issue in the downtown area. He asked that the parking issue for the downtown area be a priority for the next fiscal year to figure out a solution as to what should and could be done to help the parking downtown.

Steve Caldwell also mentioned that in the minutes on page 11 under City Manager's comments that the statement: "Bob Ebinger commented that the response letter to the Sowa's was a little bit too long and he would like to see a more timely turn around for a response to a resident who has a question in the future, to be change to late not long. Also in the minutes on the same page that under Vicki Blakeman's comment about the "Memorandum of Understand" be changed to "Memorandum of Understanding".

Steve Caldwell also asked about the claim for the Department of Environmental Quality for the discharge fee. Shirley Ewan stated that this is

for the treated water from the sewer going back into the river and that this is a yearly fee.

Mr. Caldwell asked about the claim for JTL Group, Inc. and what the check amount was for. Shirley Ewan stated that it was for \$45,864.30 and this was for the final payment of the work that they did on Callender between 3rd and 5th Streets only one half of the liquidated damages requested were included in the final payment.

Mr. Caldwell also asked about the claim to Montana Department of Revenue for the final draw of JTL's job on Callender between 3rd and 5th Streets. Shirley Ewan stated that this is the 1% miscellaneous tax that the Montana Department of Revenue receives on all jobs.

Steve Golnar stated that J.O.Y. Ministries has cancelled the proposed use of the Civic Center for the "Restoration Family Victory Center" and asked to tentatively schedule the Crow Indian Nations Revival in June, no action was necessary at the present meeting.

All in favor of consent items as amended, Motion passed.

Proclamations:

A Proclamation was read by Chairman, Vicki Blakeman for "Arbor Day on April 30, 2004 and that encouraged citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our community.

Also another proclamation was read by Chairman, Vicki Blakeman for "Public Safety Dispatchers Week" on April 12, 2004 through April 16, 2004 in honor and recognition of our Public Safety Dispatchers for their vital contributions to the safety and well-being of law enforcement officers, firefighter/EMT's and the citizens of Park County and the City of Livingston.

Ms. Blakeman read a proclamation for "Alcohol Free Day" on April 3, 2004 and also "Alcohol Awareness Month" calling upon all citizens, government agencies, business leaders, and public and private institutions in Livingston to promote and support "Alcohol Free Day" and the month of April as "Alcohol Awareness Month".

Scheduled Public Comments:

Brian Sparks of the Livingston Museum gave comments of the upcoming event for the Calamity Jane Productions. He provided the Commission with the support signatures of various residents for this Calamity Jane event. Mr. Sparks also provided signatures of different businesses in the area that would consider scheduling an historical reenactment in front of or near their

business sometime in the summer of 2004. Tentatively scheduled for May 29, 2004 through October 31, 2004.

Mr. Sparks stated that in the packet there was a special event questionnaire request filled out for the Calamity Jane Performances in the summer for the Commission to consider and for Staff to review before the April 5, 2004 City Commission meeting.

He stated that the Calamity Jane Productions Committee have received a lot of public comments and that the Committee has tried to be responsive to the best of their knowledge to the comments and concerns and they have changed the way that the Committee was going to present this event to the Commission substantially. Mr. Sparks stated that the Committee is asking for two (2) street closures. One street closure would be for 15 minutes involving the area immediately in front of the Moose Lodge and would be at noon. This street closure would allow access to the parking lots north and south of the Moose Lodge and those parking lots attached to the alley behind the Moose Lodge. The other street closure that they are proposing is in between Yellowstone Country Motors and Industrial Towel. The performances for this street closure would be at 11:30 a.m. Monday through Saturday. The Committee is working with the businesses and requests that the Commission give their permission for the street closures. The performances in front of the Moose Lodge would not include the gunfights. The Committee is concerned about the comments from the Mental Health Center in planning their performances and they are concerned about the safety and well being of citizens. He stated that he would hope that rather than having a no gun attitude for these clients that this may be an opportunity in dialogue to help these individuals move forward through a very serious disease. The Committee will commit to the Manager of the Mental Health Center to keep him aware of the times and where the performance will be occurring.

Bob Ebinger stated that he noticed in the special event questionnaire that the Committee did not ask for Fire or Ambulance services and he feels that this needs to be advised for liability purposes. Mr. Sparks stated that the City is listed as an additional insured on their insurance policy that is requested in the special event questionnaire.

Vicki Blakeman asked if the Committee would be providing the barricades and Mr. Sparks stated that "yes" they would provide the barricades.

Mary Beebe made a point of clarification and commented that there is more than one person at the Mental Health Center that has Post Traumatic Stress Disorder (PTSD). There are approximately 10 to 20 people during the day coming to the Mental Health Center at noon.

Vicki Blakeman asked that the Committee have all of the downtown businesses contacted in awareness of this event.

This event will be on the agenda for the next meeting for the Commission's consideration.

Ordinances:

Motion was made by Caldwell, second by Ebinger, to approve first reading of Ordinance No. 1941 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REPEALING ORDINANCE NOS. 1646 AND 1745 AS CODIFIED BY SECTION 2-90 OF THE LIVINGSTON MUNICIPAL DELETING THE \$10,000.00 CITY BIDDING REQUIREMENTS FOR PUBLIC CONTRACTS AND PURCHASE OF EQUIPMENT AND SUPPLIES WHICH IS IN ADDITION TO STATE BIDDING REQUIREMENTS.** A public hearing will be held on April 5, 2004 relating to this Ordinance No. 1941.

All in favor, Motion passed.

Public Hearings:

Motion was made by Caldwell, second by Ebinger, to approve public hearing for Ordinance No. 1940 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ENACTING A NEW CHAPTER 27 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED WORKING IN THE PUBLIC RIGHT OF WAY, BE ESTABLISHING A PERMIT SYSTEM AND REVISING CHAPTER 26 STREETS AND SIDEWALKS.** No public comments were given.

Bob Ebinger asked about Section 26-4 and commented that since hitching posts was deleted from the title were they legal now. Bruce Becker stated that it was in the title of the section but was nowhere in the body of the section.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3484 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CALLING FOR AN ELECTION TO BE HELD ON THE PRIMARY ELECTION DATE ON THE QUESTION OF CONDUCTING A LOCAL GOVERNMENT REVIEW AND ESTABLISHING A STUDY COMMISSION.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3485 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING A CASH RESERVE/RESTRICTED ACCOUNTS POLICY AS PART OF ITS OVERALL FISCAL POLICY FOR FISCAL YEAR 03-04.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3487 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO CONTRACT WITH OLNES & ASSOCIATES, P.C., TO PERFORM THE ANNUAL AUDIT FOR FISCAL YEARS 2003-2004 WITH OPTIONS FOR FISCAL YEAR 2004-2005 AND FISCAL YEAR 2005-2006.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3488 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO GRANT EASEMENT TO NORTHWESTERN ENERGY CORPORATION FOR A CATHODIC WELL IN THE UNDEVELOPED CLARK STREET RIGHT OF WAY NEAR "M" STREET.** Steve Golnar explained to the Commission what a cathodic well was.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3489 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING APPROPRIATIONS FOR BUILDING INSPECTOR FUND #1000.143.420403 IN THE AMOUNT OF \$13,035.00, PERS FUND ACCOUNT #2370.160.510500.145 IN THE AMOUNT OF \$660.00 AND HEALTH INSURANCE FUND #2371.160.510331.143 IN THE AMOUNT OF \$1,305.00 BY TRANSFERRING FUNDS FROM CASH RESERVES FUND #1000.101000, 2370.101000 (PERS) AND 2371.101000 (HEALTH INSURANCE) RESPECTIVELY AND CALLING FOR A PUBLIC HEARING.** There will be a public hearing relating to this Resolution on April 5, 2004 at the City Commission meeting.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3490 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH THE MONTANA DEPARTMENT OF TRANSPORTATION (MDOT) FOR THE 5TH AND PARK STREET CONSTRUCTION PROJECT DESIGNATED CM 7403(6).**

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3491 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH AQUATIC DESIGN & CONSTRUCTION INC. FOR FLESHMAN CREEK REVEGETATION IN THE AMOUNT OF \$9,555.00.**

Bob Ebinger asked if the bridge was not going to be done because there was not enough money in the budget.

Steve Golnar stated that these are estimates and that the City has not even put this out for bid. He also stated that the Mayor's Landing Committee needs to be convened in order to review the status of the project and give advise on these kinds of decisions.

All in favor, Motion passed.

Action Items:

Motion was made by Caldwell, second by Horiel, to approve Draw Down #3 request for Printingforless.com in the amount of \$41,348.21 to the Department of Commerce.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve payment relating to Draw Down #3 to Printingforless.com in the amount of \$38,500.00.

Mr. Caldwell asked why the payment of Draw Down #3 to Printingforless.com was less than the amount requested from the Department of Commerce. Mr. Golnar responded that the request to the Department of Commerce included reimbursement to the City for some administrative fees billed to the project.

All in favor, Motion passed.

A discussion was held to acknowledge receipt of audit for year ending June 30, 2003.

Motion was made by Caldwell, second by Beebe, to acknowledge receipt of audit for year ending June 30, 2003.

The City Manager and Commission congratulated Shirley Ewan for a "good job" in achieving an unqualified audit report.

All in favor, Motion passed.

A discussion was held to appoint a City Commissioner to serve on the City Collective Bargaining team for contract negotiations with Fire Association.

It was determined to appoint Vicki Blakeman or Frank Horiel in her absence to serve on the City Collective Bargaining team for contract negotiations with the Fire Association. It was the intent of the Commission that if any conflict

in scheduling occurred that one of them would be able to attend bargaining sessions.

A discussion was held about directing the City Attorney to develop a \$50,000.00 Economic Development Revolving Loan Agreement with Slainte Mhath, Inc. for the April 5, 2004 City Commission meeting.

Bob Ebinger stated that the two (2) owners of this business came to the Historic Preservation meeting and gave a very well organized presentation of their proposal and commented that this is going to be a good addition to our area.

Cindi Fargo, Executive Director of the Alliance Development Corporation commented that there are two (2) partnerships involved in this proposed loan application, one is the real estate which involves an investment of \$550,000 in the real estate and property that is condominiumized in the Murray Hotel Building including the Murray Bar and the former Peterson's Restaurant which is proposed to be called the 2nd Street Bistro and the other is the operation of those businesses. This constitutes new investment in the area. This business will replace the jobs that were lost in the closing of the Peterson Restaurant in the community in the last two (2) years. It also involves the opening of a closed business facility.

Tom Vincent, of the Loan Committee for this Alliance Development Corporation, commented that he has been in the restaurant and motel business for 34 years and recommended this loan. He commented that the owners of this business would bring out of market dollars to this community.

Brian Menges, owner of this business, made comments on his proposal. He stated that he has personally been looking for locations within the greater Yellowstone Valley for a place to locate his business. He stated that he has a brother here in town and has moved here from Jackson Hole, Wyoming. He commented that Livingston is ripe and ready for this type of capital investment and one of the main things that he liked about Livingston was its historical character and he felt that the Murray Hotel was in a very vibrant location. They are going into a price range between the \$12.00 to \$19.00 which is in between the price range of the Rib and Chop House and the Livingston Bar & Grill. They want to make a long time commitment to this community. They plan to take possession on April 1st. Hopefully the business, 2nd Street Bistro, will be opened by April 15, 2004 after the upgrades are completed, the Murray Bar will be closed for about 4 days for cleaning and then re-opened.

John McNaughton another owner of this business commented that they are contributing capital amounting to 20% of this investment and added that in the real estate and property they will be contributing 50%.

Motion was made by Caldwell, second by Beebe, to direct City Attorney to develop a \$50,000.00 Economic Development Revolving Loan Agreement with Slainte Mhath, Inc. for the April 5, 2004 City Commission Meeting.

All in favor, Motion passed.

A discussion was held to review City Manager's follow-up comments to the Citizen's Task Force of the Donut Area relating to the Status Report and the Direction they are moving in for their March 31, 2004 Final Report.

No corrections were made by the Commission so they approved the City Manager's follow-up comments to Dennis Glick and Peter McKenzie of the Citizen's Task Force relating to the status report and the direction they are moving in for the March 31, 2004 Final Report.

The City Commission considered approving a City Sewer Line Extension to Roger Lane with Payback Agreement for those who hook on to this line.

Steve Golnar gave background information relating to this sewer line extension to Roger Lane with payback agreement for those who hook on to this line.

Clint Tinsley, Public Works Director provided a memo in the packet and in this memo he stated that he recommended that the City extend the sewer main and get a total cost figured out and do a payback for the City in order to recoup the City's funds in doing an extension of a sewer main into the County without reimbursement.

Motion was made by Caldwell, second by Ebinger, to approve City Sewer Line Extension to Rogers Lane with Payback Agreement for those who hook on to this line with the provision that a waiver of annexation be secured prior to hookup.

All in favor, Motion passed.

A discussion was held to approve Water and Sewer Extensions for Block 2, Block 3 and Block 5 at Palace Addition.

Jim Woodhull, City Planner showed the plans for this water and sewer extension.

Clint Tinsley, Public Works Director provided his recommendation in the packet from the DRC Committee and stated that the Committee recommended approval of these plans with the stipulation that the water main extension be done all at one time instead of in two different phases and that this will allow the water main to be tied into another water main and have a looped system.

Motion was made by Caldwell, second by Beebe, to approve Water and Sewer Extensions for Block 2, 3 and 5 at Palace Addition.

All in favor, Motion passed.

A discussion was held to approve funding for a City and an Urban Renewal Agency representative to attend the Main Street Conference in Albuquerque, New Mexico at up to \$1,250.00 each.

Bob Ebinger stated that this was brought to his attention at a Downtown Association meeting by Cindi Fargo. This conference would involve 80 professionals in economic development who could provide advise to our City representatives on downtown development.

Steve Golnar, City Manager stated that he identified in the packet that the funding would be possible for this in the budget which would come out of the Urban Renewal Authority funds of up to \$1,250.00 and also the City Commission's Miscellaneous Professional Service funds for FY 2003-04 up to \$1,250.00. He reminded the Commission that the amount of funds remaining in the City Commission's Miscellaneous Professional Services line item would be reduced to \$1,600.00 because of recent Building Department funding of asbestos inspection training from this account.

It was suggested by the Commission to have an Urban Renewal Authority member and possible if none of the Commissioner's wanted to attend then to have the Historic Preservation Officer attend. This decision needs to be approved by April 1, 2004.

Motion was made by Ebinger, second by Caldwell, to approve funding for a City and an Urban Renewal Authority representative to attend the Main Street Conference in Albuquerque, New Mexico at an outside cost of \$1,250.00 each.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger commented on the Star Web Service Internet Design & Development proposal of \$2,550.00 and stated that this project has been around for six months and that he would like to see it done. He noted that Pam Payovich has offered to do this with the help of Marty Malone and Carrie Harrapat for purchase of web page software for around \$170.00 but he feels that Pam would not have the time. Steve Golnar stated that Hillary Johnson has offered to scale down the scope of her services and work with Pam to help her learn the art of updating the website in office. Mr. Golnar recommended to go ahead and order the software and coordinate with Hillary Johnson for reduced services and cost for development of the website and to train Pam Payovich on the updates of the website. Steve Caldwell asked to move forward

with this with a definite completion date. Mr. Golnar will report back on progress at the next meeting.

- Steve Caldwell asked about the storage of library materials that he thought that they would be given a 30 day notice as to when the materials would need to be removed. The Commission asked that the City Manager identify this to the Library in a follow-up letter.
- Steve Caldwell also asked about the letter from William Campbell relating to Mayor's Landing sign and clean up and wanted to know if the City has responded to this letter. Steve Golnar stated that he has talked to Mr. Campbell and that Staff is waiting to put the sign up until the pole is relocated.
- Vicki Blakeman asked about the Old Water Plant Lease negotiation update. Steve Golnar stated that he wanted to know what the Commission's comments are relating to this lease. The Commission commented that they are not in agreement with this lease as this is not what their original proposal was and they want clarification from Mr. Paoli before this comes back to them at a future Commission meeting for their consideration.

Commissioner Horiel Comments:

- He stated that he likes the East Side School idea moving forward and appreciated the monthly report.
- He also asked if the agenda packets for the Commission meetings could possibly be provided by the end of the day on Thursday before a Commission meeting. He stated that he feels like he is intruding on Dispatch when he has to pick the packet up on Friday evening. Steve Golnar stated that he would provide the packet on Thursday at 5:00 p.m. Commissioner Horiel suggested that any late breaking items could be addressed by addendum if necessary.

Commissioner Ebinger Comments:

- He stated that the City had approved for additional Staff for the Building Official and was wondering when this position was going to be filled and if this person would be part of the City Planning Office. Mr. Golnar responded that the Building Inspector Department is not part of the Planning office anymore.
- He also stated that he will be attending the Livingston School Board meeting tomorrow and that they have expressed a desire to have a PR Committee and would like the City to attend and be aware of what is going on with the Schools.
- He stated that he had a conversation with Wally O'Hara concerning the Refuse Board closing down the Incinerator and one of things that concerns him is that citizens are not aware that the City and County are working together on hauling garbage out of the City and the County and that the citizens think that the City is going to have their own Transfer Station. He would like to have citizens be aware that this is not what the City is doing that they are working with the County

on this and willing to pay up to \$50.00 per ton to the County for disposal of garbage.

Commissioner Beebe Comments:

- She asked about the memo from the City Solid Waste Facility Study Group on page 255 of the packet and what they meant by stating: "With the railroad, there is no facility we can go see that is exactly like what was proposed to Park County". Steve Caldwell stated that this meant that there is no other facility that has delivery of garbage that it is physically picked up by the railroad in the State, so that the City or the County cannot get a comparison as to how well this would work.
- She also asked how the City Commission could involve themselves and be supportive of the Great Falls efforts to get more control of energy distribution. Steve Golnar stated that the larger cities are in the process of putting a proposal together to purchase the transmission and distribution systems of Northwestern Energy. Mr. Golnar commented that Livingston could put a policy or statement together to support efforts towards energy independence with regard to transmission and generation. He noted that this was a sizable undertaking and the best approach would be to follow the lead of Great Falls and other larger Cities. This should be something that would be on the City Commission priority list for projects that Staff is to spend time on. Cindi Fargo commented that the County is pursuing wind energy and Jim Durgan, County Commissioner is working on this and wants to get done within the next year.

Commissioner Caldwell Comments:

- He asked when does the clock start running on the cost share with the Corp of Engineers. Steve Golnar stated that he still needs to get in touch with them and will let the Commission know.

Chairman, Blakeman Comments:

- She commented of the letter from Suzanne Beers about the sewer overflow in their yard and that she had talked with her and wanted to let everyone know that the City crews have cleaned this up
- She also thanked everyone for bowling last weekend and commented that the City did not beat the County. Jim Mastin commented that they raised around \$48,000.00 for the Boys and Girls Club and that this was more than last year.

No Public Comments were given.

Steve Golnar reminded the Commission that on March 22, 2004 at 7:00 p.m. was the Alliance Development Corporation Workshop and wanted to know if this was o.k. with the Commission. Frank Horiel stated that he would not be able to attend. He asked if the Workshop could be moved to March 23, 2004 at 7:00 p.m. if this was o.k. with the Commission. The Commission concurred with this change.

Mr. Golnar also reminded the Commission of the Green Acres Homeowner's Association Meeting on March 25, 2004 at 7:00 p.m. in the District Court Room.

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

The time was 9:35 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
April 19, 2004
7:30 p.m.

The Livingston City Commission met in regular session on Monday, April 19, 2004 in the Community Room in the City/County Complex. Commissioners present were Mary Beebe, Frank Horiel, Vicki Blakeman, Bob Ebinger and Steve Caldwell.

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

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

- A. Approve April 5, 2004 regular City Commission meeting minutes.
- B. Approve Bills and Claims for 1st half of April 2004.
- C. Department Heads Monthly Reports & Other Minutes.
- D. Deny Joy Ministries Request for Waiver of Civic Center Rental Fees for Indian Nation Revival Weekend on June 11th & 12th, 2004.
- E. Direct City Attorney to prepare contract for Design and Construction Engineering Services for Water Main Replacement for "I" through "K" Streets including Park and Callender Streets from "H" to "L" Streets with Nelson Engineering & Associates, Inc.
- F. Direct City Attorney to prepare contract for Design and Construction Engineering Services for "M" through "O" Streets from Park to Callender Streets including Callender Street with Nelson Engineering & Associates, Inc.

Bob Ebinger asked about the claim for Berg Excavation and what this was for. Eileen Malcott stated that it was for cleaning out the sewer lines on North "M" Street.

Bob Ebinger also asked about the Accounts Receivable Report for the Livingston Fire/Ambulance for the month of March and why the outstanding transfer calls amount was not the difference of the Accounts Receivable calls and the Patient Payments. Eileen Malcott stated that she would let Shirley know tomorrow and have Stacy make appropriate changes to reflect the correct amounts.

Frank Horiel requested to have the minutes changed under his comments to say the Alliance Development Corporation not Darren so as to read: "He mentioned that he was at a meeting a week and a half ago for a proposed Tech Center and he has been in contact with the Alliance Development Corporation to see what the City can do in order to have this happen".

Steve Caldwell asked about the claim for Larry Raffety and was wondering why the City is paying him and not Jodi Litchfield. Steve Golnar stated that this particular claim was for Larry Raffety as it was for the design of "D" Street well.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

Charles Kesting was scheduled to make comments about the needed repair of the tennis courts in the Park.

Mr. Kesting turned the comments over to Kelvin Hoover, who is the Park High Tennis Coach. He thanked the City for having the tennis courts in the City for the High School use. Mr. Hoover stated that girls Park County Tennis Team has finished 1st and 2nd in the last four (4) years. Park High School would like to host a State Tennis Tournament here in Livingston but the tennis courts are not in good enough condition in order to accommodate for 19 schools participating. Mr. Hoover commented that there are 30 girls from Livingston in the tennis program and 15 of those girls are Freshman. He also mentioned that it is difficult to coach a team when there are 4 courts that are usable in one area and two (2) courts that are totally unusable with the two (2) courts at the Middle School used for the overflow. He asked if the City could re-do the four (4) courts this year if possible and have the other two (2) courts at the Park completely re-done in order for them to not only hold a State Tournament in Livingston but to be able to coach all of the girls in one (1) location. Putting 30 girls on four (4) courts is a challenge. Mr. Hoover mentioned that tennis is becoming a very interesting sport in the School as well as in the City. With the condition and shortage of the courts now, Livingston is not able to host a Divisional or State Tennis Tournament. This year Lewistown is hosting both tournaments and Livingston could have had one of the Tournaments to bring a lot of business to the community. Mr. Hoover also asked if the City could have regular maintenance on the tennis courts. Several people were present to give their support for the tennis courts.

Charles Kesting commented that he is a Real Estate Agent here in the City and is very proud of the City's Park for showing interested people their interests of the City. Tennis is becoming a popular sport in the City, as it is a very inexpensive sport. He stated that it only cost \$2.00 for a can of tennis balls and around \$20.00 for a racket. He feels that it doesn't cost a lot to maintain the tennis courts but since they have been neglected in the past they are going to cost a significant amount of money to repair. He asked the City to repair and recondition the tennis courts so that Livingston can host tennis tournaments for the Park High School kids and to benefit those that are active in tennis for the community and also to bring customers to the community businesses. Also the light bulbs need to be changed in the tennis

courts. To conclude he asked that the City do three (3) things for the Tennis Courts:

1. Change the light bulbs;
2. Get estimates for the repairs and reconditioning of the tennis courts so that if you can't do it this year from the budget you could repair them next year with the budget; and,
3. Once the City knows how much it is going to cost to go ahead and hire the company to do the construction so that early next year they can re-do the courts for the upcoming tennis season.

Mr. Kesting stated that he has gotten some estimates and it would cost approximately \$15,000.00 to \$17,000.00 to re-surface the four (4) tennis and put a new paint job. Also the two (2) courts would need to be completely re-done and he doesn't have the exact cost for that.

Frank Horiel asked how many courts it would take to have the tournaments here in Livingston. Mr. Kesting stated that they would need six (6) courts but to have them all in one (1) area. They can use the two (2) courts at the Middle School for the overflow but it is difficult to hire more officials at a different location and more costly. It would be nice if all of the courts were in the same location.

Steve Golnar stated that the City has maintained the tennis courts in coordination with the School District in the past and asked if they had asked the School District for support about maintaining the tennis courts.

The past Superintendent of Public Schools, Vern Beffert, stated that yes the School District has been in coordination with the City in supporting the maintenance of the tennis courts.

Frank Horiel asked if a maintenance schedule for the tennis courts was in the budget.

Clint Tinsley stated that the City is planning on repairing the four (4) tennis courts in next year's budget but for the two (2) other tennis courts it's going to cost a lot more to re-do them.

Frank Horiel asked about the possibility of repairing the tennis courts and re-doing the others, and that the City keep the maintenance up.

Chris Bausch, previously Park High School Tennis Coach, stated that the tennis courts in question were scheduled to be re-surfaced when the City built the new Skate Park and when the Skate Park was done then the tennis courts were going to be re-done. He stated that it has been six (6) years since they have been resurfaced. Mr. Bausch also stated that the last time the City of Livingston hosted a tennis tournament that it had to be held in Bozeman and that it was very difficult to see all of the benefits going to the

City of Bozeman and not to the City of Livingston. He concluded by stating that the whole State would like to come to Livingston for the Tennis Tournaments but without the repair and resurfacing of the tennis courts the City will not be able to have a Tennis Tournament. Tennis is becoming a very popular sport in the City of Livingston.

Heidi Barrett of 231 South "H" Street made comments about her concern of the Noise Ordinance relating to barking dogs and also concerns of mosquito spraying and the chemicals used.

Ms. Barrett stated that her statement represents her own experience with dogs in her neighborhood. She asked the Commission's help to solve the problem of barking dogs for her and to come up with a solution that will benefit others in the community facing similar problems.

She stated that she did not move into an existing "dog problem". The three adjacent neighbors beside her on two sides and across the street all moved in with 2 dogs each since her arrival four (4) years ago and that the rental next door has been an especially chronic problem due to the transient nature of its occupants all but one of whom have harbored uncontrolled dogs. The problem for her family is the chronic barking of the dogs which affects her and her family lives in their home. They have experienced the noise of dogs barking anytime from midnight to 5:00 a.m. They are awakened by these dogs across the street when they are let out to relieve themselves. The Barrett's have called the police when this occurs and by the time the police get there the neighbors have let their dogs back into the house and they are no longer in the yard barking. The Police cannot do anything when the people are gone from their residence and have left the dogs out in the yard. The Police can only let the Code Enforcement Officer know about it and have him check into the situation. Ms. Barrett stated that the Code Enforcement Officer, Brad Haefs has been very helpful in writing letters to the dog owners and has come by when he has been called during his work hours. Ms. Barrett commented that unfortunately Brad doesn't work on weekends, evenings or early mornings or late nights and this is when the problem of the barking dogs occurs.

Ms. Barrett was informed to keep a "dog log" as to when the dogs bark in a 48 hour period and she has done this but the document needs to have the signatures of 3 people to verify that the dogs are barking. If neighbors are dog owners it seems that they will not sign the log, as they do not want to get involved. She asked if there is another solution in order to resolve the neighbors barking dogs from stopping and suggested possibly using a video recorder. Bruce Becker stated that he did not feel that would hold up in a court case because people could do this for spite of their neighbors and rig the video up. Ms. Barrett concluded by asking the Commission to help solve the problem of barking dogs in her neighborhood and to come up with a long-term solution that assures that citizens anywhere in the City have recourse if they also experience the problem of barking dogs.

Steve Caldwell asked Ms. Barrett what her feelings were about the recourse of barking dogs from a homeowner's perspective.

Ms. Barrett stated that it seems that once people are cited then there should be no problem. But nothing seems to happen to these people.

Happy Brewer stated that he has had the same problem with barking dogs in his neighborhood also and commented that he feels that it isn't the dogs fault that it is the owners fault for not training the dogs to not bark when let out of the house to relieve themselves.

Steve Caldwell commented that this seems to him of all of the public problems that the City has this is the one the heavy burden of proof is put onto the homeowners and surely there should be some other options. He has lived in areas where there is two strikes and they are outlawed and the person has lost the dog.

Frank Horiel stated that the way the Ordinance is written now it is hard to get proof especially in the late evenings hours and the early morning hours. He feels something needs to be done to help residents with these barking dog problems.

Ms. Barrett also spoke about her concerns of the mosquito spraying and voiced that she is opposed to spraying Anvil for the control of mosquitoes and mentioned that chemicals such as Anvil are known to cause health problems to those exposed to it.

She asked that the City use the money that they would fund for spraying to launch an education campaign for residents. She does not feel that there is going to be a mosquito problem this year due to the drought and that there are more people who died in 2003 from the flu rather than the West Nile Virus. She asked that residents of the City use precautions such as wearing long pants and long sleeves and also to use citronella or vanilla candles to protect themselves from mosquito bites rather than asking the County or the City to spray these chemicals that can create a health problem.

She concluded by thanking the Commission for allowing her to speak on these issues.

Steve Golnar commented that the City doesn't spray for mosquitoes that it is the Weed and Pest Control District with the County and the City only helps support the funding for the chemicals used to spray for mosquitoes.

Happy Brewer stated that mosquitoes need to be sprayed for in the City. If you sit by any water area in the City you will get bit by mosquitoes if they are not sprayed for and this is very disrupting as you are trying to enjoy the

Park areas and long pants and long shirts aren't going to alleviate the problem.

Paula Clawson stated that a public hearing is scheduled for the Mosquito Spraying on May 10, 2004.

Ordinances:

Motion was made by Caldwell, second by Beebe, to approve first reading of Ordinance No. 1942 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL BUILDINGS TO COMPLY WITH THE BUILDING CODES AND AMENDING ORDINANCE NO. 1934 BY ADOPTING BY REFERENCE THE INTERNATIONAL BUILDING CODE (IBC), 2003 EDITION, THE INTERNATIONAL RESIDENTIAL CODE (IRC), 2003 EDITION, THE INTERNATIONAL EXISTING BUILDING CODE, 2003 EDITION, THE INTERNATIONAL MECHANICAL CODE, 2003 EDITION, INTERNATIONAL FUEL GAS CODE, 2003 EDITION AND THE UNIFORM PLUMBING CODE, 2003 EDITION, AND REPEALING THE UNIFORM ABATEMENT OF DANGEROUS BUILDING CODE AND GENERALLY REVISING CHAPTER 6 ENTITLED BUILDING CODES.** A public hearing will be held relating to Ordinance No. 1942 on May 3, 2004.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3504 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING POSITION DESCRIPTION FOR CITY COURT CLERK.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3505 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING POSITION DESCRIPTION FOR BUILDING INSPECTOR LEVEL I.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3506 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NELSON ENGINEERING & ASSOCIATES FOR ENGINEERING SERVICES FOR SEWER MAIN EXTENSION FOR ROGERS LANE AND CAROL LANE.**

It was noted in the addendum that the title of this Resolution was changed from Rogers Land to Rogers Lane.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3507 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACCEPTING GRANTS TO THE LIVINGSTON FIRE DEPARTMENT AND ADJUSTING APPROPRIATIONS.**

All in favor, Motion passed.

Action Items:

A discussion was held to review the draft statement of the City Goals & Priorities for FY 2004-05.

Steve Golnar stated that this was just for the Commission's information and is a work in progress statement as the budget develops but would appreciate the Commission's input.

Bob Ebinger stated that on the original building of the East Side School that he feels that Staff should look at the building as a whole including the 1949 Addition.

A discussion was scheduled to review a draft contract with Park County for Solid Waste Disposal for FY 2004-05. Resolution No. 3508 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH PARK COUNTY EXTENDING THE SOLID WASTE DISPOSAL AGREEMENT FOR FISCAL YEAR 2004-2005.**

Vicki Blakeman stated that the City is willing to work with the County if they are willing to come to a price of \$50.00 per ton or less and feels that the Commission doesn't need to act on this Resolution at this time.

Mr. Jim Hunt asked the City Commission if they would also consider working with the County about the Landfill costs.

A discussion was held to review and approve application for Community Development Block Grant Planning Grant to develop a "Green Acres Vicinity Master Plan and Preliminary Engineering Report" and establish the City's commitment for Local Matching Funds of up to \$20,000.00.

Steve Golnar stated that he was trying to identify what the City was requesting in development of this area preliminary engineering and master planning process in order to qualify for outside grant funding and to move this project forward with the letters of support. This grant application deadline is due on Friday, April 23, 2004.

A preliminary engineering study would need to be done according to the Montana Board of Investments, Intercap and State in order to borrow these funds from the Department of Commerce.

Steve Golnar stated that future development with Green Acres has not yet been determined with the Green Acres Homeowner's Association that they had responded in their last letter that they would agree to revise terms.

Bob Ebinger commented that it was his recollection with the City Commission that they wanted to wait until the next fiscal year to determine any further development of extensions of utility services to the Green Acres Subdivision in borrowing any money.

Vicki Blakeman stated that the City Manager was asking for a decision in a short time frame with the information given to them tonight at the meeting.

No action was taken to move forward on the application for Community Development Block Grant Planning Grant in order to develop a "Green Acres Vicinity Master Plan and Preliminary Engineering Report" and to establish the City's commitment for local matching funds of up to \$20,000.00.

The Commission discussed scheduling a work session with the Calamity Jane Productions, Inc. for Downtown Economic Development.

The Commission determined in having a work session on Monday, April 26, 2004 at 7:00 p.m. to discuss the Downtown Economic Development with the Calamity Jane Productions, Inc. and asked the City Manager to write a letter accordingly.

A discussion was held to review Staff conclusions on the City Development of the Old East Side School Feasibility Study and to direct Staff to proceed with Asbestos abatement and space planning in FY 2003-04 and to pursue financing to initiate project construction in FY 2004-05.

Clint Tinsley, Public Works Director gave background information relating to the feasibility study of the Old East Side School for City development. He stated that the Asbestos Abatement and the Space Plan are going to cost approximately \$7,500.00 that is needed to move forward to make the building structurally sound and enable the City to do a remodeling project of the building. The cost of the structural repairs and re-roofing is going to be \$82,480.00 and this is budgeted for next fiscal year.

Motion was made by Ebinger, second by Caldwell, to move forward with the City Development of the whole East Side School Feasibility Study and to proceed with Asbestos Abatement and Space Planning in FY 2003-04 and to pursue financing to initiate project construction in FY 2004-05`

All in favor, Motion passed.

The Commission discussed setting up a public hearing on May 3, 2004 at 7:30 p.m. to review and discuss Community Transportation Enhancement Program Proposals.

Motion was made by Caldwell, second by Ebinger, to hold a public hearing on May 3, 2004 at 7:30 p.m. at the City Commission meeting to discuss Community Transportation Enhancement Program proposals.

Bob Ebinger stated that a notice to the public would have been more efficient had it been published sooner.

All in favor, Motion passed.

A discussion was held to authorize City Manager to sign Letter of Support for Montana Public Power Authority.

Motion was made by Ebinger, second by Beebe, to authorize City Manager to sign Letter of Support for Montana Public Power Authority.

4 in favor; Blakeman, Beebe, Horiel and Ebinger, 1 opposed; Caldwell, Motion passed.

The Commission discussed the Depot request for recirculating Water Well City's previous responses and the current City Law relating to this issue.

Steve Golnar stated that representatives from the Depot Center were present at the meeting and also Mr. Golnar gave background information relating to this request for recirculating Water Well to the Depot Center. He also provided to the Commission a letter from Brian Blicher, of Resource Technologies, Inc. stating his concerns of this request.

More specific information is needed in moving forward in directing the Depot Center to go ahead and drill a well for recirculating the water through the Depot Center.

John Sullivan, Chairman of the Board for the Depot Center, stated that 16 years ago when they did the original restoration of the Depot Center and air conditioned it the building was designed with an air-conditioning system which was installed inside the building for historic purposes not wanting to disturb the outside of the building and utilize City water. Since that time various things have changed such as the cost of the water including the technology and efficiency of heating and cooling and years of equipment wearing out. With the help of the City in re-roofing the Depot Center with grants the Architects have discovered the need to review the efficiency and the excessive cost of operation of the worn out system. In reports of the Architect findings they identified that there is only two (2) viable options for heating and cooling of the building. One of them was the possibility of not using City water and this was the option of drilling a well and using ground

water to circulate the system. At the time of this request it was rejected by the City Commission as the Ordinance No. 1805 states, "no person or corporation may drill any new well within the City limits of the City of Livingston". The Commission since then has approved the wellhead protection Ordinance. This Ordinance states, "private irrigation well permits" will not be issued within the boundaries of the Burlington Northern Clean-up site and Buffer Zone as such zone may be determined from time to time based upon the continuing monitoring as defined by the map.

Mr. Sullivan went on to say that Mr. Golnar has been informed that taking water from the aquifer and reinjecting it into the ground water may upset the plume and cause it to migrate. Also the DEQ identified concerns with regard to the City ever allowing the drilling of water wells within the Burlington Northern plume for as long as dangerous levels of contaminants exist there.

Mr. Sullivan asked if the City Staff would help to clarify that if this is not recommended or if it is not possible direct the Depot as to what they can do in order to alleviate the other option of having to have a large piece of equipment in the heart of the historic district on the outside of the building for providing the heating and cooling of the Depot Center.

Steve Caldwell stated that there is going to be a Burlington Northern meeting on Friday, April 23, 2004 at 1:15 p.m. Steve Golnar stated that the new BN Clean-up Coordinator, Amy Sivers, is going to be in Livingston and will be attending this meeting.

Vicki Blakeman stated that after this meeting on Friday then the Commission can move forward with the decision for the Depot Center Water Well Recirculating request. Ms. Blakeman also asked if Steve Golnar could coordinate any decision that could be directed to the Depot Center.

A discussion was held for an inquiry from Mr. Les Hilliard about possible rent or sale of Old Airport property for Wind Powered Electric Generators.

Steve Golnar gave background information of this inquiry. He stated that the County and the City owns this property together 50%.

Bob Ebinger stated that he was opposed to this inquiry as he feels that these wind generators would be too tall and without flashing red lights there would be a conflict to air traffic. He concluded by stating though he is not against the concept.

Steve Caldwell concurred with Bob Ebinger's comments and stated that he was concerned about the view shed in the area.

Vicki Blakeman stated that she did not know enough to make an opinion.

No action was taken on this inquiry of the Les Hilliard possible rent or sale of the Old Airport property for wind powered electric generators as the Commission would like to wait and see what the County would propose.

The Commission discussed considering Western Days, Rodeo Association, Calamity Jane Centennial Year Celebration 2003-04 special event application for June 26th and 27th, 2004. The Commission also discussed additional events up to and in coordination with the Rodeo events on July 2, 2004 through July 4, 2004 contingent upon Staff review and approval.

Motion was made by Ebinger, second by Horiel, to approve Western Days, Rodeo Association, Calamity Jane Centennial Year Celebration 2003-04 special event application for June 26th and 27th, 2004 with additional events up to and in coordination with Rodeo events on July 2, 2004 through July 4, 2004 contingent upon Staff review and approval.

Motion was made by Caldwell, second by Beebe, to amend the motion to exclude gun fights on the Western Day, Rodeo Association, Calamity Jane Centennial Year Celebration 2003-04 special event application for June 26th and 27th, 2004 during the event.

1 in favor; Beebe, 4 opposed; Horiel, Caldwell, Ebinger and Blakeman, Motion denied.

All in favor of the original motion to approve Western Day, Rodeo Association, Calamity Jane Centennial Year Celebration 2003-04 special event application for June 26th and 27th, 2004 with additional events up to and in coordination with Rodeo events on July 2, 2004 through July 4, 2004 **contingent upon Staff review and approval**, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger commented that he would answer any questions about the authorization of the banners for the downtown sponsored by the Gallery Association without the review of the Historic Preservation Commission.
- Bob Ebinger also commented about Livingston being named "Tree City USA" for the second year and reminder everyone that Arbor Day Celebration is going to be on April 30, 2004 at 1:30 p.m. in the afternoon and that Park High School students are going to participate in planting trees at the River Side Park.

Commissioner Horiel Comments:

- He stated that the Commission received a letter today from Mr. Thomas Burns and he would like to reiterate the situation that the Commission agreed to all of his points, leave his trees and let him prune them, move the barricades out to their previous place only that the Commission wanted him to remove the rocks. This letter is going

back to square 1 and this issue is getting drug out. Bob Ebinger asked if it could be extended to 30 days for the removal of the rocks. The trees are only going to be removed if the City feels that there is a need to do so. The Commission concurred that this issue is getting out of hand and would like to put an end to this. It was also agreed to extend the rock removal to 45 days and to relocate the signs to the riverside edge of the 19' right of way so that they are in compliance with the State.

- He also commented that he could see why the previous Commission's have not liked Addendum's to the agenda when they are placed in front of them 5 minutes before the meeting. He would like to see a deadline for Addendum's.

Commissioner Ebinger Comments:

- He commented that with the City re-doing the curbs and gutters on the sidewalks within the City that the Tree Board is concerned about the trees in the boulevard having to be removed because when the sidewalk is being torn up that the roots are being destroyed and then the trees have to be removed. He asked that the City put in the budget for the replacement of trees in the boulevard as these trees that have already been removed were close to 100 years old and it would take a long time for a tree of that size and age to grow. He feels that appropriately sized trees would need to be planted in the trees replacement in order to look appropriate. Also he stated that the City needs to publicize what appropriate trees and shrubs can be planted in the boulevards and designate some funding for the replacement of the trees in the budget.
- Also he mentioned that he would be out of town on May 12th, which is the day that the Transportation Coordinating Committee meeting is, and asked if any other Commissioner could go in his place. Steve Caldwell volunteered to attend the TCC meeting in Bob's absence.
- He stated that the speed limits within the City needs to be publicized. He also stated yield to the right needs to be publicized in the paper so that residents know that if there is not a stop sign at a four way crossing that the right of way goes to the person on the right.
- He stressed that Staff be sure to budget in the next fiscal year budget for the tennis courts in the City that need to be re-constructed or re-surfaced.

Commissioner Beebe Comments:

- She mentioned that she was approached by a downtown business and they had asked her about the old garbage cans that were being placed downtown if she knew where they could get them and that the businesses would be the care takers of those. Clint Tinsley stated that the old garbage cans from the downtown area were hauled to Big Timber and didn't know where they could get any more. Mr. Tinsley stated that if a business places a garbage can in front of their business that they are responsible for the upkeep of it and wondered if

businesses would be concerned of citizens putting garbage in them as they would have to pay for it as it would be weighed in their garbage in the back of their business. Mr. Tinsley has asked the Downtown Association to come up with some kind of garbage container that would suit the downtown businesses. Bob Ebinger suggested to coordinate this with the Design Committee.

Commissioner Caldwell Comments:

- He commented that on the Burns issue he has no desire to continue the situation anymore and will not read another letter from them.
- He stated on the tennis courts issue he would like to concur with Mr. Ebinger's comments that this would be an asset to the Park and the City has an obligation of maintaining these courts. Steve Golnar asked if the Commission would like him to approach the School District to help share in supporting the maintenance of the tennis courts. Vicki Blakeman asked if this was factual if the School District actually did pay for the tennis court to be done in prior years. Mr. Golnar stated that he would check into this and get back to the Commission with his findings. Bob Ebinger commented that he doesn't think that the City should get the School District involved that they are strapped enough. Steve Caldwell stated that he feels that the City should approach the County in pursuing cost sharing of the tennis court upkeep. Vicki Blakeman asked about the Skillman Trust Fund if this could be used for the repair of the tennis courts. Bruce Becker stated that the money from the Skillman Trust Fund can be used for capital improvements not maintenance that a previous Commission determined the use of these funds. Bob Ebinger asked to have the light bulbs replaced at the tennis courts immediately. The Commission concurred to approach both the School District and the County to help support the re-construction and the maintenance of the tennis courts in the Park.
- He asked now that summer is upon us and with the increase of railroad traffic with people leaving their windows open if there is a consensus of the Commission to revisit the "Railroad Quiet Zone" and if there is he would like to bring this to the Transportation Coordinating Committee meeting for their discussion.

Chairman, Blakeman Comments:

- She stated that she needs to have one of the other Commissioners volunteer for the Communication Advisory Committee which meets in the afternoons once a month on the third or fourth Thursday. Mary Beebe volunteered to replace Vicki on this Board.
- She also mentioned that the sidewalks in the City looks very nice its just too bad that we are killing the trees in the replacement of the sidewalks. Steve Caldwell asked how you get on the list for sidewalk replacement. Clint Tinsley stated that all you do is come down to the Utility Office and they will give you a price and your options on how

you can pay for it. They will be starting again in January as the list is full through this year.

No Public comments were given.

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

The time was 10:25 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
MAY 3, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, May 3, 2004 in the Community Room in the City/County Complex. Commissioners present were Bob Ebinger, Vicki Blakeman, Frank Horiel, Mary Beebe and Steve Caldwell.

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

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- A. Approve April 19, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2nd half of April 2004.
- C. Accept Recommendation from Clint Tinsley, Public Works Director, to award Bid for "Materials for Street Work" to JTL Group Inc. for \$13,500.00, Bainter Backhoe and Cat Service for \$2,100.00, Koch Pavement Solutions for \$10,375.00 and STS Gravel for \$3,125.00.
- D. Approve Julianne Brown's appointment as a City representative to the Board of Health.

Bob Ebinger requested language to be changed on the minutes on page 10 that the statement: "Bob Ebinger stated that he was opposed to this inquiry as he feels that these wind generators would be too tall and without flashing red lights there would be a conflict to air traffic, to be changed to as they have from without."

Mary Beebe asked about the claim from Park County Solid Waste District for \$23, 943.00 inquiring if this is a normal amount for one month. Clint Tinsley confirmed that we usually pay \$20,000.00 per month for incinerator and landfill charges.

Steve Caldwell asked about the claim to Best Western Yellowstone for \$245.00 for swim lessons. Stacy Sunvison stated this is for the rental of the Best Western pool for Recreation Department swim lessons in the off season.

Vicki Blakeman asked about the Roth Living Trust refund fees. Clint Tinsley stated these funds were collected for tap and development fees. They decided not to go through with the development so the fees were refunded to them.

All in favor of consent items, Motion passed.

Frank Smith, Park County Homeland Security Coordinator, introduced himself to the Commission and gave a presentation. Mr. Smith stated his position is funded by a Homeland Security Grant obtained through the DES Department.

Steve Golnar asked Mr. Smith what the Homeland Security funds were geared towards. Mr. Smith stated that Montana as a whole has certain areas, which include terrorist threats mitigation, inoperable communications and hardening for potential targets. Park County is strongly focusing on the first two items.

Proclamations:

A proclamation was read by Chairman, Vicki Blakeman for "National Tourism Week" for May 8th through May 16, 2004 as travel and tourism industry is vital to our economic stability and growth.

Also another proclamation was read by Chairman, Vicki Blakeman for Emergency Medical Services Week on May 16th through May 22, 2004 as emergency medical services is a vital public service and members of the EMS teams provide lifesaving care to those in need 24 hours a day, seven days a week to the citizens of Livingston and Park County.

Public Hearings:

Ordinances:

Motion was made by Caldwell, second by Horiel, to approve public hearing for Ordinance No. 1942 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL BUILDINGS TO COMPLY WITH THE BUILDING CODES AND AMENDING ORDINANCE NO. 1934 BY ADOPTING BY REFERENCE THE INTERNATIONAL BUILDING CODE (IBC), 2003 EDITION, THE INTERNATIONAL RESIDENTIAL CODE (IRC), 2003 EDITION, THE INTERNATIONAL EXISTING BUILDING CODE, 2003 EDITION, THE INTERNATIONAL MECHANICAL CODE, 2003 EDITION, INTERNATIONAL FUEL GAS CODE, 2003 EDITION AND THE UNIFORM PLUMBING CODE, 2003 EDITION, AND REPEALING THE UNIFORM ABATEMENT OF DANGEROUS BUILDING CODE AND GENERALLY REVISING CHAPTER 6 ENTITLED BUILDING CODES.**

No public comments were given.

Frank Horiel inquired if all existing buildings had to comply with this as he feels this could be a hardship on owners if they have to come up to code. Bruce Becker stated that all public buildings have an annual inspection by the Fire Department and there is a separate code for old buildings. This is a way of inspecting residential buildings as mandated by the State. If we don't do the inspections, the State will come in and do them for us.

All in favor, Motion passed.

Special Exception:

Motion made by Ebinger, second by Horiel, to approve the Special Exception for Don Ellis, owner of property located at 1115 West Clark Street, who is requesting a Special Exception to operate a Bed & Breakfast at this location. No Public Comments were given.

Jim Woodhull recommended the approval of the Ellis Special Exception request.

All in favor, Motion passed.

CTEP Project Proposals for 2004:

Steve Golnar passed out a draft CTEP Project application requesting \$50,000.00 toward the \$400,000.00 being raised for Livingston Depot Center roof replacement and structural repairs.

Vicki Blakeman asked if we needed to act on this tonight? Steve Golnar stated, "No" that we needed to provide a public forum and prepare applications for the next City Commission Meeting. Mr. Golnar stated there were Depot Center board members in attendance available to answer questions or concerns.

John Sullivan from the Livingston Depot Foundation stated they submitted with the CTEP proposal, as this is a special fund from Federal sources related to transportation-orientated projects. One of the targeted areas deals with the rehabilitation of and preservation of historic buildings, which applies to them. He noted that the City has already authorized the use of some of its' CTEP funds for the design of the Depot roof and structural and heating, ventilating and air conditioning improvements. The last time they dealt with the City on this project was with the water issue and heating/air condition issues, which is becoming very complicated. After the last meeting they went back to their engineers and architect and asked their engineers to change the approach to the air conditioning and refrigeration. The revision to the budget for the air conditioning system caused an additional sum to be added to their total project budget. As this is a large-scale project, they are using significant federal grant monies, raising money for the matching sum and asking the City for continued support through the CTEP for \$50,000.00 of construction costs. Sullivan stated they would also be requesting money from the County from their CTEP allocation.

Kent Douglass stated the problems at the Depot Center are not cosmetic, but serious structural problems and that they have architectural findings available if the City would like to see them.

John Mabie added that the Livingston Depot Foundation is committed to the integrity of the building and that improvements need to be made. Any

assistance that the City can give to improve the structure would be greatly appreciated.

Diane Seider, Executive Director stated they also have a five minute video for everyone to watch if they wish that shows the damage and the need to fix and maintain the building. Seider also reminded everyone that the Depot Center is owned by the City and that we need to make an investment in this and hoped that the City would be able to see the Depot Center Foundation through this by appropriating \$50,000.00.

Frank Horiel asked how the fund raising was going? Ms. Seider stated it was going well and that they had raised over \$200,000.00 towards the \$300,000.00 and it looks like they will need an additional \$100,000.00 above that. Seider also clarified that the \$50,000.00 City CTEP funds would not go towards matching the grant.

Steve Golnar stated that the proposal also needs to go to the Transportation Coordinating Committee.

Blakeman inquired on the Mark Lemke CTEP Project Proposal. Mr. Golnar stated that this proposal was not for a CTEP Project, but was asking permission to perform an Eagle Scout Project on City property. It involved improving the Sister Cities Friendship Garden located south of the Old Water Works Building on River Drive. He will put it on the next City Commission agenda as an action item for the Commission to approve an Eagle Scout Project involving improving the Sister Cities Friendship Garden.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3508 – **RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NELSON ENGINEERING & ASSOCIATES FOR WATER MAIN REPLACEMENT IN "I" STREET TO "K" STREET FROM PARK STREET TO CALLENDER STREET AND IN PARK STREET FROM "H" STREET TO "L" STREET IN THE AMOUNT OF \$30,600.00.**

Steve Caldwell inquired as to whether the engineering former name should be changed in the contract, as it had recently consolidated as per another firm. Steve Golnar stated that City Attorney, Bruce Becker, had recommended that the City authorize this contract under the existing name and to have a resolution on the next agenda assigning all existing contracts with "Nelson Engineering" to the new name of "CTA Nelson Engineering."

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3509 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN**

PROFESSIONAL SERVICES AGREEMENT WITH NELSON ENGINEERING & ASSOCIATES FOR ENGINEERING SERVICES FOR STREET CONSTRUCTION OF "M" THROUGH "O" STREETS FROM CALLENDER STREET TO PARK STREET IN THE AMOUNT OF \$60,760.00.

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3510 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN CONSTRUCTION AGREEMENT WITH DIAMOND D CONSTRUCTION FOR EAST AND WEST ABUTMENTS AND RETAINING WALL FOR 7TH STREET FOOTBRIDGE IN THE AMOUNT OF \$9,921.00.**

Bob Ebinger inquired about doing the footbridge abutments at Mayors Landing at the same time. Steve Golnar stated that as it stands he has sent an e-mail requesting a dollar amount on the value for the bridge so that he can respond with a receipt for donation. Mr. Golnar also stated there was only \$3500.00 in the budget for the Mayors Landing project. Steve Caldwell requested that a "thank you" letter be sent to the donors of the bridge. Steve Golnar advised this will be done immediately after receiving a value of the bridge from them and that he will be in contact with the donors.

Vicki Blakeman reminded the Commission that the 7th Street footbridge process has taken approximately three years to complete.

All in favor, Motion passed.

Motion made by Caldwell, second by Beebe, to approve Resolution No. 3511 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH PARK COUNTY EXTENDING THE SOLID WASTE DISPOSAL AGREEMENT FOR FISCAL YEAR 2004-2005.**

Steve Caldwell asked if we had information for Exhibit A. Steve Golnar stated that Exhibit "A" is all agreements to the original 1982 agreement with amendments. Vicki Blakeman inquired if we had current fees for the landfill? Steve Golnar stated he did not know if this would change from what is currently in place.

Steve Caldwell stated that he has concerns in approving this Resolution with unknown fee amounts. Clint Tinsley stated the fees will be complicated and this is something we would want to wait on before approving the Resolution.

Steve Golnar stated for the record that the County Commissioners did sign the Agreement today.

Motion was made by Ebinger, second by Caldwell, to postpone Resolution 3511.

All in favor, Motion passed.

Action Items:

Considering Bids for Transfer Station and Disposal was postponed until the next meeting.

Motion was made by Caldwell, second by Ebinger, to Increase Ambulance Service to New Montana – "EMT Intermediate 99" Level and Authorize Training to Paramedic Level.

Jim Mastin stated that having the higher level of care will also increase our revenue. There are 17-20 transfers a year that Mammoth WY has to transport to our hospital that we could be handling. It is also estimated that we would have approximately 27 round trips a year involving ground transfers to Billings, MT that are now being flown because our Department is not able to administer drugs to the patients. This would also be a considerable saving for the patient. Jim also stated it is estimated that the City would probably pay an additional \$5,000.00 a year to the employees for these certifications.

Jim Mastin also reported this is a firefighter safety issue as a lot of firefighters suffer heart attacks while on the job and they would get the care they need right away.

Steve Caldwell asked if this would have any impact on our Insurance. City Attorney, Bruce Becker reported that he had already contacted MMIA and it will not have any effect on our insurance.

Jim Mastin also remarked that this could be an economic development attraction as it improves health care access and quality of life.

All in favor, Motion passed.

Steve Golnar reported that he will also put "EMT Intermediate 99" Level on the City/County meeting agenda.

Motion was made by Ebinger, second by Horiel, to direct the City Attorney to Prepare a Contract for Ambulance Billing Services with MED – Write Billing and Office Consultation Pending Satisfactory Background Checks.

Steve Golnar reported that Bob Brown and Lorraine Rinehart from the EMS Committee both got good reviews on MED – Write Billing and Office Consultation and recommended going forward in negotiating a contract to begin July 1, 2004. Jim Mastin concurred and stated that the committee also felt the collection rate would improve and take a huge burden off City Staff.

Steve Golnar asked for some direction on the length of the agreement. Bob Ebinger suggested one year with option of renewal.

All in favor, Motion passed.

Proposal from Developer Curtis Van Dyken regarding purchase of portions of Block 3 of the Palace Addition for purposes of squaring off Block 3 and developing homes on it and development of a small neighborhood park on City property directly to the west of this project.

Cecelia Reiner, real estate broker for Van Dyken, gave a presentation for the developers. Present was Doug Van Dyken. Ms. Reiner stated that the developers are willing to purchase the City property if the City does not donate it. It is their intent to incorporate a small park area here and to talk to a service group to take the park over as a community project.

Clint Tinsley stated that DRC met with Mr. Van Dyken and has issues with the sale of City property, which Clint agrees with. Clint stated that this area will be residential property area and is the direction Livingston is probably going to be expanding in the future. Clint stated the DRC would be happy to give a recommendation to the manager on a plan for developing the City's 20acre property north and east of the Armory if the Council wishes. The next DRC Meeting will be Wednesday, May 5, 2004.

Steve Golnar reported that this property was originally purchased for the expansion of the cemetery. Therefore, if the property is sold fifty percent of the money would have to go back to the cemetery fund.

Steve Caldwell would like to see a plan developed by the DRC for the use of the remaining City property in this area to the Armory and for an integrated view and wants to know how this project will fit.

Bob Ebinger agreed with Mr. Caldwell.

Ms. Reiner reported that if anyone would like to have a luxurious park to look at they could look at the River Rock Development Park in Belgrade, Montana.

Clint Tinsley stated there may be a stumbling block with selling City property. City Attorney, Bruce Becker stated the City would have to go through the proper procedure and have the property surveyed and appraised before going out for bid. It is estimated that this process will take approximately two months.

Steve Golnar inquired as to what size of park they were planning on developing in this area. Ms. Reiner stated that they were thinking about a small park about half the size of the community room. Just an area to have playground equipment and benches, but it could be larger if requested.

Steve Caldwell stated he didn't think a park half the size of this room would be sufficient. Ebinger agreed and would like to look into having a larger area for the park.

Vicki Blakeman advised that the City wait to hear from the DRC and make a recommendation at the next Commission meeting.

Motion was made by Caldwell, second by Beebe, to approve the City portion of Final payment in the amount of \$5,194.37 to Access Data Corporation for Sleuth Software.

All in favor, Motion passed.

Darren Raney gave a presentation on the Cost Share Plan for the Corps of Engineers Section 205 Flood Control structural and non-structural alternatives study matching funds from the City of Livingston and Park County. Steve Golnar reported that we need to get back together with them and pursue the grant by May 15, 2004. He would like to give a letter of intent from the City to Park County for the need of a comfort level. Mr. Golnar stated that it had not been taken to the County yet for their contribution of \$50,000.00 for each of the next two years.

Motion was made by Ebinger, second by Caldwell, for funding in the amount of \$50,000.00 for each of the next two (2) fiscal years (2004-2005) and (2005-2006) to be the City's cost share for Section 205 study.

All in favor, Motion passed.

Vicki Blakeman inquired on what needs to be done for Kidfest Livingston as their request for Civic Center fee waiver was received after the agenda was advertised. It was decided to collect the fees for now. Steve Caldwell asked if we had a policy to waive rental fees. Steve Golnar advised we have no set policy and that the City Commission is the only body which can waive the fees. Mr. Golnar also noted that Kidfest in the past has supported the City's Recreation Department by yielding prevention program participants.

Bob Ebinger stated that their request is dated April 29, 2004 and that we should have a policy in place including a time line when waiver of fee's need to be submitted to be considered.

Steve Golnar agreed and asked if thirty (30) days in advance of a schedule event would be adequate. The Commission concurred with this notice requirement.

The City Manager's written comments were reviewed.

- Frank Horiel asked where are we moving with the tennis courts. Steve Golnar and Clint Tinsley advised that they would put

something together for this coming budget season as the cost will be substantial. The last bid Clint Tinsley received was \$60,000.00 for reconstruction of two courts and vendors are recommending replacing the four (4) court facility. The other two badly damaged courts would cost considerable more, probably well over \$70,000.00. Steve Caldwell inquired as to what the cost would be to make new tennis courts in a different location out of the flood plain. Clint Tinsley advised he did not know, but could check into it. Steve Golnar asked if he should check with the School District as we have in the past to see if they would be able to assist with the repair costs. Vicki Blakeman advised that we should pursue with the School District along with the County share and anyone else who will assist.

- Bob Ebinger inquired about Mr. Alt's letter and stated that it appears he did not know the difference between a printed sign and a monument sign and that we should send a letter to his superior. Steve Golnar recommended that we need to get more information from them especially along the way of landscaping. Bob Ebinger also inquired on what was going on with the combined Economic Development loan application with the Murray Bar and the State Liquor License request and for information from the City. City Attorney, Bruce Becker stated that he has mailed off a letter to the Attorney General, the applicant and the Gaming Division regarding this situation and has not received a reply. Mr. Becker stated that while talking with the Gaming Division on the phone they suggested that all five (5) Commission Members could be fingerprinted instead of one (1).
- Steve Caldwell requested that we follow up on the barking dog Ordinance. He did not want to see the request from last meeting die without action. He stated that on the wind generators, Corky Brittan would be happy to supply information to the Commission. He asked if a rating of four was good for the ISO Fire Inspection. Fire Chief Mastin stated it was very good, but there is room for improvement. Steve Caldwell asked when the next County Commission Meeting is. Steve Golnar replied 9:00 a.m. on Tuesday and the City/County Meeting is May 20, 2004 at 4:00 p.m. Steve Golnar stated he will write a letter summarizing a request for support of \$50,000.00 and a preliminary agenda and deliver it to the County. Mr. Golnar stated he will also talk to the County about the garbage contract right away and get prices.
- Vicki Blakeman wanted to thank whoever put out the wonderful Public Works Information Bulletin. Clint Tinsley stated it was Sandy Wulf, Becki Crosby and Diane Powers.

Commissioner Horiel Comments:

- He agreed with Steve Caldwell for follow up on the Barking Dog Ordinance.

- He stated that he wanted to move forward with items previously addressed such as the old Water Building and its' historic designation. Steve Golnar reported he is waiting for the appraisal prior to initiating the lease negotiation.
- He requested an update on the Railroad Quiet Zone. Steve Golnar stated this is scheduled for discussion at the Transportation Coordinating Committee on May 12, 2004.
- He inquired about proclamations and wanted to know if we had to accept the whole proclamation as written or if it could be amended to how the City Commission would like it to be. Steve Golnar advised that the proclamations are statements of the Commission and it is appropriate for the Commission to modify proclamations to reflect its' position. Mr. Horiel requested if the Commission could require a thirty (30) day submission date prior to acceptance and they could be provided for Commissions advanced review. This would give the Commission time to make changes if they wished.
- He commented with all of the sidewalks being done and the trees being killed and removed, he wanted to know if maybe the School District would get involved with tree replacement projects. He stated that the School does have a web site for science projects and could maybe assist with some of the costs.

Commissioner Ebinger Comments:

- He brought up that four way stops at uncontrolled intersections are still a very bad problem for Livingston and he would like to see an educational program through the local paper.
- He commented with all the new development we need to pursue adopting a Night Sky Ordinance and he would like to see a Committee for this. Commissioner Caldwell and Horiel stated they also fully supported this.
- He asked where Pam Payovich was and if she was all right. Steve Golnar stated Pam was attending training this week.
- He reported that Tree City USA Arbor Day Celebration was a very nice function last Friday. Four trees were planted and there were lots of children in attendance.
- He reported that while workers were digging behind the library they found a very old cistern that was probably from 1907. Bob stated he took pictures of it for the library.

Commissioner Beebe Comments:

- She requested an update on the garbage cans. Clint Tinsley stated that the Downtown Association Design Committee is meeting tomorrow at noon and will be talking about this issue.

Commissioner Caldwell Comments:

- He agreed with the problem with uncontrolled intersections and the need to follow up on this issue. He stated that a town that he was

in had "Yield to the Right" signs in unmarked intersections posted all over town.

- He stated that all of his other comments had already been covered by other Commissioners. City Attorney, Bruce Becker stated that the City has no liability in this matter (Failure to Yield at intersections) unless something is obscured like a corner or a stop sign. Police Chief Raney suggested that we ease into this by educating the public first, give warnings and then follow up with citing. Police Chief Raney stated that he will get with the press and get an educational campaign going on this issue.

Commissioner Blakeman had no comments.

Public Comments:

Brenda Adams, 802 East Butte Street, stated she lives on the canal inlet from the River, Fleshman Creek, and commended the student's recent restoration of creek. Brenda stated that they should have removed the debris from the creek rather than forcing it down the Fleshman Creek. Not removing the debris from the creek caused private property damage for landowners along the creek.

Ms. Adams also inquired as to where the money went for the levee construction project from the federal government for the flood in 1996. Steve Golnar stated the money was used to develop the levee. Ms. Adams then asked if \$300,000.00 was collected from the taxpayers for the levee and Mr. Golnar stated, "No, the taxpayers were assessed two mills which was approximately \$30,000.00 to \$35,000.00. Ms. Adams asked if anyone made the Corp of Army Engineers responsible for their actions. Steve Golnar replied the 1997 levee was for temporary emergency measures and FEMA paid for removal of the levee. Brenda asked if there was a pre-existing levee at Sacajawea Park and Mr. Golnar replied, "yes". Brenda asked if the Corp of Army Engineers developed the levee. Mr. Golnar replied, "No", the Corps of Engineers did not exist when the original levee was built. He understood that the original levee was constructed under the WPA Program.

Brenda Adams commented on the right of way issue and stated that everyone has to learn this to get a drivers license and did not see any use in spending money to educate the public. She also stated that drivers not using their directional lights on automobiles is a huge problem. Ms. Adams felt that if drivers are not yielding to vehicles on the right, they should be cited and that would be one way for the City to collect revenue.

Brenda Adams commended the Commission on doing a study before selling City property and for looking into a long term plan.

Thomas Moser, Guest House Hotel, 595-1505, stated he handed in a CTEP Proposal on Friday and did not see it addressed tonight. Steve Golnar replied

that he had been out of town all week and did not see it. Mr. Golnar stated he would follow up on this and pass the proposal onto the Commission and schedule a public hearing before the next meeting.

Mr. Moser gave a presentation to the Commission on his CTEP Proposal, which includes making a 25 ft X 130 ft access, parking and park area between the Guest House and Park Place. Moser would like to incorporate landscaping, historic lighting and benches in this area with CTEP funds. Parking would be for Guest House visitors only.

Steve Golnar stated he will get the proposal out to the Commission and will also address it at the TCC Meeting on May 12, 2004. It will be discussed at the next City Commission Meeting on May 17, 2004 as well.

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

The time was 10:42 p.m.

ATTEST:

APPROVED:

Peggy Glass
ACTING RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
MAY 17, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, May 17, 2004 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Bob Ebinger, Vicki Blakeman and Frank Horiel.

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

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

- A. Approve May 3, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 1st half of May 2004.
- C. Department Heads Monthly Reports and Other Minutes.
- D. Approve and authorize Eagle Scout Project proposed from Mark Lemke.
- E. Approve Waiver of Civic Center Rental Fee for Kidfest to be held on May 15, 2004.
- F. Approve Filming Questionnaire from Dancing Toad for the "Girls v. Boys" unscripted series, competition game show by Noggin Television proposed to be filmed at the Livingston Lagoon on July 9, 2004.
- G. Approve bids for the "New 2004 Four Wheel Drive Backhoe" request for bids.
- H. Approve Special Event Request for Mark's In & Out Autorama Car Show to be held on June 18th and 19th, 2004.

Vicki Blakeman asked about Mark Lemke's project and was curious as to whether the possible lease of the Old Water Plant would have any impact on this project.

Steve Golnar stated that he will coordinate this proposed project from Mark Lemke with the possible lessor. They have indicated that they would like to see the garden fixed up and Mr. Golnar would encourage Mr. Lemke to coordinate with the proposed lessee.

Steve Golnar also stated that he would coordinate this with the Parks Foreman, Eddie Miller and Public Works Director, Clint Tinsley.

In commenting on the May 3, 2004 minutes, Bob Ebinger asked to have in his comments to change the year to "1907" from "1897" to read: "He

reported that while workers were digging behind the library they found a very old cistern that was probably from "1907".

Bob Ebinger also asked about the filming from the Dancing Toad for the "Girls v. Boys" and what the script was.

Steve Golnar stated that this is a children show and they will be doing logrolling.

Steve Caldwell asked if the minutes could be changed in his comments to "Yield to the Right" instead of "Failure to Yield" so as to read: "He stated that a town that he was in has "Yield to the Right" signs in unmarked intersections posted all over town.

Steve Caldwell also asked to change in the minutes, under public comments, from "205 study" to whatever it should be. Steve Golnar suggested to change it to: "levee construction project" to read: "Ms. Adams also inquired as to where the money went for the levee construction project from the federal government for the flood in 1996".

Steve Caldwell asked about the EMT-Intermediate course on the Livingston Fire & Rescue end of the month report and how many participants attended this course. Jim Mastin, Fire Chief stated that there was between six (6) and seven (7) participants.

All in favor of consent items, Motion passed.

Proclamations:

A proclamation was read by Chairman, Vicki Blakeman for "American Legion Auxiliary's Poppy Day" on May 28, 2004 to urge all citizens in our community to buy and wear a red crepe paper poppy in memory of those who gave their lives and to honor all veterans throughout the world.

Scheduled Public Comments:

Chuck Kesting made comments about the tennis courts in the City of Livingston. He stated that twice in the paper he has read that it was the tennis team and their parents that were at the City Commission meeting last time and he wanted to make all realize that other concerned citizens that play tennis were present as well. He also mentioned that there was a tennis clinic early last year and they were afraid that they weren't going to have enough people interested but ended up that they had to have two (2) sessions as there was a lot of children interested in playing tennis. He feels that this shows that there are many people interested in tennis in the community as a whole, not just the schools.

Mr. Kesting also stated that the School built two (2) more tennis courts and they are responsible for the upkeep for those courts and would like to see the City make an effort to initiate the upkeep and repair of the other courts as the money for the courts will come from the taxpayers. Mr. Kesting reiterated the cost of the courts that he supplied to the Commission at the last meeting and stated that the tennis courts repair would cost approximately \$15,000.00 for the four (4) courts. He has contacted four contractors and they confirmed this cost. The contractors have also offered to come and look at the courts and bid them out. The courts would only need to be shut down for a 10 day to 2 week period in order for them to be repaired and resurfaced.

Mr. Kesting asked to have the four (4) tennis courts resurfaced as soon as possible by the City and to have the other two (2) courts redone with the support from the School in the near future so that they would not deteriorate. Mr. Kesting commented that he had received some approximate costs for the two (2) tennis courts and that was in between \$50,000.00 to \$70,000.00.

Steve Golnar asked Mr. Kesting to coordinate any future cost estimating efforts from potential contractors with Clint Tinsley, Public Works Director and Eddie Miller, Parks and Recreational Foreman. If a funding package were approved, then the City would initiate the bidding process for the resurfacing and rebuilding of the tennis courts at Sacajawea Park. Mr. Golnar emphasized that he felt that funding for this project should be obtained from the City, County and School District.

Patricia Miller from the Yellowstone Country Board made comments about tourism in Livingston and Park County. She presented the Commission with brochures for bed tax in our area. Some of the materials given were the new Yellowstone Country marketing plan. Ms. Miller stated that at the end of December the collections from Yellowstone Country bed tax totaled \$3,163,087.00 and this was in five (5) counties that includes Park County. She also stated that there is a proposed budget for 2004-2005 of \$549,964.00 and only the legislature knows if this is going to happen or not. Also Ms. Miller gave materials on the telephone advertising overlay in 2004-2005.

Ms. Miller mentioned that Cooke City now has a Chamber of Commerce and was given \$5,000.00.

She concluded by stating that there are big changes that are going to happen in tourism and she will keep the Commission informed as these changes take place.

Variances:

Motion was made by Caldwell, second by Ebinger, to approve the Findings of Fact for a variance for Mr. Cecil Hoeme, owner of property located at 532 North "H" Street, requesting a variance from the setback requirement for RII (MH) zoning district. Mr. Hoeme asked to build a deck onto his existing house, which would be approximately five (5) feet from the side property line. City Code requires a ten (10) foot setback on a side adjacent to a street. Based on the Findings of Fact the City Zoning Administrator felt that it was an appropriate request and recommended to the Board of Adjustments to recommend that the City Commission approve this variance request. Jim Woodhull gave background information relating to this variance request.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve the variance request for Mr. Cecil Hoeme.

All in favor, Motion passed.

Public Hearings:

A public hearing was held for CTEP Project Proposals for 2004.

Steve Golnar stated that he had provided summary packets of the CTEP Project Proposals that were received and were provided to the Commission at an earlier date and also his letters of recommendation were sent to the requestors.

Mr. Thomas Mosser in respect to the Guest House Mall proposal made comments of the letter received from the City Manager on May 13, 2004 recommending the removal of the Guest House Mall proposal from further consideration for the CTEP 2004 Project funding. He commented that he felt the letter used inaccurate information. Mr. Mosser had requested benefit of a project that was primarily for private parking which the public would not have access to. He stated that it's not every day that a private parking owner offers to allow the public on their property. He feels that this would benefit the public just as well as himself as a private owner. The access has been previously denied and Mr. Mosser has met with the Chief of Maintenance of the Montana Department of Transportation, Ross Gammon. Mr. Gammon indicated to him that one of the reasons for denial of this request was the safety issue, and that the parking lot request was actually a request for a public free flowing right in, right out, left in, left out, with no signage restrictions at all in the parking lot. Mr. Mosser said he was now proposing a one way access off of Park Street. Mr. Gammon stated this would not be a safety issue. Also Mr. Mosser stated that Mr. Gammon stated that he would reconsider the request with these clarifications.

The other concern was losing parking spaces on Park Street and Mr. Mosser commented that the changes that he has been doing with his building has

added a couple of parking spaces to the downtown area with the relocation of the Greyhound Bus Depot. His request of the curb cut on Park Street would be useful for the revitalization of the Urban Renewal Plan in the future for the downtown area.

Mr. Mosser asked the Commission to consider writing a letter to the Chief of Maintenance of the Montana Department of Transportation, Ross Gammon, expressing support for a curb cut to allow him to access in a reasonable fashion these parallel parking spaces as well as provide access around to the parking on the other side of the alley so his customers would not have to drive a full block to park near his building.

Diane Seider representing the Livingston Depot Foundation commented that if the Commission had any questions about their application that she suggested that they concur with the recommendations of the Transportation Coordinating Committee (TCC).

No other public comments were given.

Resolutions:

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3512 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT WITH MED-WRITE FOR AMBULANCE BILLING SERVICES.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3513 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING ASSIGNMENT OF PROFESSIONAL SERVICE CONTRACTS FROM NELSON ENGINEERING & ASSOCIATES, INC. TO CTA NELSON ENGINEERING.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3514 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RATIFYING APPLICATION FOR DNRC RENEWABLE RESOURCE GRANT IN THE AMOUNT OF \$100,000.00.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3515 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BLUE CROSS BLUE SHIELD OF MONTANA FOR GROUP HEALTH INSURANCE PLAN AND COBRA COVERAGE FOR CITY EMPLOYEES FOR FISCAL YEAR 2004-2005.**

Bob Ebinger asked what portion does an employee pay? Steve Golnar stated that the City pays \$435.00 for an employee and the employee pays the remainder. The rates for a single party is \$268.78 and for a family is \$736.61. These amounts include the life insurance premium. This next year the City will pay \$460.00 for an employee. The difference can be used for pre-tax flexible medical benefits to maintain the integrity of full-time employees.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3516 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE BASE RATE FOR SEWER RATES IN THE AMOUNT OF \$4.00 PER MONTH.**

All in favor, Motion passed.

A public hearing will be held on June 21, 2004 for the intent to increase the base rate for sewer rates in the amount of \$4.00 per month. All public comments will be welcomed. Clarifications of the sewer rate schedule will be provided at the public hearing.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3517 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE BASE WATER RATE IN THE AMOUNT OF \$4.00 PER MONTH.**

All in favor, Motion passed.

Steve Golnar asked to change the wording in the second whereas of Resolution No. 3517 to read: "Whereas, an increase in the base water rate in the amount of \$4.00 per month for those who use City water services is necessary for the City of Livingston to pay necessary expenses to continue to provide water services".

A public hearing will be held on June 21, 2004 for the intent to increase the base rate for water rates in the amount of \$4.00 per month. All public comments will be welcomed. Clarifications of the water rate schedule will be provided at the public hearing.

Action Items:

The Commission considered the following CTEP 2004 Project recommendations:

1. Approve Depot Center Roof Replacement and Rehabilitation Project - \$50,000.00.

2. Remove from further consideration Guest House Mall - \$44,250.00.
3. Plan City/County Joint Projects for the future.

Motion was made by Caldwell, second by Beebe, to approve the CTEP 2004 Project recommendation for the Depot Center Roof Replacement and Rehabilitation Project of \$50,000.00.

All in favor, Motion passed.

Discussion was held to consider a proposal from the Developer, Curtis Van Dyken, regarding the purchase of portion of Block 3 of the Palace Addition for purposes of squaring off Block 3 and developing homes on it and development of a small neighborhood park on City property directly to the West of this project.

After much discussion relating to this project proposal as mentioned above it was the direction for the City Attorney to act on Action Item (I) to initiate the process of rescinding Ordinance No. 1827 – Creating a Procedure for Classifying and Disposing of Property Owned by the City and Provide Direction for Ordinance Revisions, before initiating the response to Curtis Van Dyken’s proposal to purchase City owned property to square off Block 3 of the Palace Addition.

Motion was made by Caldwell, second by Ebinger, to direct City Attorney to initiate the process of rescinding Ordinance No. 1827 – Creating a Procedure for Classifying and Disposing of Property Owned by the City and Provide Direction for development of a replacement Ordinance.

All in favor, Motion passed.

After action is taken on rescinding the Ordinance No. 1827 and a public hearing has taken place, a Resolution of Intent will be proposed to dedicate Block 3 of the Palace Addition as Park Land. A name needs to be determined and the City would then file the formal dedication of the Park with the Clerk & Recorder’s Office.

The next item on the agenda for discussion was to approve draw down #4 for Printingforless.com.

Since Vicki Blakeman, Chairman, is an employee of Printingforless.com the City Attorney suggested to her to excuse herself from voting on this action.

Motion was made by Ebinger, second by Caldwell, to approve draw down #4 for Printingforless.com.

4 in favor; Beebe, Horiel, Ebinger and Caldwell, 1 withdrew; Blakeman, Motion passed.

Also Vicki Blakeman asked to excuse herself of the next action to approve payment for Draw Down #4 for Printingforless.com in the amount of \$26,874.00.

Motion was made by Caldwell, second by Horiel, to approve payment for Draw Down #4 for Printingforless.com in the amount of \$26,874.00.

4 in favor; Horiel, Caldwell, Ebinger and Beebe; 1 withdrew; Blakeman, Motion passed.

A discussion to budget matching funds for West Railroad Crossing Feasibility Study (\$12,000.00 City) and encourage \$12,000.00 to be set aside by County.

Steve Golnar stated that as Chairman of the Transportation Coordinating Committee (TCC) the Committee suggested that both the City and the County set aside in their FY 2004-05 budget, funds of \$12,000.00 each for a West Railroad Crossing Feasibility Study. This would constitute a 20% match for a feasibility study estimated to cost \$120,000.00.

Motion was made by Horiel, second by Ebinger, to put into the 2004-2005 budget matching funds for West Railroad Crossing Feasibility Study (\$12,000.00 City) and encourage \$12,000.00 to be set aside by County.

All in favor, Motion passed.

A discussion to schedule a joint meeting to hear results and review final report of Citizens Task Force Donut Area Study was held.

Steve Golnar commented that it was a recommendation from the Transportation Coordinating Committee (TCC) to have the City schedule a meeting with the County Commission, County Planning Board and the City Planning Board in order for all of them to review the Citizen's Task Force Final Product including area maps, community visioning session results and recommended changes and amendments to the Comprehensive Plan and Zoning Regulations.

It was suggested to discuss a meeting time with the Citizen's Task Force at the City/County meeting on May 20, 2004.

A discussion was held to schedule performance reviews for the City Attorney and the City Manager.

The City Attorney performance review was determined to be scheduled as a work session on May 24, 2004 at 7:00 p.m. in the Community Room of the City/County Complex.

The City Manager performance review was determined to be scheduled as a special meeting on June 14, 2004 at 7:00 p.m. in the Community Room of the City/County Complex. This meeting will be an open session and will then go into closed session as right to privacy exceeds the public's right to know. No decision's are proposed to be made by the City Commission at this meeting.

A discussion was held to consider rescinding Chapter 32 of the Livingston City Code establishing Impact Fees and pursuing Self-Governing Powers.

Vicki Blakeman asked City Attorney, Bruce Becker if the Commission can pursue self-governing powers without the Government Study Commission.

Mr. Becker indicated that the City could pursue self-governing powers without a Study Commission.

Bruce Becker stated that general power government can only act if statute authorizes such act and with self-governing power the State prohibits certain acts, if not prohibited by statute and the City has authority to act. Mr. Weaver from the Local Government commented that the advantage of a charter is that the roles and responsibilities of elected officials and appointed officials are specified. Also the limitations on elected and appointed officials and government is defined. A Charter enables the government to deal with unanticipated opportunities and problems as they come up. For example, the City of Troy was operating under general powers and received a turbine capable of producing commercial electricity. The Attorney General determined that The City of Troy could not operate a utility. So the City of Troy amended its form of government to self-governing and the Attorney General then determined that the City of Troy could now operate a utility.

The changes would be the number of people in office which would be seven (7) and the terms of the elected may be changed. The process will be on the ballot for the primary election to determine if the public wants to change the form of government that the City operates on. This is up to the voters. The Study Commission is set up to review our government and make a recommendation and they will be voted upon in June.

Motion was made by Ebinger, second by Caldwell, to repeal the Police and Fire Impact Fees.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to direct City Attorney to pursue Self-Governing Powers with a Charter.

All in favor, Motion passed.

A discussion was held to consider the City's participate in pursuit of Video and Media Exposure through Pat Sommerall Productions and to determine methods of meeting the \$28,000.00 cost.

The Commission had no interest in pursuing a video and media exposure through Pat Sommerall Productions.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the Ordinance for "Nights Sky Friendly Street Lighting" and he has heard complaints from people of the street lights in their houses from the lights. Bob Ebinger stated that at the Main Street Conference they talked about specific lights to help lower the light rays in peoples houses and he has several brochures to share with everyone on these types of lights. Bob Ebinger requested that an Ordinance be drafted for the "Nights Sky Friendly Street Lighting".
- Frank Horiel asked about the structural work for the Old East Side School Planning Study that was approximately \$84,000.00. Clint Tinsley stated that was a rough estimate and that the structural work is in the budget for next fiscal year and the asbestos cost is also.
- Frank Horiel asked about the roto-millings if the High School parking lot could be put on the list of priorities for the roto-millings. That this could be in exchange with the School District helping out on the tennis courts. Steve Golnar questioned with regard to the roto-millings, how far does the City want to get involved in how we deal with measuring public benefit and determining availability of material, manpower and equipment. Vicki Blakeman stated that she feels that the public benefit is an administrative call and the availability of resources is a City Staff call and doesn't think that is a Commission decision.
- Frank Horiel asked about the diesel fumes from the Fire Department vehicles and how often this was occurring. Jim Mastin stated that he had met with Bruce Martin and had found out that the fumes were a health hazard and with the wind in the City when the garage doors are opened and then closed during the cold months the diesel fumes stay in side of the building. The long-term solutions are to put diesel emissions controls on the vehicles because the fumes are a health hazard but in the meantime the Fire Department doesn't know how to resolve the problem other than to do the apparatus inspections across the street in the alley.
- Bob Ebinger asked if the Polk directories had already been donated to the Museum. His suggestion was that the Museum and the Library coordinate on which directories they have so that people can do their research with these Polk directories because neither the Library nor the Museum collection is complete.
- Bob Ebinger commented on the one-way proposal on 2nd Street with diagonal parking, at the Main Street Conference he attended

several parking seminars and with parking on Main Street they are very much against one-way streets on a Main Street.

- Mary Beebe concurred with Bob Ebinger about the one-way Streets on Main Street. John Fryer commented that the Montana Department of Transportation indicated to him that if the City wanted to have more parallel parking in the downtown area that basically the City would have to designate a one-way Street in the downtown area. The City needs to negotiate with the State in order to do this because the State feels that they own Park and 2nd Street and Main Street.
- Mary Beebe also commented about the mosquito spraying and would like to see the City think about encouraging the extra funds to help support the County to use larvacide instead for mosquito spraying as this is less health risky and much more effective.
- Steve Caldwell mentioned that there was some misspelled words on the web-site and commented that he felt that it was looking very well.
- Steve Caldwell asked about the June 2, 2004 meeting with the County and since the City/County meeting was scheduled for May 20, 2004 why was there going to be another one. Steve Golnar stated that usually the City/County meeting is held the 1st Wednesday of every month and so if any budget matters needed to be discussed with the County it will be then.
- Steve Caldwell stated that under the Draft Agenda for the City/County meeting it should be "Thursday" and not "Tuesday". He also asked relating to the wind energy generators at the Old Airport property if Steve Golnar had gotten in touch with Corky Britton. Mr. Golnar replied that he didn't feel that there was enough time to have him on the agenda.
- Steve Caldwell also stated that he would like to see the \$12,000.00 match on the City/County Agenda for the West Railroad Crossing.
- Vicki Blakeman asked about the calendar what the May 18th and 19th JSEC Manager convention was. Steve Golnar stated that was a statewide meeting in Livingston through Job Service.
- Vicki Blakeman asked about the draft Proclamation Policy and requested to have presented at the next meeting in its proposed final format.

Commissioner Horiel Comments:

- He asked about the Rail Road Quiet Zone. Steve Golnar stated that there are State statutes which allow for "Quiet Zones". Steve Caldwell stated that the Federal rules from the Federal Administration are going to be changed on December 18, 2004 basically saying that currently there are no Federal Requirements that the train blow their horns through the Rail Road Crossing but it will be required as of December 18, 2004 that they will be required to blow their horns through a Rail Road Crossing. Mr. Caldwell indicated that he would continue to follow this issue.

Commissioner Ebinger Comments:

- He asked about the Bridge that was donated for Mayor's Landing and if the City had been in contact with the donor of the value of the bridge. Steve Golnar stated that he is trying to schedule a meeting with Gary Weiner to help determine the value of the Bridge and Clint Tinsley and Eddie Miller and also to determine the stream flows at Fleshman Creek for the long-term. Steve Golnar stated that he would write a thank you letter to the donor of the Bridge.
- He asked about the follow-up for the "Failure to Yield the Right of Way". Darren Raney stated that there was an article in the paper about it last week.
- He mentioned that in the next few days there is going to be a feasibility study for filming for a potential film this summer in July it is a very low budget and he would like to know if waiving of fees could be established. The film has already been distributed which means that when it is filmed either here or anywhere else it will be released.

Commissioner Beebe Comments:

- She commented that she was sad that the Greyhound Bus Depot moved and that Livingston became a little less real when the Bus Depot moved out of downtown to the edge of town.

Commissioner Caldwell Comments:

- He stated that he promised that he would pass this on to the Commission as several people in the building have concerns about the cleaning of the air ducts in the building. They have complaints of harmful particles floating in the air and causing allergies and other complications. Steve Golnar commented that the City should be looking at budgeting for the cleaning of the ducts in the building in coordination with the County.
- He also asked about the follow-up of the Barking Dog Ordinance. Steve Golnar stated that he would have a draft Ordinance for Barking Dogs at the next City Commission meeting.

Chairman, Blakeman Comments:

- She commented that the people that own the Greyhound Bus Depot are very pleased as to where they have moved and feel that it is very convenient. The owners are there all of the time and she feels that the passengers get a lot nicer reception and the facility is very nice and clean.
- She mentioned that with regard to the work that Mr. Lemke has proposed to do at the Old Water Plant and especially where he is proposing to do this she wants the lessors to be coordinated with.
- She also mentioned when the group painted the swimming pool building this last weekend they were disappointed that some of the windows in the building were covered with boards and would like

City Staff to see if expanded metal could be put in place of the boards.

Public Comments:

Jess Miller of 508 North "B" Street asked about reduction to his street and lighting district assessment on his property on the North side hill between North "B" Street and North "E" Street. These are vacant lots that he uses for horse pasture. His request was to have the streets closed on the 500 Block of North "C" Street and the 500 Block of North "D" Street so that he can get an exemption from street gravel and lighting for tax purposes or otherwise he will have to sell his property.

Bruce Becker commented that he would research this and get back to the Commission at the next meeting.

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

The time was 9:49 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
June 7, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, June 7, 2004 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Bob Ebinger, Vicki Blakeman and Frank Horiel.

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

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

- A. Approve May 17, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2nd half of May 2004.
- C. Approve Changes in Repairs to Swimming Pool Bath House for FY 2003-04.
- D. Approve Use of Mayor's Landing for overnight occupancy on Thursday, July 8, 2004.
- E. Approve Recommendation for bid for Overlay of 4 City Blocks to Big Sky Asphalt, Inc. in the amount of \$35,653.00.

Bob Ebinger requested a change in the minutes to change the word "working" to "wording" to read: "Steve Golnar asked to change the wording in the second whereas of Resolution No. 3517 to read".

Bob Ebinger asked about the claim for Bison Ford and what it was for. Steve Golnar stated that this claim was for the replacement of the vehicle that was stolen and damaged. This vehicle when stolen was totaled and the insurance company will pay for it. The insurance company took the vehicle directly.

Bob Ebinger also asked about the bid for the overlay of 4 City Blocks and why there was such a difference in the bid amounts from the two (2) proposed bidders. Clint Tinsley stated that he had contacted Big Sky Asphalt to make sure that they understood the specifications of the bid proposal and Big Sky Asphalt stated that they would stand behind their proposed bid amount.

Mary Beebe asked to change her comments in the May 17, 2004 minutes under City Manager's comments to reflect a small "l" in Larvacide and add the wording "instead of" so as to read: "Mary Beebe also commented about the mosquito spraying and would like to see the City think about encouraging the extra funds to help support the County to use larvacide instead of mosquito spraying as this is less health risky and much more effective."

Mary Beebe also requested in her Commissioner comments to cross out the last sentence and add "out of the downtown to the edge of town" so as to read: "She commented that she was sad that the Greyhound Bus Depot moved out of downtown to the edge of town."

Mary Beebe asked about the claims for Dana Kepner and what they were for. Eileen Malcott stated that the claims for Dana Kepner were for sewer and water parts.

Ms. Beebe also asked about the claim for Dana Kepner for \$32,490.00 and what this was for. Clint Tinsley stated that this is for the vehicle transceiver for the water department to read City resident's water meters. This will save on manpower hours.

Steve Caldwell asked about the Yellowstone Boat Float if this was an annual event and if the City collected anything for the use of Mayor's Landing. Steve Golnar stated that the City hasn't ever collected for this event as the floaters stay at the Mayor's Landing Camp Site for approximately 5 to 6 hours and they do their own clean-up.

Steve Caldwell also asked about the changes in the bathhouse at the swimming pool and suggested the City might possibly look into something more extensive. Steve Golnar stated that the City will budget for the next fiscal year 2004-05 for interiors upgrade in the amount \$12,000.00 in order to improve the bathhouse interior. He will also review with Staff other suggestions for a more comprehensive look at bathhouse improvements.

Steve Caldwell commented that he would like to do a more extensive improvement at one time to the bathhouse instead of doing touch ups every year.

Vicki Blakeman asked if the building is solid. Clint Tinsley stated that he would have the Building Official look at it in order to determine if the building is solid or not.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

Lindie Gibson made comments about various concerns that she has in the City.

Ms. Gibson mentioned that where the sidewalks are being installed in the City that they look wonderful. Not only are they a cosmetic improvement, she remembers walking to Winan's School in the snow and how inconvenient it was not being able to walk on a sidewalk which could be shoveled.

She also commented about her concern about the downtown garbage cans for the businesses not being there and wondered if there was a possibility for the City to work with the businesses in re-establishing some garbage cans.

Vicki Blakeman stated that the City is working with the Downtown Association on the placement downtown trash cans and what kind of trash cans they would be.

Another concern that Ms. Gibson had is the placement of gravel in the boulevards. She would like to see our Ordinance Section 26-10 that was established in March 2000 – "Prohibiting the covering of boulevards with manmade materials and making exceptions for driveways and approach sidewalks and providing a civil penalty for violation" be enforced. She sees several residents using rocks instead of grass in the boulevards in front of their property. She also mentioned that the reason why residents are going to rock is because they believe that they can't afford to water the boulevards because of the increase of water rates.

Ms. Gibson also mentioned some conditions out in the cemetery. The bathrooms she feels are in very bad condition. The pine trees in the cemetery needs to be trimmed because they are so low to the ground that you cannot see the headstones of the graves. She didn't feel that the cemetery records were accurate. She also commented that she felt that more work could be done at the cemetery.

Ms. Gibson stated that she lives at 323 South "B" Street and she moved in three (3) years ago. At that time there were approximately 70 employees at Printingforless.com and now they have approximately 90 employees working for them and that she feels that this wonderful. This though causes a lot of stress in the neighborhood for the parking issues. Ms. Gibson commented at 320 South "B" Street the resident is legally blind and has not driven for years but has handicapped parking sign out in front of the residence. Ms. Gibson feels that the application for handicapped parking spaces is very undefined that all you have to do is have a doctor's consent. Ms. Gibson's concern is that there aren't enough parking spaces in the downtown area and she cannot even park in front of her own house and requested that the City Commission review the qualifications of the those asking for a handicapped parking space.

Ms. Gibson also commented about the street sweeping and asked that it be a mandatory that people move their cars or they will be ticketed. If not all of the residents move their vehicles then there is silt build up in the curbs of the streets. She would like to see the whole street swept instead of a portion of the street because the gutters are not being cleaned out and she feels that it is very serious issue that needs to be addressed.

Ms. Gibson concluded by stating that she thanked the Commission for their time.

Thomas Mosser was scheduled for public comment but deferred his comments until later in the meeting under the action items for his request of the Guest House curb cut on Park Street.

Cindi Fargo, Executive Director of the Alliance Development Corporation gave an update for the quarter of the Alliance Development Corporation progress.

She provided the Commission with a packet of the ADC's progress. Some of the articles included a thank you note from the 2nd Street Bistro that is the new restaurant that a CDBG loan was given to through the Alliance Development Corporation and the City of Livingston. Other materials in the packet included the following:

1. Marketing Final Agenda for Artists Workshop which was held on Saturday, May 22, 2004 which was attended by 103 participants which was sponsored along with MSU - Bozeman and Alliance Development Corporation.
2. Minutes from the Park County Creative Enterprise Partnership meetings held on May 17, 2004 and June 1, 2004 which resulted from the Alliance Development Corporation helping to establish a pilot program under the Governor's Office of opportunity in Livingston and Park County.
3. A course overview of the business plan workbook and resource guide for Entrepreneurship Business Plans.
4. Some of the title pages that were covered at the "Main Street Program" in New Mexico. Materials included were the Improvement Plan, Revitalizing Downtown, the Economics of Historic Preservation and Parking Handbook for Small Communities.
5. An Alliance Development Corporation report to the City Commission for their growing employment, increasing investment and enhancing quality of life analysis.
6. The Creative Enterprise Cluster: A Montana Business Case Study Where Creative Class and Business Cluster Dynamics Meet Inspiring Analysis and Insights from Stuart Rosenfeld, RTS Inc.

Ms. Fargo gave an overview of the report to the City Commission for the Alliance Development Corporation's progress in their growth.

Ordinances:

Motion was made by Caldwell, second by Ebinger, to approve first reading of Ordinance No. 1943 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REPEALING POLICE AND FIRE IMPACT FEES ENACTED BY ORDINANCE NO. 1760.**

Steve Caldwell asked to have Section 3, Severability and Section 4, Savings Provision deleted from the Ordinance.

A public hearing will be held on June 21, 2004 relating to this Ordinance No. 1943.

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve first reading of Ordinance No. 1944 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND ORDINANCE NO. 1933 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY BE ESTABLISHING THE OFFENSE OF UNTIMELY DOG BARKING AND AMENDING THE NUISANCE BARKING DOG ORDINANCE.**

Motion was made by Ebinger, second by Horiel, to amend Ordinance No. 1944 Section 4.75 to read in creating a civil penalty not to exceed \$300.00.

Bob Ebinger also asked as to why Section 4-6 was missing from the Ordinance. Bruce Becker stated that this is the way it was codified and that sometimes sections are reserved so that new wording can be inserted in the future.

Steve Caldwell stated that in Section 4-7(a) states: "a dog which persistently or continually barks, howls or yelps ins defined as a dog which barks, howls, or yelps for more than ten (10) minutes in any one hour period of time where the barking, howling or yelping is audible off of the owner's, possessor's or keeper's property and is unprovoked." He mentioned in some cases it may not be ten (10) minutes in any hour period of time that it could be five (5) minutes.

All in favor to amend Ordinance No. 1944 Section 4.75 to read in creating a civil penalty not to exceed \$300.00, Motion passed.

Motion was made by Caldwell, second by Beebe, to amend Ordinance No. 1944 to read five (5) minutes of untimely barking throughout the Ordinance.

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Ordinance No. 1944 as amended.

All in favor, Motion passed.

A public hearing will be held on June 21, 2004 relating to this Ordinance No. 1944.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1945 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF**

LIVINGSTON, MONTANA, REPEALING THE PROCEDURE FOR CLASSIFYING AND DISPOSING OF REAL PROPERTY OWNED BY THE CITY ENACTED BY ORDINANCE NO. 1827.

Steve Golnar stated that there is a Resolution, which classifies property and we are not repealing the Resolution. He went on to say it is important to classify and define real property so that the City can create new regulations on how to deal with the property.

Mary Beebe asked if the City Commission repeals this Ordinance then what recourse does the City Commission have to deal with real property. Bruce Becker, City Attorney, replied that the State law for disposal or lease of municipal property would apply until the Commission proposes a new Ordinance.

Steve Caldwell asked to have Section 3, "Severability" and Section 4, "Savings Provision" deleted.

The Commission decided to continue reviewing the Ordinance and give comments back to Bruce Becker throughout the week.

All in favor, Motion passed.

A public hearing will be held on June 21, 2004 relating to this Ordinance No. 1945.

Resolutions:

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3512 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONTRACT WITH MED-WRITE FOR AMBULANCE BILLING SERVICES.**

Frank Horiel asked if the City desires their offices to be moved to the Old East Side School would Bruce be agreeable to move into the City offices.

Bruce Becker stated that he didn't have any problem with moving in with the City offices for his services. His private practices would not interfere with the City services.

Frank Horiel asked what percent of Bruce's time is spent for the City and what percent does he utilize for private practices.

Bruce Becker stated that he spends approximately 90% of his time for the City and the rest for private services.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3519 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING POSITION DESCRIPTION FOR ACCOUNTING/ACCOUNTS PAYABLE CLERK.**

Bob Ebinger requested in the position description to change a punctuation in the essential functions after the word "type" to put a semi-colon so as to read: This position requires the ability to: communicate orally and in writing; do bookkeeping; maintain ledgers; balance accounts; type; and, handle angry customers in a courteous, professional manner.

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3520 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH PARK COUNTY EXTENDING THE SOLID WASTE DISPOSAL AGREEMENT FOR FISCAL YEAR 2004-2005.**

Mary Beebe asked to have a letter written to the County Commissioners to clarify that this is a one (1) year contract with the possibility of renewal and that money is a concern of the City and our residents. The Commission asked to reiterate in the letter that the City will make every effort to obtain low costs for garage disposal and to keep the relationship between the City and County and support a positive method of garbage disposal.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3521 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MONTANA CULTURAL TRUST TO PROVIDE FUNDING FOR LIVINGSTON DEPOT FOUNDATION.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3522 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH STATE OF MONTANA DEPARTMENT OF TRANSPORTATION (MDOT) ADOPTING FEDERAL AID PROJECT NO. CM 7406(5) AND CM 7410(2).**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3523 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH AERONAUTICS DIVISION OF THE MONTANA DEPARTMENT FOR LOAN IN THE AMOUNT OF \$7,325.00 AND A GRANT IN**

THE AMOUNT OF \$7,325.00 FOR MISSION FIELD AIRPORT IMPROVEMENT PROJECT.

Steve Golnar gave background information relating to this Resolution and commented that these funds would come from both the City and the County.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3524 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BIG SKY ASPHALT IN THE AMOUNT OF \$35,653.00 FOR OVERLAY PROJECTS FOR 100 BLOCK OF SOUTH 6TH, 300 BLOCK SOUTH 6TH, 100 BLOCK SOUTH 8TH AND BIG HORN DRIVE.**

All in favor, Motion passed.

Action Items:

The City Commission held discussion to consider a response to the Maintenance District protest of Mr. Miller who owns property on Blocks 23 and Block 24 of the Original Townsite. Mr. Miller requested relief for street and light assessments on these blocks.

Mr. Woodhull suggested that a similar assessment compromise could be pursued for the street lighting district as was previously authorized for the street maintenance district. This would result in reducing the number of lots being assessed for the lighting district from 24 lots to 9 lots.

Steve Golnar suggested that the Commission be restrictive in granting relief as he feels that there are more pieces of property that would be developable. Philosophically, by not assessing property for street light services is the City encouraging it to remain undeveloped in an Urban area. Mr. Golnar recommended that 15 of the 24 lots continue to be assessed for street lights and the previous assessment practice of 9 of the 24 lots be assessed for street maintenance.

Bob Ebinger commented that this property is very hilly and it would be difficult to put streets through this property. He feels that the City Commission needs to do something to allow maintenance district assessment relief for this property and if it is developed in the future then the City should review their options at that time. As far as Mr. Ebinger is concerned he feels that relief should be granted on this property now as horses are being pastured on it.

Steve Caldwell asked why there was a street light at the corner of Block 23. Steve Golnar stated that he could not answer that question.

Steve Golnar stated that he felt that action taken to provide relief, if that is what the City Commission desires, should be done when the designation of the street and street lighting maintenance districts including fees and which lots they apply to is determined following a public hearing.

Bruce Becker stated that the street maintenance and street lighting districts are assessed annually and there is a provision in the public hearing process to grant relief and define the boundaries of the district.

Mr. Jess Miller stated that his main concern is the street maintenance on North "E" Street. He has 7 lots and would like some relief on these lots.

The City Commission discussed to possibly of a proposed land swap with Thomas Burns and Steven Hicks whereby a portion of an alley approximately 100' would be exchanged for lot 6 of Block 38 of the original Townsite of Livingston.

Steve Golnar stated that the Livingston Ditch passes through lots 5 and 28 of Block 38 of the original Townsite which would make Block 6 below the Ditch.

Mr. Steven Hicks from White Sulphur Springs commented that the lots that Mr. Burns and himself own are abutting against Gallatin Street. He stated that the exchange of these lots could make possible the development of a bike path for the City.

No decision was made until after more information received from Scott Nelson with CTA Nelson Engineering on review can be on the site and determine if there would be any use to the City for this property.

The City Commission considered a request from Thomas M. Mosser (Guest House) for a letter from the City in support of and acknowledging his right to a curb cut on Park Street to provide access to parking spaces on his lot.

Mr. Thomas Mosser provided some background relating to this request. Two meetings ago he requested a CTEP funding from the City for this curb access on Park Street and was denied. His intentions are to have a cooperative relationship with the City for his business and he does not desire only a private business privilege. He understands that the conflict is from mismatched expectations of this request. His request was for enhancing his property both for the community and himself. He is disturbed that the City Manager's recommendation relating to his request was to deny it.

Mr. Mosser disagreed with the City Planner's evaluation that this space identified would not support 14 spaces but would support more in the order of 6 to 7 park spaces with parallel parking being allowed on the side only. Mr. Mosser feels that with parallel parking 8 foot wide each on both sides and a driving lane in the middle of 9 feet this is a total of 25 feet. His observation is that there would be 14 spaces for the downtown parking

customers and everybody could benefit. A denial of the curb cut access from the Montana Department of Transportation was provided in the association with CTEP project request. Mr. Mosser provided a letter from Ross Gammon, Bozeman Area Maintenance Chief. Mr. Mosser met with the local officials and the big issues were parking and safety. Mr. Thomas stated that he had already addressed the parking issues and with the safety issues he feels that with a right in only one-way entrance, coupled with a 20 foot distance prior to the right turn to allow visibility to a pedestrian our Police Chief stated to him that there would be no safety issue.

Mr. Mosser commented that Ross Gammon with the Montana Department of Transportation, stated that if the local officials would support this then they would consider reviewing their decision. He requested a letter of support from the City Commission that says yes to support this curb cut request that it would benefit his business and the whole community in revitalizing a business downtown.

Frank Horiel asked if there would be enough room for a person to get out of their vehicle if they parked in the left parallel parking space of the one-way lot. Mr. Mosser stated that whichever way a person would park only one side of the vehicle would be accessed to get out of their vehicle. If you park on the left hand side you would have to get out of your vehicle on the right and if you park on the right hand side you would have to get out of the left. Mr. Mosser commented that in large cities this is referred to as valet parking.

Bob Ebinger commented that he has a problem doing anything on Park Street with the congested traffic flow through Livingston.

Frank Horiel asked Clint Tinsley if he agreed with the assessment from the State. Clint Tinsley's stated that the big concern is the access on Park Street and loosing two (2) parking spaces on Park Street and his recommendation would be to deny Mr. Mosser's request.

Frank Horiel asked about the sign locations if this would be done by the State. Mr. Mosser commented that this would be an expense to him with the State.

Frank Horiel made comment that the City complains about parking and by waiting for the Park Street redesign this parking issue could go on forever. Bob Ebinger stated that this is part of the City's Infrastructure program and the State is working on these issues with the City. Steve Golnar stated that Park Street is scheduled for the redesign within the next year but construction probably will not be initiated until the East Bridge is completed in 5 or 6 years.

Steve Caldwell commented that he feels that there should be a comprehensive plan with the parking issue on Park Street whether it is with Entranco or not and that the City should have some kind of an commitment

to get moving along with some finalization as to the expectation of what we are going to do. He doesn't support any more curb cuts on Park Street.

Vicki Blakeman stated that she has some concerns about this request. First of all she wanted to commend Mr. Mosser for what he has done to the Guest House and regardless of what decisions are made tonight she greatly appreciates what Mr. Mosser has done. Her concern even if this is an ingress entrance only once you allow through traffic there are going to be people driving out of there. Traffic in the summer time from 2nd or Main Street on to Park Street is a bottleneck that the City deals with every year. Even with the light on "B" Street and a light on 5th Street on Park Street there is more traffic than on the Interstate. Ms. Blakeman mentioned that the curb cut that is already on Park Street at the Guest House went into a garage that is no longer accessible from that curb cut. She feels that the ingress would not be controllable if a new curb cut was granted.

After much discussion by the Commission, Mr. Mosser was encouraged to work with the neighbors of his business and the Downtown Association as a whole to try to develop an improvement which would benefit all property owners in the downtown area.

Motion was made by Ebinger, second by Caldwell, that the curb cut access to this property be denied.

Mr. Mosser commented that he feels that this curb cut would take pedestrians off of Park Street and asked why the Commission could not be reasonable and allow access to his property. He agreed to free some parking spaces in his lots with compensation.

4 in favor; Caldwell, Ebinger, Beebe and Blakeman, 1 opposed; Horiel, Motion passed.

The Commission considered CDBG Revolving Economic Development Loan recommendation for Gourmet Cellar in the amount of \$20,000.00.

Steve Golnar stated that he had emailed his recommendation to the Commission concerning this request. His recommendation was to approve this revolving loan request for the Gourmet Cellar in the amount of \$20,000.00.

Dana Taylor commented that Debra Endres has opened her shop up in the Depot Center. This business will provide our community with high-end wine and seems to fit well with the Depot Complex and its Museum and Montana Rail Tour visitation. He mentioned that this type of store in Livingston may also stop some sales leakage out of our community for those people traveling out of town to procure specialty wines.

Motion was made by Caldwell, second by Ebinger, to approve the CDBG Revolving Economic Development Loan for Gourmet Cellar in the amount of \$20,000.00.

All in favor, Motion passed.

A discussion was held to review Livingston Youth Soccer Association's letter of interest in the potential development of Soccer Fields on the North Side.

Mr. Jeff Dickerson commented that the letter that he wrote was from the Livingston Youth Soccer Board and not just himself. They have been looking at land in the area to place soccer fields for about 18 months. He identified interest in the North Side land near the Armory proposal to place soccer fields. A huge factor is that they do not know where the streets are going to go and this has a big affect on placing soccer fields in that location. They have taken some rough estimates of this land for the potential of soccer fields and as of now there is only room for two (2) soccer fields. The immediate need of this community for soccer fields is four (4) fields and Mr. Dickerson stated that the soccer interest in the community now has doubled so there will be more soccer fields needed.

Mr. Dickerson stated that the Soccer Association is looking at piece of land proposed but they are also looking at other alternatives to support 8 to 10 soccer fields in the City. They will explore linking this property with other properties to develop a soccer complex. They do not have the fields as of now but are pursuing their efforts to accomplish the number of fields needed in the community as they are exploring the invitation to host the Montana High School Class A Tournament in 2005 and that 80 cities would come to this Tournament.

Motion was made by Horiel, second by Caldwell, to authorize City Manager to respond to Mr. Dickerson's letter and formally recognizing their interest and encourage the Soccer Association to continue in their investigations.

All in favor, Motion passed.

A discussion was held to review and approve the revised "Proclamation Policy".

Bob Ebinger stated that his suggestion was what Pam suggested other than to read: "A Proclamation Proposal to the City of Livingston needs to be submitted 30 days prior to the date or dates proposed for the event or activities. The purpose of this policy is to allow the City Commission the ability to review each Proclamation before adoption or denial and make revisions to reflect the intent of the City."

Motion was made by Ebinger, second by Beebe, to approve Proclamation Policy as stated above.

All in favor, Motion passed.

A discussion was held to review draft proposal for self-governing powers and charter form of government.

Bruce Becker suggested a workshop to be held relating to this proposal for self-governing powers and charter form of Government, as this is like enacting a constitution for the City.

After much discussion it was determined to schedule a workshop on June 28, 2004 at 6:00 p.m. and invite Ken Weaver of the Local Government office to be present as a moderator.

The City Manager's written comments were reviewed.

- Bob Ebinger commented about the letter from S E H, Short Elliott Hendrickson, Inc., offering to assist the City at no cost with preparation of a grant and/or loan application for a railroad feasibility study.
- Steve Caldwell conveyed his congratulations to Shirley Ewan for her immediate honor voted by her group in the Dale Carnegie Course.
- Steve Caldwell asked about the draft "Memorandum of Understanding" with the Chamber of Commerce for application of roto-millings and what was the proposed site. Steve Golnar stated that to his understanding it is both sides of the building. The Chamber of Commerce owns the parking lots on both sides of the building.
- Steve Caldwell also mentioned that under personnel related matters that it should be Andy Marlow not John Marlow.
- Bob Ebinger asked what "TSEP" was. Steve Golnar stated that stands for "Treasure State Endowment Program".

Commissioner Horiel Comments:

- He asked about the comments and concerns received from Lindie Gibson what is the protocol in following up on these concerns. Steve Golnar stated that he is concerned about the number of concerns that she had and that requesting a more specific letter from her may be an option. Then Mr. Golnar will respond and would copy the Commission with what City Staff concludes are the most appropriate actions.
- He would like to see the special event request for Mark's In & Out Autorama continue for next year and whatever the City can do to help pursue this event.

Commissioner Ebinger Comments:

- He asked what the stream flow is at Fleshman Creek and commented that it is very low. He asked to see what the City could do about the flow of Fleshman Creek.

- He commented that he had two (2) EMT candidates come up to him and stated that they are very excited about being able to execute giving medicine at the scene of an accident and would like to let Jim Mastin know that this is a great program.
- He asked to have the cemetery issues followed up on.

Commissioner Beebe Comments:

- She asked about the handicapped parking spaces and if that was in the City's jurisdiction as to who gets handicapped parking spaces. Darren Raney stated that if the person gets a note from their doctor then they can get a permit at the Utility Office for a handicapped parking sign.

Commissioner Caldwell had no comments.

Chairman, Blakeman Comments:

- She stated that she had received some complaints of people watching baseball on Friday nights at the ball park with the concerts in the Bandshell and that it isn't the concert itself that it's the obscene language in their songs and asked what she could they tell them. Clint Tinsley commented that he would address this issue with his Staff.

Public Comments:

- Bill Mosser commented about the safety issue of the pulse microwave radar used by our Police Department. He stated that this could cause blindness or nervous disorder of the genitals which could cause sterilization or affect other parts of the body. He asked to discontinue the use of radar in the City of Livingston.

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

The time was 11:22 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
June 21, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, June 21, 2004 in the Community Room in the City/County Complex. Commissioners present were Mary Beebe, Frank Horiel, Vicki Blakeman, Bob Ebinger and Steve Caldwell.

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

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

- A. Approve June 7, 2004 Regular City Commission Meeting Minutes.
- B. Approve June 14, 2004 Special City Commission Meeting Minutes.
- C. Approve Bills and Claims for 1st half of June 2004.
- D. Department Heads Monthly Reports and Other Minutes.
- E. Approve Special Event Request for the Livingston Chamber of Commerce Roundup Parade to be held on July 2, 2004.
- F. Approve Special Event Request for the Patricia Coleman Foundation Run on August 14, 2004 contingent upon receiving proof of insurance.

Bob Ebinger asked if it was still necessary to have the Self-Governing Powers and Charter Form of Government Workshop on June 28, 2004 since the local voters determined to have a Government Study Commission.

Steve Golnar stated that he felt that it would be appropriate to still have the Workshop as it will be informational for the Commission and they can still legally implement self-governing powers before the Government Study Commission makes its final decision. He reminded the Commission that one reason self-governing powers are needed is to enable implementation of impact fees for services impacted by growth in addition to water and sewer development fees.

Bob Ebinger commented that in the June 14, 2004 Special Meeting minutes that Steve Caldwell was absent and wanted the minutes to reflect his absence.

Bob Ebinger asked about the claim from Flathead Concrete Products for the latrines if they were for Miles Park. Clint Tinsley stated that those latrines were for the Baseball Field.

Mr. Ebinger also asked about the claim for In-touch Solutions for \$3,412.00 and for \$1,592.00 and requested what this was for. Clint Tinsley stated that these claims were for the purchase of a new phone system installed at the Water, Sewer and Utility offices that was budgeted for.

Bob Ebinger asked if Marathon Printing was a Livingston company. Eileen Malcott stated that "yes" Marathon Printing is a Livingston company.

Mr. Ebinger also asked about the claim for RDJ Specialties for the child's fire chief hats. Jim Mastin stated that these were purchased to replenish the Kidfest items that were distributed.

Mr. Ebinger commented about the high number of "refusals of service" and "cancelled in route" in the County on the Livingston Fire and Ambulance Accounts Receivable Financial report and wanted to know if this was higher than normal. Jim Mastin stated that "yes" it is higher than normal but did not know why.

Mr. Ebinger also commented about the amount of 2-hour parking tickets and wanted to make sure that the Police Department be a little bit more lenient during the summer months as far as tourists are concerned. He noted that 49 plates could also be tourists and requested that they not be ticketed. Darren Raney stated that this is inconsistent with the previous Commission's direction that the Police Department not ticket out of state visitors and to only issue warnings unless they are people that are known to be living in Livingston.

Bob Ebinger commented that he feels that the Commission may want to re-visit this and determine if this is the direction the Commission wants to continue.

Mr. Ebinger noted the 92 calls concerning dog/animals on the Livingston Police Department report and in reference to the Dog Ordinance being proposed later in the meeting.

Mary Beebe asked about the claim from Aquatic Design and Construction for landscaping of Mayor's Landing and if that was the last payment.

Steve Golnar stated that was a lump sum payment for the work done at Mayor's Landing.

Mary Beebe asked who was responsible for putting the cables back up at Mayor's Landing.

Steve Golnar stated that it's the Parks Department responsibility to put the cables back up at Mayor's Landing.

Ms. Beebe mentioned that she had seen two (2) ATV's running around down in the Mayor's Landing area where the new landscaping was just done and was wondering as to how they got in there and noticed that the cables were down.

Mary Beebe asked about the claim for the Department of Environmental Quality for the permit fee for the Waste Water Treatment Plant's dump into the river and what this was for.

Clint Tinsley stated that is for the annual discharge permit from the State to be able to dump the treated water back into the river.

Ms. Beebe also commented about the 92 dog/animal calls for the Livingston Police Department and wondered if that wasn't unusual. Peggy Glass stated that these calls are not just for dogs that they could be for other animals such as cows on the road or for dead deer in the road.

Steve Caldwell asked about the Miracle Recreation claim for the bleachers and what they were for. Clint Tinsley stated that those were for additional bleachers in the baseball fields not replacement.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

A public comment was scheduled for Mr. Andrew P. Mandell, "Mr. Diabetes" to discuss the incidence, complications and costs of Diabetes. He was not present at this time.

Proclamations:

Chairman, Vicki Blakeman read a Proclamation for Rodeo Days in the City of Livingston from June 26, 2004 through July 5, 2004.

Ms. Blakeman also read a proclamation for the Sustainability Fair for the week of July 7th through July 13th.

Ms. Blakeman read a proclamation for Homeownership for the month of June 2004.

Chairman, Vicki Blakeman read a proclamation that was not on the agenda, commending Andy Mandell, Mr. Diabetes as the Executive Director of the Defeat Diabetes Foundation undertaking an epic walk around the United States to make people aware of the dangers of diabetes.

Mr. Mandell arrived and gave his comments about the incidence, and complications and costs of Diabetes. He thanked all of the Commission and others for allowing him to speak of this disease. He stated that he is doing a

10,000 mile walk around the perimeter of the United States to make people aware of the dangers of diabetes. He started his walk in 2002 in Florida and has walked north to Seattle and now he is walking east to the coast of Maine and which will then take a right turn and head down to Florida around the keys and up the Golf Coast.

Mr. Mandell stated that although there is no cure for diabetes, proper treatment can control the disease and prevent complications. His message was "Awareness + Action = Prevention". Mr. Mandell stated that this is what this walk is for, to increase awareness of diabetes. The diabetic and pre-diabetic must learn of their condition before they can be treated. He suggested that having a screening test done is the best way to find out and prevent some of the effects that diabetes can cause. Prevention is the best answer.

Mr. Mandell thanked the Commission for their time and for a copy of the Proclamation commending him on his walk for diabetes.

Variances:

Joseph and William Hernandez, owners of property located at 1204 South "G" Street, are requesting a variance from the side setback requirement for RII zoning districts. They wish to build a sunroom onto this existing house, which would extend to within seven (7) feet of the side property line. Code requires a ten (10) foot setback on a side adjacent to a street. The Board of Adjustments recommended approval on this variance request.

Jim Woodhull gave background information relating to this variance request.

Motion was made by Ebinger, second by Caldwell, to approve the Findings of Fact for the variance for Joseph and William Hernandez.

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Joseph and William Hernandez variance request.

All in favor, Motion passed.

Debbie Miller, owner of property located at 220 West Summit Street, requested a variance from the fence height requirements for RII zoning districts. She wished to build an eight (8) foot high fence in her back yard. Code allows a maximum residential fence height of six (6) feet. There was a protest to the Miller Variance request from Karen Hartfield of 712 North 3rd Street. Ms. Hartfield provided pictures of her property and how this variance request would affect her property. The Board of Adjustments recommended disapproval of this variance request.

Jim Woodhull gave background information relating to this variance request.

Motion was made by Caldwell, second by Ebinger, to approve the Findings of Fact of Debbie Miller's variance request.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Debbie Miller's variance request from the fence height requirements from six (6) feet to eight (8) feet.

Mary Beebe asked Mr. Woodhull as to why the Board of Adjustments recommended disapproval of this variance request.

Mr. Woodhull stated the reason why the Board of Adjustments recommended disapproval of this variance request was because of the concerns of the neighbor, Karen Hartfield, at 712 North 3rd Street of the view from her property and safety of her driveway.

Debbie Miller of 220 West Summit Street commented that she felt that there would be no obstruction of Ms. Hartfield's view as a result of her request of an eight (8) foot high fence in her back yard. Ms. Miller stated that she wants to run a six (6) foot fence to the sidewalk

Karen Hartfield of 712 North 3rd Street spoke against this variance request. She commented that she has spent a lot of time measuring the distance from the window to the fence. She enjoys the view that she has now and if this fence was installed it would take away at least half of her view. Ms. Hartfield stated that her major objection is to not have the fence removed that Ms. Miller proposes to remove that is half on her property and half on Ms. Miller's property. Her concern was that if that fence was removed it would leave Ms. Hartfield's property in jeopardy because the exposed pipes from the old fence could cause harm to her fox terrier dogs and she would have to do something at her expense to remove the pipes. The view when backing out of her driveway would be unsafe. She finds it a hazard to not be able to see around the corner. Ms. Hartfield commented that she is not against the fence but would like to keep it at six (6) feet and behind her picture window so that she can enjoy the view. Ms. Hartfield asked the Commission to deny this variance request.

Vicki Blakeman stated that she doesn't see how the fence being proposed to be torn out has anything to do with this variance request.

Ms. Hartfield stated that this fence is in the middle of the retaining wall and the braces are on her property.

All opposed to this variance request, Motion denied.

Jason Cipriani, owner of property located at 1214 West Crawford Street, requested a variance from the fence height requirements for RII zoning districts. He wished to replace an existing five (5) foot high fence that extends into his front yard. Code requires that front yard fences not exceed four (4) feet in height.

This variance request was withdrawn by Jason Cipriani owner of property located at 1214 West Crawford Street.

Public Hearings:

A public hearing was held to repeal the Police and Fire Impact fees.

No public comments were given.

Motion was made by Caldwell, second by Ebinger, to approve Ordinance No. 1943 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REPEALING POLICE AND FIRE IMPACT FEES ENACTED BY ORDINANCE NO. 1760.**

All in favor, Motion passed.

A public hearing was held to amend Ordinance No. 1915 and Ordinance No. 1933 and Chapter 4, Animals, of the Livingston Municipal Code by be establishing the offense of untimely Dog Barking and amending the nuisance Barking Dog Ordinance. Ordinance No. 1944 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND ORDINANCE NO. 1933 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY BE ESTABLISHING THE OFFENSE OF UNTIMELY DOG BARKING AND AMENDING THE NUISANCE BARKING DOG ORDINANCE.**

Heidi Barrett of 231 South "H" Street gave comments relating to this Ordinance proposal. She wanted to thank the commission for their efforts in developing an enforceable Ordinance for Dog Barking issues.

Ms. Barrett made some suggestions as to the time in any one hour period of time where the barking, howling or yelping is audible off of the owner's possessor's or keeper's property and is unprovoked. She commented that five (5) minutes is too long. Dogs barking in a 30 second increment between the hours of midnight and 5:00 a.m wake her up. She compared the noise to a trumpet being blown in her window and not being able to get back to sleep. She asked if it would be possible to change the time allotted to less than five (5) minutes and questioned what recourse does she have for dogs barking less than five (5) minutes at a time. Would she still call the police and prepare a dog barking log?

Bruce Becker, City Attorney, stated to the Commission needs to have some kind of standards within the Ordinance in order for it to be enforceable. We

can't write an Ordinance around a situation. Mr. Becker made suggestions to continue the public hearing and come back with an amended Ordinance to be comparable and enforceable for the whole community.

Lee Parriott of 614 West Lewis made comments relating to this Ordinance No. 1944. She stated that this is an ongoing problem for our town for many years. She commented that they have had many barking dogs in our neighborhood for years. She stated that she feels that there is no recourse for those of us who suffer with inexcusable behavior by dog owners. Ms. Parriott provided written comments to the Recording Secretary. She thanked the Commission for what they have done and are trying to do.

It was decided to have the City Attorney bring an Ordinance back to the Commission addressing these concerns relating to the time and barking dog log at the next City Commission meeting to be able to enforce.

No action was taken on Ordinance No. 1944. There will be another Ordinance drafted for the Commission's first reading at the next City Commission meeting on July 6, 2004.

A public hearing was held to repeal the procedure for classifying and disposing of real property owned by the City enacted by Ordinance No. 1827.

No public comments were given.

Motion was made by Ebinger, second by Caldwell, to approve Ordinance No. 1945 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REPEALING THE PROCEDURE FOR CLASSIFYING AND DISPOSING OF REAL PROPERTY OWNED BY THE CITY ENACTED BY ORDINANCE NO. 1827.**

All in favor, Motion passed.

A public hearing was held for increasing the base water rate in the amount of \$4.00 per month.

Carol Woodley of 421 South 13th Street made comments relating to the water rates being increased. She felt that she doesn't get the same amount of water for a base rate. She used to get 5,000 gallons for a minimum and now she will only get 3,000 gallons of water. Ms. Woodley feels that this is almost a double raise with the minimum gallons lowering to 3,000 gallons of water and the base rate increasing to \$4.00 per gallon.

Clint Tinsley stated that the water usage up to 3,000 was \$7.80 and would increase at 3000 gallons to \$8.68; for 4,000 gallons of water it would increase to \$10.24; for 5,000 gallons of water it would increase to \$11.80; for 6,000 gallons of water it would increase to \$13.36; for 7,000 gallons of water it would increase to \$14.92; and for 8,000 gallons of water it would

increase to \$16,48. For every 1,000 gallons of water it would increase times \$1.56 + the \$4.00 base.

Ray Ziebarth of 620 Robin Lane asked why the increases in the water and sewer were being pursued.

Clint Tinsley provided everyone that questions these increases with information. He commented that the state average rate for water and sewer is \$49.99 per month. The City of Livingston water and sewer bill averages \$30.05 per month. Mr. Tinsley stated that the Sewer Plant and the Sewer Distribution System needs upgrades and in order to apply for grants for these upgrades Livingston needs to have an average of \$49.99 per month for water and sewer rates. This is because of the increasing cost of maintaining our existing infrastructure because of root problems and planned system replacements and the growth of residential housing that the City has. They need to work on how to handle the additional manpower problems and keep up with the normal routine maintenance projects. He has proposed a five (5) year plan on water and sewer rate increases so that customers are not hit all at one time but in this time frame of five (5) years the City of Livingston would be able to achieve their goal of upgrading the Sewer Plant and Sewer Distribution System to maintain a high level of service.

Mr. Ziebarth commented that he doesn't mind paying for something that he sees the benefits come from but feels that this is an arbitrary increase.

John Schuler of 33 Loves Lane and owner of 3 Carol Lane; 1306 and 1312 West Crawford Street stated in reading this Resolution he wanted to know what the base water rate was. He stated that it looks like to him that every year after the first year the base rate will increase \$1.00 per year. He feels that this is too big of an increase in one lump sum for residents to swallow especially the elderly.

No further public comments were given.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3525 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING THE BASE WATER RATE IN THE AMOUNT OF \$4.00 PER MONTH.**

All in favor, Motion passed.

Bob Ebinger asked if it would help to approach the legislature on the standard of a \$49.99 per month water and sewer bill in order to compete for the grants.

Steve Golnar stated that we could try and also commented that there is a methodology that the state determines how these figures are identified.

Vicki Blakeman stated that the City Staff and the City Commission has been sensitive to the elderly in figuring these rates.

A public hearing was held for increasing the base sewer rate in the amount of \$4.00 per month.

Steve Hicks on 711 North "C" Street asked if the Commission would pursue the rule of \$49.99 per month to the legislature. He would like to see the Commission look at this a little bit more aggressively. He also stated that we can't tax Livingston's prosperity and that it is not just the elderly that this is going to affect but those that have bad years also.

No further public comments were given.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3526 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING THE BASE SEWER RATE IN THE AMOUNT OF \$4.00 PER MONTH.**

Frank Horiel stated that in comparison to other cities the size of Livingston our water and sewer costs are substantially lower. For instance, Lewistown is about the same size as Livingston and their cost of water is \$20.15 up to 1000 gallons and ours is \$7.80 now. The sewer rate for Lewistown is \$20.15 up to 1000 gallons and ours is \$9.76 now.

Mary Beebe commented for instance, Lewistown is about the same size as Livingston and their cost of water is \$20.15 up to 1000 gallons and ours is \$7.80 now. The sewer rate for Lewistown is \$20.15 up to 1000 gallons and ours is \$9.76 now. Livingston has to review their costs and their costs are shifting all the way down the level. She thinks in maintaining our water and sewer Livingston is a high developed area and we need to maintain the water and sewer maintenance to provide for the future.

Steve Caldwell stated that the Commissioner's are also residents to the City and they too are paying these rates and increases are not taken lightly but do understand the need as long as they are justified.

Bob Ebinger congratulated Clint Tinsley for all of the hard work that he has done in providing the Commission with the information for their review to determine that these increases are needed in the community to provide and maintain water and sewer services in the future.

All in favor, Motion passed.

Resolutions:

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3531 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**

LIVINGSTON, MONTANA, APPROVING SETTLEMENT AND AUTHORIZING CITY MANAGER TO SIGN SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS IN THE MATTER OF THE CITY OF LIVINGSTON v. TIM O'HARA CONSTRUCTION, GEORGE DENTON AND RICK KERIN.

Steve Golnar stated that this is a settlement agreement following the lawsuit that the City filed against the developer, subcontractor and engineer in developing the Denton Subdivision.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3532 – **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 2004-2005 IN THE AMOUNT OF \$69,274.62.**

Motion was made by Caldwell, second by Ebinger, to amend Resolution No. 3532 approving contract with City Manager and authorizing Chairman to sign contract for fiscal year 2004-2005 in the amount of \$66,932.00.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3532 as amended.

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3533 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TERMINATING THE CONTRACT STATUS OF FINANCE OFFICER AND ESTABLISHING SAID POSITION AS AN EMPLOYEE.**

Bob Ebinger stated that he didn't know that she was a contract employee.

Steve Golnar stated that she was put on a contractual status at the time she started working as Finance Officer for the City to see if she would be able to handle the Financial Management for the City and to finish her degree. Since appointed, Shirley has further pursued her education and received outstanding audit of the City's financial management. Mr. Golnar feels that her completing of her accounting degree is not necessary in order for Shirley to meet the City's expectations. The other Department Heads are not contract employees and he feels that they all should be treated equally.

All in favor, Motion passed.

Action Items:

The City Commission held discussion to consider proposed land swap with Thomas Burns and Steven Hicks whereby a portion of the Alley approximately 100' would be exchanged for Lot 6 of Block 38 of the original Townsite of Livingston.

Steve Golnar commented that the lot proposed to be traded is very steep and is within a 50 foot easement for the Livingston Ditch. He recommended that the City shouldn't abandon their right of ways or alley's and they should allow for access in the future.

Steve Hicks stated that the alley will never go through Gallatin Street as the hill is still steep. So he would have to ask the City to abandon or vacate the alley. Mr. Hicks commented there is no use for this alley.

Vicki Blakeman stated since she has been on the Commission they have vacated a few alley's and after the fact they regretted doing that so she doesn't want to swap this land for the alley.

Steve Caldwell concurred with Ms. Blakeman's comments.

No action was taken on considering the proposed land swap with Thomas Burns and Steven Hicks whereby a portion of the alley approximately 100' would be exchanged for Lot 6 of Block 38 of the Original Townsite of Livingston.

A discussion was held to consider waiver of Band Shell fee for Sister Cities TIAKO Drummers from Naganohara, Japan on September 1, 2004.

Motion was made by Ebinger, second by Caldwell, to approve waiver of Band Shell fee for Sister Cities TIAKO Drummers from Naganohara, Japan on September 1, 2004.

All in favor, Motion passed.

A discussion was held to review and approve draft letter to Trout Unlimited regarding "Revised - Fleshman Creek Flow Maintenance Agreement".

Motion was made by Ebinger, second by Caldwell, to approve draft letter to Trout Unlimited regarding "Revised - Fleshman Creek Flow Maintenance Agreement".

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger commented that on the Miles Park band shell complaints that he too has received some complaints. Bruce Becker is working on the constitutionality for this concern and will

provide the Commission with his recommendation at the next meeting.

- Bob Ebinger stated that he would not be able to attend the Wind Workshop on June 24, 2004 at 7:00 p.m.
- Steve Caldwell stated that he would also not be able to attend the Wind Workshop.
- Bob Ebinger asked about the Sonoran Institute at the Depot Center and what this was for. Steve Golnar stated that the Sonoran Board members and staff are going to let the public know what the Sonoran Institute is all about and what they do. There is a reception and would like to have R.S.V.P.'s so that they can figure on approximately how many people will attend. Vicki, Steve and Bob stated that they would attend.
- Mary Beebe asked if there was going to be a Communications Advisory Committee meeting this month. Peggy Glass stated that "no" but will let Ms. Beebe know when they are going to have one.
- Mary Beebe asked if there would be any low-income assistance for water and sewer rate increases for people who would qualify. Clint Tinsley stated that with the Northwestern Energy increases HRDC has already spent there assistance monies so as far as he knows there is no more money left for assistance.
- Steve Caldwell asked about the deferral for the Gourmet Cellar loan request until Fall of 2004. Steve Golnar stated that the owner of the Gourmet Cellar figures that she will have cash flow through the Summer and would not need to pursue this loan until this Fall.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He commented about the water and sewer increases that there are no guarantees that the Commission will want to increase next year and wants to pursue all legislative avenues.
- He mentioned that he had talked to the County Treasurer and she stated to him that the mills are going to be .98 of what they were last year and that lack of money is not even going to cover the 3.5% increases so they are going to start out negative. In planning our budget we really need to watch because there is going to be very tight money. He doesn't want to have to look at the residents of Livingston to finance everything.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He asked if we are going to pursue the "Night Sky Ordinance". Bob Ebinger commented that he has the information that he brought back from the Main Street Conference and wants to organize this information more clearly and bring it to the Commission. Steve

Caldwell stated that he would like to move forward with the "Night Sky Ordinance".

Chairman, Blakeman Comments:

- She reminded everyone that Pat Grigsby is retiring June 30, 2004 and there is going to be a get together at the Civic Center on June 30, 2004 from 4:00 p.m. through 6:00 p.m. and would like to see everyone there.

No Public Comments were given.

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

The time was 10:07 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
July 6, 2004
Tuesday
7:30 P.M.

The Livingston City Commission met in regular session on Tuesday, July 6, 2004 in the Community Room in the City/County Complex due to the Holiday of July 4th recognition on Monday, July 5, 2004. Commissioners present were Bob Ebinger, Vicki Blakeman, Mary Beebe and Steve Caldwell. Frank Horiel was absent.

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

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

- A. Approve June 21, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2nd half of June 2004.
- C. Approve Recommendation of Award of Sewer Main Extension for Rogers and Carol Lanes to Bainter Construction in the amount of \$25,183.49.

Bob Ebinger requested on page 3 of the minutes to change the wording under Ms. Beebe's comments from "thinks that isn't very unusual" to "wondered if this was unusual" to read: "Ms. Beebe also commented about the 92 dog/animal calls for the Livingston Police Department and wondered if this was unusual."

Mr. Ebinger also asked to change the wording on page 8 of the minutes under Clint Tinsley's comments from "at not" to "are not" to read: "He has proposed a five (5) year plan on water and sewer rate increases so that customers are not hit all at one time but in this time frame of five (5) years the City of Livingston would be able to achieve their goal of upgrading the Sewer Plant and Sewer Distribution System to maintain a high level of service."

Mr. Ebinger also commented about the Northwestern Energy claim and stated that this could be the reason why the City is raising some of the rates this year to keep up with higher expenses.

Bob Ebinger commented about the incredible difference of the bid for the Sewer Extension on Rogers and Carol Lane nothing that Bainter Construction's bid of \$25,183.49 and that Walker Excavation bid of \$65,245.00 and the Engineers estimate was \$19,900.00. He wondered if contractors were just bidding to see if they could get the bid or was it that

they were so busy that they bid it high in order to not get the bid. Clint Tinsley commented that this happens during the summer months as contractors are very busy but will bid the project higher in order to make it worth their time.

Steve Caldwell asked when the work for the Rogers and Carol Lane would be completed. Clint Tinsley stated that the contract is on the agenda also tonight for the Commission's approval and if they so desire to pass this that Bainter Construction will start work on this project as soon as they are done with Northern Lights which should be done by next week.

All in favor of consent items, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3527 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTIMATING THE COST OF MAINTAINING AND IMPROVING STREETS AND ALLEYS IN STREET MAINTENANCE DISTRICT NO. 1 IN THE AMOUNT OF \$383,211.00 FOR FISCAL YEAR 2004-2005 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 PUBIC HEARING THEREON.**

Bob Ebinger asked is Street Maintenance District No. 1 is City wide. Steve Golnar stated "yes" this is City wide.

All in favor, Motion passed.

A public hearing will be held on July 19, 2004 for the above reference Resolution.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3528 – **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 2004-2005 ESTIMATED TO BE IN THE AMOUNT OF \$56,500.00 AND CALL FOR A PUBLIC HEARING THEREON.**

Steve Golnar stated that Mr. Miller's property assessment for this maintenance district is proposed to be reduced from 24 lots to 9 lots.

All in favor, Motion passed.

A public hearing will be held on July 19, 2004 for the above reference Resolution.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3529 – **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 2004-2005 ESTIMATED TO BE IN THE AMOUNT OF \$41,000.00 AND CALLING FOR A PUBLIC HEARING THEREON.**

Bob Ebinger wanted to make sure that when the City is replacing the existing street lights to remember our night friendly sky lights. Clint Tinsley confirmed that this is what they are doing.

All in favor, Motion passed.

A public hearing will be held on July 19, 2004 for the above reference Resolution.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3530 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BAINTER CONSTRUCTION FOR SEWER MAIN EXTENSION PROJECT FOR ROGERS LANE AND CAROL LANE IN THE AMOUNT OF \$25,183.49.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3534 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING 3.5% RAISE IN BASE RATE OF PAY FOR NON-UNION CITY EMPLOYEES FOR FISCAL YEAR 2004-2005.**

Steve Golnar gave background information relating to this Resolution and provided draft budget summary information to the Commission for their review. Mr. Golnar also commented that the City has not received the value of the mill levy as of yet. He discussed the projects being proposed for the next fiscal year in the City and identified what the effects of revenues verses expenditures would be.

Steve Caldwell asked when the mill levy was to be expected.

Steve Golnar stated that the estimated mill levy is expected to be out the second Monday in July and the final mill levy will be the second week in August.

Bob Ebinger commented that he feels that it would be a little difficult not to give the non-union employees the 3.5% raise as the Union's have already gotten their raises.

All in favor, Motion passed.

Action Items:

The City Commission discussed proposed RBC repairs for the Waste Water Treatment Plant in the amount of \$69,300.00.

Clint Tinsley gave background information relating to this approval for RBC repairs. Mr. Tinsley stated that the shaft for the first RBC of our train, which is the main one, has broken. He stated the cost to get this repaired is substantial but very much needed. Mr. Tinsley commented that he has contacted the suppliers and they recommend that we fix this as soon as possible. He proposed to put this in the budget for the upcoming year and is asking for approval to do this expenditure the week of July for the RBC repairs so it can be ordered and installed while the weather is good. Mr. Tinsley stated that funding is available in Depreciation Reserves of the Waste Water Treatment Plant to finance this repair.

Motion was made by Caldwell, second by Beebe, to approve the RBC repairs for Waste Water Treatment Plant in the amount of \$69,300.00.

All in favor, Motion passed.

A discussion was held to schedule a Workshop to discuss draft revisions to Barking Dog Ordinance and consider proposed Animal Control Shelter contract negotiation.

It was determined to have a Workshop on July 26, 2004 at 7:00 p.m. to discuss the draft revisions to the Barking Dog Ordinance and consider proposed Animal Control Shelter contract negotiation along with the Budget Workshop.

Also it was determined to have a Budget Workshop on July 8, 2004 at 5:30 p.m. after the City/County meeting at 4:00 p.m.

A suggestion was made to review this proposed Barking Dog Ordinance with the City Judge in order to be able to have an enforceable Ordinance.

The City Attorney requested that the City Commission share their ideas and concerns and get back to him before the Workshop on July 26, 2004.

The Commission held discussion about encouraging pursuit of Charter Form of Government and Self Governing Powers in coordination with Government Study Commission review.

Steve Golnar stated that after the Workshop held with Ken Weaver on Self Governing Powers and the Charter form of Government and the Government Study Commission Review process, he suggested that the City Commission

hold off on pursuing Self Governing Powers in the short term. He stated that he feels that the City Commission should wait until the Government Study Commission has been elected.

The City Attorney stated that he doesn't want the City Commission to be lobbyists and thinks that the Commission shouldn't take an official position at this time.

Motion was made by Caldwell, second by Ebinger, to withdraw direction to the City Attorney's to develop Self Governing Powers and pursue Charter Form of Government.

All in favor, Motion passed.

The Commission held discussion on draft wording for a Band Shell lease form and proposed limitations placed upon the use of the Band Shell.

Bruce Becker stated that you can regulate volume but has a problem with determining what profanity is, because what profanity is to one is not necessarily the same to another. This is a freedom of speech issue.

Steve Caldwell suggested referencing the State law in effect for disorderly conduct be enforced at the Band Shell.

The Commission after much discussion determined to have "obscenity" instead of profanity in the Band Shell lease form that the State law would be referred to in determining this.

The Commission reviewed a draft Resolution Creating a Trails and Green Ways Task Force for the City of Livingston and Urban Development (Donut Area) Surrounding the City.

Steve Golnar made comments that a discussion of the cooperative development and appointment of such a Task Force with the Park County Commission would be Thursday, July 8, 2004 at the City County meeting.

Motion was made by Caldwell, second by Ebinger, to direct the City Attorney to prepare a Resolution creating a Trails and Green Ways Task Force for the City of Livingston and Urban Development (Donut Area) Surrounding the City and to discuss the cooperative development and appointment of such a Task Force with the Park County Commission at the next City/County meeting on July 8, 2004 at 4:00 p.m.

Bob Ebinger suggested the draft Resolution be revised at the bottom to delete "and green way" and also delete "(like the Urban Design Committee)" to read: "Be It Further Resolved that this committee is requested to recommend to the City Commission actions the City, in cooperation with other partners, can take to develop such a trails system, including but not

limited to a plan that identifies goals and objectives of a trail system and green way system, potential locations, potential impacts, costs and funding mechanisms, and strategies to coordinate with other interested committees, the City and County for property and easement, acquisition, trail maintenance and construction, interested or affected landowners, and other partners."

All in favor, Motion passed.

The City Commission discussed approving the expenditure of funds to accomplish sewer extension from Rogers Lane to Carol Lane in the amount of \$25,183.49.

Motion was made by Ebinger, second by Beebe, to approve expenditure of funds to accomplish Sewer Extension from Rogers Lane to Carol Lane in the amount of \$25,183.49.

All in favor, Motion passed.

A discussion was held by the City Commission to schedule an executive session to follow-up on the City Manager's performance review.

It was determined to have this executive session for the City Manager's performance review before the City Commission meeting on July 19, 2004 at 6:30 p.m.

The City Manager's written comments were reviewed.

- Steve Caldwell asked about the email address for Mr. Bill Moser and if we had a home address for him. Steve Golnar stated no, but that he did get a revised email address from Mr. Moser and that the letter has been received by him about the police radar.

Commissioner Ebinger Comments:

- He asked to have a card and flowers sent to Mr. Daryl Hansen from the Commission for a quick recovery. The other Commissioners concurred.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He asked the City Manager to write thank you notes to all of the donut Task Force members for their hard work.
- He also stated that he had received a concern from a business owner downtown about disorderly conduct with a patron that had been asked not to enter the business and the person persistently keeps standing out in front of the business and prohibiting others to enter the business. Mr. Caldwell asked if the City could do any

thing about this. Bruce Becker stated to have them call the Police Department to do an investigation.

Chairman, Blakeman had no comments.

No Public Comments were given.

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

The time was 9:02 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
July 19, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, July 19, 2004 in the Community Room in the City/County Complex. Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell, Frank Horiel and Bob Ebinger.

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

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

- A. Approve July 6, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for the period ending June 30, 2004.
- C. Approve Bills and Claims for 2004 and 1st half of July 2004.
- D. Department Heads Monthly Reports and Other Minutes.
- E. Special Event Request for Club Boxing to be held on August 20, 2004; September 10, 2004 and October 1, 2004 at the Civic Center.

An additional item for consent items was on an Addendum for a Special Event Request for Stafford Animal Shelter Fundraiser. A Dog Walkathon "Dollars for Collars" will go from the Band Shell to Mayor's Landing back to the Band Shell on August 15, 2004. This event will be approved upon Staff approval and receipt of liability insurance naming City of Livingston as additional insured.

Motion was made by Ebinger, second by Caldwell, to approve the addendum special event request for Stafford Animal Shelter Fundraiser contingent upon receipt of insurance.

Bob Ebinger commented about the amount of 2-hour parking tickets and stated that he had some concerns from citizens during the Sustainability Fair that there was heavy ticketing on the street and was surprised that there were so many tickets given during an event at Rotary Jetson Park.

Darren Raney, Police Chief, commented that he had advised the Parking Code Enforcement Officer not to ticket anyone on Park or 3rd Street which were the streets adjoining the event. Businesses complain about people parking in front of their business during an event the whole day and taking away from their business. Mr. Raney stated that he felt tickets were given fairly.

Bob Ebinger commented about the difference of building permits from 2002-03 to 2003-04 and stated that there was a substantial increase in the amount of permits which was a good indication of what the growth the City is going to be facing.

Mr. Ebinger also asked about the difference in the amount of incoming water and sewer revenues verses estimates and asked if they would pretty much even out. Clint Tinsley stated that this report was for year end. Mr. Tinsley also commented that the water and sewer revenues will start out low for the new fiscal year because of all of the rain in June and that the bills are billed one month behind.

Mr. Ebinger also commented about the written notices and warnings for four barking dogs and stated that the City is working on an Ordinance for barking dogs and would like to know how they were cited and wanted this information at the Workshop scheduled for July 26, 2004.

Bob Ebinger asked about the Club Boxing event if the City and the public were covered if someone got hurt during this event. Bruce Becker stated that there is always going to be a possibility of liability.

Steve Caldwell stated that he noticed on the Club Boxing special event request that it was not signed by Staff. Mr. Golnar stated that this was just requested at the end of the previous week and that the event happens so often that the Staff is familiar with it and will be signing off on this tomorrow at the Staff meeting.

All in favor of consent items, Motion passed.

Variances:

A variance request from George Indendi, owner of property located at 132 South Yellowstone Street, is requesting a variance from the fence height requirements for RII zoning districts. He requested to build an eight (8) foot high fence in his backyard. The City Code allows a maximum residential fence height of six (6) feet. Jim Woodhull gave background information relating to this variance request and stated that Staff's recommendation was approval of this variance request.

George Indendi of 132 South Yellowstone commented that when he first put this variance request in he asked for 8' and in the meantime he has met with his neighbor relating to the fence height. Between him and his neighbor they determined that a 6'10" tall and 24' long fence would meet the need.

Bob Ebinger excused himself from voting on this variance request as he is a neighbor of George Indendi.

Motion was made by Caldwell, second by Horiel, to approve the Finding of Facts for the above referenced variance request.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve the variance request of George Indendi not to exceed a 7' fence.

All in favor, Motion passed.

A request from Jonathan Foote to discuss an action item that was on the agenda to approve the City Expenditure of \$4,500.00 as part of a four-way partnership to resurface Tennis Courts this Summer was moved up on the agenda at this time.

Steve Golnar stated that he would recommend that the City Commission approve the City expenditure of \$4,500.00 as part of a four-way partnership to resurface Tennis Courts this Summer. Mr. Foote on behalf of his committee offered to provide \$4,500.00 in funding assistance in partnership with the City, County and School District to allow this project to move forward if this decision is made within the next month. Mr. Golnar also stated that he has heard from the County Commission that they will commit to the \$4,500.00 and hopes that the School District will follow through with the City also supporting their \$4,500.00 support.

Jonathan Foote commented that he feels that it is important that the enthusiastic tennis players have stepped in and are willing to participate in this improvement project to make it easier on everyone. He also mentioned that he had talked to the School District and felt that they would support this project upon agreement of the City and County.

Motion was made by Horiel, second by Ebinger, to approve City expenditure of \$4,500.00 as part of a four-way partnership to resurface Tennis Courts this Summer.

Frank Horiel commented that this is a great cooperative effort on the part of the tennis players of the community. He also asked if this is the stop gap of the project or will it continue. Clint Tinsley stated that this is a fix of the problem that is here right now, but we are going to be looking at more costs in the future for the tennis courts.

Mr. Foote commented that if we leave the tennis courts the way they are and not resurface them they will deteriorate.

Steve Caldwell stated that he wanted to compliment this users group. He felt it was nice to see a group that would benefit from the resurfacing of the tennis courts take part in the cost of the resurfacing and would like to say thank you.

All in favor, Motion passed.

Public Hearings:

The public hearing on Resolution No. 3536 levying and assessing the estimated costs of maintaining and improving streets and alleys in Street Maintenance District No. 1 for FY 2004-05 was opened by Chairman Blakeman.

Brenda Adams of 802 East Butte Street made comments relating to this Resolution that she thought that this is why the City did the Urban Renewal Transportation Study.

Steve Golnar asked if this was the project for "H" Street that she was referring to and stated that the Department of Transportation is rebuilding "H" Street but this just supplements our City wide effort and the City assesses property within the entire City for maintenance and rebuilding of other streets otherwise the people on "H" Street wouldn't be paying anything.

Steve Golnar stated to Brenda Adams that he would update her on the schedule for the overlay of the streets.

Ms. Adams concluded by stating that she is against this Resolution if it is going towards new areas but if it is going towards properties that have been paying taxes for a long time then she is for it. Steve Golnar stated that this money is going towards reconstruction of the older streets first and then it will go towards the newer additions, many years down the road, a City wide street maintenance program is also a part of this Street Maintenance budget.

Steve Golnar stated that there are no changes in the assessment amount from last year.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3536 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING 100% OF THE ESTIMATED COST OF MAINTAINING AND IMPROVING STREETS AND ALLEYS IN STREET MAINTENANCE DISTRICT NO. 1 IN THE AMOUNT OF \$383,211.00 AGAINST EACH PARCEL OF LAND WITHIN SAID DISTRICT FOR FISCAL YEAR 2004-2005.**

Bob Ebinger commented about the public notice for this Resolution should have stated that it is an annual assessment not an annual increase.

All in favor, Motion passed.

The public hearing on Resolution No. 3537 levying and assessing the estimated cost of maintaining lights and supplying electrical current to lights

in Special Improvement Lighting District No. 20 was opened by Chairman Blakeman.

No public comments were given for Resolution No. 3537.

Steve Golnar stated that there are no changes in the assessment amount from last year.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3537 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING 100% OF THE ESTIMATED COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO LIGHTS IN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$56,500.00 AGAINST EACH PARCEL OF LAND WITHIN SAID DISTRICT FOR FISCAL YEAR 2004-2005.**

All in favor, Motion passed.

The public hearing on Resolution No. 3538 levying and assessing costs for replacing street lights in Special Improvement Lighting District No. 20 was opened by Chairman Blakeman.

No public comments were given for Resolution No 3538.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3538 – **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 AGAINST ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PER CENT OF SAID COSTS FOR FISCAL YEAR 2004-2005 ESTIMATED TO BE IN THE AMOUNT OF \$41,000.00.**

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3535 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN EASEMENT TO COOK/BELL AS DEPICTED ON CERTIFICATE OF SURVEY NO. 1913.**

Fred Hall, the surveyor of this easement was present and commented that this is a replay that what was tried to be accomplished last year and various pieces have been missed. The water tank on the hill was owned by Gene Cook prior and he wanted to ratify a public easement. This is what this easement does is grant a public easement to their property.

All in favor, Motion passed.

Fred Hall also commented that there is a water tank on top of the hill and that there is a smaller water tank above it to provide water pressure. In the course of Mr. Hall doing this survey he discovered that there was an agreement between the City and the Developer to build that tank to provide the service which, after some problems, they finally got the water tank built. The property has been sold several times and has ended up in the ownership of the Cook's. His research during the survey also indicated that there had not been any provision for granting any easement or ownership on this property. The tank was attached to the property and each time the property was sold the tank came with it. The City owns the water inside the tank only at this time. He went on to say that it has been determined by the current owner that the City should own the tank also. Mr. Hall presented the Commission with a Deed for the Tank, the Water and all of the property around the tank now are owned by the City.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3539 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING POSITION DESCRIPTION FOR ACCOUNTS RECEIVABLE/ACCOUNTING CLERK.**

Vicki Blakeman asked if this fulfilled the position that Stacy Sunvison had as Ambulance/Accounting Clerk and Shirley Ewan stated that this will replace the job description for Ambulance/Accounting Clerk in that Ambulance Billing will not be done in the City office anymore.

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3540 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING COST PLUS 150% PRICING FOR MEDICAL SUPPLIES AND MEDICATION.**

Steve Golnar stated that he felt that it would be easier to adopt a general Resolution with a "cost plus" percent pricing rather than a specific list of costs per drugs, as medical supplies and medication prices vary.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve joint Resolution No. 2004 # 1 between the City and County – **A JOINT RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON AND PARK COUNTY, MONTANA, ESTABLISHING A TRAILS AND GREEN WAYS TASK FORCE FOR THE CITY OF LIVINGSTON AND THOSE AREAS OF PARK COUNTY SURROUNDING THE CITY OF LIVINGSTON.**

Bob Ebinger asked to delete the word "to" on the Resolution from reading: "The Task Force shall to coordinate with other interested parties," to "The Task Force shall coordinate with other interested parties."

Frank Horiel commented that he has heard from several concerned citizens about this Task Force and wanted to know if there would be a citizen opportunity to view what was being proposed prior to it being done and have some input.

Steve Golnar stated that the Task Force would make recommendations to the City and County Planning Boards and then the City and County Planning Boards who make their recommendations to the City and County Commission's where public comment would be heard.

Gary Barnhart of 55 View Vista Drive asked if there was a specific area that this Task Force would be targeting. Vicki Blakeman stated that this is just the initiation process of the Task Force being developed so that they can make recommendations to the Planning Boards.

Steve Golnar stated that trails can be an asset to the property owners. This Task Force will be an advisory committee which is charged with proposing a trails and green space master plan before any trails will be developed. Brenda Adams commented that her two (2) neighbors on Fleshman Creek and herself do not want uninvited guests in their backyards.

There will be applications received through an advertisement in the Enterprise for this Task Force once the joint Resolution has been approved by the County as well.

All in favor, Motion passed.

Action Items:

A discussion was held to reconsider requests from Thomas Mosser and Guest House Inn relating to the following:

1. Reconsideration of curb cut access on Park Street to provide access to parking spaces on his lot in light of Livingston Downtown Association Recommendation.
2. Removal of three parking spaces in front of the Guest House existing curb cut two (2) hour parking signs and replacing with "No Parking" signs to facilitate motorcycle parking.
3. Removal of wood pole on Guest House property.

Thomas Mosser made comments that it was suggested to him at the last City Commission meeting to meet with the Livingston Downtown Association and he responded that he did and would like to comment that he had received a copy of the Urban Renewal Plan and in this it has addressed his property as an alley way linkage. Given that he has been in front of the City Commission several times with the CTEP proposal and that he has requested a curb cut being denied and now there is a letter from Staff that says the same thing

over again. He feels that he is not being treated fairly as he came to this town in good faith.

Regarding Mr. Mosser's request for the removal of three (3) parking spaces in front of the Guest House existing curb cut and the elimination of two (2) hour parking signs and replacing them with "No Parking" signs to facilitate motorcycle parking. Mr. Mosser stated that someone had taken down the 2-hour parking signs and that he took the liberty of putting up "No Parking" signs and painted the curb himself.

Steve Golnar stated that the City paints curb cuts and puts up "No Parking" signs as designated by them and that it is not for the private property owner to do.

Thomas Mosser also mentioned that the street light by his property is burnt out and would like to have it replaced. Mr. Golnar referred this question to Mr. Tinsley who responded that Northwestern Energy replaces all street lights and they are behind on this issue throughout the City.

Vicki Blakeman stated concerning the wooden pole that the pole does not belong to the City. Mr. Mosser stated that he had contacted the Power Company and the Telephone Company and they relinquish any ownership to it so he commented that he would take care of the wooden pole himself.

Motion was made by Ebinger, second by Caldwell, to reconsider the curb cut access on Park Street to provide access to parking spaces on his lot.

All against, Motion denied.

The City Commission reviewed a proposed Band Shell Lease form.

Steve Golnar commented that he was concerned about the requirement of a special event permit for any use of the Band Shell requiring the use of amplified sound after 9:00 p.m. and if the City wants to require liability insurance for such events. He was curious if the Commission would want to be involved in every request for use of the Band Shell after 9:00 p.m. Mr. Golnar commented that at this time it is up to the Parks and Recreation Department to determine use of the Band Shell.

It was determined after much discussion to direct the City Attorney to put in the Band Shell Lease Form that for groups of 200 people or less, no issuance of a special event request would be required and for groups over 200 people a special event request would be required and to bring back to the City Commission a Draft Resolution for the next City Commission meeting.

A discussion was held to approve spending of up to \$15,000.00 for office improvements to the Utility Building for FY 2004-05 out of the Water Budget.

Clint Tinsley clarified that this will not come from the Solid Waste or Sewer Budgets that it will only come from the Water Budget and that he wanted to propose this to the City Commission before the final budget was adopted for FY 2004-05. The renovation of the Utility Office will allow for the Office Manager of the Utility Department to be removed from public access so as to allow them to better focus on the details associated with the tasks of Office Management and Billing. Funding for this upgraded proposal is to come from the Water Building Depreciation Reserves.

Motion was made by Caldwell, second by Beebe, to approve spending of up to \$15,000.00 for office improvements to the Utility Building for FY 2004-05 out of the Water, Sewer and Garbage Budgets.

Clint Tinsley stated that this would be only out of the water budget.

Motion was made by Caldwell, second by Beebe, to amend the motion to strike out Sewer and Garbage Budget.

All in favor, Motion passed.

All in favor to approve spending of up to \$15,000.00 for office improvements to the Utility Building for FY 2004-05 out of Water Budget, Motion passed.

A discussion was held to consider the request from the Art World Academy School of Fine Arts letter to support for \$4,000.00 for the Montana Cultural Trust Grant application to complete a feasibility study regarding creating such a High School in Montana.

Steve Golnar stated that he suggested the Commission support this grant if there is an indication that the location of such a School would be in or around the City of Livingston.

Motion was made by Caldwell, second by Beebe, to approve the Art World Academy School of Fine Arts letter of support for \$4,000.00 for the Montana Cultural Trust Grant Application in order to complete a feasibility study regarding creating such a High School in Montana and to indicate that the location of such a School would be in or around the City of Livingston.

All in favor, Motion passed.

A discussion was held in order to direct the City Attorney to prepare a Resolution establishing a Policy for Investment of public money not necessary for immediate use.

Bruce Becker asked as to why the City would need a Policy for Investment of public money.

Shirley Ewan stated that at the present time that the City has a Policy that you can only buy CD's from local banks and that recently CD's were bought from a local bank through the Bank's loan investor from out-of-state. First Interstate Bank stated that this is not legal.

Bruce Becker stated that if the State Statutes state what we can do why do we need a policy.

The City Commission decided to defer the decision so that the policy can be brought back to the Commission at the next meeting for their review and decision as to whether to rescind the Resolution or not.

The Commission reviewed a Staff report on plans and estimated costs to rehabilitate the Old East Side School into City offices.

Steve Golnar stated that Staff has reviewed the plans and estimated costs to rehabilitate the Old East Side School into City offices and they determined that the roof needs to be repaired immediately and the asbestos abatement with the remainder of the project deferred pending development of a financing plan.

Clint Tinsley provided the Commission with a set of plans for the East Side School along with some rough specs on work needing to be done. He stated that they solicited from three different contractors who seem to have some interest in East Side School. The three contractors are Diamond D Construction, Walker Construction and Seivert Construction. All three found the building to be sound. The City received tentative bids from these contractors and the results were as follows:

Diamond D Construction	\$1,825,000
Walker Construction	\$2,566,967
Seivert Construction	\$2,000,027

Clint Tinsley stated that the bid from Walker Construction is the most complete bid as their bid includes remortaring the joints on the outside of the bricks, acid washing the bricks, and completely renovating the outside of the building as well as the inside. The other two bidders were mainly looking at the cost to rehab the inside of the building.

Steve Golnar stated the need for fixing the Old East Side School roof is immediate and may require that the City consider borrowing money at low interest if reserves funds are not available at this time. The funding for these improvements is something that will need to be clearly defined through the budgetary process in the short term. A committee to develop a project funding plan for the future was also discussed.

Mr. Ebinger stated that he had contacted the State Historic Office and commented that it has been determined that the Old East Side School is eligible as a stand alone individually listed historic monument of local

significance but probably would not be a National Landmark Monument. He will coordinate this information with the Historic Preservation Officer.

Mr. Ebinger also mentioned that the building should not have acid washing of the bricks that it can be repointing of bricks.

The City Commission gave general direction to the City Staff to proceed to seek bids for the installation of a new roof at the Old East Side School at an estimated cost of \$82,480.00 and Asbestos Abatement estimated to be \$5,000.00.

Motion was made by Caldwell, second by Ebinger, to approve payment to Diamond D Construction in the amount of \$9,160.50 for concrete work for 7th Street Bridge (FY 2004-05).

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger asked if at the orientation session for the non-incumbent candidates for City Commission if other City Commissioners could come. Steve Golnar stated that anyone is welcomed. This is because a request for information was made from one of the non-incumbent's so Steve though it would be a good idea to go through the City Commissioner's Handbook and give them an idea as to how the City operations are set up. This will be held on Thursday, July 22, 2004 at 9:00 a.m.
- Steve Caldwell asked as to when Bainter Construction was going to begin construction and if in fact it was to begin on July 19, 2004. Clint Tinsley stated that yes they started today.
- Steve Caldwell also asked about the downtown and parade garbage correspondence and wanted to know if this could move more quickly on the downtown issue. Clint Tinsley stated that he is working with the Downtown Association and they are getting to a point that can be agreed upon regarding what kind of garbage can will be used and they are trying to find out a cost. He hopes that this issue will be resolved within 30 days.
- Steve Caldwell congratulated Shirley Ewan on her final speech and receiving the highest achievement award for her recently completed Dale Carnegie Course.
- Steve Caldwell also asked about the wind generated energy and wanted to know if there are some goals constructed to see where we are going. Steve Golnar stated that we are trying to develop a broad approach which would look at alternates to create and obtain energy independence rather than focusing on wind generated energy. This would have to be coordinated with the County. There will be a meeting date set soon.
- Steve Caldwell also asked about the Old Water Works Building lease and wanted to know if the City had received the appraisal and

the CPA review. Steve Golnar stated that yes we have received the appraisal and the CPA review and sent them to Mr. Paoli's office.

- Steve Caldwell commented about the Brownfield Assessment and would like to develop some kind of action plan to look at the clean-up site and try and move in the direction where that is a marketable property. Steve Golnar agreed that we need to move forward on this or it is just going to stay the way it is.
- Vicki Blakeman wanted to know if Steve Golnar had talked to Pat Wagman. Steve Golnar stated that yes that Pat Wagman is working on political solutions relating to the flood plain flood way issue and has discussed this on an ongoing basis with Congressional office staff, Wagman and Golnar will get together on Wednesday and talk to Senator Burns' office in order to get an update.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He mentioned that he had spoken with Steve Golnar on the possibility of the City Commissioner's could have some business cards so at least when you travel and mingle you have some identification and don't have to justify who you are.
- He had a proposal from some citizens that mentioned they could buy the garbage cans for the downtown area with the idea of painting the garbage cans with the artwork of their choice which would be sponsoring our own artist's in town.

Commissioner Beebe had no comments.

Commissioner Caldwell had no comments.

Chairman, Blakeman had no comments.

No Public Comments were given.

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

The time was 10:08 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
August 2, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, August 2, 2004 in the Community Room in the City/County Complex. Commissioners present were Bob Ebinger, Vicki Blakeman, Frank Horiel, Mary Beebe and Steve Caldwell.

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

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

- A. Approve July 19, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for the period ending June 30, 2004.
- C. Approve Bills and Claims for 2004 and 2nd half of July 2004.
- D. Approve request to have three (3) campers parked overnight at Sacajawea Park on August 27, 2004 for the purpose of manning the BBQ grill needed for the RY Timber Company picnic.
- E. Approve Appointment of Kerry LaDuke for a four (4) year term to City/County Airport Board from July 1, 2004 to June 30, 2008.
- F. Confirm City Manager's Nomination of David Pettit to Continue Serving on the Livingston Police Commission through May 1, 2007.
- G. Approve Recommendation from Scott Nelson, Project Manager with CTA Nelson Engineering for the Street Reconstruction M-O Streets including Callender Street, Livingston, Montana to Gallatin Asphalt, Inc. in the amount of \$227,648.00.

Bob Ebinger commented about the minutes on page 11 his statement that read: "Mr. Ebinger also mentioned that the building should not have acid washing of the bricks that it can be repointing of bricks", and clarified what he meant was that acid washing would be the last solution for cleaning of the bricks and repointing should only be done after requiring testing of the existing mortar. He asked to have this to read: "Mr. Ebinger also mentioned that the building should not have acid washing of the bricks and repointing of the bricks would require testing existing mortar to be appropriately cleaned."

Frank Horiel asked about the claim for Northwestern Energy and why the June/July billing for the Swimming Pool was so high. Clint Tinsley stated that the boiler system filtration system at the swimming pool runs for 3 months in the Summer and that this is the only time the energy costs are so high.

Mary Beebe asked about a larger issue in finding a way to help Livingston to be more energy independent.

Steve Caldwell commented about the minutes on page 2 where it states: "Mr. Tinsley also commented that the water and sewer revenues will start out low for the new fiscal year because of all of the rain in June and that the bills are billed one month ahead", and asked to change ahead to behind to read: ".....that the bills are billed one month behind."

Vicki Blakeman asked about the claim to Grant Writing USA for a grant writing workshop and wanted to know what it was for. Darren Raney stated that this claim was for Michelle Morris to go to a Grant Writing Workshop in order to assist with writing grants with him.

All in favor of consent items, Motion passed.

Ordinances:

First Reading of Ordinance No. 1946 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND ORDINANCE NO. 1933 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ESTABLISHING THE OFFENSE OF UNTIMELY DOG BARKING AND AMENDING THE NUISANCE BARKING DOG ORDINANCE AND ESTABLISHING A CIVIL PENALTY.

A letter from Judge Travis was provided in the packet describing his concerns of the way Ordinance No. 1946 was written and commented in Section 4.9 Pattern Barking Disturbance that this section is overly broad as written and is not enforceable by the Court.

Motion was made by Caldwell, second by Beebe, to approve Ordinance no. 1946.

Steve Caldwell mentioned that in the letter from Judge Travis he states that Ordinance as written doesn't give the Court the ability to be enforceable on pattern dog barking. His suggestion was to delete Section 4.7 (b) and Section 4.9 except for Section 4.9 (iii). Mr. Caldwell stated that tagging on a five (5) minute interval of dog barking doesn't do anything in order to be enforceable. He feels that the Judge wants specific times that a dog barks.

Bruce Becker, City Attorney, also provided his comments in a memo in the packet and what he would propose for this Ordinance. Mr. Becker proposes to delete Section 4.9, 4.7.1(b) and 4.7.2 as the rebuttable presumption lost its effectiveness by removing the 11 p.m. to 7 a.m. provision. If a dog barks between 11 p.m. and 7. a.m. it can be presumed that the barking is disturbing. He doesn't think a dog barking at noon would be presumed disturbing by the court.

Heidi Barrett of 231 South "H" Street made comments concerning her thoughts of this Ordinance as written.

Dave Wistey of 12 Big Horn Drive made comments concerning his ideas of this Ordinance and asked about the requirement of having two complaining witnesses and he feels that if a complainant has a video recording of a dog barking he thinks that would be sufficient evidence of provoking instance.

Bruce Becker stated that if the City Commission would like to have him draw up something in the manner of a video recording being allowed for dog nuisance than he would.

Lee Parriott of 614 West Lewis made comments concerning her thoughts that she understood that the Commission was going to have dog barking and dog nuisance 24/7 and asked if that is what this Ordinance has in it now. Bruce Becker stated that was what is being proposed in the Ordinance under discussion.

Ms. Parriott also asked about the five (5) minutes time frame with little or no cessation of barking where the barking, howling or yelping is audible off of the owner's, possessor's or keeper's property and is unprovoked. Bruce Becker stated that the law has to have a time period associated with the violation. Ms. Parriott commented that dogs don't always bark for five (5) minutes and she has observed barking for less than 30 seconds continually and requested if this could be changed to one (1) or three (3) minutes instead of five (5) minutes.

Steve Caldwell commented that the letter from the City Judge on the proposed Ordinance No. 1946 stated that in Section 4.5 – Pattern Barking Disturbance he felt that this section was overly broad, and as written is not enforceable by the Court. Under this section a dog that barks a couple of times when his or her owner returns home each day, 'at approximately the same time', could result in a citation being issued. This portion of the Ordinance needs to be rewritten to provide for a specific time, i.e. barking, yelping or howling for five (5) minutes at approximately the same time.

Frank Horiel asked if five (5) minutes was gospel in the Judge's letter. Bruce Becker stated that he felt that the Judge was just giving that as an example as some sort of standard to measure time frame.

Mr. Wistey asked is the video recording could be the second option in order to have two complaining parties.

Steve Caldwell asked if the police officer could be the second witness after seeing the video. Bruce Becker stated that technically a video recording is "hear say" evidence.

After much discussion the Commission determined to direct the City Attorney to revise the Ordinance to allow for a video recording for evidence. Also to have a lesser time period such as three (3) minutes instead of five (5) minutes.

Motion was made by Ebinger, second by Caldwell, to Table Ordinance No. 1946 with suggested revisions until the next meeting.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3541 subject to inconclusion of changes described by the City Manager – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN COLLECTIVE BARGAINING AGREEMENT WITH LOCAL 630 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS.**

Steve Golnar made reference to the Addendum to the City Commission packet for the changes made to this Collective Bargaining Agreement. The changes were agreed to by both the Fire Union and the City Negotiating Committee and he recommended this agreement be approved with the changes agreed upon.

All in favor, Motion passed.

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3542 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH STAFFORD ANIMAL SHELTER (HUMANE SOCIETY).**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3543 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH GALLATIN ASPHALT, INC. FOR STREET RECONSTRUCTION OF M-0 STREETS INCLUDING CALLENDER STREET IN THE AMOUNT OF \$227,648.00.**

All in favor, Motion passed.

Action Items:

A discussion was held to review a proposed Band Shell Use Permit.

Motion was made by Caldwell, second by Horiel, to adopt the proposed Band Shell Use Permit as written.

All in favor, Motion passed.

The City Commission held discussion to consider designating the City Planner as Environmental Certifying Officer for the Depot Restoration Project.

Motion was made by Caldwell, second by Beebe, to designate City Planner as Environmental Certifying Officer for the Depot Restoration Project.

All in favor, Motion passed.

A discussion was held to designate Civic Center as a temporary alternate site in the event First Interstate Bank encounters a disaster that would prevent them from doing business as usual.

Steve Caldwell stated that there doesn't seem to be any provision in their request that they would compensate the City for use of the Civic Center.

Steve Golnar stated that the City Commission could establish a rate for the use of this building because of the limited use of the Civic Center in case of activities occurring. He suggested that he would work with Staff and bring back to the Commission with suggested rates.

The Commission reviewed the Economic Development Scope of Work for FY 2004-05 from the Alliance Development Corporation under the second of two-year contract for \$12,000 a year contract in addition to requests for Main Street Technical Support of \$6,500 and White Elephant Building Workshop Support of \$1,000.

Steve Golnar stated that Cindi Fargo was not able to be present as she had an unexpected emergency. Mr. Golnar commented that the budget identified that the City and County would fund the 2nd year of the two (2) year contract with ADC. No funding for Main Street Technical support or the White Elephant Seminar were currently provided in the budget. He felt that he should make both the City and County Commission aware of the other ADC proposals at this time so that they can hear more specifics about these proposed services and the potential benefits to the community prior to finalizing their budget decisions. This will be on the City/County Meeting agenda on August 11, 2004 and also on the agenda for the Urban Renewal Authority on August 5, 2004.

Motion was made by Caldwell, second by Ebinger, to increase the Tax Increment District Fund by \$1,000 for FY 2004-05 to allow for support of the White Elephant Building Workshop.

All in favor, Motion passed.

The City Commission reviewed the Tri-County Network Against Domestic & Sexual Violence request for \$8,000 in funding for FY 2004-05.

Steve Golnar stated that this is a serious subject which needs serious attention. He didn't feel like Staff has had adequate time to address these concerns at this time but suggested that Police Chief work with Tri-County Network Against Domestic & Sexual Violence to see how the City can assist in helping them address their concerns. He commented that he thought that a specific budget allocation at this late date was in-appropriate.

AnnaMarie Linneweber with the Tri-County Network Against Domestic & Sexual Violence was present for comments. She stated that she apologized for presenting her proposal for financial support at such a late date and would be willing to take the recommendation from the City Manager to work with the Police Chief in helping address her concerns she also stated that next year she would make a funding request in a more timely manner to allow for the City Commission's consideration during their future budget process.

Steve Golnar stated that this is not an area that the City has funded in the past and voiced concern about limited City funds and increasing requests for assistance.

Bob Ebinger thanked AnnaMarie for providing the Commission with the background of this organization and congratulated her on the community support and involvement of this organization.

The Commission held discussion on the City's position on possible County Mill Levy ballot issue is for November 2004 for Angel Line Van, Mosquito Control and Park County Museum.

Steve Golnar stated that the deadline for the submission of ballot issues to the Secretary of State is August 19, 2004 for the November 2004 General Election.

He informed the Commission that the Angel Line Board has approached the County Commission requesting that a 1 ½ mill levy ballot issue be placed on the November 2004 ballot.

The City Commission identified that they would fund mosquito control additional expenses for one (1) year. If increased mill levy authority is not created for mosquito control, during the November 2004 Election then the County will be facing the same financial constraints as they have this year with mosquito control next year.

Mr. Golnar also stated regarding the Park County Museum financing while the City did not provide matching funding, the City has encouraged the County and the Park County Museum to pursue levy support during the budget coordination process with the County.

He recommended the City Commission confirm and formalize the City's position with regard to the above issues so that the City can communicate these to Park County prior to the August 19, 2004 deadline for submission of such mill levy ballot issues to the Secretary of State's office for the November Election.

Bob Jovick representing the Board for Yellowstone Gateway Museum made comments that he sought to have some City funding participation along the means of economic development. The Museum is trying to get to a base level of operation. The Museum Board hadn't discussed the possibility of a mill levy and this was the first time that he had heard that the City was proposing such a measure.

Brian Sparks, Executive Director for the Yellowstone Gateway Museum thanked Steve Golnar for looking ahead for operating funding for the Museum because it is something that if the Museum is going to continue to work towards creating. A destination museum will take a team effort between the City, County and Friends of the Museum and Museum Board to work on a mill levy. Mr. Sparks stated that where they are as the Museum is they are performing a feasibility study under a planning grant which will be completed in February. He invited the Commission and City Staff to tour the Museum, as it is a National Class Museum.

Motion was made by Ebinger, second by Caldwell, to support a Statement to the County identifying the City's support for pursuit of a Mill Levy for the Yellowstone Gateway Museum.

All in favor, Motion passed.

Motion was made by Beebe, second by Ebinger, to support a Statement to the County identifying the City's support for pursuit of a 1.5 mill levy increase for the Angel Line Board an increase in the Mosquito Control levy.

All in favor, Motion passed.

After reviewing investment policies which were brought into question at the last meeting the City Manager recommended that the Commission confirm the existing City Investment Policies.

It was determine that the City Commission agreed with the Staff's review that the City's Investment Policies did not need to be changed. No action taken.

The City Commission held discussion to consider request from International Fly Fishing Discovery Center for a letter of support and City signature on Montana Cultural Trust Grant Application in the amount of \$15,000 per year for two (2) years. The funds will be used to develop new interpretive exhibits and to help offset the operating costs of the Center.

Motion was made by Caldwell, second by Ebinger, to approve the request from the International Fly Fishing Discovery Center for a letter of support and City signature on Montana Cultural Trust Grant Application in the amount of \$15,000 per year for two (2) years.

All in favor, Motion passed.

The City Commission held discussion on an addendum provided to authorize waiver of the residency requirement for Sherry Graham to fill the position of relief Dispatcher for the Livingston Communications Center.

Steve Golnar stated it is his opinion based on the circumstances and the qualifications of this individual and the fact that Dispatch shifts are typically scheduled in advance, that the City Commission should waive the residency requirement to allow Ms. Graham to continue to reside at 133 Prairie Road and be employed by the City of Livingston as a relief Dispatcher.

Motion was made by Caldwell, second by Ebinger, to approve waiver of residency requirement for Sherry Graham to fill the position of relief Dispatcher for the Livingston Communications Center as a relief Dispatcher.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the status of resurfacing of the tennis courts and felt that the School District should make the final decision and that this would be a good time to put together a maintenance plan so that we don't have to look at this issue as an emergency issue from time to time and get some long-term financial commitments from all parties.
- Bob Ebinger asked if the concerns of William Hammerquist of the Montana Contractor's Association were satisfied. Steve Golnar stated that he has not heard back from Mr. Hammerquist after addressing his concerns in the letter that was provided to the Commission. Bob asks to make sure that this is followed up on.
- Mary Beebe asked about the letter to Mr. Thomas Mosser and was wondering from the discussion that she felt that it wasn't a City Commission decision to make that this needed to come from the State. He wanted a letter of support to the State for a curb cut. She wanted to make it clear that basically decisions relating to approval or denial of the curb cut were out of the City's jurisdiction.
- Steve Caldwell commented about the use of Brownfield's assistance for the BN Railyard Clean-up project and wanted to know. Steve Golnar stated that he is waiting to hear from Amy Sivers with DEQ as she is in the process of developing a draft statement of work and then we will coordinate a meeting with the City, County, Park County Environmental Council and railroad representatives.

- Steve Caldwell asked whether there was a devils advocate for wind energy yet. Steve Golnar stated that Ed Carrell indicated that he would participate, as he was involved with the first wind energy facilities that were placed on that site.
- Steve Caldwell asked of the donation from "Dancing Toad Productions" and if it was an unsolicited donation. Steve Golnar stated that yes it was unsolicited. Mr. Caldwell suggested that the City send a thank you note.

Commissioner Horiel Comments:

- He asked if there is some kind of process in order for the Commission to respond to inaccurate article information in the paper either by letter or articles to the editor. Steve Golnar stated that there are ways that the Commission can respond. Traditionally the Chairman or City Manager would speak on behalf of the City Commission but certainly each Commissioner can respond through their own letter.

Commissioner Ebinger Comments:

- He commented that he would like the City to pursue jointly with the County a Grant Writer and that he did the research on a grant writer and will have this information provided to the County also.

Commissioner Beebe had no comments.

Commissioner Caldwell had no comments.

Chairman, Blakeman had no comments but wanted everyone to know that in the USA Today there was an article about the Livingston Depot.

Public Comments:

- Lori Benner of 217 West Clark #106 wanted to introduce herself to the Commission as she is new to the community and has a grant writing business.

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

The time was 10:07 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
August 16, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, August 16, 2004 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Bob Ebinger, Vicki Blakeman and Frank Horiel.

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

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

- A. Approve August 2, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2004 and 1st half of August 2004.
- C. Department Heads Monthly Reports and Other Minutes.

Bob Ebinger asked to have the wording changed on page 7 of the minutes from "an" to "and an" to read: "Motion was made by Beebe, second by Ebinger, to support a Statement to the County identifying the City's support for pursuit of a 1.5 mill levy increase for the Angel Line Board and an increase in the Mosquito Control levy."

Mr. Ebinger also asked about the claim to Grant Writing USA for a grant writing workshop and wanted to know what it was for. Darren Raney stated that this claim was for Peggy Glass to go to a Grant Writing Workshop in order to assist with writing grants with him also with Michelle Morris.

All in favor of consent items, Motion passed.

Presentations:

A presentation was given by Mark Pesa, President of the Livingston Area Chamber of Commerce to the City for an Honorary Membership to the Livingston Area Chamber of Commerce. He thanked the City for all of their support in the past and for in the future of the Livingston Area Chamber of Commerce.

It was requested by Vicki Blakeman, Chairman to change the order of the agenda and have Action Item No. 8, G (Approve Special Event request from Livingston Area Chamber of Commerce for the Cowboy Mounted Shooting Association Parade to be held on August 27, 2004) discussed at this time.

After much discussion between the Commission and Staff relating to the overtime involved along with the street sweeper being provided to cover costs a motion was made.

Motion was made by Caldwell, second by Horiel, to approve Special Event request from Livingston Area Chamber of Commerce for the Cowboy Mounted Shooting Association Parade to be held on August 27, 2004 subject to Staff review and assessment of a \$100.00 street closure fee.

All in favor, Motion passed.

Ordinances:

Second first Reading of Ordinance No. 1946 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915 AND ORDINANCE NO. 1933 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ESTABLISHING THE OFFENSE OF UNTIMELY DOG BARKING AND AMENDING THE NUISANCE BARKING DOG ORDINANCE AND ESTABLISHING A CIVIL PENALTY.

A letter from Judge Travis was provided in the packet describing his concerns of the way Ordinance No. 1946 was written and commented about the portion of the Ordinance that would permit the filing of a complaint based on the statement of only one person, or embroiling the investigating officer in a controversy between two neighbors by making them a material witness and asked the Commission to reconsider this portion. Mr. Travis stated that state law states, in part, that a public nuisance is a "condition which.....is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of people." This requirement avoids the possibility of the state or local government becoming embroiled in a controversy between neighbors that presents no compelling state interest.

City Attorney, Bruce Becker, made comments in a memo provided in the packet also that he agreed with Judge Travis. Mr. Becker provided an Ordinance No. 1946 Option A of what he proposed to the Commission concerning these issues as described above.

Motion was made by Caldwell, second by Ebinger, to approve first reading of Ordinance No. 1946 (Option A).

All in favor, Motion passed.

Public Hearings:

A special exception was requested by Merle Phipps and Virginia Pascual, purchasers of property located at 1429 West Montana Street, in order to operate a sleep disorder center at this location. The Livingston Zoning

Ordinance categorizes this use as a clinic and, as such, it would only be allowed by special exception. The property is zoned RIII and has recently been used as a laboratory.

Jim Woodhull, City Planner, gave background information relating to this special exception request and stated that the Board of Adjustment recommended approval of this request.

Motion was made by Caldwell, second by Ebinger, to approve the Findings of Fact for the Special Exception request from Merle Phipps and Virginia Pascual.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve the special exception request from Merle Phipps and Virginia Pascual.

All in favor, Motion passed.

Resolutions:

Motion was made by Ebinger, second by Beebe, to approve Resolution No. 3545 – **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 7, 2004, ON THE PRELIMINARY MUNICIPAL BUDGET FOR FISCAL YEAR 2004-2005 AND OF ITS INTENT TO APPROVE THE FINAL BUDGET ON SEPTEMBER 7, 2004, TO MAKE APPROPRIATIONS ACCORDINGLY AND TO FIX THE TAX LEVY.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to keep Salaries of the City Commissioners the same and to fund up to \$10,000 for a Grant Writer and not for an Urban Renewal Coordinator.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3546 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE POSITION DESCRIPTION FOR ADMINISTRATIVE/RECORDING SECRETARY.**

All in favor, Motion passed.

Resolution No. 3547 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING PARTICIPATION IN MONTANA MUNICIPAL INSURANCE AUTHORITY HEALTH PROGRAM AND AUTHORIZING THE EXECUTION OF THE MEMORANDUM OF INTENT TO**

PARTICIPATE IN SUCH PROGRAM AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECTUATE PARTICIPATION IN SUCH HEALTH PROGRAM –

was on the agenda for the Commission information but was post-poned until the September 7, 2004 City Commission meeting.

Action Items:

A discussion was held to appoint City representatives to the Fire Labor Management Committee. Steve Golnar gave his recommendation of who should be City representatives for this Committee. Those individuals are the following: Vicki Blakeman, City Commission Chairman; Frank Horiel, City Commissioner; Jim Mastin, Fire Chief; and, Steve Golnar, City Manager.

Motion was made by Ebinger, second by Beebe, to approve the appointed City representative to the Fire Labor Management Committee as suggested above.

All in favor, Motion passed.

The City Commission discussed a request for an adjustment from the Department of Revenue because of their Granting Tax Exempt Status to the Sherwood Inn after creation of the City's Urban Renewal District.

City Attorney, Bruce Becker, provided a memo to the City Commission in the packet relating to the Urban Renewal District and Tax Increment Financing Increment. Because the Sherwood Inn was acquired by a non-profit organization which reduced the taxable evaluation of the tax increment financing district by a significant amount, the City Attorney suggests that the Commission may ask the Department of Revenue for an adjustment. If an adjustment is made it will reduce the amount of revenues collected by mills which are distributed to the General Fund and all other mills levied.

Motion was made by Caldwell, second by Ebinger, to direct the City Manager to request an adjustment from the Department of Revenue because of their Granting Tax Exempt Status to the Sherwood Inn after creation of the City's Urban Renewal District.

All in favor, Motion passed.

A discussion was held to consider the request from Harold H. Fick of 124 Star Road about him purchasing City property adjacent to his property.

Mr. Fick in a letter to Steve Golnar on July 30, 2004 inquired about purchasing property adjacent to the lot he owns in the Star Addition. Because the City Commission rescinded the sale of City land policy the sale of City land could be accomplished using guidance from State Statutes.

City Manager, Steve Golnar, suggested that the City Commission request the City Attorney to prepare a revised Sale of City Land Policy prior to considering the sale of any additional City Land. A notice for a public hearing will take place at the second City Commission meeting in September which will be September 20, 2004.

A discussion was held to reconsider designation of the Civic Center as a temporary alternate site in the event First Interstate Bank encounters a disaster that would prevent them from doing business as usual.

At the previous City Commission meeting the Commission asked Steve Golnar to find out what kind of a rate First Interstate Bank would be willing to pay for renting the Civic Center in case of a disaster in order for them to do business as usual.

Steve Golnar has been in contact with Cathy Bergsing, Recreational Director, and has not heard back from her at this time as to what kind of a rate should be charged to cover a loss of revenues from rental of the facility and operation of programs.

Steve Golnar suggested that the City Commission direct Staff to revise the Civic Center Rental Rate sheet to describe what fees would be charged in the event that the facility is used for an extended period of time in order to cover loss of rental income and program income and convenience for the community. He will then contact First Interstate Bank after these rates have been established.

The City Commission concurred with Mr. Golnar's suggestion.

A request to approve purchase of (50) 300 Gallon Dumpsters for \$9,680 was on the agenda for discussion.

Motion was made by Caldwell, second by Horiel, to approve purchase of (50) 300 Gallon Dumpsters for \$9,680.

All in favor, Motion passed.

A request to approve purchase of (4) Tires for Loader in the amount of \$4,656 was on the agenda for discussion.

Motion was made by Caldwell, second by Beebe, to approve purchase of (4) Tires for Loader in the amount of \$4,656.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Bob Ebinger commented that it was unfortunate that the City Manager was not to be at the next meeting for the Final Budget

approval as he will be on vacation. Steve Golnar stated that Shirley Ewan will be present for any questions that the Commission may have.

- Vicki Blakeman asked about the development of View Vista Village Annexation and wanted to know that two (2) feet above the 100-year flood plain elevation was correct. Jim Woodhull stated that this is in the County and his question to the State is does that change if it is in the City.
- Vicki Blakeman also asked about the sidewalk replacement and if that was a driveway on one of the properties. Clint Tinsley stated that it was a driveway along side of the house to their garage and that it will gradually go down to the street.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He asked about the eminent domain situation and stated that he doesn't see how this would affect us. Steve Golnar stated that he had given to Bruce Becker and asked if it was a problem. Bruce Becker stated that there should not be any problem as long as there was no abuse there would be no cause of action.
- He asked about the Urban Renewal area if it went all the way to the park and if we annex View Vista would that become part of the Urban Renewal area. Vicki Blakeman stated that "yes" with the condition that it becomes part of the City.

Commissioner Beebe Comments:

- She asked about the Urban Renewal area and commented that she thought that the Urban Renewal Agency would have no part of that but the City would. Bruce Becker stated that the Urban Renewal Agency could ask the City to exercise eminent domain.

Commissioner Caldwell Comments:

- He made comment that briefly he saw a newspaper article on our issue with the courtroom on compliance with House Bill 88 that Jack Holstrum has apparently sent a letter to the County regarding ADA accessibility and wanted to know if Steve Golnar had seen the letter. Steve Golnar stated that he had not seen the letter as of yet.
- He mentioned that he had met with Ron Archuleta and he made us aware of the Section 205 Study that the City is doing, and whether we would be able to qualify for Rural Community Assistance based upon National Resource Industries. In his findings he doesn't believe that we would qualify as we would need to have 15% of resources and Livingston only has 3%.

Chairman, Blakeman had no comments.

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

The time was 10:15 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
September 7, 2004
Tuesday
7:30 P.M.

The Livingston City Commission met in regular session on Tuesday, September 7, 2004 due to the Labor Day Holiday on Monday, September 6, 2004 in the Community Room in the City/County Complex. Commissioners present were Mary Beebe, Frank Horiel, Vicki Blakeman, Bob Ebinger and Steve Caldwell.

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

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

- A. Approve August 16, 2004 Regular City Commission Meeting Minutes.
- B. Approve August 23, 2004 Special City Commission Meeting Minutes.
- C. Approve Bills and Claims for 2004 and 2nd half of August 2004.
- D. Approve Special Event Request from Grace United Methodist Church for a Promotional Carnival for their Church Youth Group on September 8, 2004 at 4:00 p.m. until 10:00 p.m.
- E. Approve Tennis Courts Bid.
- F. Approve Matt Tubaugh Residency Requirement Waiver.
- G. Addendum - Approve Special Event Request from Park High School for the Homecoming Parade to be held on September 17, 2004 at 4:00 p.m. tentatively.

Bob Ebinger asked about the claim for Access Data Corporation and wanted to know if this was the claim relating to the Resolution No. 3553 that was on the agenda later. Darren Raney stated that yes it was relating to Resolution No. 3553 authorizing City Manager to sign agreement and the check will go out tomorrow.

Mr. Ebinger also asked about the claim for Home Equity Partners for the cost of the sewer maintenance on 8th Street and wanted to know what this was for. Clint Tinsley stated that this was an extension for a sewer main for Home Equity Partnership development.

Bob Ebinger asked about the claim for Livingston Hardware and wanted to know what Hardware store this was. Shirley Ewan stated that this is Ace Hardware.

Mr. Ebinger mentioned the claim for Northwestern Energy and wanted to know if this could be negotiated for a discounted rate with them. Shirley Ewan stated not at this time.

Bob Ebinger also asked about the tennis court bid if the division of the three (3) parties had been determined. Darren Raney stated that yes we have determined the division of the three (3) parties involved. Clint Tinsley mentioned that the City budgeted \$18,000 and the bid was for \$19,900. In order to cover the additional cost we need to ask the other parties if they would split the cost. Shirley Ewan stated that the City asked the other parties for \$4,500 each and hopefully they would consider another \$200 each.

Mary Beebe asked about the claim from Energy Labs and wanted to know what a fat head minnow test was. Clint Tinsley stated that this test is to test the minnow's in the Yellowstone River and it is done once every six months and if a test fails we had to have the test re-done.

Frank Horiel asked on the tennis bids where the additional \$1,990 is going to come from. Shirley Ewan stated that the City will need to ask the other parties if they would help in splitting the difference other wise the City could get it out of the capital fund if this is what the City Commission would want to do.

The Commission asked Staff to write a letter to the other parties if they would consider splitting the difference with the City.

Steve Caldwell asked about the minutes in his comments of the ADA Accessibility issue where this was at and if the City Attorney had found any information out about this. Bruce Becker stated that it is in the District Court Room of the City/County Complex and that the City/County Complex has to comply with the ADA requirements but that the State would probably help in funding any upgrades.

Steve Caldwell also mentioned that in the minutes it states that Ron Archuleta had made him aware of the Section 205 Study and that it was the other way around that he had made it aware to Ron Archuleta of the Section 205 Study that the City was doing and that Mr. Archuleta mentioned the Rural Community Assistance program based upon National Resource Industries and wants to know at the next meeting whether this could be followed up on.

All in favor of consent items, Motion passed.

Public Hearings:

A public hearing was held on Ordinance No. 1946 (Option A) – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,**

MONTANA, AMENDING ORDINANCE NO. 1915 AND ORDINANCE NO. 1933 AND CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY ESTABLISHING THE OFFENSE OF UNTIMELY DOG BARKING AND AMENDING THE NUISANCE BARKING DOG ORDINANCE AND ESTABLISHING A CIVIL PENALTY.

Heidi Barrett of 231 South "H" Street commented that there was a couple of typo's in the Ordinance and that it has very much improved and she stated that she would like to thank the Commission.

Lee Parriott of 614 West Lewis Street also wanted to thank the Commission for working on this Ordinance and listening to her and stated that the Ordinance was very much improved from the beginning and stated that she was very grateful to the Commission for being so kind in listening to the public with their comments.

Nancy Worfel of 515 West Callender Street stated that she doesn't have a dog and hasn't for years but commented that for those that do have a dog that the dog barks in their defense should not be fined because it is a dog's nature to bark. A dog will bark before their owner gets home or when something or someone passes by to protect the property. Ms. Worfel feels that a \$300.00 fine is too much for a fine like this to occur.

Bob Ebinger wanted to state that it is due to a dog being provoked or not and in the situation that Ms. Worfel stated would not be an issue.

Bruce Becker stated that the \$300.00 fine is the maximum that the Court has discretion.

Steve Caldwell stated that this has to be a reoccurring nuisance.

Motion was made by Caldwell, second by Ebinger, to approve Ordinance No. 1946 (Option A).

All in favor, Motion passed.

This Ordinance will be effective in 30 days from this date.

A public hearing was held for Resolution No. 3549 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2004-2005, ESTABLISHING THE TAX LEVY, MAKING APPROPRIATIONS AND AUTHORIZING CITY MANAGER TO AMEND BUDGET.**

No public comments were given.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3549.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3544 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX U.S. HIGHWAY 10 WEST FROM THE CORPORATE LIMITS OF THE CITY OF LIVINGSTON TO THE EASTERN RIGHT-OF-WAY BOUNDARY OF INTERSTATE 90 AT THE WEST INTERCHANGE.**

All in favor, Motion passed.

There will be a public hearing relating to Annexing of U.S Highway 10 West on September 28, 2004 at 7:30 p.m. in the Community Room of the City/County Complex.

Motion was made by Caldwell, second by Ebinger, to table Resolution No. 3547 indefinitely – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING PARTICIPATION IN MONTANA MUNICIPAL INSURANCE AUTHORITY HEALTH PROGRAM AND AUTHORIZING THE EXECUTION OF THE MEMORANDUM OF INTENT TO PARTICIPATE IN SUCH PROGRAM AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECTUATE PARTICIPATION IN SUCH HEALTH PROGRAM.**

Darren Raney stated that the majority of City employees stated that there was not enough time and would like to consider it effective July 1, 2005 to incorporate into the next year's budget.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to post-pone Resolution No 3550 until next meeting – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH THE ARMY CORPS OF ENGINEERS FOR THE YELLOWSTONE RIVER AT LIVINGSTON, MONTANA, FEASIBILITY STUDY.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3551 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING STOP SIGNS ON MONTANA STREET AND SUMMIT STREET AS A RESULT OF NEW CONSTRUCTION.**

Darren Raney stated that the stop signs will be placed on Montana Street at the intersection with 7th Street. 7th Street will be a "through Street" at this intersection. The intersection on 7th Street and Summit Street will be regulated as a 3-way stop, with stop signs placed at each corner of the intersection. The signs at the intersection of 7th and Montana Streets are

already in place but signs will be installed at the intersection of 7th Street and Summit Street.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3553 – **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.**

Darren Raney stated that the State will sign off on this at the end of the year because they need a one year complete reporting record.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3554 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH KOCH TENNIS COURT SERVICES FOR RESURFACING OF TENNIS COURTS IN THE AMOUNT OF \$19,900.00.**

All in favor, Motion passed.

Action Items:

A discussion was held to consider Harold Fick's offer to purchase City property abutting Lot 12 of Star Addition.

Motion was made by Caldwell, second by Ebinger, to direct City Attorney to prepare a Notice of Public Hearing on the offer from Harold Fick to purchase City property abutting Lot 12 of Star Addition for the September 20, 2004 City Commission Meeting.

All in favor, Motion passed.

The Commission reviewed the applications for the Trails & Green Way Task Force. Since only two (2) applications were received it was determined to extend the deadline for applications.

Motion was made by Caldwell, second by Ebinger, to extend the deadline for applications for the Trails & Green Way Task Force for another four (4) weeks and re-advertise.

All in favor, Motion passed.

A discussion was held to consider the purchase of a new portable P.A. System by the Tree Board for \$957.00.

Shirley Ewan stated that the Tree Board agreed to buy the P.A. System but with having only \$1000.00 in their budget they are spending the whole budget up front and there will be no money for trees.

Bob Ebinger stated that since he is on the Tree Board he would like to comment that it was agreed that the P.A. System would be rented out for \$50.00 a day and so the idea was that it was not just for the Tree Board. The Arbor Day celebration was an example of the incident that a P.A. System was needed as the speaker for that day was not able to be heard from the crowd.

Shirley Ewan stated that she checked with High Country Rental and they charge \$30.00 a day for rental of a P.A. System.

John Schuler of 33 Loves Lane made comment that he is also a member of the Tree Board and was also at the meeting that determined that the P.A. System needed to be purchased by the Tree Board. He also concurred and stated that at the last Arbor Day celebration that he was standing less than 10 feet from both the Chairman of the Board and the guest speaker and could not hear either one of them with the River being behind them.

Ron Nelson, Chairman of the Tree Board made comments concerning the decision to purchase this P.A. System by the Tree Board. He was not at the meeting when this was decided because of a family accident. Mr. Nelson stated that he was dismayed when this decision to purchase the P.A. System was made by the Tree Board as he feels that the main use for the Tree Board budget is to purchase trees for the City. He asked the Tree Board and the City Commission to reconsider this purchase of a P.A. System.

Motion was made by Caldwell, second by Beebe, to approve purchase of a new portable P.A. System by the Tree Board for \$957.00.

4 Against; Caldwell, Beebe, Blakeman and Horiel, 1 Present; Ebinger, Motion denied.

Action Item #6, D – Approve payment to Access Data Corp in the amount of \$2,471.72 for Annual Software Support was deleted from the agenda as it was in the claims for payment and the claims were approved.

A discussion was held to authorize application for \$1.3 million Sewer Intercap Loan from the Montana Board of Investments.

Motion was made by Caldwell, second by Ebinger, to approve authorization application for \$1.3 million Sewer Intercap Loan from the Montana Board of Investments.

All in favor, Motion passed.

A discussion was held to authorize application for \$700,000 Water Intercap Loan from the Montana Board of Investments.

Motion was made by Caldwell, second by Ebinger, to approve authorization application for \$700,000 Water Intercap Loan from the Montana Board of Investments.

All in favor, Motion passed.

A discussion was held to authorize application for \$85,000 East Side School Roof Replacement/Asbestos Abatement Loan from Capital Improvement Fund.

Motion was made by Caldwell, second by Horiel, to approve application for \$85,000 East Side School Roof Replacement/Asbestos Abatement Loan from Capital Improvement Fund.

All in favor, Motion passed.

Added to the agenda was an item from the City Manager's comments to discuss directing City Attorney to prepare a Resolution of Intent to Annex the Glenn Addition for the next City Commission meeting.

Motion was made by Caldwell, second by Ebinger, to direct City Attorney to prepare a Resolution of Intent to Annex the Glenn Addition for the next City Commission meeting and make notice for a public hearing.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the memo from the City Attorney regarding the implications of the Sherwood Inn becoming tax exempt in 2004. Mr. Horiel asked to move forward on this action. The City Attorney will get a copy of a letter to the Commission concerning this issue that he just received this last weekend.
- Frank Horiel congratulated Jim Mastin on his certificates of achievement for completing professional training courses.
- Bob Ebinger also wanted to congratulate Jim Mastin on his achievements and thanked him for his excellent work here at the City.
- Bob Ebinger wanted to make it aware of the announcement of Patricia Miller retiring from the Yellowstone Country Board and wanted to know what kind of process would need to be done to initiate the process to replace her in the Yellowstone Country Board. This will be advertised as soon as Steve returns to have an appointment made to the Board. Also it was requested to send a letter to Patricia Miller in appreciation of her membership to this Board.

- Steve Caldwell asked about rescheduling the City/County Meeting. It was determined to reschedule the City/County Meeting to September 14, 2004 at 4:00 p.m. from September 15, 2004 at 4:00 p.m.
- Vicki Blakeman wanted to congratulate the Sister City Program for bringing the TIAKO Drummers from Japan to the City and she commented that it was a very successful event and all enjoyed.

Commissioner Horiel Comments:

- He recognize and complimented City Staff for the hard work on the proposed annexation of Highway 10 West with the tight schedule and asked the City Commission to facilitate with Staff whatever needs to be done in order to get this proposal initiated.
- He also asked about the guidelines of the Sale of City Property Ordinance and wanted to know if the City Attorney needed any ideas. Bruce Becker stated that it will come to the City Commission as a "draft" Ordinance at the next City Commission for their review.

Commissioner Ebinger Comments:

- He commented that the Historic Preservation Officer from Helena came and talked to the Historic Preservation Commission and she commented that Livingston is doing a fine job. He mentioned that one thing that was brought up that the City needs to involve our Historic Preservation Officer in more meetings and events as possible and suggested that the City Commission should re-interate the decision as to whether to have a full-time Historic Preservation Officer or not and to be treated as a Department Head. Mr. Ebinger wanted to make sure that he would come to the Tour of the East Side School and also mentioned that he was not included in the Depot Restoration meetings and would have liked to see him involved. Also possibly get the County involved in being a part of the Historic Preservation Department.
- He also commented about the vote on the Tree Board motion and stated as to why he voted "present" that his concern was when budgets are directed to Committee's or Board's and when they work within those parameters of the budgets whether they make right or wrong decisions it was the majority rule of the Tree Board to purchase the P.A. System. He doesn't like the City Commission to come in and overturn the Board's decision. This could be a dangerous policy to over-rule a Board's decision.

Commissioner Beebe Comments:

- She stated that she has ran into several people at Mayor's Landing that walk their dogs in that area it occurred to her that several people do not know what the Barking Dog Ordinance will do or not do. She would like to have more publicity about our Ordinances. She thought that perhaps the web site could be a source or have meetings with the public explaining the Ordinances in how the

Commission can effectively communicate with the community. Vicki Blakeman stated that she has some concern about this as there are two (2) public meetings held every month and that people can come to the meetings and talk to the Commission any time they want to in the public comment section of the meeting and she feels that the public have to take the initiative to talk to the Commission.

Commissioner Caldwell Comments:

- He make comment and concurred with Vicki's comments that the public needs to take more initiative to talk to the Commission and Staff is always available during the week for eight (8) hours a day and providing any additional avenues isn't necessarily going to add to people taking initiative to come to the Commission with questions.
- He wanted to commend the City Manager, Shirley Ewan and Pam Payovich for all of their hard work this budget season and did a fantastic job.
- He wanted to know what the City was doing to get participation for the Historic Preservation Board. Bob Ebinger stated that a decision has not been made but will hopefully be made within the next 60 days. There would have to be candidates applying to the Board in order to be appointed by the Commission.

Chairman, Blakeman had no comments.

Bruce Becker mentioned that he had received a letter from the DEQ and they want to meet with the Commission on the BNSF Cleanup. It was asked of the Commission if they could meet on September 14, 2004 after the City/County Meeting at 5:15 p.m. in the Community Room and Mr. Becker stated that he would let the Commission know if this would be an appropriate date for the DEQ to meet.

No public comments were given.

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

The time was 9:03 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
September 20, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, September 20, 2004 in the Community Room in the City/County Complex. Commissioners present were Bob Ebinger, Vicki Blakeman, Frank Horiel, Mary Beebe and Steve Caldwell.

Staff Members present were Bruce Becker, Steve Golnar, Darren Raney, Shirley Ewan, Clint Tinsley, Jim Woodhull, Bob Brown, Peggy Glass and Pam Payovich. Jim Mastin was absent.

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- A. Approve September 7, 2004 (Tuesday) Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for the 1st half of September 2004.
- C. Department Heads Monthly Reports and Other Minutes.

Frank Horiel asked about the claim from Stephen Potenberg and wanted to know what it was for. Bruce Becker stated that Mr. Potenberg is a public defender for the City and that the payment was for court cases that were pending or resolved.

Bob Ebinger asked what SCBA stood for on the Fire & Rescue monthly report. Steve Golnar stated that these are "self contained breathing apparatus" and that they are protective clothing for the firefighters/ambulance personnel.

Also Bob Ebinger wanted to congratulate the Library on their Summer Reading program.

All in favor of consent items, Motion passed.

Public Hearings:

A public hearing was held for the Sale of City Land to Harold Fick, 124 Star Road, Livingston, Montana, which is located adjacent to 124 Star Road for the purchase price of \$1,500.00, plus survey costs and fees.

Nick Kurry of 610 North 10th Street asked how \$1,500.00 was determined for the price of this property. Steve Golnar stated that this was an offer provided from the abutting property owner and that this property is not accessible except by the abutting property owner which is Mr. Fick.

Bruce Becker stated that Mr. Fick will have to pay for the survey cost if this is approved by the Commission.

Motion was made by Caldwell, second by Ebinger, to approve Sale of City Land to Harold Fick, 124 Star Road, Livingston, Montana, which is located adjacent to 124 Star Road for the purchase price of \$1,500.00, plus survey costs and fees.

All in favor, Motion passed.

Resolutions:

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3550 as stated with revised documents – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH THE ARMY CORPS OF ENGINEERS FOR THE YELLOWSTONE RIVER AT LIVINGSTON, MONTANA, FEASIBILITY STUDY.** Information relating to this Resolution was provided separately to the Commission. Steve Golnar gave background information relating to this Resolution. He pointed out that Park County did commit to providing funding assistance for the Study for FY 2004-05 in the amount of \$25,000 and that they would like to be full participants in the Study and would determine future funding commitments prior to the end of FY 2004-05. Mr. Golnar recommended that the City enter into the cost share agreement for the entire three (3) year Study with the U.S. Army Corps of Engineers.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3552 – **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.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3555 – **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 AND BEING FURTHER DESCRIBED AS THE GLENN ADDITION WHICH IS DESCRIBED AS LOTS "A" THROUGH "K" OF PLAT #77, RECORDS OF PARK COUNTY.**

All in favor, Motion passed.

A public hearing will be held relating to this Resolution at the City Commission meeting on October 18, 2004 at 7:30 p.m.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3556 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH KEN KASTELITZ AS SUMMERFEST 2005 DIRECTOR AND AUTHORIZING EXPENDITURE OF \$1,550.00.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3557 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH JULIE BROWN AS ASSISTANT SUMMERFEST 2005 DIRECTOR AND AUTHORIZING EXPENDITURE OF \$775.00.**

All in favor, Motion passed.

Action Items:

The Commission held a review of a draft Ordinance creating the procedure for classifying and for disposing of real property owned by the City.

Bob Ebinger identified that there was a typographical error under Section 1,6 that reads, "Property containing a historically significant building or monument may be soled", should read: "Property containing a historically significant building or monument my be sold".

Steve Caldwell asked if "disposed of by sale or lease" should be changed to "disposed of, sale or lease" to reflect the statutory language.

It was determined by the City Commission to bring this Ordinance back with revisions at the next City Commission meeting.

A discussion was held to authorize City Staff to proceed with preparation of a Resolution for purchase of property which would extend and abut Tana Lane for future City service extension.

Motion was made by Caldwell, second by Horiel, to direct the City Attorney to prepare a Resolution of Intent for purchase of property to extend and abut Tana Lane for future City service extension and direct the City Manager to facilitate a survey of the said property relating to this Resolution.

All in favor, Motion passed.

There was an additional action item provided by an addendum to approve payment of \$595.00 to the Construction Exam Center for Building Inspector Training.

Motion was made by Ebinger, second by Beebe, to approve payment of \$595.00 to Construction Exam Center for Building Inspector Training.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the memo that Darren Raney wrote about the difference of the money anticipated for resurfacing the tennis courts and what the actual cost was going to be split between the parties would be \$475.00 each not \$200.00 as mentioned. Steve Golnar stated that the difference is \$475.00 each and that all parties have agreed to the additional cost.
- Frank Horiel also asked of the letter from Paoli & Brown, PC and requested that the Commission have a Workshop on historic building and asked Mr. Golnar if he would determine a couple of dates and email the Commission with his suggestions.
- Bob Ebinger wanted to say that if you haven't gone to see the Japanese Gardens at the Water Works Building that to do so that it is most impressive and far beyond anything that he could imagine. Steve Golnar stated that he will be getting out thank you letters to those people that were associated with the Sister Cities Organization and also mentioned that on the Committee that there needs to be some more volunteers in order for those that have dedicated their time for a lot of years can get a break.
- Steve Caldwell asked about the stop signs on the north side if they had been placed yet. Clint Tinsley stated that he believed that the signs went up today.
- Steve Caldwell asked about the proposal from Bob Worthington about the Health Insurance Pool that the City needs to follow-up on this issue between. Steve Golnar stated that he will get together with all of the Unions, employee members of the Committee in a timely manner before 2005 and long before the decision on changing health insurance is faced by employees.

Commissioner Horiel Comments:

- He asked what the schedule was for the East Side School Improvements. Clint Tinsley gave details concerning the School and stated that it has gone out for bid for the structural repairs, asbestos abatement and roof replacement.

Commissioner Ebinger Comments:

- He commented that after the White Elephant Meeting that there should be a meeting about the East Side School and the Water Works Building and whether the roof on the School could be classified as historic.
- He also commented that from the Tree Board they are trying to establish a tree replacement program and trying to find funding for it as with the "H" Street reconstruction it will tear up a lot of the existing trees.
- He wanted to know what the status was on putting a parking lot on "B" Street. Steve Golnar stated that he felt that the Downtown

Association was going to take the lead in this matter. Bob asked Steve to talk to Joel Reinholz from the Downtown Association and coordinate as to what can and needs to be done to initiate this request.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He wanted to know the status of the funding for the Railroad Crossing Feasibility Study. Steve Golnar stated that the funding has not been determined as of yet.
- He wanted to also know about the status of goals and objective and a job description for a grant-writer. Steve Golnar stated that a meeting will be set up for meeting with the grant-writer group.

Chairman, Blakeman Comments:

- She wanted to know if the meeting scheduled for September 30, 2004 was a Special Meeting. This is put on by DEQ and so it is not considered a City Commission meeting.
- She wanted to know what the status was for Exit No. 333. Steve Golnar stated that he will get back to the Commission at the next meeting with the update.

Public Comments:

- John Schuler of 3 Carol Lane commented that he is currently a member of the Tree Board. He believes that the trees on "H" Street will be gone after the State's reconstruction of that street. He suggested that the State Nursery has all kinds of saplings and the Tree Board could investigate that they can get these trees for nothing. The City could come up with a small area where the saplings could be placed and nurtured for two or three years and would have something of a salable value.
- Mr. Schuler also commented about what he mentioned at the last meeting about the P.A. System to his understanding this money was budgeted for the Tree Board and any P.A. System rental revenues would be returned for Tree Board use, thus creating sort of an "Enterprise Fund". The Tree Board could also pursue grants for tree plantings.
- Mr. Schuler also wanted to clarify what was said at the last meeting. He stated that he had talked to Clyde at the Rental Place and Clyde stated to him that he has never had a P.A. System for rent and has no intention of acquiring a P.A. System for rent. Also Mr. Schuler stated that Mr. Caldwell commented at the last meeting that if the Tree Board finished acquiring the P.A. System and then used it as it money making source it would be in conflict of private industry. Vicki Blakeman corrected Mr. Schuler and stated that it was her that made that comment.

- Mr. Schuler stated that at the Tree Board meeting where the P.A. System was approved there was four (4) members present at that meeting and it was unanimous that the P.A. System be purchased. He went on to say that he was shocked that the Commission turned down the decision of the purchase of the P.A. System. He would have expected that before it got to the City Commission that Mr. Golnar would have made the decision not to be able to purchase the P.A. System. In light of this he commented that he has attended every meeting for the Tree Board but with these decisions being made he stated that he is giving his verbal resignation from the Tree Board tonight.

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

The time was 8:47 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON CITY COMMISSION
SPECIAL MEETING
September 28, 2004
7:30 P.M.

The Livingston City Commission met in a special meeting on Tuesday, September 28, 2004 in the Community Room in the City/County Complex at 7:30 p.m. Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell and Bob Ebinger. Frank Horiel showed up a few minutes later.

Staff Members present were Bruce Becker, Steve Golnar, Darren Raney, Jim Woodhull, Clint Tinsley and Pam Payovich.

Public Hearings:

A public hearing was held relating to annexing U.S. Highway 10 West from the corporate limits of the City of Livingston to the northerly right-of-way boundary of Interstate 90 at the West Interchange.

Lenny Gregrey of 429 South 9th Street commented that he was not against this annexation but wanted to know once the road is annexed who will set the speed limits on the road. Will it be the State or the City and if it is the City will you set the speed limit to 25 mph.

Steve Golnar stated that the State will set the speed limit. If there is an interest in setting the speed limit at a lower speed the City would have to request a speed survey and then recommend the proposed speed from that survey to the State. If the City wanted to expedite the completion of a speed survey, they could contract with a traffic engineer to perform such a study and report the results to the State.

Mike Adams of 1260 Highway 10 West commented that he is for this annexation but is concerned about the additional traffic that would come from the annexation and wanted to know if there were any provisions planned to change relating to traffic control.

Clint Tinsley stated that the State would review traffic flow as traffic picks up. If there are additional problems occurring then traffic lights or reduced speed zones would possibly be needed as traffic picks up and the State would need to determine this through a traffic study. A method of payment would also need to be worked out.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3558 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING U.S. HIGHWAY 10 WEST FROM THE CORPORATE LIMITS OF THE CITY OF LIVINGSTON TO THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF INTERSTATE 90 AT THE WEST INTERCHANGE.**

All in favor, Motion passed.

Commissioner Horiel Comments:

- He asked how far out the annexation would go. Bruce Becker stated that a map was provided with the Resolution which shows that the annexed area goes to the Interstate 90 off ramp. He also stated that the road would go to the end of the current City limits which is near the Del-Mar Motel.

No other Commissioners had any comments.

No Public Comments were heard.

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

The time was 7:40 P.M.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN

LIVINGSTON
CITY COMMISSION MEETING
October 4, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, October 4, 2004 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Bob Ebinger, Vicki Blakeman and Frank Horiel.

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

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- A. Approve September 20, 2004 Regular City Commission Meeting Minutes.
- B. Approve September 28, 2004 Special City Commission Meeting Minutes.
- C. Approve Bills and Claims for 2004 and 2nd half of September 2004.
- D. Refuse to accept resignation of Tree Board member John Schuler.

Bob Ebinger commented about the last sentence of Mr. Horiel's comments of the special meeting on September 28, 2004 minutes and requested to eliminate the sentence.

Mr. Ebinger asked about the claim from Mobile Repair & Welding for the Band Shell brace and wanted to know if this was a structural problem. Clint Tinsley stated that this was a claim for a brace for the chairs.

Mr. Ebinger asked the claim from Park County Treasurer for tech surcharge. Shirley Ewan stated that the court mandates this from the State and that the City pays \$10.00 per person that goes through court.

Steve Caldwell made comment about the minutes from the September 20, 2004 meeting that in his statement that read: "Steve Caldwell asked if "disposed of by sale or lease" should be changed to "disposed of, sale or lease" to reflect the statutory language". He requested it be changed to reflect statutory language so as to read: "Steve Caldwell asked if "disposed of by sale or lease" should be changed to "sold, disposed of or leased".

Vicki Blakeman asked about the claim from Montana Clean for cleaning per agreement if that was for the City/County Complex. Shirley Ewan stated that this was the monthly billing for Montana Clean for the City's share.

Mary Beebe commented about the Northwestern Energy bills in regards to how high they are.

Steve Caldwell asked if Mr. Schuler had been advised of the Commission's refusal to accept his resignation of the Tree Board.

Mr. Schuler of 33 Loves Lane was present and commented that in light of everything that has happened to him in the last two (2) weeks he feels that he needs to maintain a certain constancy in what he does and that he enjoys very much being on the Tree Board. He asked the Commission with their permission if he could withdraw his resignation and remain on the Tree Board.

All in favor of consent items, Motion passed.

Public Hearings:

A public hearing was held for approval of the Light Industrial Zoning District Text Amendment.

Dan Rice, Director of Development of Printingforless.com, made comments relating to his concerns regarding to the Light Industrial Zoning District and stated that PFL has purchased approximately 71 acres on the West Interchange of I-90 and will begin construction of a 41,000 square foot building beginning in the Spring of next year. In addition they will be requesting annexation to the area and to extend City services to the area. Mr. Rice went on to say that in their efforts they have proposed to the City Planning Board to help devise a "light industrial zoning district" to help influence design and use concerns of the community thus enhancing and encouraging economic growth in the area. The result of the discussions came from the City Planning Board meeting and on their September 2, 2004 report. He stated that the originally proposed Staff definition would have resulted in a substantial reduction in the potential uses from those that currently exist on the property and that it is currently zoned Commercial in the County. Mr. Rice commented that it was PFL's effort to incorporate the desires of the community and recommendations from the Donut Task Force and therefore there were restrictions on the uses of the land which would have limited by special exceptions retail restaurants and hotels. Because the City Planning Board eliminated these categories from special uses placed Printingforless.com in a difficult situation. He stated while PFL fully supports the community's desire to influence the look and feel of future development they strongly oppose limitations on business growth opportunities in the area. Without the ability for the property owners to use this gateway area to build a first class multi use business park the full economic benefits of this project to the City will not be realized and the attractiveness of a request for annexation by Printingforless.com disappears. Therefore, he asked the Commission to reconsider the City Planning Board's recommendation and to immediately begin the creation of design standards as recommended by the

Donut Area Task Force and to remove those special exception restrictions upon the completion of design and review standards.

Cindi Fargo, Executive Director of Alliance Development Corporation made comments in that she would like to reiterate the motion that the Alliance Development Corporation made about a this issue. The Alliance Development Corporation recommends that the Livingston City Commission accept the original Staff recommendation made by Jim Woodhull to the City Planning Board regarding Light Industrial Zoning District with the additional provision that the design and review standards be adopted within six months. At such time the design and review standards are in place the City Commission can convert those special exception uses to allowable uses and then all uses be subject to design and review standards.

Ann Hallowell member of the City Planning Board made comment but stated that she is not representing the City Planning Board that she is making comment as a member of the community. She asked in the List of Uses in Table 30.40 it lists all of the different types of businesses that are allowed in the types of zones in the City and commented that it occurred to her in the Printingforless.com example she proposed to add a Child Care Center, a Bank, Adult Foster Care Center, Commercial Schools, Agriculture uses and building materials such as a Lumber Yard in order to put more things on the list for possible use if not at least a use, then as a special exception.

Motion was made by Caldwell, second by Beebe, to adopt the original Text Amendment Staff report dated September 2, 2004 for Light Industrial Zoning District subject to the application of design standards to be developed by the Design and Review Board appointed by the City Commission.

Dan Rice asked for clarification from Mr. Caldwell what was exactly being proposed. Mr. Rice believed that he heard Mr. Caldwell say that the Commission would accept the original Staff report based upon development of design and review standards and that the end result would be that exceptions would not be allowed until at such time as a Design and Review Board was in place before any special exceptions could take place. Mr. Rice stated that would limit Printingforless.com ability to use the land even more than with special exceptions.

Mr. Caldwell stated that his intention was to agree with Mr. Rice's concerns. His idea was that special exception uses would conform to design standard development by Design and Review Board in terms of their approval.

Mr. Rice commented that this was not originally proposed that PFL would be subject to those kinds of design and review standards on everything and that these uses suggested would no longer be special exceptions that they would be accepted uses and that they would be subject to design and review. This is what PFL would like the Commission to accept.

Motion was made by Caldwell, second by Beebe, to withdraw the motion to adopt the original Text Amendment Staff report dated September 2, 2004 for Light Industrial Zoning District subject to the application of design standards to be developed by the Design and Review Board appointed by the City Commission.

Motion was made by Caldwell, second by Beebe, to adopt the original Text Amendment Staff report dated September 2, 2004 as a definition for Light Industrial Zoning District.

Motion was made by Ebinger, second by Caldwell, to make an amendment to change the front setback to 0' with a boulevard and 10' without a boulevard.

All in favor, Motion passed.

Motion was made by Horiel, second by Caldwell, to make an amendment to remove heavy manufacturing from the special exception.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to make an amendment to appoint a design and review board to develop design standards to be applied to construction within the Light Industrial Zoning District upon application of those standards, uses allowed by special exceptions will become uses allowed.

Three (3) in favor; Blakeman, Beebe and Caldwell, Two (2) opposed; Horiel and Ebinger, Motion passed.

Motion was made Ebinger, second by Caldwell, to make an amendment for special exceptions to change hotel to hotel/motel, allow agriculture but no pig farms, add greenhouses, lumber yards, child care, adult foster care and banks.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to adopt Text Amendment Staff report dated September 2, 2004 as a definition for Light Industrial Zoning District as amended.

Four (4) in favor; Caldwell, Ebinger, Beebe and Blakeman, One (1) opposed; Horiel, Motion passed.

Ordinances:

Motion was made by Ebinger, second by Caldwell, to approve first reading of Ordinance No. 1947 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING THE PROCEDURE FOR**

CLASSIFYING AND FOR DISPOSING OF REAL PROPERTY OWNED BY THE CITY.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve first reading of Ordinance No. 1948 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL BUILDINGS TO COMPLY WITH THE BUILDING CODES AND AMENDING ORDINANCE NO. 1942 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE THE INTERNATIONAL ENERGY CONSERVATION CODE (IECC), 2003 EDITION, AS AMENDED BY THE STATE OF MONTANA, AND ESTABLISHING A PENALTY FOR VIOLATION.**

Bob Ebinger asked for clarification in Section 6-9 Building Code Applicability stating including but not limited to residential buildings containing less than five dwelling units or their attached structures.

Jim Woodhull, City Planner, stated that the reason that this is stated this way is because the State building inspection program out in the counties exempts buildings with less than five units and the City doesn't have to do that.

Bruce Becker stated that the State regulates five dwellings and above and the City can regulate less than five.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to amend Ordinance No. 1949 to reflect changes made previous approval of Light Industrial Zoning District Text Amendment by reference – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 ZONING BY CREATING A LIGHT INDUSTRIAL (LI) ZONE, ESTABLISHING PERMITTED USES IN THE LIGHT INDUSTRIAL ZONE, ESTABLISHING DENSITY AND SETBACK REQUIREMENTS FOR LIGHT INDUSTRIAL ZONE AND AMENDING THE DEFINITION OF HEAVY MANUFACTURING AND LIGHT MANUFACTURING.**

Four (4) in favor; Ebinger, Blakeman, Beebe and Caldwell, One (1) opposed, Horiel, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1949 as amended.

Four (4) in favor; Blakeman, Beebe, Caldwell and Ebinger, One (1) opposed; Horiel, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3559 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING PURCHASE OF REAL PROPERTY TO BE USED FOR STREET RIGHT OF WAY AND INFRASTRUCTURE ALL AS SHOWN ON EXHIBIT "A" ATTACHED HERETO.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3560 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADOPT THE CITY OF LIVINGSTON GROWTH POLICY.**

All in favor, Motion passed.

Action Items:

A discussion was held to authorize \$100 per month contract pay to Angel Line Chairman effective January 1, 2005.

Motion was made by Caldwell, second by Beebe, to authorize \$100 per month contract pay to Angel Line Chairman effective January 1, 2005.

All in favor, Motion passed.

A discussion was held to appoint members to the Trails & Green Ways Task Force. There was four applications received in the packet and one (1) received later in an addendum. The applicants were Jeanne-Marie Souvigney, Lynn Chan, Cassie Burns, Jessica Jacobson and Chris Beaudin.

Motion was made by Horiel, second by Caldwell, to appoint Jeanne-Marie Souvigney, Lynn Chan and Cassie Burns for City representatives for the Trails & Green Ways Task Force and forward the other two (2) applicants, Jessica Jacobson and Chris Beaudin on to the County for their appointments.

All in favor, Motion passed.

A discussion was held to approve the Mental Health Center request for a Handicap Parking Space on the 100 Block of West Clark Street.

Motion was made by Caldwell, second by Ebinger, to approve the Mental Health Center request for a Handicap Parking Space on the 100 Block of West Clark Street.

All in favor, Motion passed.

A review of the propose Legislative Program for Montana League of Cities and Towns for 2005 Session was provided separately to the Commission from the

packet to provide the Commission with the information relating to the Legislative Program.

Steve Golnar stated that it was probably not necessary to take any action on this as he would be attending the Montana League of Cities and Towns conference on October 5th through October 8th, 2004 and would bring this back to the Commission at the next City Commission meeting on October 18, 2004.

A discussion was held to authorize lease purchase of four (4) Defibulators from Zoll Equipment over the course of four (4) years for \$10,000 for FY 2004-05 and \$10,780 for the next three (3) years.

Motion was made by Ebinger, second by Caldwell, to authorize lease purchase of four (4) Defibulators from Zoll Equipment over the course of four (4) years for \$10,000 for FY 2004-05 and \$10,780 for the next three (3) years.

All in favor, Motion passed.

A discussion was held to authorize City Manager's expenditure of \$200 to support the Montana Film Rendezvous in Livingston from his Public Relations Budget.

Motion was made by Beebe, second by Caldwell, to authorize City Manager's expenditure of \$200 to support the Montana Film Rendezvous in Livingston from his Public Relations Budget.

All in favor, Motion passed.

A discussion was held to discuss City Commission participation or coordination with Staff on Joint Soccer Field Coordinating Committee.

Frank Horiel volunteered to be on this Committee.

Motion was made by Ebinger, second by Caldwell, to approve Frank Horiel as a City Commission representative for the joint Soccer Field Planning and Coordinating Committee.

All in favor, Motion passed.

A discussion was held to award bid for the Old East Side School Structural Repairs, Asbestos Abatement and Roof Replacement. Bids were opened at 2:00 p.m. on October 4, 2004 so this information was provided in an addendum. There was only one (1) bid received from Diamond D Construction. Clint Tinsley, Public Works Director, suggested to recommend to accept Diamond D Construction's bid of \$77,936.00 contingent upon

receiving a bid bond from Diamond D Construction. City Manager, Steve Golnar supported Clint Tinsley's recommendation.

Motion was made by Caldwell, second by Ebinger, to award bid for Old East Side School Structural Repairs, Asbestos Abatement and Roof Replacement to Diamond D Construction for \$77,936.00 contingent upon receiving a bid bond.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the ADA Compliance for the City/County Complex on the Drinking Fountain with the cost of \$2,983.00 seemed like a lot of money. Steve Golnar stated that he would put this on the City/County Meeting agenda scheduled for October 13, 2004.
- Frank Horiel asked about the schedule for Growth Policy meeting and commented that he had seen in the paper a meeting on October 5, 2004 and then on October 12, 2004. The County meeting in on October 5, 2004.
- Steve Caldwell asked about the major subdivision application by Leroy and Linda Mathews and how many lots would this entail. Clint Tinsley stated that it is 12 lots involved.
- Steve Caldwell asked if Staff had talked to the Glenn Addition Subdivision Association yet. Clint Tinsley stated that he had not yet talked with them.
- Steve Caldwell asked about the Crazy Mountain Ranch request for proposals for Ambulance Service and if that was something that the City could provide without additional resources. Jim Mastin stated that no that they would have to hire some more personnel.
- Bob Ebinger asked about the request from Bob Brown and Kevin Harrington with Dancing Toad Productions if that was something that the Commission would really need to approve. Steve Golnar stated that this is a request to work in another Country and that they would be doing this on their own time not on City time and he will write a letter stating the City policy is for outside employment from the City.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He mentioned that he would not be at the next City Commission meeting on October 18, 2004.

Commissioner Beebe had no comments.

Commissioner Caldwell had no comments.

Chairman, Blakeman Comments:

- She made comment to the City Manager that this was the worst Commission packet that she has seen in a long time and recommended not to do this again. She doesn't want to read all of the material that was provided and that all she wants is a recommendation from the City Manager.

No Public Comments.

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

The time was 10:18 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
October 18, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, October 18, 2004 in the Community Room in the City/County Complex. Commissioners present were Mary Beebe, Frank Horiel, Vicki Blakeman, Bob Ebinger and Steve Caldwell.

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

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

- A. Approve October 4, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2004 and 1st half of October 2004.
- C. Department Heads Monthly Reports and Other Minutes.

Bob Ebinger asked about the discussion on the Light Industrial Zoning in the minutes and commented that he did not feel that the minutes reflected what happened that the streamline extent that his comments or concerns were included nor why Mr. Horiel voted against it and requested that the minutes reflect this discussion.

Mr. Ebinger mentioned to clarify that he should not have voted relating to the authorization of the City Manager's expenditure of \$200 to support the Montana Film Rendezvous in Livingston from his Public Relations Budget since he is a board member of the Montana Film Rendezvous and stated that he would like to change his vote to abstain.

Bob Ebinger asked about the claim from D & R Coffee Service, Inc. and commented that he would like to have better coffee for the cost.

Mr. Ebinger also asked about the claim for Lexis Nexis Mathew Bender and wanted to know what this was for. Mr. Golnar stated that this is for the recodification of Ordinances that the City has adopted for updating the City Code Book and that it takes place every two (2) years.

Vicki Blakeman stated that she would like to clarify her comments from the last meeting relating to the amount of material that goes into the packets and that she provided a letter with these concerns. She asked the other Commissioners if they shared her concerns and there was a consensus.

All in favor of consent items, Motion passed.

Variances:

Duwain Miller, owner of property located 823 West Geyser Street, requested a variance from the rear setback requirement for RII zoning districts. Mr. Miller wished to build a carport onto his existing garage that would extend to within one (1) foot of his rear property line. City code requires a five (5) foot rear setback.

Mr. Woodhull provided background information relating to this variance request.

Motion was made by Caldwell, second by Ebinger, to approve the Findings of Fact for Duwain Miller variance request.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve variance request for Duwain Miller.

All in favor, Motion passed.

Public Hearings:

A public hearing was held on Ordinance No. 1947 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING THE PROCEDURE FOR CLASSIFYING AND FOR DISPOSING OF REAL PROPERTY OWNED BY THE CITY.** No public comments were given.

Motion was made by Ebinger, second by Beebe, to approve Ordinance No. 1947.

All in favor, Motion passed.

A public hearing was held on Ordinance No. 1948 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL BUILDINGS TO COMPLY WITH THE BUILDING CODES AND AMENDING ORDINANCE NO. 1942 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE THE INTERNATIONAL ENERGY CONSERVATION CODE (IECC), 2003 EDITION, AS AMENDED BY THE STATE OF MONTANA, AND ESTABLISHING A PENALTY FOR VIOLATION.** No public comments were given.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1948.

All in favor, Motion passed.

A public hearing was held on Ordinance No. 1949 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING**

CHAPTER 30 ZONING BY CREATING A LIGHT INDUSTRIAL (LI) ZONE, ESTABLISHING PERMITTED USES IN THE LIGHT INDUSTRIAL ZONE, ESTABLISHING DENSITY AND SETBACK REQUIREMENTS FOR LIGHT INDUSTRIAL ZONE AND AMENDING THE DEFINITION OF HEAVY MANUFACTURING AND LIGHT MANUFACTURING. No public comments were given.

Motion was made by Caldwell, second by Beebe, to approve Ordinance No. 1949.

Mary Beebe asked that Adult Foster Care be added as a special exception use.

Motion was made by Beebe, second by Caldwell, to amend Ordinance No. 1949 to include Adult Foster Care as a special exception use.

All in favor, Motion passed.

Mary Beebe asked about Warehouse and Enclosed Storage, Barber Shops and Beauty Parlors if they were included as a special exception use.

Motion was made by Beebe, second by Caldwell, to approve Ordinance No. 1949 as amended.

Frank Horiel commented that he would like to state his concerns about this Light Industrial Zoning Ordinance as he opposes the "special exceptions uses" becoming "allowable uses" after the design and review standards are in place. He doesn't believe that this classification as written has the desires and concerns of the community in mind nor enhances or encourages the economic growth that may be desired in that area. He stated that he was disappointed in the process especially at the Workshop where discussion on this zone did not allow the Commission to format, to gather information and perform the discussion among themselves. He hopes that in the future that this could be avoided.

Bob Ebinger stated that he would like to agree with Mr. Horiel's comments.

Three (3) in favor; Blakeman, Caldwell and Ebinger, Two (2) opposed; Beebe and Horiel, Motion passed.

Bob Ebinger stated that as much as he agrees with the opposition comments from Mr. Horiel that he does not want to stop the process at this point of time. He hopes that the design and review standards will be enough to afford the mix uses purposes that PrintingForLess.com expressed an interest in doing out there.

A public hearing was held on Resolution No. 3561 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CONTIGUOUS LAND RECEIVING CITY WATER AND SEWER SERVICES TO THE**

CITY OF LIVINGSTON, MONTANA, WHICH IS LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH RANGE 9 EAST AND BEING FURTHER DESCRIBED AS THE GLENN ADDITION WHICH IS DESCRIBED AS LOTS A THROUGH K OF PLAT #77, RECORDS OF PARK COUNTY.

John Schuler of 33 Loves Lane made comments that he has owned a residence in this area for 29 years. He stated that him and three other Glenn Addition water users had met with Steve Golnar, Clint Tinsley and Bruce Becker and they have determined that they would like to request that this Resolution be tabled for the future in order to determine what they want to do.

Motion was made by Ebinger, second by Caldwell, to table Resolution No. 3561 until November 15, 2004.

All in favor, Motion passed.

A public hearing was held on Resolution No. 3563 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING THE CITY OF LIVINGSTON GROWTH POLICY.** No public comments were given.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3563.

All in favor, Motion passed.

Resolutions:

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3562 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO TRAFFIC SAFETY CONTRACT #2005-08-02-16 AND 2005-13-01-16 WITH THE MONTANA DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$10,100.00 FOR OVERTIME WAGES AND EXPENSES TO CONDUCT SATURATED TRAFFIC ENFORCEMENT PATROLS DURING CHRISTMAS AND LABOR DAY HOLIDAYS AND ONE SEATBELT MOBILIZATION DURING THE MEMORIAL DAY HOLIDAY.**

Frank Horiel asked if this was an annual program. Darren Raney stated that yes it is and that this is the forth year for this program.

Steve Caldwell asked about the periods covered and wanted to know for the Christmas Holiday why not until January 2nd. Darren Raney stated that he wasn't sure but would ask. Mr. Raney also commented that they use this money until it is gone for all three of these holidays.

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3564 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BAYSTONE FINANCIAL GROUP FOR PURCHASE OF ZOLL DEFIBRILLATORS IN THE AMOUNT OF \$37,624.38.**

Bob Ebinger asked about the payment schedule described as Exhibit "B" and questioned the amount of \$37,624.38 didn't add up to any of the columns provided for reference. Steve Caldwell stated that the total applied to principal totals the amount of \$37,624.38.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3565 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADJUSTING CDBG LOAN AGREEMENT WITH BIG SKY SERVICES.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3566 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, GIVING PRELIMINARY APPROVAL TO, OF ITS INTENT TO CREATE AND CALLING FOR A PUBLIC HEARING ON A PROPOSED ORDINANCE ESTABLISHING A TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DISTRICT IN THE CITY OF LIVINGSTON.**

All in favor, Motion passed.

A public hearing will be held on Resolution No. 3566 relating to the proposed Ordinance establishing a Tax Increment Industrial Infrastructure District in the City of Livingston on the November 15, 2004 City Commission meeting.

The Ordinance No. 1950 relating to the Montana Tax Increment Industrial Infrastructure District will be first reading at the November 15, 2004 City Commission meeting.

Motion was made by Horiel, second by Beebe, to amend Resolution No. 3567 contingent upon receiving a performance bond – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DIAMOND D CONSTRUCTION FOR THE OLD EAST SIDE SCHOOL REPAIR IN THE AMOUNT OF \$77,936.00.**

All in favor, Motion passed.

Action Items:

A discussion was held to schedule a Special Meeting to consider City of Livingston to Crazy Mountain Ranch to provide them Ambulance Services on October 20, 2004 at 7:00 p.m.

Steve Golnar suggested that this meeting be cancelled because of confidentiality restrictions in the request for proposals.

A discussion was held to adopt a Tentative Legislative Program for 2005 State Legislature.

Responding to Mr. Caldwell's question on the "tentative" nature of this legislative program, Steve Golnar stated that these Resolutions are close to what we would want to propose to the Legislature unless the Commission comes up with some other legislative issues, or something else evolves over the next few months. He indicated time is running short to add anything new and we want to get out what our concerns are.

Motion was made by Caldwell, second by Horiel, to approve to adopt a Tentative Legislative Program for 2005 State Legislature as proposed by the City Manager.

Vicki Blakeman asked about Resolution No. 4 - Land Use and Property Regulation be it further resolved that the Montana League of Cities and Towns support bills to clarify extra-territorial zoning authority under the City Manager form of government (Livingston).

Steve Golnar made comment that current state statutes limit the potential for the City to coordinate with the County in creating a City/County Zoning Board where the City Zoning Board would include a couple of representatives from the County and coordinate a two (2) mile Planning area outside of the City limits for a second class City.

All in favor, Motion passed.

A discussion was held to review and consider a proposal from Eagle Scout Troop #563 to replace the rotted materials found on the benches, walls, ceiling tiles, shelves and showers at the City Swimming Pool Building.

A letter was provided from Randall L. Schumacher, Assistant Scout Master explaining what Joshua Nelson, who is a member of the Boy Scout Troop #563 is proposing and that Mr. Schumacher would supervise the work and guarantee a professional product.

Motion was made by Caldwell, second by Ebinger, to approve the proposal from the Boy Scout Troop #563.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- No comments were received from the Commissioners on the City Manager's written comments.

Commissioner Horiel Comments:

- He commented that he was disappointed about the Ambulance bid for the Crazy Mountain Ranch not being able to move forward and wondered if there was a different approach to be able to do this. Steve Golnar stated that it is in the Crazy Mountain Ranch's hands at this time that they are reviewing this with legal counsel.
- He also asked about the Sidewalks being fixed at 2nd and Callender Street and wanted to know if this was a short-term or a long-term fix and who picked out the colors. Clint Tinsley stated that this is a temporary fix to get the City through the next five to six years in order to replace the sidewalks. Clint Tinsley also stated that he picked the color of the sidewalk.
- He asked about the ADA compliance of the City/County Buildings Water Fountain and how much it would cost to be fixed. Steve Golnar stated that this is an item that is pretty low on the City/County list for repairs at this time.
- He commented about the newly paved Streets that were paved on the East End of Livingston looked beautiful and stated that this made the East End of Livingston look alive and well.

Commissioner Ebinger Comments: *Street Ball*

- He asked about Thomas Burns' gutter problem in the Boulevard area on Geysler Street. Clint Tinsley stated that he doesn't recall where that would be but does recall that there is a State Highway project going on at Geysler Street to Park Street for all of the Fire Hydrants and ADA requirements.
- He also reminder everyone of the meeting on Alternative Energy on October 19, 2004 at 6:00 p.m. and commented that he would not be there as he will be out of town.
- He also mentioned the meeting on October 20, 2004 at 1:30 p.m. for the Grant Writer and commented that he would not be able to attend.
- He asked about the City being able to help with the Loaves and Fish garbage bill so that they can meet their garbage expenses.
- He mentioned about the HOME Program for the low interest loans for low income fixing residential housing and stated that Joel *representing the Downtown Association* Reinholz is the Housing Rehabilitation Assistant and wanted to know if they could do a program like this in the Bozeman/Livingston area.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He asked about the Code Enforcement report on tree trimming notices and mentioned that he got one and wanted to know if the trees around the City Building were trimmed appropriately. Mr. Tinsley indicated that tree notices just recently went out and he was hoping for volunteer compliance from most property owners. He also stated that they were trying to work with the School Bus concerns on low lying tree branches in the streets.

Chairman, Blakeman Comments:

- She asked about the Code Enforcement report on barking dogs and wanted to know if there had been an exceptional increase in barking dog citations. Clint Tinsley stated that he was not aware of any.

No Public Comments were given.

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

The time was 8:42 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
November 1, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, November 1, 2004 in the Community Room in the City/County Complex. Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell, Frank Horiel and Bob Ebinger.

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

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- A. Approve October 18, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2004 and 2nd half of October 2004.
- C. Approve Request for Proposals for 2005 Chevrolet Impala Police Pursuit Vehicle to Whiting Motors in the amount of \$18,384.30.
- D. Approve Special Events Questionnaire for the Livingston Christmas Stroll on December 11, 2004 from 2:00 p.m. to 9:00 p.m. from the Livingston Downtown Association.
- E. Approve request for "Loading Zone" sign placement on 5th and Lewis Street from Redeemer Lutheran Church.

Frank Horiel requested that on page 3 of the minutes to change the word "to" to "the" in his sentence stating: "He stated that he was disappointed in the process especially at the Workshop where discussion on this zone did not allow the Commission the format.

Also Frank Horiel asked that in the minutes on his Commission comments he wanted to add "that street ball" was alive and well in the east end of Livingston to read: "He commented about the newly paved Streets that were paved on the East End of Livingston looked beautiful and stated that street ball was alive and well in the east end of Livingston."

Bob Ebinger stated that on page 7 of the minutes of his Commissioner comments that Joel Reinholz was not the Housing Rehabilitation Assistant as stated in the minutes that he was going to the HOME Program for the low interest loan for low income fixing residential housing representing the Livingston Downtown Association.

Bob Ebinger asked about the claim from Barnes & Noble and wondered why it wasn't copied in a Livingston Printing store. Jim Mastin stated that this was a

book and that Barnes & Noble was the only place that had this particular book.

Mr. Ebinger also commented about the claim from Montana Edge for business cards for Duncan and encouraged that business cards be made for the City Commissioner's after the 1st of the year.

Mr. Ebinger asked about the request for the "Loading Zone" sign from Redeemer Lutheran Church if the "Handicap Sign" on Lewis Street would be removed or is the City giving them two (2) signs. Clint Tinsley stated that this would include two (2) signs and that the Handicap sign is a 24 hours sign where the Loading Zone sign would only be for loading and unloading going and ongoing. Mr. Ebinger also asked if this was going to set precedence for all churches to request both a Handicap and a Loading sign. Clint Tinsley stated that most of the churches in the City do have two (2) signs.

Steve Caldwell asked about the claim from Crazy Mountain Cabinetry for the bid on an office remodel and wondered why the City was getting a bill for a bid or was it for the actual remodel. Clint Tinsley clarified that this claim was for the remodeling of the Utility Office and this is the bill for the cabinet top and other counter tops.

Mr. Caldwell asked about the claim from Colonial Research Chemical Corporation and wondered what CRC, Heather and Peachy was. Shirley Ewan stated that these were colors of paint.

Mr. Caldwell also asked about the claim from Kansas State Bank of Manhattan for \$10,000 and wanted to know what this was for. Jim Mastin stated that this was the 1st payment for the Zoll Defibrillators for the Fire and Ambulance Department.

Steve Caldwell asked about the special event questionnaire for the Livingston Christmas Stroll on December 11, 2004 and commented that he believed that the last special event request from the Chamber of Commerce was charged a deposit fee for clean up and wondered if that fee would be appropriate with this request also. Steve Golnar stated that he believed that the Commission asked about the fee for the Homecoming Parade and commented that there is a street closure fee of \$100.00 collected. Steve Golnar also stated that the City has not charged fees for the Christmas Stroll in the past. Mr. Caldwell asked that the City make sure that they are budgeting out the expenses that are waived on these special event requests to cover all costs.

All in favor of consent items, Motion passed.

Scheduled Public Comments:

A scheduled public comment from the Alliance Development Corporation Executive Director, Cindi Fargo, was scheduled to give updates of their status and report. The updates of the Alliance Development Corporation status and reports were provided in the packet for the Commission's review.

Ms. Fargo commented that she had added a couple of topics to her updated reports and would like to share them with the Commission. She stated that additional some contacts of business expansion and retention efforts the Alliance Development Corporation is assisting Haristone Bakery, Bowman's Wilson Boot Company and the owners of the Park Place Building and miscellaneous people that they have had discussions with for opening businesses. *Hear this done*

Bob Ebinger asked Ms. Fargo if there was anything that the Alliance Development Corporation could do to work with Bowman's Wilson Boot Company for a loan through the ADC. Ms. Fargo stated that their manufacturing business is connected to Deer Lodge Prison and the job creation in the long-term as a result of their training program is connected to inmates exiting the prison and being potential employees so there is not a piece of job creation that's going on in Park County that the Alliance Development Corporation can support with CDBG funds. Bob Ebinger stated that he understood that was a part of the staffing and that the Bowman's Wilson Boot Company was going to hire other staffing upon completion of the new building with County employees. Cindi Fargo commented that the Alliance Development Corporation will keep working with Bowman's Wilson Boot Company.

Steve Golnar commented that the Alliance and him are going to be working on the status update and the update on the work plan for the upcoming fiscal year and will make a recommendation to the City Commission at that time.

Frank Horiel asked about the businesses that their applications were incomplete and wanted to know what this meant. Cindi Fargo stated that the applicants were not well prepared and that their applications were incomplete. Ms. Fargo continued by stating that the Alliance Development Corporation directs those applicants to additional sources of assistance.

Resolutions:

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3568 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING BY PETITION 70 ACRES LOCATED IN SECTION 22, TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3569 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**

LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN LAW ENFORCEMENT MUTUAL ASSISTANCE AGREEMENT WITH PARK COUNTY.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3570 – **A RESOLUTION RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS (SEWER); ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.**

Frank Horiel asked about the increase of the water and sewer rates if these would be above what the Commission has already approved. Steve Golnar stated that yes these would be above the rates that had already been approved and that this Resolution and the next Resolution would allow for the City to seek reimbursement for expenditures after the resolutions are passed from the State Revolving Loan Fund. There are sufficient revenues in both water and sewer to pay for loans of \$155,000 in each fund which are the anticipated reimbursements in the resolutions. The issue of how much in loan funds are being applied for and how it will impact future rates is the subject for more discussion.

Bob Ebinger commented that he had talked with Clint Tinsley and wanted to know if there was any other way to get funds rather than to increase water and sewer rates, if the Commission decided that they would not pass rate increases. Mr. Tinsley's answer was that he didn't believe so. Mr. Ebinger stated that he feels that the City needs to be really careful and that this is an excessive rate increase for our residency.

Steve Golnar stated that these Resolutions' are to allow the City to borrow money against the larger proposed loans to accomplish some smaller objectives. The reimbursement Resolutions require the City to show that the City is able to pay a loan on and money it is reimbursed for before the City can borrow the money. Staff and Mr. Golnar feels that the City can pay for the debt associated with borrowing money to pay for replacement of Rotating Biological Contact Chambers (RBCC) which need to be replaced this month and that also Engineering to move forward with both the water and the sewer projects. By taking action on these two (2) Resolutions the City can establish a reimbursement relationship to borrow money in the future for expenditures made after the reimbursement resolutions are passed. Mr. Golnar felt that this was critical because the RBCC will be received and installed in November 2004 and it will cost about \$180,000.

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3571 – **A RESOLUTION RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS (WATER); ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3572 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, STATING THE CITY OF LIVINGSTON SUPPORT AND ENCOURAGEMENT FOR THE CREATION OF THE GREATER YELLOWSTONE TECHNOLOGY AND TRADE CENTER.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3573 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CDBG LOAN AGREEMENT WITH MONTANA BOATBUILDERS, INC., IN THE AMOUNT OF \$180,000.00.**

Frank Horiel asked about the hiring of 3 to 5 new employees within six months. He feels that that this Resolution needs to be changed to provide for the hiring of 3 to 5 new employees within one (1) year in order to meet actual expectations.

Jason Cajune, owner of Montana Boatbuilders, Inc. stated that they are also asking for funds to construct the building and also ADC is refinancing an existing County loan and that this is a bigger package but once the building is up and running he anticipates to hire at least three (3) additional employees and hopefully more in the future.

Motion was made by Horiel, second by Ebinger, to amend Resolution No. 3573 to change the second whereas to state hiring 3 to 5 new employees within "one year" instead of "six months".

All in favor, Motion passed.

Motion was made by Ebinger, second by Horiel, to approve Resolution No. 3573 as amended.

All in favor, Motion passed.

The City Commissions wished Jason very much success with his business.

Action Items:

The City Commission reviewed applications for the Yellowstone Country Board. Two applications were received from Vikki Taylor and Thomas Vincent.

The Commission decided that they would like to have more information relating to this Board so that they can choose the best alternate to fill this

unexpired term to the Yellowstone Country Board and possibly appoint a person who would like to continue on the Board for the next three (3) years as this position is a three (3) year term. The Commission also asked for more information relating to this Board to be provided to them so that they can make the right decision on their appointment to this position. The Commission determined to re-advertise and extend due date until November 30, 2004.

A discussion was held to review and approve a request from LeRoy Matthews for installing City water and sewer to a 12 Lot major subdivision.

Clint Tinsley identified to the Commission where the 12 lots are actually located.

Bob Ebinger asked if these lots are for 12 single homes. Clint Tinsley's stated that yes they are 12 single home lots.

Motion was made by Caldwell, second by Ebinger, to approve the request from LeRoy Matthews for installing City water and sewer to a 12 Lot Major Subdivision.

All in favor, Motion passed.

A discussion was held to appoint an ex-officio non-voting member of the Government Study Commission.

Steve Caldwell volunteered to be an ex-officio non-voting member of the Government Study Commission.

Motion was made by Horiel, second by Ebinger, to appoint Steve Caldwell as an ex-officio non-voting member of the Government Study Commission.

All in favor, Motion passed.

A discussion was held to set a date for a joint meeting with Park County to explore options of developing a long-term Refuse Disposal Facility to take place on November 10, 2004 at 6:00 p.m.

Bob Ebinger stated that he will be out of town on that day.

Motion was made by Ebinger, second by Caldwell, to have the joint meeting for November 10, 2004 at 6:00 p.m. with Park County to explore options of developing a long-term Refuse Disposal Facility in the Community Room of the City/County Complex.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Steve Caldwell stated that the Big Brothers and Sisters Lunch at the Fairgrounds is on November 4th not November 3rd.
- Steve Caldwell asked what the status was of the Scout Project and if they got it done. Clint Tinsley stated that it is not done but his parents stated that he will get it finished.
- Steve Caldwell asked if there was any more updates on the Crazy Mountain Ambulance Service situation. Steve Golnar stated that they aren't revising their bid specification to eliminate confidentiality requirement, but they will look at their whole process in the future.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He mentioned that at the last meeting he spoke of the Loaves & Fishes garbage bill and stated that he now has a copy of a letter from them.
- He stated that he may be absent at the next City Commission meeting but would let us know for sure.
- He stated in relation to the letter from the County he would like to see us move forward to work together with the County on the Donut Task Force report and would like to see a meeting set up within a month for this with the County.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He stated that the City had received a letter from the County Attorney that actually outlined a number issues relating to the proposed annexation and zoning of the 70 acres for the West Interchange. He felt that most of the issues had been addressed but the outstanding issues pertained to the County's ongoing concern with some sense of urgency, as the City has, as to the potential impacts involved with the parts of that area that are not included in the annexation. He asked Jim Woodhull to reiterate what this plan is going to be. Jim Woodhull stated that there will be a City and County Planning Boards Meeting regarding this issue on November 17, 2004.
- He asked what the status was with the discussion with the Glenn Addition water users. Steve Golnar stated that the City has asked the Glenn Water Association if they would be willing to pursue sewer extensions to that whole area and he has not heard back from them as of yet.
- He asked for the thoughts from other Commissioners about what they thought about the possibility of contracting with PPG (Power Procurement Group) or another entity for getting assistance with the Alternative Energy Committee. Vicki Blakeman stated that she believed that the City Commission was waiting for a

recommendation from the Alternative Energy Committee before determining a solution. Steve Golnar stated that the term of the contract of the people that offered to do this is only a year at \$500 per month, \$250 per month for the City. The City Commission commented that they would like to have Mr. Golnar look for a way to fund hiring these people to pursue wind energy.

Chairman, Blakeman had no comments.

No Public Comments were given.

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

The time was 9:00 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
November 15, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, November 15, 2004 in the Community Room in the City/County Complex. Commissioners present were Frank Horiel, Steve Caldwell, Mary Beebe and Vicki Blakeman. Bob Ebinger was absent.

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

Motion was made by Caldwell, second by Beebe, to approve the consent items as follows:

- A. Approve November 1, 2004 Regular City Commission Meeting Minutes.
- B. Approve Bills and Claims for 2004 and 1st half of November 2004.
- C. Department Heads Monthly Reports and Other Minutes.

Mary Beebe requested to have "Haristone Bakery" changed to "Hearthstone Bakery" on page 3 in the minutes.

Steve Caldwell asked about the Livingston Fire & Rescue End of the Month Report for October 2004. Under "Notes" it states: "that the oldest engine, a 1972 Ford failed a portion of the test and that they will be looking at fixing the problem". Mr. Caldwell wanted to know what the estimated cost was to bring this vehicle up to specifications and was this budgeted for. Bob Brown stated that they are looking at fixing the engine but did not know how much it was going to cost and that the 1972 Ford is needed in order for the Fire Department to maintain their ISO rating.

Mr. Caldwell also questioned with Pat Wagman being voted in as the representative for HD 62 if overtime had been budgeted for in the Fire Department, to cover Pat's shift while he was in the Legislature. Bob Brown stated that yes the overtime was budgeted for.

Mr. Caldwell also asked about the update of Water, Sewer & Solid Waste Revenues for FY 04/05 Report for October 1, 2004. He noted that incoming water and sewer revenues are approximately \$100,000 behind budget and was wondering if this was anticipated to be a continuing problem in the future. Clint Tinsley, Public Works Director stated that he is concerned about this being a continued problem.

All in favor of consent items, Motion passed.

Ordinances:

Motion was made by Caldwell, second by Beebe, to approve first reading of Ordinance No. 1950 – **AN ORDINANCE RELATING TO THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DISTRICT; ESTABLISHING AND CREATING THE DISTRICT; DETERMINING TAX INCREMENT COSTS TO BE PAID FROM THE DISTRICT; AND ESTABLISHING A BASE TAXABLE YEAR.**

Steve Caldwell asked about the wording under Section 4 and suggested to add to the sentence: "Any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the district (in the fiscal year in which the termination occurs.)"

Vicki Blakeman asked why only 20 acres and not the whole 70 acres?

Bruce Becker stated that the 20 acres is definitely "Industrial" and the other 50 acres is not at this time since there is no development out there that is specified as "Industrial". Mr. Golnar added that his understanding was that the Tax Increment Industrial Infrastructure District Legislation anticipates a specific industrial facility being constructed in coordination with creation of a district.

All in favor, Motion passed.

A public hearing will be held on the second reading of Ordinance No. 1950 at a Special Meeting to be held on November 29, 2004 at 7:30 p.m. in the Community Room of the City/County Complex.

Motion was made by Caldwell, second by Horiel, to approve first reading of Ordinance No. 1951 – **AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF CHAPTER 30 ZONING OF THE LIVINGSTON MUNICIPAL CODE BY DESIGNATING ZONING CLASSIFICATIONS FOR RECENTLY ANNEXED PROPERTY DESCRIBED BY CERTIFICATE OF SURVEY NO. 1941, BEING APPROXIMATELY 70 ACRES LOCATED IN SECTION 22, TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M.** Vicki Blakeman recused herself from voting on this Ordinance No. 1951, as she is an employee of PrintingForLess.com.

Three (3) in favor; Beebe, Horiel and Caldwell, Motion passed.

A public hearing will be held on the second reading of Ordinance No. 1951 at a Special Meeting to be held on November 29, 2004 at 7:30 p.m. in the Community Room of the City/County Complex.

Public Hearings:

A public hearing was scheduled to be held on Resolution No. 3561 – **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 AND BEING FURTHER DESCRIBED AS THE GLENN ADDITION WHICH IS DESCRIBED AS LOTS "A" THROUGH "K" OF PLAT #77, RECORDS OF PARK COUNTY.**

It was determined by the City Commission to have this public hearing relating to Resolution No. 3561 rescheduled for December 20, 2004 as more time is needed to work with the property owners on the water system issues.

A scheduled public comment was held to hear a report from Mark Lemke, a Boy Scout member, on his Sister Cities Japanese Friendship Garden project that he has completed for his Eagle Scout project.

A written report was provided to the Commission before the meeting, but Mark Lemke commented on some of his main points relating to this project. He stated that his goal of building a Japanese Garden in Livingston was to provide a beautiful place for people to sit and relax and to educate people about Japanese style gardens and culture and to make people more aware of the Sister Cities program. He commented that several people helped him like the Boy Scouts, the Sister Cities volunteers and the Livingston City employees and thanked all of those who were involved. He also stated that he wanted to thank all of the businesses who contributed materials and helped him fund this project.

Resolutions:

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3574 – **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.

A public hearing will be held on December 6, 2004 relating to Resolution No. 3574.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3575 – **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 AMBULANCE FUND**

#5510.142.420730.812 IN THE AMOUNT OF \$71,000.00, AND CALLING FOR A PUBLIC HEARING.

All in favor, Motion passed.

A public hearing will be held on December 6, 2004 relating to Resolution No. 3575.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3576 – **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 DRUG FORFEITURE FUND #2390.131.420142.220 IN THE AMOUNT OF \$53.00 BY TRASFERRING FUNDS FROM CASH RESERVES, AND CALLING FOR A PUBLIC HEARING.**

All in favor, Motion passed.

A public hearing will be held on December 6, 2004 relating to Resolution No. 3576.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3577 – **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 SPECIAL IMPROVEMENT DISTRICT #175 FUND #3650.1717.490300.620 IN THE AMOUNT OF \$1,500.00 BY TRANSFERRING FUNDS FROM LATE ASSESSMENT PAYMENTS, AND CALLING FOR A PUBLIC HEARING.**

All in favor, Motion passed.

A public hearing will be held on December 6, 2004 relating to Resolution No. 3577.

Action Items:

It was requested by the Chairman, Vicki Blakeman to change the order of the action items to have item #7, F – Discuss City/County Joint Solid Waste Disposal follow-up before action item #7, A.

A letter was provided to the Commission by email for their review from the City Manager, Steve Golnar to Ed Schilling, Chairman of the Park County Commissioners regarding the City's willingness to work with them on Solid Waste Disposal solutions.

Motion was made by Caldwell, second by Horiel, to approve the draft letter by City Manager, Steve Golnar dated November 16, 2004 – Investigation of Mutually Beneficial Options for City/County Solid Waste Disposal as amended.

All in favor, Motion passed.

A discussion was held to direct the City Attorney to prepare a Resolution directing the Sale of City property in order to square off Block 3 of the Palace Addition subject to conditions.

Motion was made by Caldwell, second by Beebe, to direct the City Attorney to prepare a Resolution Directing the Sale of City Property in order to square off Block 3 of the Palace Addition subject to conditions.

All in favor, Motion passed.

The City Commission reviewed a draft Resolution – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING PROCEDURE TO DISPOSE OF, SELL OR LEASE CITY NON-HISTORICALLY SIGNIFICANT PROPERTY HELD IN A PROPRIETARY CAPACITY.**

Bruce Becker stated that this is the procedure for disposing of, selling or leasing of City Land property.

Motion was made Caldwell, second by Horiel, to bring this draft Resolution back to the Commission for action to be taken on the December 6, 2004 City Commission meeting.

All in favor, Motion passed.

A discussion was held for the Old Water Plant Lease negotiations status.

Information was provided separately from Steve Golnar, City Manager, of the request for proposals of the Old Water Plant in November 2003. Also information was provided from Mr. John Mabie, CPA, Real Estate Broker about his analysis of the lease of the building with the information that was provided to him. Mr. Mabie's result from the annual rent less any credits that the annual cash rent paid by lessee would be \$6,429 per year for a 15 year period.

Mr. Paoli stated that he thinks that after attending the seminar with Mr. Rypkema that him and his partner would like to buy the Old Water Plant instead of leasing it. They would be more than happy to pay the City for the appraised price. It would allow them to be more flexible with their reconstruction. The consensus of the Commission was that they did not want to sell the building. He also asked to get the City involved in restoring this building so that their costs would be lowered and there could be some additional rent to pay the City. Mr. Paoli stated that he is willing to work with the City in order to get costs lowered.

It was a concurrence of the City Commission to direct the City Manager to contact Mr. Rypkema and contact the Lawyer that he suggested would be a good resource and work with Mr. Paoli and this Lawyer to determine what is the best solution for both the City and Paoli. The suggestion was to pursue a 39 year lease of the building with a 15 year payback provision for the City in order to qualify the property for historic tax credits and at the same time increase the rent paid to the City to closer to \$1,000 over that 15 year term that the building would be rehabilitated and occupied by Paoli & Brown, PC.

A review was held to approve the CDBG Loan Draw #5 Training Grant for PrintingForLess.com in the amount of \$38,626. (Training \$37,626 and Audit \$1,000.)

Vicki Blakeman recused herself from this issue as she is an employee of PrintingForLess.com.

Motion was made by Caldwell, second by Beebe, to approve the CDBG Loan Draw #5 Training Grant for PrintingForLess.com in the amount of \$38,626.

Three (3) in favor; Horiel, Beebe and Caldwell, Motion passed.

A review was held to approve payment of \$37,626 to PrintingForLess.com for the Draw #5 Training Grant.

Vicki Blakeman recused herself from this issue as she is an employee of PrintingForLess.com.

Motion was made by Caldwell, second by Horiel, to approve payment of \$37,626 to PrintingForLess.com for the Draw #5 Training Grant.

Three (3) in favor; Beebe, Caldwell and Horiel, Motion passed.

The City Manager's written comments were reviewed.

- Mary Beebe asked about the status of the Loaves & Fishes if anything was moving forward on this. Steve Golnar stated that they have put this on hold until the City/County Solid Waste Disposal issue can be resolved and determine how Loaves & Fishes can be helped with their garbage disposal issue.
- Steve Caldwell commented that he sees that Thomas Vincent withdrew his application for the Yellowstone Country Board and stated that it was unfortunate and thought that there was a misunderstanding on his part that the Commission was only extending the applications date in order for the Commission to get more information relating to this position. Mr. Caldwell feels that Mr. Vincent is a very strong candidate and wanted to know if Steve Golnar would contact him and explain to him what the intentions of the Commission were when they extended the application deadline.

- Steve Caldwell wanted to know what the status was relating to design, review and gateway overlay District and Ordinance. Jim Woodhull stated that the City Planning Board is in the process of developing the Ordinance.
- Steve Caldwell congratulated Steve Golnar for receiving his 20 year service certificate from the International City Manager's Association.
- Vicki Blakeman asked about the Trails project that has been approved if there was any funding available with that. Steve Golnar stated that there's money to fund the technical assistance, trails master plan and design similar to the assistance received for the Mayor's Landing project. Mr. Golnar indicated that the Rivers and Trails Program Manager, Mr. Gary Weiner, was also useful in obtaining project funding for the Mayor's Landing project construction and similar help with the Trails project is hoped for.

Commissioner Horiel had no comments.

Commissioner Beebe Comments:

- She commented about the letter to the editor about having a Firehouse on the Northwest side of town and mentioned that the new development is paying impact fees. Steve Golnar stated that they did pay impact fees until the City eliminated them in 2004, due to the City Attorney's opinion that self-governing powers are necessary to impose such fees.

Commissioner Caldwell Comments:

- He commented that he noticed that the Livingston Area Chamber of Commerce had received a Rural Community Assistance Grant from the Forest Service and in that it seems to him that our community in some definition eligible for those kinds of grants.
- He wanted to thank his fellow Commissioners for their attendance at the Big Brother and Big Sisters fund raiser and that they raised about \$100,000.00.

Chairman, Blakeman Comments:

- She wanted all of the Commission to know that she is going to be meeting with the newly elected County Commissioners this week to talk to them about their feelings on some City/County issues and will let everyone know what they have come up with.

No Public Comments were given.

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

The time was 8:58 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
December 6, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, December 6, 2004 in the Community Room in the City/County Complex.

Commissioners present were Mary Beebe, Frank Horiel, Vicki Blakeman, Bob Ebinger and Steve Caldwell.

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

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

- A. Approve November 15, 2004 Regular City Commission Meeting Minutes.
- B. Approve November 29, 2004 Special City Commission Meeting Minutes.
- C. Approve Bills and Claims for 2004 and 2nd half of November 2004.
- D. Approve Two-Hour Parking Waiver request for the Christmas Holiday from Monday, December 13, 2004 through Friday, December 31, 2004.
- E. Approve Annual Christmas Community Dinner request on December 24th and 25th, 2004 at the Civic Center with fees being waived but paying for the \$100 security deposit.
- F. Confirm Appointment of Officer Ron Swanson to permanent status as a Police Officer for the City of Livingston effective December 1, 2004.

Bob Ebinger congratulated Ron Swanson for becoming a permanent Police Officer for the City of Livingston and the rest of the Commission concurred.

All in favor of consent items, Motion passed.

Scheduled Public Comment:

A public comment was scheduled for William T. Hughes, III to give a summary on his Boy Scout Eagle Project for the replacement of five (5) new concrete stairways on the Sacajawea Park Levy with handrails.

Mr. William T. Hughes, III stated that he started his project for the replacement of five (5) new concrete stairways on the Sacajawea Park Levy with Handrails on July 18, 2002. During the summer of 2003 his fellow Boy Scouts helped him remove the old stairways, built forms, poured concrete and built and installed handrails. When he finished the project he had 247

hours, 43 minutes working on the project with volunteers 355 hours and 50 minutes. The grand total of hours on the project was 603 hours and 23 minutes. Mr. Hughes stated that the total cost of the project was \$1,914.11 of which \$777.31 was donated by local businesses. The rest of the money \$1,136.80 he raised selling Pizza Hut cards and selling hamburgers and hot dogs at Albertson's.

Mr. Hughes received his Eagle Scout Award on March 11, 2004 where Steve Golnar, City Manager was present.

Mr. Hughes concluded by thanking the City of Livingston for allowing him to do this project and the assistance of the City Shop crews for helping him digging and tearing down the old stairs. He provided pictures of his project from beginning to end to the Commission.

The City Commission commended Mr. Hughes for his project and thanked him for his excellent work.

Steve Golnar stated that Mr. Hughes' parents were present and stated that they had a lot to do with this project being completed.

Proclamations:

A proclamation in recognizing the week of January 23 through January 29, 2005 as "Cowboy and Ranching Heritage Week" was read by Chairman, Vicki Blakeman.

Public Hearings:

A public hearing was scheduled to be held on Resolution No. 3578 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING 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, AND LOWERING ANTICIPATED REVENUE IN THE AMOUNT OF \$34,900.00.**

No public comments were given.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3578.

All in favor, Motion passed.

A public hearing was scheduled to be held on Resolution No. 3579 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING AMBULANCE FUND #5510.142.420730.812 IN THE AMOUNT OF \$71,000.00.**

No public comments were given.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3579.

Bob Ebinger asked when it says that it will not require a cash transfer as it is not a deficit. Shirley Ewan stated that it is for the bad debt and for write-offs and decreases the revenue but there is no actual cash transfer.

All in favor, Motion passed.

A public hearing was scheduled to be held on Resolution No. 3580 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING DRUG FORFEITURE FUND #2390.131.420142.220 IN THE AMOUNT OF \$53.00 BY TRANSFERRING FUNDS FROM CASH RESERVES.**

No public comments were given.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3580.

All in favor, Motion passed.

A public hearing was scheduled to be held on Resolution No. 3581 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2003-2004 BY INCREASING SPECIAL IMPROVEMENT DISTRICT #175 FUND #3650.1717.490300.620 IN THE AMOUNT OF \$1,500.00 BY TRANSFERRING FUNDS FROM LATE ASSESSMENT PAYMENTS.**

No public comments were given.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3581.

All in favor, Motion passed.

Resolutions:

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3582 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING PROCEDURE TO DISPOSE OF, SELL OR LEASE CITY NON-HISTORICALLY SIGNIFICANT PROPERTY HELD IN A PROPRIETARY CAPACITY.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3583 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING SALE OF REAL PROPERTY OWNED BY THE CITY OF LIVINGSTON ADJACENT TO BLOCK 3 OF THE PALACE ADDITION TO THE CITY.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3584 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MODIFICATION NO. 1 CTEP PROJECT SPECIFIC AGREEMENT – DEPOT RESTORATION.**

Steve Golnar gave background information relating to this Resolution and recommended that the City Commission post-pone this Resolution until actual figures are derived for the financing are in place at the next City Commission meeting.

No action was taken.

Motion was made by Caldwell, second by Ebinger, to post-pone Resolution No. 3584 until the regular City Commission meeting on December 20, 2004.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3590 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RELATING TO \$155,000 SEWERAGE SYSTEM REVENUE BOND AND \$155,000 SEWERAGE SYSTEM REVENUE BOND ANTICIPATED NOTE (DNRC REVOLVING LOAN PROGRAM), SERIES 2004; AUTHORIZING THE ISSUANCE THEREOF AND FIXING THE TERMS AND CONDITIONS OF THE BOND ANTICIPATION NOTE.**

Clint Tinsley stated that Resolution No. 3590 and Resolution No. 3591 are part of the \$2,000,000 that the City is trying to borrow from DNRC. These funds would be to payoff the Rotating Biological Contactor (RBC) and the remaining money for additional projects that the City is looking at for preliminary design and review in the Public Works Department that have been in the works for 3 to 5 years and for the future projects in the 10 year Infrastructure Plan for the City. The City would not need to raise sewer and water rates in order to get this money. The City would be able to generate enough cash flow with the debt associated with bond revenue where the water bond would be 15 years and the sewer bond would be 20 years.

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3591 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**

LIVINGSTON, MONTANA, RELATING TO \$155,000 WATERAGE SYSTEM REVENUE BOND AND \$155,000 WATERAGE SYSTEM REVENUE BOND ANTICIPATION NOTE (DNRC REVOLVING LOAN PROGRAM), SERIES 2004; AUTHORIZING THE ISSUANCE THEREOF AND FIXING THE TERMS AND CONDITIONS OF THE BOND ANTICIPATION NOTE.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3585 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR REPLACEMENT OF HELLSMARK LIFT STATION IN THE AMOUNT OF \$18,140.00 PLUS REIMBURSABLE EXPENSES.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3586 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR SEWER MAIN REPLACEMENT OF ONE MONTH SEWER MAINS AT VARIOUS LOCATIONS THROUGHOUT THE CITY OF LIVINGSTON IN THE AMOUNT OF \$151,000.00 PLUS REIMBURSABLE EXPENSES.**

Steve Caldwell asked if these contracts are the result of a competitive bidding process. Clint Tinsley stated that the City goes through the bidding process for engineering contracts every two (2) years. Mr. Tinsley also stated that the sewer lines in the City of Livingston are very old and need to be replaced because of the claims against them. This project could take up to 90 days in order to initiate them.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3587 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR YELLOWSTONE STREET STORM DRAIN UNDER MRL MAIN LINE IN THE AMOUNT OF \$8,400.00 PLUS REIMBURSABLE EXPENSES.**

All in favor, Motion passed.

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3588 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR 6TH STREET WATER MAIN UNDER MRL MAIN LINE IN THE AMOUNT OF \$8,400.00 PLUS REIMBURSABLE EXPENSES.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3589 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR 'H' STREET WATER MAIN REPLACEMENT FROM PARK STREET TO BUTTE STREET INCLUDING PARK STREET FROM 'H' STREET TO 'L' STREET AND BUTTE STREET FROM 'H' STREET TO 'I' STREET IN THE AMOUNT OF \$49,590.00 PLUS REIMBURSABLE EXPENSES.**

All in favor, Motion passed.

Action Items:

A discussion was held to deny sale of City property described as Lots 1 through 9 in Block 19, Palace Addition, between Star Road and 15th Street as requested by Rodney Siring.

Steve Golnar stated that after looking at this request and considering that the City has the option of possibly using the property for a railroad crossing if it is determined that it would be the location for it that this would be premature in considering selling the property. The Commission concurred.

Motion was made by Caldwell, second by Ebinger, to deny sale of City property described as Lots 1 through 9 in Block 19, Palace Addition, between Star Road and 15th Street as requested by Rodney Siring.

All in favor, Motion passed.

A discussion was held to direct City Attorney to review and approve documents authorizing temporary dedication of \$130,000 of City of Livingston Revolving Economic Development Funds to Collateralize a Primary Sector Business Workforce Training Grant for PrintingForLess.com.

Vicki Blakeman, Chairman, recused herself from this action item for discussion, as she is an employee of PrintingForLess.com. and handed the gavel to Vice Chairman, Bob Ebinger.

Motion was made by Caldwell, second by Beebe, to direct City Attorney to review and approve documents authorizing temporary dedication of \$130,000 of City of Livingston Revolving Economic Development Funds to Collateralize a Primary Sector Business Workforce Training Grant for PrintingForLess.com.

4 in favor; Ebinger, Horiel, Beebe and Caldwell, 1 abstained; Blakeman.

A discussion was held to appoint City of Livingston Yellowstone Country Board of Directors representative to fill unexpired term of Patricia Miller through April 2005.

There were three (3) applications received for the position of the City of Livingston representative on the Yellowstone Country Board of Directors. They were Kathleen Kaul, Thomas Vincent and Vikki Taylor (who was not eligible because she doesn't live in the City or have a business in the City).

Motion was made by Caldwell, second by Horiel, to nominate Thomas Vincent as the City of Livingston Yellowstone Country Board of Directors representative to fill the unexpired term of Patricia Miller through April 2005.

3 in favor; Blakeman, Caldwell and Horiel, 2 opposed; Beebe and Ebinger, Motion passed.

Bob Ebinger stated that he was not against having Thomas Vincent as the representative for the City of Livingston for the Yellowstone Country Board of Directors because he had several people call for the other candidate.

A discussion was post-poned until December 20, 2004 at 7:00 p.m. for a Workshop before the City Commission meeting in order to review proposed Water Loans and recommend rate increases and direct City Attorney to prepare Resolutions of Intent for Water and Sewer Rate Increases.

A discussion was held to review Preliminary Engineering Study for PrintingForLess.com (PFL) utility extensions and to direct Staff to finalize financing plan and development agreement with PFL and direct City Attorney to initiate preparation of contract for Engineering Services pending confirmation of finance plan.

Motion was made by Caldwell, second by Horiel, to direct Staff to finalize financing plan and development agreement with PFL and direct the City Attorney to initiate preparation of contract for Engineering Services pending confirmation of financing.

All in favor, Motion passed.

A discussion was held to schedule evaluations for the City Attorney and the City Manager.

It was determined by the City Commission to schedule evaluations for the City Attorney and City Manager at a special meeting on December 13, 2004 at 6:30 p.m. in the Community Room of the City/County Complex.

A discussion was held to authorize City Manager to sign Medicaid Supplemental Payment Purposes Contract and authorize payment of

\$1,583.73 to the Montana Department of Health and Human Services – Health Resources Division.

Motion was made by Caldwell, second by Beebe, to authorize City Manager to sign Medicaid Supplemental Payment Purposes Contract and Authorize Payment of \$1,583.73 to the Montana Department of Health and Human Services – Health Resources Division.

All in favor, Motion passed.

A discussion was held to follow-up from Solid Waste Disposal Workshop dated December 1, 2004 and cancel December 8, 2004 Joint Meeting with Park County.

A draft letter was provided in an addendum from City Manager, Steve Golnar for the Commission to review and comment with any changes.

Steve Caldwell suggested that in paragraph two of the letter in the last sentence to change the word "outside" third party to "independent" third party to read: "We suggest that this audit be undertaken by an independent third party."

Motion was made by Ebinger, second by Caldwell, to approve draft letter to Park County on Solid Waste Disposal with corrections.

All in favor, Motion passed.

A discussion was held to review Montana Department of Transportation letter of November 29, 2004 relating to the Guest House Motel approach in follow-up to a meeting with Commissioner Elect Grabow and formulate letter.

Motion was made by Ebinger, second by Caldwell, to have City Manager send a follow-up letter to Mr. Gammon, Montana Department of Transportation in regards to the Guest House Motel approach that the City Commission stands on their prior decision.

All in favor, Motion passed.

Also the Commission concurred to cancel the joint meeting with Park County on December 8, 2004 and have the regular City/County meeting on December 9, 2004

An item was added to an Addendum provided to have the Alliance Development Corporations Scope of Work revisions for FY 2004-05 but City Manager, Steve Golnar had not received them yet. Mr. Golnar stated that he would provide the Commission with the Scope of Work revisions for the Alliance Development Corporation for FY 2004-05 at the next City Commission meeting as an action item.

The City Manager's written comments were reviewed.

- Steve Caldwell asked if there was any additional information about the Rogers and Carol Lane Sewer Extensions. Steve Golnar stated that he had been approached by a representative from the Glenn Addition and he asked for some additional information which basically articulates what the costs per property would be and what the increase cost of taxes would be if they were annexed. There will be a public hearing at the next City Commission meeting on the Glenn Addition.
- Steve Caldwell stated that he would like to commend the City Manager for his success in generating \$125,000 for the Livingston Floodplain Study. He also commented that the City of Livingston should increase its grant funding.
- Steve Caldwell also asked what the status was for the Railroad Crossing Study. Steve Golnar stated that it was undetermined as of next year because it is incorporated into the Transportation bill, which won't be presented until January 5, 2005.
- Steve Caldwell also mentioned that the Legislators meeting scheduled for December 7, 2004 is being cancelled and wanted to know if another date had been determined. Steve Golnar stated that Pat Wagman had been out of town and that he was waiting to talk with him to determine a date as he is our local legislator. It was determined to tentatively schedule a legislator meeting on December 15, 2004 at 5:00 p.m.
- Bob Ebinger commented that Senator Max Baucus' office for spending bills included in the Bozeman Projects and stated that Livingston is a separate City from Bozeman.
- Vicki Blakeman asked if the Agenda for the City/County meeting attached to the letter was different from the one that the Commission had received prior. Steve Golnar stated that it was the same that he attached a copy to the letter for their information.

Commissioner Horiel had no comments.

Commissioner Ebinger Comments:

- He asked about the Loaves and Fishes determination of helping with paying for their garbage was not going to be determined until next year but would like to have a follow-up letter sent to them to let them know that they have not been forgotten.
- He asked about the first meeting in January being on the 3rd and wanted to know if it could be moved on Tuesday. Bruce Becker stated that he believes that it is State law that new elected officials have to be sworn in on the first Monday of the New Year but he will get back to the Commission.
- He mentioned that the City help support the 2004 Montana Film Center Film Rendezvous and had some material to share with

everyone and wanted to state that it went really well and all participants commented that it went well.

Commissioner Beebe had no comments.

Commissioner Caldwell Comments:

- He wanted to know what the status was of the discussions about the Water Treatment Plant with Paoli and Brown. Steve Golnar stated that Paoli and Brown had requested to move the discussions to January as they have some conflicts in December with their legal schedule. Mr. Golnar also stated that he has been in contact with Mr. Rypkama and he is in the process of looking for the Attorney's contact information.
- He also wanted to know what the schedule was for the Design and Review Standards with the County Planning Office. Jim Woodhull stated that the City is waiting for the County to finalize.
- He asked if an item could be added to the City/County Meeting agenda to discuss and update as to where the County Commission is on their adoption of their design standards and that he believes that the deadline for this was December 16th, 2004.

Chairman, Blakeman had no comments.

Public Comments:

Jim Hunt thanked the City Commission for post-poning the Solid Waste meeting on December 8th with the County. Mr. Hunt also requested that an Acronyms list be provided with the agenda so that the public would know what the abbreviations meant.

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

The time was 9:21 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION
SPECIAL MEETING
December 13, 2004
6:30 p.m.

The Livingston City Commission had a special meeting on Monday, December 13, 2004 at 6:30 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 Bob Ebinger, Steve Caldwell and Mary Beebe. Vicki Blakeman and Frank Horiel were absent.

Motion was made by Caldwell, second by Beebe, to convene the meeting and continue it on Tuesday, December 14, 2004 at 7:00 p.m.

All in favor, Motion passed.

Frank Horiel showed up at 6:32 p.m.

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

The time was 6:33 p.m.

ATTEST:

APPROVED:

Bruce Becker
CITY ATTORNEY

Robert Ebinger
VICE CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION
SPECIAL MEETING
CONTINUED
December 14, 2004
7:00 p.m.

The Livingston City Commission had a special meeting continued from December 13, 2004 on Tuesday, December 14, 2004 at 7:00 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. Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell, Frank Horiel and Bob Ebinger.

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, definitive and clear in his communications with the City Commission both written and verbal. He was requested to anticipate and be proactive in responding to legal issues which might face the City. Focus and prioritization of key legal concerns was requested. The majority of the City Commission noted that the City Attorney's work load is significant. 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 8:00 p.m.

The City Manager's evaluation began at 8:07 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.

The meeting went into open session at 9:34 p.m.

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

The time was 9:35 p.m.

ATTEST:

APPROVED:

Bruce Becker
CITY ATTORNEY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION

LIVINGSTON
CITY COMMISSION MEETING
December 20, 2004
7:30 P.M.

The Livingston City Commission met in regular session on Monday, December 20, 2004 in the Community Room in the City/County Complex.

Commissioners present were Mary Beebe, Vicki Blakeman, Bob Ebinger and Steve Caldwell. Frank Horiel showed up at 7:50 p.m.

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

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

- A. Approve December 6, 2004 Regular City Commission Meeting Minutes.
- B. Approve December 13, 2004 Special City Commission Meeting Minutes.
- C. Approve December 14, 2004 Special City Commission Meeting Continued Minutes.
- D. Approve Bills and Claims for 1st half of December 2004.
- E. Department Heads Monthly Reports and Other Minutes.

Bob Ebinger asked about the claim from Stafford Animal Shelter and wondered if this was higher than normal. Shirley Ewan stated that it was normal.

Bob Ebinger asked about the claim from Wispwest.Net and wanted to know if this was for four (4) different locations. Shirley Ewan concurred.

Bob Ebinger also commented about the 367 parking tickets issued and stated that the City Commission needs to look into the parking situation in our downtown area.

Mr. Ebinger also commented the water revenues if this was normal. Clint Tinsley stated that the City had a wet summer so there wasn't as much water usage as normal.

Mary Beebe commented about the minutes on page 5 in stating that "Mr. Tinsley also stated that the sewer lines in the City of Livingston are very old and need to be replaced because of the claims against them" and was curious if this could be changed to read: "damage claims due to sewage backup" instead.

Steve Caldwell asked about the special meeting minutes on page 11 and commented to strike out the first motion and have the second motion to read: "Motion was made by Caldwell, second by Beebe, to adjourn the meeting and continue it on Tuesday, December 14, 2004 at 7:00 p.m. there being no further business. Motion passed."

All in favor of consent items, Motion passed.

Public Hearings:

A public hearing was held on Resolution No. 3561 – **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 AND BEING FURTHER DESCRIBED AS THE GLENN ADDITION WHICH IS DESCRIBED AS LOTS A THROUGH K OF PLAT #77, RECORDS OF PARK COUNTY.**

Robert Harper of 7 Shannon Drive made comment and stated at the end the Glenn Addition the City water services his house and so far there is no City sewer in the majority of the Glenn Addition. He stated that he feels that the City should delay this annexation until the County determines their intent for the donut area.

Jerry LaValley of the Glenn Addition commented that two (2) people are hooked up to the City sewer. Mr. LaValley also stated that the residents in the Glenn Addition do not protest this annexation and commented that he told all of the residents that if they decided to protest this annexation to come to the meeting tonight. No one other than Mr. LaValley from the Glenn Addition came to the meeting.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3561.

4 in favor, Beebe, Blakeman, Ebinger and Caldwell; 1 absent; Horiel, Motion passed.

Resolutions:

Motion was made by Ebinger, second by Caldwell, to approve Resolution No. 3584 with an additional Memorandum of Understanding with the Depot Foundation and the revisions as stated by the City Manager. – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MODIFICATION NO. 1 (Community Transportation Enhancement Program) CTEP PROJECT SPECIFIC AGREEMENT – DEPOT RESTORATION.**

Steve Golnar identified that the total cost of this project won't be determined until the bids are received from the contractors for construction of this

project. His concern to this project is that the amount that was budgeted for this project is \$45,443 and that the remainder of engineering costs of \$47,000 will be covered by the Depot Foundation. His suggestions were to leave the amounts in and insert in the Modification No. Section 12 to read: "That the Council will be responsible for \$504,394 (\$21,807 in local matching funds and \$482,587 in additional local and other funds) and Federal CTEP participation will be \$140,693 of the estimated total project cost of \$645,087. The Council will be responsible for 100% of the project costs exceeding the proposed \$645,087, required to complete the work described above."

Bob Ebinger was concerned of the statement that the Council will be responsible for 100% of the project costs.

Steve Golnar stated that they are tying the agreement to the City as the signature on the agreement.

Frank Horiel arrived at 7:50 p.m.

All in favor, Motion passed.

A Memorandum of Understanding with the Depot Foundation relating to this project will be provided at the next meeting for their approval.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3592 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.**

All in favor, Motion passed.

Motion was made by Caldwell, second by Ebinger, to approve Resolution No. 3593 with revisions. – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH PRINTINGFORLESS.COM CONTINGENT UPON SALE OF SPECIAL IMPROVEMENT DISTRICT BONDS.**

Steve Caldwell mentioned that the 3rd whereas in the Resolution and in the reimbursement agreement in the number D (Whereas) there was a transposition error and that the amount should be \$96,740.00 instead of \$97,640.00.

All in favor, Motion passed.

Motion was made by Caldwell, second by Horiel, to approve Resolution No. 3594 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CHAIRMAN OF THE LIVINGSTON CITY COMMISSION TO SIGN QUIT CLAIM DEED TO HAROLD FICK FOR LOTS**

12-A OF AMENDED PLAT #_____. Note: Plat No. will not be established until recorded in the Clerk and Records Office.

All in favor, Motion passed.

Steve Golnar asked where the Commission would like to apply this money to in the budget.

The Commission concurred to apply 100% of the money into the Open Spaces and Easements Land Acquisition fund.

Motion was made by Ebinger, second by Horiel, to apply Harold Fick Quit Claim Deed funds for Lots 12-A to Open Spaces and Easements Land Acquisition fund.

All in favor, Motion passed.

The next item on the agenda was Resolution No. 3595 as stated below. Vicki Blakeman recused herself from voting on this Resolution, as she is an employee for PrintingForLess.com and handed the gavel to Bob Ebinger, Vice Chairman.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3595 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN ENGINEERING AGREEMENT WITH CTA NELSON ENGINEERING FOR PRINTINGFORLESS.COM WATER AND SEWER MAIN EXTENSIONS ALONG HIGHWAY 10 FROM EXISTING WATER AND SEWER MAINS NEAR JEFFERSON STREET TO THE PRINTINGFORLESS.COM PROPERTY IN THE AMOUNT OF \$96,740.00.**

4 in favor; Beebe, Horiel, Ebinger and Caldwell, 1 abstained; Blakeman, Motion passed.

Motion was made by Caldwell, second by Beebe, to approve Resolution No. 3596 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING 'SOLE SOURCE' METHOD OF PURCHASING ITEMS FOR THE PURPOSE OF ACQUIRING SENSUS WATER METER SYSTEM AND EQUIPMENT.**

Steve Caldwell indicated the Resolution stated that the City has already purchased from Dana Kepner and was wondering if the Commission should validate the purchase.

Bruce Becker commented that he had contacted Dana Kepner to verify that they are the "Sole Source" distributors in Montana and surrounding areas.

Steve Caldwell also commented that in the Resolution he understands the MCA 18-4-306 that the City necessarily doesn't have to purchase supplies or services in the State of Montana.

Bruce Becker stated that the City tries to purchase in the State of Montana but concurred that the whereas does identify that the City doesn't have to purchase within the State of Montana.

Clint Tinsley stated that Dana Kepner is the only "Sole Source" supplier to the City of Livingston in a four (4) State region.

All in favor, Motion passed.

Action Items:

A discussion was held to direct Staff and City Attorney to review December 16, 2004 actions by Park County Commission relating to Settlement Agreement with Park County, Greater Yellowstone Coalition and Park County Environmental Council, Inc. regarding East End Zoning and determine the City's position on any possible time extensions for deadlines identified in the Settlement Agreement.

Steve Golnar provided a letter in an addendum to the Commission on the summary analysis of actions taken by Park County Commission relating to adoption of County Growth Policy on December 16, 2004.

Mr. Golnar summarized by stating that there was a meeting on December 16, 2004 by Park County to adopt the County Growth Policy and the proposed plan which they adopted was included in the packet and the sections that were amended and stricken by the County was provided by email.

Mr. Golnar read the memo out loud for the public and is provided by the following:

Re: Summary Analysis of Actions Taken by Park County Commission
Relating to Adoption of County Growth Policy on December 16, 2004.

After reviewing the current status of the County Growth Policy concerning its compliance with the Settlement Agreement entered into between the City, County, Greater Yellowstone Coalition of Park County and Park County Environmental Council, I have come to following conclusion:

1. A Growth Policy in its entirety was not adopted on December 16, 2004.
2. Time Lines in the Settlement Agreement were not met.
3. Deadlines would need to be extended in the Settlement Agreement in order to proceed.

4. More than one deadline needs to be adjusted and City Staff uniformly questions if January 31, 2005 is enough time to extend the Growth Management Plan adoption deadline.
5. The adoption of language which states: "the City of Livingston shall not have any input in the matters of County Planning", is in violation of the City/County Interlocal Agreement in a governmental cooperation adopted by Resolution No. 784 of the County and Resolution No. 3340 of the City of Livingston and executed by both parties. The statement is also contrary to State Law Governing Growth Policies.

Comments:

It is our assumption that the current Comprehensive Plan for the Donut Area would continue to apply in the Donut Area in the absence of an adopted Growth Management Plan.

Options for City Response:

1. Extend the agreement - Give extensions to the date - The only thing that has been specifically requested is to defer the following significant sections until January 31, 2005:
 - a. Goals, Objectives and Implementation Measures,
 - b. Coordination with Other Jurisdictions,
 - c. Infrastructure Strategy,
 - d. Subdivision Review Criteria and Hearing Procedures,
 - e. Implementation Strategy, and,
 - f. Summary of Existing Characteristics and Projected Trends until January 31, 2005.
2. Litigate - The City could move that the Court set aside the Settlement Agreement and proceed with litigation (The City Attorney suggests that this could be pursued unilaterally by the City.) The City Attorney and City Planner still feel that the City would prevail on the issues if they were decided in court.
3. Dismiss the City's involvement in this Lawsuit - The remaining parties would still be involved in this lawsuit unless they decide to withdraw their participation. The issues which created the need for the City to enter into the lawsuit in the first place which involved the unilateral rezoning of approximately 300 acres of agriculturally zoned land to commercially zoned land by the County might go unchecked by the public and the City which is the entity most affected by such unilateral actions by the adjoining governmental entity the County.

NOTE: Montana State Statutes require that a County Growth Policy shall be adopted by October 1, 2006.

It's my suggestion that if the City decides to extend the deadline associated with adopting a Growth Management Policy, that a longer deadline than January 31, 2005 should be allowed for the adoption of a Growth Policy.

Bruce Becker stated that he didn't have anything to add and felt that the summary that Mr. Golnar did was correct.

Steve Caldwell stated that he feels that he has no idea where the County is going with this. That there is an Interlocal Agreement between the City and County and a process that the County has not validated. He concluded that he would like to request from the County some kind of detail as far as where they are going with this.

Bob Ebinger commented that he was in attendance of the December 16, 2004 meeting with Park County at the Fairgrounds and agreed to taking some time in order to go over the Growth Policy document with the County without any haste involved and work in good faith. After evaluating this he feels that a process has been completely broke down and doesn't agree with anything that happened on December 16, 2004. He stated that there was eight (8) months of hard working participants that development the plan and the process was thrown out in less than a day and a half and he feels that this was a disgrace of service to this group. He wants to work as a City and a County together to development this Growth Policy.

Frank Horiel stated that he was against time extensions for the sheer fact that the first paragraph of the Growth Policy states: "The growth policy is not regulatory, but it may set direction for revisions to existing regulations or for developing new regulations. Before any new regulation or change in existing regulations could be enacted, the county would need to submit the proposed regulations to the public for review and comment, as required by state law." Mr. Horiel stated that this is a working progress and that the time has come to move forward. There is still ample time and opportunity to voice our concerns and to be involved in this process. He encourages all citizens to raise their voice and be heard but speak in the time that is available to move in a working fashion and in a process that exists and protected by law and encouraged by clear thought. He went on to state that he would like to recognize and applaud the participation of the concerned citizens of Park County and recognize the efforts of the Donut Task Force (volunteers at their best). He suggests that the concerned citizens voice their concerns early in the process to avoid derailment of months of hard work in the eleventh hour and to bring their input in a more constructive and beneficial manner rather than afterwards. He finds the selective cooperation and willingness to work with the City both amusing and disappointing. When he reads on the first page an Introductory to the revised Growth Policy, "The City of Livingston shall not have any input in the matter of the County Planning"; it begs him to question, "So when do the concerned citizens of Park County want the City and County to work together? Only when it suits their needs as it does to Solid Waste Disposal." I would hope that this

cooperation would be carried across the board and desired of all matters that effect citizens of Park County. The City must have input into the planning of the Donut area.

Mary Beebe stated that the Refuse District situation was really important because there is a lot of discussion in the community for the City to join forces with the County and doing a study may help pay for that audit. Her concern is that citizens read that the City will not have input in the planning of the County Growth Policy that the citizens think that the City isn't acting in good faith. What if after three years of working together on the refuse decision we have a group come in at the end and says they weren't given enough time? She concluded by stating that she really doesn't know how to feel about extending the deadline for the Growth Policy.

Steve Golnar commented that the deadline according to the Settlement Agreement relating to the Growth Policy by the County is December 16, 2004 and that date has come and gone. He understands that the parties involved may want to extend the agreement until January 31, 2005.

Bob Ebinger stated that he feels that this isn't enough time and suggests September 30, 2005 as the deadline date.

Vicki Blakeman asked if it is up to the Commission to request an extension.

Bruce Becker commented that the City isn't the one in default. The County has not met the deadline. He questions whether the extension of January 31, 2005 is enough time. He suggested that the City send a letter to the County to ask them what they want.

Steve Caldwell stated that he isn't concerned about the deadline of the extension that he doesn't want to explicitly or inexplicitly inhibit public comment on this. He wants this done in an orderly fashion and doesn't want the public comments that was gathered and orally weighed over an eight (8) month period to be thrown out. He feels that the County Commission failed the public trust in the way that they handled the December 16, 2004 meeting.

Frank Horiel asked if it is necessary to extend that the agreement states that it is opened to be changed and wanted to know if the County was in contempt.

Bruce Becker stated that the County is in violation of the Settlement Agreement with the parties involved in that the plan was not accepted by December 16, 2004 as a Growth Policy.

Motion was made by Caldwell, second by Ebinger, to direct City Attorney to request from Park County Attorney an indication on how they want to

proceed with the responsibility of the City with respect to the development and approval and adoption of the Growth Policy.

Bob Moore made comments about the meeting on December 16, 2004 and stated that he feels that the City and the County can work together on this.

Herb Beatle commented that the Settlement Agreement was for the Growth Policy and had to be completed by December 16, 2004 and he feels this meeting was advertised for public knowledge. He also commented that several citizens were confused about the issues and had a lot of questions at the meeting and wanted to know why the County Attorney wasn't present.

All in favor, Motion passed.

A discussion was held to review bids on Real Property owned by the City of Livingston adjacent to Block 3 of the Palace Addition to the City. No bids were received. This will be re-advertised. No action was taken at this time.

A discussion was held to authorize Lagoon Bridge Lighting Demonstration Project to be coordinated by "Catalyst".

Larry Raffety commented that he would like to thank the Commission for being put on the agenda. Mr. Raffety clarified that "Catalyst" is not a group and that it is an attempt to get something done to involve the Arts community and private funding in public infrastructure development.

Mr. Raffety stated that this idea of the Lagoon Bridge Lighting Demonstration project comes from the Urban Design Plan that Entranco developed. He stated what came out of this plan and important to this community is recognition of its heritage, recognition of our diversity is our built environment, recognition of our artists and what is attractive about the City of Livingston.

What "Catalyst" will do is identify potential permanent improvements within public space; attract private donors to support individuals projects; leverage other resources whenever possible; integrate artists and technical expertise to design, construct and install projects; offer certain projects as special subjects to selected Park High student teams; and, work within the support and approval of the City of Livingston, the School District and private donors.

Sally MacDonald of 1530 Mt. Baldy Drive stated that she agrees that Livingston has an increasable amount of talented, artistic, great people that are doing things for the City of Livingston and commented that one of her concerns about this project is the process itself. She would like what the process is for permitting a proposal to the Commission without a final design and her concerns are that the great leap of faith to say go ahead with this project to light the Lagoon Bridge. She feels that the public has the right to know what is going to be done to the Lagoon Bridge before the Commission votes on it.

Patricia Grabow of 204 East Callender stated that she had received several phone calls today that people thought that she was already on the City Commission expressing concerns about the process of the Lagoon Bridge that this is a public space and this project has not had any public comment. She asked the City Commission to consider tabling this tonight so that the public can have their input.

Frank Horiel asked how difficult it would be to have a sketched design available for the public review.

Larry Raffety stated that the design for the lighting of the Lagoon Bridge is on the website www.raffety.net/catalyst and is available at this time.

Lynn Weaver of 203 East Chinook Street commented that she thinks that it should be applauded that the City of Livingston has a citizen who wants to volunteer to enhance the looks of the City of Livingston. She asked does every decision in the City for a change to something on City grounds if this must be subject to the public for their review and asked if this was a matter of law or policy or it is a matter of tradition.

Bruce Becker stated that the Constitution of the State of Montana states that the public has a right to know and participate in significant decisions so the issue is if this is a significant decision.

The Commission commented in comparison was the Japanese Gardens a significant decision. Vicki Blakeman stated that this is more like public art.

Alfred MacDonald who lives right next to the bridge asked if these lights were going to be bright and with the kids being down at the bridge feels that this would be a safety issue.

Bob Ebinger asked Larry Raffety if time was a factor in getting this project together in order for the public to get involved.

Larry Raffety stated that if this is delayed before the next semester of Park High School then it will go into another year and in order to create funding for this project he needs to move forward now.

The Commission asked Larry Raffety if he would have a work in progress exhibit for the public with the Park High School students. Mr. Raffety stated that this is part of the student's process of the project in doing the work.

Motion was made by Caldwell, second by Horiel, to authorize Lagoon Bridge Lighting Demonstration Project to be coordinated by "Catalyst".

All in favor, Motion passed.

A discussion was held to approve proposed revision to Alliance Development Corporation Scope of Work. This was provided in an addendum.

Motion was made by Caldwell, second by Beebe, to approve proposed revision to Alliance Development Corporation Scope of Work.

All in favor, Motion passed.

A discussion was held to increase Ken Kastelitz contract for Summerfest Assistance in the amount of \$387.50 for FY 2004-05.

Motion was made by Ebinger, second by Caldwell, to increase Ken Kastelitz contract for Summerfest Assistance in the amount of \$387.50 for FY 2004-05.

All in favor, Motion passed.

A discussion was held to authorize contract and booking deposit in the amounts of \$1,000 to Rob Quist and the Great Northern Band.

Motion was made by Ebinger, second by Caldwell, to authorize contract and booking deposit in the amounts of \$1,000 to Rob Quist and the Great Northern Band.

All in favor, Motion passed.

A discussion was held to authorize preparation of Lease Agreement for installation of AIRTEL Wireless Building and fence on Fish Hill and notify abutting property owners.

Bob Ebinger voiced his concerns about the height of the building and antenna of the building proposed and whether lights would be on them.

Motion was made by Caldwell, second by Ebinger, to authorize preparation of Lease Agreement for installation of AIRTEL Wireless and fence on Fish Hill and notify abutting property owners and bring back to the City Commission with Staff recommendations at their January 18, 2005.

All in favor, Motion passed.

A discussion was held to discuss Generator repair and replacement options for City/County Building and methods of financing.

Motion was made by Ebinger, second by Caldwell, to defer any action on the Generator repair and replacement options for the City/County Building until January 18, 2005 City Commission meeting.

No action was taken.

Motion was made by Ebinger, second by Caldwell, to approve Generator replacement for the City/County Building and methods of financing.

All in favor, Motion passed.

The City Manager's written comments were reviewed.

- Frank Horiel asked about the Old Water Treatment Building Lease status and mentioned to the Commission that it is in very good faith of negotiations and the City will not have to give away the house.
- Bob Ebinger commented about the letter to Mr. Indendi relating to the waiver of the Civic Center for the rental fee for the annual Christmas Dinner and the letter to Mr. Hughes relating to his Eagle Scout project. He liked the tone of the letter to Mr. Hughes and encouraged the use of a more friendly tone in future communications.
- Mary Beebe commented about the letter to Martie Claar concerning the Loaves and Fishes request for waiver of monthly garbage bill by City and stated that Loaves and Fishes runs on nothing but outside donations and she was hoping that the City might offer a little bit more and suggest how they could reduce their garbage expense in ways of recycling and encourage them to participate. She suggested that the City and Loaves and Fishes involve themselves in a pilot project relating to garbage disposal.
- Steve Caldwell stated that it was a little bit discouraging that the Livingston Flood Damage Reduction Study ranked number 48 in the Department of Natural Resources and would like to see some opportunity to bring this up in the ranking.
- Steve Caldwell would like to see the Government Study Commission set in on the Commission Orientation Session for the Roberts Rules or Order Training.

Commissioner Horiel Comments:

- He made his departing comments to his fellow Commissioners. He thanked his fellow Commissioners for appointing him to the open seat and giving him the opportunity to serve. He stated that it has been interesting and challenging as well as eye opening. He appreciates the great Staff of the City. He thanked the City Manager for his time and efforts. He also volunteered his continued service for Soccer Field, Infrastructure and Sister Cities Committee's. He wished everyone Happy Holidays.

Commissioner Ebinger Comments:

- He mentioned that the hospital has requested that "hospital use" be allowed in RII zoning as a special exception, so that this would keep them from needing to upgrade to higher zoning classification.

Commissioner Beebe Comments:

- She thanked Frank Horiel for being on the Commission and stated that he will be missed.

Commissioner Caldwell Comments:

- He thanked Mr. Horiel for his service and wished everyone Happy Holidays.

Chairman, Blakeman Comments:

- She echoed everyone's comments in thanking Frank for his service and that it has been a pleasure working with him.
- She stated that she had a request from the Spay/Neutered Task Force that they would like to have a letter on how their Spay and Neutered Clinic's have impacted the community.

Paula Clawson made comment that she knows that Loaves and Fishes is joining with the Grizzly Center on Jackson Creek Road in taking their garbage.

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

The time was 10:17 p.m.

ATTEST:

APPROVED:

Pam Payovich
RECORDING SECRETARY

Vicki Blakeman
CHAIRMAN, CITY COMMISSION