

LIVINGSTON  
CITY COMMISSION MEETING  
January 2, 2007  
(Tuesday)  
7:30 P.M.

The Livingston City Commission met in regular session on Tuesday, January 2, 2007 due to the holiday on Monday, January 1, 2007 in the Community Room of the City/County Complex.

Pam Payovich, Recording Secretary, gave the oath of office to the new appointed Commissioner, Rick VanAken.

Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell, Patricia Grabow and Rick VanAken.

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

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

- A. Approve December 18, 2006 regular City Commission meeting minutes.
- B. Accept bills and claims for 2<sup>nd</sup> half of December 2006.

All in favor, Motion passed.

Meeting was adjourned at 7:33 p.m. for a brief reception.

The meeting went back into session at 7:45 p.m.

Motion was made by Blakeman, second by Beebe, to nominate Steve Caldwell as Chairman of the Commission.

All in favor of Steve Caldwell as Chairman, Motion passed.

Motion was made by Beebe, second by VanAken, to nominate Vicki Blakeman as Vice Chairman of the Commission.

Motion was made by Grabow to nominate Mary Beebe as Vice Chairman, no second.

All in favor of Vicki Blakeman as Vice Chairman, Motion passed.

A review of committee vacancies and nominations for committee appointments were discussed.

The City Staff will advertise vacancies for the City Tree Board, the Urban Renewal Authority and the Historic Preservation Commission.

Grabow volunteered to be on the City Tree Board.

Blakeman volunteered for the Livingston Urban Transportation Committee (Transportation Coordinating Committee).

VanAken volunteered for the City/County Maintenance Committee.

VanAken volunteered for the Sister City Committee.

Chairman Caldwell nominated Grabow to be on the City Tree Board and nominated VanAken to be on the City/County Maintenance Committee.

Motion was made by Grabow, second by Blakeman, to accept Chairman Caldwell's nominations.

All in favor, Motion passed.

Motion was made by Grabow, second by Beebe, to appoint Blakeman to be on the Livingston Urban Transportation Committee.

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to appoint VanAken to be on the Sister City Committee.

All in favor, Motion passed.

Scheduled Public Comment:

Jeannette Romig of 418 South 9<sup>th</sup> Street, a wetland scientist, made comment. She stated the interest of several citizens in the potential development of a citizen initiated riparian wetland setback ordinance -- in the form of a zoning overlay for new and existing development within the City of Livingston. This would help in providing protection to the Yellowstone River, and species that live around the River. She also asked the Commission to schedule a work session to help originate this Ordinance.

Blakeman asked what the proper procedure would be to initiate this kind of Ordinance.

Jim Woodhull, City Planner commented that the Zoning Commission would develop the Ordinance for the design overlay, and then recommend to the City Commission for their approval.



Mr. Meece requested that before the Commission schedule a work session, perhaps City Staff should meet with these citizens and develop an outline of the process before scheduling a work session.

Bob Zimmer of 119 South "H" Street made comment supporting what Ms. Romig suggested to the Commission.

The Commission concurred in having these citizens contact the City Manager and set a meeting in order to pursue the process.

Public Hearings:

A public hearing was held for the second reading of Resolution No. 3816 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING LICENSE FEES AND OTHER FEES PURSUANT TO THE ANIMAL CONTROL ORDINANCE.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3816.

All in favor, Motion passed.

A public hearing was held for the second reading of Resolution No. 3817 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING VEHICLE TOWING AND STORAGE FEES.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3817.

All in favor, Motion passed.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3808 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING LETTER OF CREDIT TO FINISH CONDITIONS ON PRELIMINARY PLAT APPROVAL FOR EAGLE LANDING CONDOMINIUM SUBDIVISION.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3818 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, NAMING THE "MOJO CAMPBELL DOG PARK".**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3819 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AGREEMENT WITH 49er CASINO, INC. TO CATER ALCOHOLIC BEVERAGES FOR SUMMERFEST.**

All in favor, Motion passed.

Action Items:

A discussion was held to review the proposal to lease or sell a portion of the Old East Side School.

Blakeman commented that the County has expressed interest in a portion of the Old East Side School and wanted to make sure that the City keeps them in mind for the use of the School.

Caldwell commented that a local Law Firm has also expressed interest in a portion of the Old East Side School.

Mr. Meece stated that he has met with Mr. Hurley and asked him to provide an idea of what kind of space the County needs at the East Side School, and not received any response.

Grabow stated that if other parties would be interested in leasing and/or buying a portion of the Old East Side School then the City wouldn't be left with all of the upkeep of the School. She feels that turning a portion of the Old East Side School into private condominiums is a good way to share the cost of renovating the building.

Caldwell stated that the City Staff did a cost analysis of the Old East Side School awhile back, and wondered if the Commission could get those figures updated.

Duncan Edwards, Building Official, said that he would ask the contractor's to update their costs and bring that data to the City Commission. Mr. Edwards also mentioned that it might be more effective if City Staff re-configured the floor plans before asking the contractors to update their figures. Mr. Edwards also stated, the City needs to do something soon, as the building does not have any heat or air; and all of the upgraded work would have to be redone if not attended to within the next 18 months.

The Commission concurred to have City Staff revise the floor plan and revise the cost estimates.

A discussion was held to review the revised "Draft" Rules of Conduct for the Livingston City Commission.

Mr. Meece commented that several meetings ago staff brought a draft for the Rules of Conduct, at the Commission's request. As a result of that conversation, it was decided that the City Commission would provide additional comments to the City Attorney for incorporation into the document.

Grabow stated that she is not in favor of having "Rules of Conduct" for the City Commission, and feels that this would divide the Commission rather than heal. She also commented that she did make suggestions to the City Attorney on the draft document and her suggestions were not taken into consideration. She thinks at this point the document would be better to have at a later date, and it is unconstitutional unsound as it does not allow for freedom of speech.

Mr. Meece stated this document is a working tool for the City Commission and it is not City Staff's place to weigh in on how the Commission governs themselves.

Caldwell stated that this document is a policy not legislation.

Beebe commented that almost every job has ethical standards. She feels that this document would provide a reference for the City Commission.

Motion was made by Blakeman, second by Beebe, to approve the "Rules of Conduct" for the Livingston City Commission.

VanAken commented that he is not comfortable voting on something that he hasn't prepared himself for. He commented he does believe that the City Commission should have rules of conduct for themselves.

Motion was made by Blakeman, second by Beebe, to direct the City Attorney to bring back a Resolution adopting the "Rules of Conduct" with revisions.

Grabow stated that she doesn't feel that the Commission has had enough time to make suggestions and that the "Rules of Conduct" are not ready to be brought back adopted by a Resolution.

Caldwell suggested that changes to the draft be made tonight and then brought back adopted by a Resolution at the next City Commission meeting.

It was requested of the Commission after much discussion to have the City Attorney define what ex-parte and quasi-judicial means in Rule No. 2.5 and to put it under its own sub-section.

Motion was made by Grabow to delete Rule No. 3.2, no second. Motion died.

Motion was made by Grabow to adopt her suggested recommendations to the "Rules of Conduct", no second. Motion died.

Motion was made by Grabow to delete Policy No. 4, no second. Motion died.

Motion was made by Grabow to delete Rule No. 4.4, no second. Motion died.

Mr. Meece made comment about the enforcement section of the "Rules of Conduct" and suggested some changes.

3 in favor; Blakeman, Beebe and Caldwell, 1 abstained; VanAken, and 1 against; Motion passed to direct City Attorney to bring back a Resolution adopting the "Rules of Conduct" as revised.

The City Manager had no written comments to review.

Commissioner Grabow Comments:

- She mentioned that the Bio-Diesel Work Shop is going to be held on January 9, 2007 at the Best Western Motel starting 8:30 a.m. She commented that the Western Transportation Institute at the Montana State University is trying to put together a workshop during the week of January 15, 2007 with the Yellowstone Park representatives and others for Clean Transportation around the State.
- She wanted to know if they had ever announced Main Street. Mr. Meece stated that there has not been any formal announcement.
- She asked if the Hospital has made a decision as to where they will be located. Mr. Meece stated they haven't made a final decision as to where they will be located.
- She asked if the City had heard about the grant yet for the trail at Discovery Vista.

Commissioner VanAken Comments:

- He mentioned that any time that Mr. Meece was going to go to Helena he would be happy to go with him as he knows several people in the legislature.
- He read a legal article that was in the paper on Thursday of last week.

Commissioner Beebe Comments:

- She mentioned that she is pleased to have people concerned about the setbacks to protect the Yellowstone River with an overlay district.
- She wanted to know if there has been any thought about reviving the self-governing powers.
- She stated that the building at Mayor's Landing is on the edge above Freshman Creek and it appears dirt from the foundation has been dumped into the creek. She noted that she and several others have contacted DEQ and she is concerned that no remediation is occurring. She also suggested that in the future the Commission view annexation as a benefit rather than an obligation and wishes the Commission had been assertive in requesting concession for setbacks and other health and safety concerns before approving annexation of the already platted property across from Major's Landing.

Commissioner Blakeman Comments:

- She mentioned that the Rural Conservation & Development (RC&D) is having their annual meeting on January 8, 2007 at the Yellowstone Inn at 7:00 p.m.
- She mentioned that she had heard that maybe the glass pulverizer wasn't so hopelessly lost as we anticipated. Mr. Meece stated that he had received a letter today giving him a date and time as to when he could testify with the legislative committee that makes final decisions as part of that process.
- She commented that she will not be at the next meeting. Bruce Becker mentioned since she was not going to be here that maybe the Commission would like to wait until the first meeting in February for the "Rules of Conduct" to be brought back. It was determined that they will be reviewed at the next meeting.
- She asked about the Request for Qualifications (RFQ) on the last page of the packets and wondered if this was the same as a Request for Proposals (RFP). Bruce Becker stated that when you hire a professional engineer, land surveyor, architect, or professional services the City has to go out for a RFQ and then based on their qualifications the City selects who is the most qualified to do the project.

Chairman Caldwell Comments:

- He commented that in the past the City Manager has had orientation for new Commissioners and was wondering if there was anything scheduled for Mr. VanAken. Mr. Meece stated that he has discussed with Mr. VanAken as to when they can meet and has given him several manuals to read.

No public comments were given.

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

The time was 9:55 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
January 16, 2007  
(Tuesday)  
7:30 P.M.

The Livingston City Commission met in regular session on Tuesday, January 16, 2007 due to the holiday on Monday, January 15, 2007 in the Community Room of the City/County Complex.

Commissioners present were Mary Beebe, Patricia Grabow, Rick VanAken and Steve Caldwell. Vicki Blakeman was absent.

Staff members present were Bruce Becker, Ed Meece, Darren Raney, Jim Woodhull, Jim Mastin and Pam Payovich. Shirley Ewan, Clint Tinsley, Duncan Edwards and Peggy Glass were absent.

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

- A. Approve January 2, 2007 (Tuesday) regular City Commission meeting minutes.
- B. Accept bills and claims for 1<sup>st</sup> half of January 2007 and 2006.
- C. Department heads monthly reports and other committee minutes.
- D. Approve special event request for the "Farmers Market" to be held every Wednesday from June 6, 2007 through September 26, 2007 at Miles Park and the Bandshell from the Corporation of the Northern Rockies.
- E. Approve special event request for the "Holiday Farmers Market" to be held on December 1, 2007 at the Civic Center from the Corporation of the Northern Rockies.
- F. Approve special event request for the "Sustainability Fair" to be held on July 13, 2007 through July 14, 2007 at Miles Park, Bandshell and the Civic Center from the Corporation of the Northern Rockies.

Commissioner Grabow requested that consent items D, E & F be removed from the original motion for the consent items and consider them separately. No second is required.

All in favor of consent items A, B & C, Motion passed.

Grabow stated that in light of what happened last Summer, regarding the scheduling conflicts with the bandshell, an undue burden was placed on the Corporation for the Northern Rockies. The bandshell and the Park is under the ownership of the City, and the Farmer's Market was placed in the awkward position of negotiating with others who wanted to use it. Ms. Grabow suggested that the City Staff research how other communities handles these kinds of situations.

Beebe commented that the City made a commitment to the Corporation for the Northern Rockies, and to someone else at the same time. The Corporation for the Northern Rockies has to give some kind of reassurance to the vendors. She feels that this was the City's mistake and it does not need to be researched.

Mr. Meece commented that Ms. Beebe is correct in stating that the Concert conflict was created by City staff. The Administration's concern is the lack of any flexibility when such situations occur.

Caldwell asked if Staff would recommend a change in the conditions of the special event permits, or the way the City manages the conditions under existing permits. Mr. Meece stated that City staff would recommend a change to the conditions under which we issue the permits.

Beebe made motion to approve consent item D, no second, Motion failed.

Motion was made by Grabow, second by VanAken, to defer consent items D, E & F until Staff can come back to the Commission with some suggested changes in the conditions of the special event permits.

Lil Erickson, Executive Director of the Corporation for the Northern Rockies (CNR) made comment. She thanked the Commission for approving permits in the past for "Farmers Market", and stated only last year was there a conflict. Ms. Erickson stated that CNR worked very hard to be flexible regarding the Concert, and the Movie, to accommodate them. She mentioned that it is very difficult to market the "Farmers Market", and guarantee the vendors a certain place at a certain time. The vendors have to have several weeks ahead to get ready for the "Farmers Market". A delay would affect the "Farmers Market" and the "Sustainability Fair".

Motion was made by Beebe, second by VanAken, to approve consent item D.

Motion was made by Grabow, to defer consent item D only and approve items E & F.

3 in favor to defer consent item D only and approve items E & F; Grabow, Caldwell and VanAken, 1 against; Beebe, Motion passed.

Danielle Blank with the National Park Conservation Association made a scheduled comment, discussing the economic importance of Yellowstone National Park to the region. She also provided the Commission with a recent report that was completed on that subject. Ms. Blank, along with Tim Stevens, asked the Commission to renew their support for adequate levels of funding for the National Park System, through a resolution from the City of Livingston.

Motion was made by Grabow, second by Beebe, to bring back a Resolution at the next City Commission meeting supporting full funding of the National Park Service Annual operating budget and elimination of the park's maintenance backlog.

All in favor, Motion passed.

Action Items:

A discussion was held to approve the re-application for the CLG grant funds towards the Historic Preservation position.

Motion was made by Grabow, second by Beebe, to approve the application for the CLG grant funds towards the Historic Preservation position.

All in favor, Motion passed.

A discussion was held to review the proposed Subdivision Regulations. The Commission was provided with a copy of the proposed Subdivision Regulations after the last City Commission meeting for their review.

Motion was made by Grabow, second by VanAken, to direct the City Attorney to bring back a Resolution of Intent adopting the proposed Subdivision Regulations calling for a public hearing.

All in favor, Motion passed.

The City Manager's written comments reviewed:

- Mr. Meece updated the Commission that the City has received some correspondence from the Corp of Engineers for the Section 205 Study, which intends to return to the community upon satisfactory resolution of some pending financial issues; that is expected to be in late February.
- Mr. Meece updated the Commission about the progress on the Railroad Crossing Study. The City will be receiving updated information from the Engineers after January 20<sup>th</sup>.
- Mr. Meece stated that the City and County have continued negotiations about the Solid Waste issues. He expects to provide a draft proposal to both Commissions, before the next City/County meeting, addressing expanded cooperation on the city's collection of some county solid waste customers. The next City/County meeting will be February 6, 2007 at 4:00 p.m. in the County Commissioner Chambers.
- Mr. Meece stated that he received a phone call today from Commissioner Blakeman, requesting authorization to set on a panel discussing growth, being sponsored by the Livingston Weekly on February 4, 2007. The Commission gave their consensus.
- Mr. Meece updated the Commission with regards to the Legislative session.



- Grabow made comment about the civil war cannon. She mentioned in an article about high school students doing a heritage project. She thought that it would be a great idea if the students could do additional research with respect to the civil war cannon.
- VanAken commented about the vehicles on 6<sup>th</sup> and Chinook Street. He questioned what kind of fees would be collected for the removal of the vehicles. Bruce Becker stated that the Commission passed a Resolution last meeting for a \$75.00 fee per towing.
- Beebe asked if the City had any more authority about removing the vehicles on 6<sup>th</sup> and Chinook. Bruce Becker commented that the City has done everything that they can do, at this point.

Commission Blakeman was absent.

Commissioner Beebe had no comments.

Commissioner VanAken Comments:

- He mentioned the response that came from his interview about guardrails on the North side of town. He stated that residents on the North side of City do not expect this project to be done immediately.
- He stated that he had a very good orientation meeting with Mr. Meece.
- He commented that Bresnan is providing full-time coverage of the legislature on the "Public Access Channel" and was wondering if there is a way to get this channel in Livingston yet. Mr. Meece stated that he hasn't seen where Bresnan has made that available to residents of the City but he will check into it and see if it is available and get back to the Commission.

Commissioner Grabow Comments:

- She commented that she appreciated the National Park Conservation Association presentation. She would be willing to volunteer to lobby to get the additional funding for Yellowstone National Park.
- She stated that the Clean Cities Coalition has worked hard for the Bio-diesel Bus Line between Bozeman and Livingston. There are ways to find funding for this bus line and would like to explore ways to implement the bio-diesel buses in Livingston.

Chairman Caldwell Comments:

- He commented that he had received a call from Mr. Ted Wood, who does contract bridge and trails work, including for the Forest Service, and he stated that he had some left-over bridge components to donate to construct the bridge on "M" Street. Mr. Meece stated that he would contact him.

Public comments:

- Lil Erickson with the Corporation for the Northern Rockies stated that she was surprised of the process that was done earlier in the meeting for the special event request. She would like to have several vendors

speak on the matter, and if the Commission would reconsider their opinion after hearing what the vendors have to say.

- Jodi Allen Senior Staff member of the Corporation for the Northern Rockies and of 221 South 3<sup>rd</sup> mentioned that she has run the "Farmer's Market" for the past seven years. She stated that the vendors that were present at the meeting would like to let the Commission know that even waiting two weeks for a decision about the "Farmer's Market" would affect them.
- Julie Serafin of 162 Canyon View, Bozeman, Montana grows produce for the "Farmer's Market" and commented that the delay would create difficulty in knowing how many seeds to order (in case the "Farmer's Market" did not occur). The Livingston Farmer's Market is approximately 50% of her summer sales income.
- Pete Fay of 4297 Frontage Road, Bozeman, Montana commented that he has been doing "Farmer's Market's" for 25 years and his favorite farmer's market is in Livingston.
- Bill Frigley of Columbus, Montana made comment about the Livingston "Farmer's Market" being fantastic. He sits on the Board of Directors for the Holiday Market in Billings, Montana. He mentioned that there are three or four vendors from Livingston that come to Billings for the "Farmer's Market". He said that 500 to 1000 people walk through the "Farmer's Market" within four hours. Doesn't the Corporation for the Northern Rockies have enough credit for four hours one day a week? He has to order his plants twelve weeks ahead of time for the market, and the plants will be here at the end of the month. He can't see why the Commission would want to hesitate not doing the "Farmer's Market" in Livingston. "This is a business not only for the vendors but for the customers".

Motion was made by Beebe, second by VanAken, to reconsider consent item #D and approve special event request for the "Farmer's Market".

VanAken commented that after hearing the vendors speak he is in full support of the "Farmer's Market". If the City is going to make changes in the permit process it should have been done months ago.

Grabow commented that she has heard what the vendors are saying and stated that it was never the intent to get the message across that Livingston was not in support of the "Farmer's Market". She is very supportive of the "Farmer's Market" and appreciates that the vendors have to order early. She just feels that at some point the City is going to have to deal with some kind of conflicts during the Summer leasing City property.

3 in favor; Beebe, Grabow and VanAken, 1 abstained; Caldwell, Motion passed.

Motion was made by Beebe, second by VanAken, to approve consent item #D.

3 in favor; Grabow, VanAken and Beebe, 1 abstained; Caldwell, Motion passed.

- Paul Hook of 215 South 7<sup>th</sup> Street made comment that several people have attended public meetings regarding flood and river issues in Livingston, and the City should be mindful of the existing mailing list with regard to these issues. Otherwise, it is hard to participate and keep informed. Also Mr. Hook stated that if the City creates a policy for the special event requests to keep in mind consistency for local constituents.
- Gladys Durden of 515 West Gallatin Street made comment.

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

The time was 9:18 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
February 5, 2007  
7:30 P.M.

The Livingston City Commission met in regular session on Monday, February 5, 2007. Commissioners present were Rick VanAken, Vicki Blakeman, Patricia Grabow, Mary Beebe and Steve Caldwell.

Staff members present were Bruce Becker, Ed Meece, Shirley Ewan, Darren Raney, Jim Woodhull, Jim Mastin, Peggy Glass and Pam Payovich.

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

- A. Approve January 16, 2007 (Tuesday) regular City Commission meeting minutes.
- B. Accept bills and claims for 2<sup>nd</sup> half of January 2007 and 2006.
- C. Approve recommendation from Public Works Director for the purchase of a new Dump Truck for Sewer Department from Motor Power Equipment Company. Direct City Attorney to bring back a Resolution authorizing City Manager to sign agreement with Motor Power Equipment for the 5 year lease purchase price of \$18,717.25 per year.
- D. Approve special event request for "The Patricia Coleman Foundation Run" from Scott Coleman to be held on May 26, 2007.
- E. Approve special event request for the "Military Show" to be held on June 16<sup>th</sup> & 17<sup>th</sup>, 2007 at the Civic Center from Leonard Thomar.

Motion was made by Grabow to pull consent items A & C. No second required.

All in favor of consent items B, D & E, Motion passed.

VanAken asked for clarification of some items in the minutes, and Caldwell explained what action was taken.

Motion was made by Blakeman, second by Beebe, to approve consent item A.

All in favor, Motion passed.

Grabow asked about consent item C: what the dump truck would be used for and was this item in the budget. Mr. Meece commented that this truck would be used for sludge removal from the wastewater system, and mentioned that it is in the budget.

Caldwell requested that staff research as to whether it is more cost effective to purchase the dump truck on a 5-year lease purchase price, or buy the truck for cash.

Motion was made by Blakeman, second by Beebe, to approve consent item C.

All in favor, Motion passed.

Scheduled Public Comment:

Bob Moore of 407 North 3<sup>rd</sup> Street made comment relating to the Leon Russell Concert that was held last Summer. Mr. Moore re-stated a history of the events that led up to the concert event. Mr. Moore stated that he had a loss of approximately \$1,600.00. He asked if the Commission would consider reimbursing him for the loss, by donating that exact sum of money to Park High School for their video production program.

No decisions were made by the Commission because it was not an action item on the agenda.

Motion was made by Grabow for the Commission to bring this back at a future meeting, for further discussion, VanAken seconded the motion.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1982 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1285, 1650 AND 1784, ADOPTING THE CITY OF LIVINGSTON, MONTANA, SUBDIVISION REGULATIONS BY REFERENCE.**

All in favor, Motion passed.

A public hearing will be held on March 5, 2007 at the City Commission meeting for Ordinance No. 1982.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1983 – **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. 1948 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE THE 2006 INTERNATIONAL RESIDENTIAL CODE CHAPTERS 1-10 (IRC); THE 2006 INTERNATIONAL BUILDING CODE (IBC); THE 2006 INTERNATIONAL MECHANICAL CODE – RESIDENTIAL ONLY (IMC); THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE (IECC); AND THE 2006 INTERNATIONAL EXISTING BUILDING CODE (IEBC).**

This Ordinance would comply with any new construction or any remodeling in which a building permit would be issued and would become effective approximately April 1, 2007.

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 at the City Commission meeting for Ordinance No. 1983.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3820 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2005-2006 AND CALLING FOR A PUBLIC HEARING THEREON.**

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 at the City Commission meeting for Resolution No. 3820.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3821 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, IN SUPPORT OF FULL FUNDING OF THE NATIONAL PARK SERVICE ANNUAL OPERATING BUDGET AND ELIMINATION OF PARK MAINTENANCE BACKLOG.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3822 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING ADDENDUM TO LEASE WITH LIVINGSTON GOLF AND COUNTRY CLUB.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3823 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISHING FEE SCHEDULE FOR BUILDING PERMITS.**

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 for Resolution No. 3823.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3824 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING POLICY AND PROCEDURE MANUAL FOR CITY EMPLOYEES.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3825 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACCEPTING OWNERSHIP "AT THE YELLOWSTONE"**

**STATUE OF SACAJAWEA AND POMPEY FROM THE GREAT BEND OF THE YELLOWSTONE LEWIS AND CLARK HERITAGE COMMISSION.**

All in favor, Motion passed.

Action Items:

A discussion was held regarding approval to proceed with a Request for Proposal (RFP) for "Solid Waste Hauling and Disposal".

At a Solid Waste Working Group Meeting, the City was informed that the County would raise the cost of city residents disposal of garbage at the landfill to \$60 per ton effective April 1<sup>st</sup>. The Administration would like to put out a RFP to solicit bids for "Solid Waste Hauling and Disposal" as an option.

Motion was made by Blakeman, second by Beebe, to proceed with a Request for Proposal (RFP) for Solid Waste Hauling and Disposal.

4 in favor; Caldwell, Beebe, VanAken and Blakeman, 1 against; Grabow, Motion passed.

A discussion was held to determine direction for the Sacajawea Statue Advisory Committee.

Mr. Meece stated that one of the concerns of the Yellowstone Lewis and Clark Heritage Commission was that on-going maintenance and repair of the statue be handled appropriately. The Administration will present a Resolution that establishes an Advisory Committee to help with the proper upkeep of the statue.

A discussion was held to appoint the City Tree Board members.

Motion was made by Blakeman, second by Beebe, to appoint Hillary Taylor, John Schuler and Dave Jensen to the City Tree Board.

All in favor, Motion passed.

A discussion was held to appoint the Urban Renewal Agency members.

Motion was made by Blakeman, second by VanAken, to appoint Eleanor Wend and Mike Spencer to the Urban Renewal Agency.

All in favor, Motion passed.

A discussion was held regarding directing Staff to re-advertise for the Historic Preservation Commission vacancy.

Motion was made by Blakeman, second by Beebe, to direct Staff to re-advertise for the Historic Preservation Commission vacancy.

All in favor, Motion passed.

A discussion was held to approve the Estep One-Lot Minor Subdivision.

Jim Woodhull gave background information relating to this request for a one-lot minor subdivision. City Staff recommend approval.

Motion was made by Blakeman, second by Beebe, to approve the Findings of Fact of the Eastep One-Lot Minor Subdivision.

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve the Eastep One-Lot Minor Subdivision.

All in favor, Motion passed.

A discussion was held to review the revised "Draft" Rules of Conduct for the Livingston City Commission.

Mr. Meece commented that Mr. Becker has made changes requested by the City Commission, which are highlighted in gray.

Bruce Becker reviewed his changes with the Commission.

Beebe stated that she appreciates the clarity of this document as it is a guideline for the Commission.

Grabow stated that this document is well organized, but contrary to the Constitution of the United States.

Blakeman commented that she doesn't believe that this document compromises anyone's constitutional rights and that it is a good internal policy.

VanAken commented that he doesn't believe that this document violates his right to freedom of speech, however, as a new member of the Commission it gives guidance as to what he can and can't say as a City Commissioner.

Caldwell stated that this document he believes is a policy not legislative.

Motion was made by Blakeman, second by Beebe, to direct the City Attorney to bring back a Resolution adopting the "Rules of Conduct" for the Livingston City Commission.



4 in favor; VanAken, Blakeman, Beebe and Caldwell, 1 against; Grabow, Motion passed.

A discussion was held to review the Administration's research regarding East Side School and the possibility of sale or leasing of condominium space.

At the last City Commission meeting City Staff was asked to get updated cost estimates for rehabilitation of the East Side School and to identify if there were ways the City could consolidate the space that the Staff and City Commission would occupy.

Mr. Meece suggested that the Commission look at the possibility of the sale of the Old East Side School.

Motion was made by Blakeman, second by Beebe, to direct City Staff to prepare an Request for Proposal (RFP) for the sale of the Old East Side School retaining a portion of the building as a lease option.

All in favor, Motion passed.

The City Manager's written comments reviewed:

- Grabow commented that she wanted to applaud the Main Street Program day.

Commission Blakeman Comments:

- She wanted to remind everyone that the Livingston Weekly is having a Growth Forum at the Beanery on February 11, 2007 from 4:00 p.m. until 6:00 p.m. and that she will be representing the City Commission.

Commissioner Beebe Comments:

- She thanked the City Manager for keeping the Commission informed on what is going on with Legislation in Helena.
- She asked if Staff could inform the public that all documents are available to the public on the web site.

Commissioner VanAken Comments:

- He reported on his first Sister Cities Committee meeting and mentioned that one of the things distressing the Committee is that the community of Livingston is not supportive of the relationship with Naganohara.

Commissioner Grabow Comments:

- She wanted to commend the Rural Conservation and Development Center on their work with the bio-diesel buses. This would be a wonderful possibility for transporting people across the community, especially with the hospital being built on the east end of town.
- She asked about the voice recorder, and wondered if the meetings are available on the web site.

- She felt that the Transportation Coordinating Committee (TCC) would be a good resource for the Project Advisory Committee on the Railroad Crossing Feasibility Study.

Chairman Caldwell had no comments.

Public comments:

- Jim Hunt of 417 South 9<sup>th</sup> Street made comment on the Solid Waste Hauling and Disposal RFP. He would have rather seen the City and County work together.
- Jim Murray of 5702 Highway 89 South made comment on the Solid Waste Hauling and Disposal RFP. He stated that this is an extremely important decision that the City and County Commissioners have delegated to the 'hired help' and have not got the job done together.

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

The time was 9:49 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION  
SPECIAL MEETING  
February 14, 2007  
5:00 p.m.

The Livingston City Commission had a special meeting on Wednesday, February 14, 2007 at 5:00 p.m. in the Community Room in the City/County Building. Commissioners present were Vicki Blakeman, Mary Beebe and Patricia Grabow. Steve Caldwell and Rick VanAken were absent.

Staff members present were Bruce Becker, Ed Meece, Jim Woodhull, Clint Tinsley, Duncan Edwards, Jim Mastin and Pam Payovich. Darren Raney and Peggy Glass were absent.

Motion was made by Beebe, second by Grabow, to approve the final plat for Eagle's Landing Subdivision.

All in favor, Motion passed.

No Commissioner's had any comments.

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

The time was 5:06 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Vicki Blakeman  
VICE CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
February 5, 2007  
7:30 P.M.

The Livingston City Commission met in regular session on Monday, February 5, 2007. Commissioners present were Rick VanAken, Vicki Blakeman, Patricia Grabow, Mary Beebe and Steve Caldwell.

Staff members present were Bruce Becker, Ed Meece, Shirley Ewan, Darren Raney, Jim Woodhull, Jim Mastin, Peggy Glass and Pam Payovich.

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

- A. Approve January 16, 2007 (Tuesday) regular City Commission meeting minutes.
- B. Accept bills and claims for 2<sup>nd</sup> half of January 2007 and 2006.
- C. Approve recommendation from Public Works Director for the purchase of a new Dump Truck for Sewer Department from Motor Power Equipment Company. Direct City Attorney to bring back a Resolution authorizing City Manager to sign agreement with Motor Power Equipment for the 5 year lease purchase price of \$18,717.25 per year.
- D. Approve special event request for "The Patricia Coleman Foundation Run" from Scott Coleman to be held on May 26, 2007.
- E. Approve special event request for the "Military Show" to be held on June 16<sup>th</sup> & 17<sup>th</sup>, 2007 at the Civic Center from Leonard Thomar.

Motion was made by Grabow to pull consent items A & C. No second required.

All in favor of consent items B, D & E, Motion passed.

VanAken asked for clarification of some items in the minutes, and Caldwell explained what action was taken.

Motion was made by Blakeman, second by Beebe, to approve consent item A.

All in favor, Motion passed.

Grabow asked about consent item C: what the dump truck would be used for and was this item in the budget. Mr. Meece commented that this truck would be used for sludge removal from the wastewater system, and mentioned that it is in the budget.

Caldwell requested that staff research as to whether it is more cost effective to purchase the dump truck on a 5-year lease purchase price, or buy the truck for cash.

Motion was made by Blakeman, second by Beebe, to approve consent item C.

All in favor, Motion passed.

Scheduled Public Comment:

Bob Moore of 407 North 3<sup>rd</sup> Street made comment relating to the Leon Russell Concert that was held last Summer. Mr. Moore re-stated a history of the events that led up to the concert event. Mr. Moore stated that he had a loss of approximately \$1,600.00. He asked if the Commission would consider reimbursing him for the loss, by donating that exact sum of money to Park High School for their video production program.

No decisions were made by the Commission because it was not an action item on the agenda.

Motion was made by Grabow for the Commission to bring this back at a future meeting, for further discussion, VanAken seconded the motion.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1982 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1285, 1650 AND 1784, ADOPTING THE CITY OF LIVINGSTON, MONTANA, SUBDIVISION REGULATIONS BY REFERENCE.**

All in favor, Motion passed.

A public hearing will be held on March 5, 2007 at the City Commission meeting for Ordinance No. 1982.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1983 – **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. 1948 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE THE 2006 INTERNATIONAL RESIDENTIAL CODE CHAPTERS 1-10 (IRC); THE 2006 INTERNATIONAL BUILDING CODE (IBC); THE 2006 INTERNATIONAL MECHANICAL CODE – RESIDENTIAL ONLY (IMC); THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE (IECC); AND THE 2006 INTERNATIONAL EXISTING BUILDING CODE (IEBC).**

This Ordinance would comply with any new construction or any remodeling in which a building permit would be issued and would become effective approximately April 1, 2007.

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 at the City Commission meeting for Ordinance No. 1983.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3820 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2005-2006 AND CALLING FOR A PUBLIC HEARING THEREON.**

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 at the City Commission meeting for Resolution No. 3820.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3821 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, IN SUPPORT OF FULL FUNDING OF THE NATIONAL PARK SERVICE ANNUAL OPERATING BUDGET AND ELIMINATION OF PARK MAINTENANCE BACKLOG.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3822 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING ADDENDUM TO LEASE WITH LIVINGSTON GOLF AND COUNTRY CLUB.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3823 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISHING FEE SCHEDULE FOR BUILDING PERMITS.**

All in favor, Motion passed.

A public hearing will be held on Tuesday, February 20, 2007 for Resolution No. 3823.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3824 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING POLICY AND PROCEDURE MANUAL FOR CITY EMPLOYEES.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3825 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACCEPTING OWNERSHIP "AT THE YELLOWSTONE"**

**STATUE OF SACAJAWEA AND POMPEY FROM THE GREAT BEND OF THE YELLOWSTONE LEWIS AND CLARK HERITAGE COMMISSION.**

All in favor, Motion passed.

Action Items:

A discussion was held regarding approval to proceed with a Request for Proposal (RFP) for "Solid Waste Hauling and Disposal".

At a Solid Waste Working Group Meeting, the City was informed that the County would raise the cost of city residents disposal of garbage at the landfill to \$60 per ton effective April 1<sup>st</sup>. The Administration would like to put out a RFP to solicit bids for "Solid Waste Hauling and Disposal" as an option.

Motion was made by Blakeman, second by Beebe, to proceed with a Request for Proposal (RFP) for Solid Waste Hauling and Disposal.

4 in favor; Caldwell, Beebe, VanAken and Blakeman, 1 against; Grabow, Motion passed.

A discussion was held to determine direction for the Sacajawea Statue Advisory Committee.

Mr. Meece stated that one of the concerns of the Yellowstone Lewis and Clark Heritage Commission was that on-going maintenance and repair of the statue be handled appropriately. The Administration will present a Resolution that establishes an Advisory Committee to help with the proper upkeep of the statue.

A discussion was held to appoint the City Tree Board members.

Motion was made by Blakeman, second by Beebe, to appoint Hillary Taylor, John Schuler and Dave Jensen to the City Tree Board.

All in favor, Motion passed.

A discussion was held to appoint the Urban Renewal Agency members.

Motion was made by Blakeman, second by VanAken, to appoint Eleanor Wend and Mike Spencer to the Urban Renewal Agency.

All in favor, Motion passed.

A discussion was held regarding directing Staff to re-advertise for the Historic Preservation Commission vacancy.

Motion was made by Blakeman, second by Beebe, to direct Staff to re-advertise for the Historic Preservation Commission vacancy.

All in favor, Motion passed.

A discussion was held to approve the Estep One-Lot Minor Subdivision.

Jim Woodhull gave background information relating to this request for a one-lot minor subdivision. City Staff recommend approval.

Motion was made by Blakeman, second by Beebe, to approve the Findings of Fact of the Eastep One-Lot Minor Subdivision.

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve the Eastep One-Lot Minor Subdivision.

All in favor, Motion passed.

A discussion was held to review the revised "Draft" Rules of Conduct for the Livingston City Commission.

Mr. Meece commented that Mr. Becker has made changes requested by the City Commission, which are highlighted in gray.

Bruce Becker reviewed his changes with the Commission.

Beebe stated that she appreciates the clarity of this document as it is a guideline for the Commission.

Grabow stated that this document is well organized, but contrary to the Constitution of the United States.

Blakeman commented that she doesn't believe that this document compromises anyone's constitutional rights and that it is a good internal policy.

VanAken commented that he doesn't believe that this document violates his right to freedom of speech, however, as a new member of the Commission it gives guidance as to what he can and can't say as a City Commissioner.

Caldwell stated that this document he believes is a policy not legislative.

Motion was made by Blakeman, second by Beebe, to direct the City Attorney to bring back a Resolution adopting the "Rules of Conduct" for the Livingston City Commission.



4 in favor; VanAken, Blakeman, Beebe and Caldwell, 1 against; Grabow, Motion passed.

A discussion was held to review the Administration's research regarding East Side School and the possibility of sale or leasing of condominium space.

At the last City Commission meeting City Staff was asked to get updated cost estimates for rehabilitation of the East Side School and to identify if there were ways the City could consolidate the space that the Staff and City Commission would occupy.

Mr. Meece suggested that the Commission look at the possibility of the sale of the Old East Side School.

Motion was made by Blakeman, second by Beebe, to direct City Staff to prepare an Request for Proposal (RFP) for the sale of the Old East Side School retaining a portion of the building as a lease option.

All in favor, Motion passed.

The City Manager's written comments reviewed:

- Grabow commented that she wanted to applaud the Main Street Program day.

Commission Blakeman Comments:

- She wanted to remind everyone that the Livingston Weekly is having a Growth Forum at the Beanery on February 11, 2007 from 4:00 p.m. until 6:00 p.m. and that she will be representing the City Commission.

Commissioner Beebe Comments:

- She thanked the City Manager for keeping the Commission informed on what is going on with Legislation in Helena.
- She asked if Staff could inform the public that all documents are available to the public on the web site.

Commissioner VanAken Comments:

- He reported on his first Sister Cities Committee meeting and mentioned that one of the things distressing the Committee is that the community of Livingston is not supportive of the relationship with Naganohara.

Commissioner Grabow Comments:

- She wanted to commend the Rural Conservation and Development Center on their work with the bio-diesel buses. This would be a wonderful possibility for transporting people across the community, especially with the hospital being built on the east end of town.
- She asked about the voice recorder, and wondered if the meetings are available on the web site.

- She felt that the Transportation Coordinating Committee (TCC) would be a good resource for the Project Advisory Committee on the Railroad Crossing Feasibility Study.

Chairman Caldwell had no comments.

Public comments:

- Jim Hunt of 417 South 9<sup>th</sup> Street made comment on the Solid Waste Hauling and Disposal RFP. He would have rather seen the City and County work together.
- Jim Murray of 5702 Highway 89 South made comment on the Solid Waste Hauling and Disposal RFP. He stated that this is an extremely important decision that the City and County Commissioners have delegated to the 'hired help' and have not got the job done together.

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

The time was 9:49 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION  
SPECIAL MEETING  
February 14, 2007  
5:00 p.m.

The Livingston City Commission had a special meeting on Wednesday, February 14, 2007 at 5:00 p.m. in the Community Room in the City/County Building. Commissioners present were Vicki Blakeman, Mary Beebe and Patricia Grabow. Steve Caldwell and Rick VanAken were absent.

Staff members present were Bruce Becker, Ed Meece, Jim Woodhull, Clint Tinsley, Duncan Edwards, Jim Mastin and Pam Payovich. Darren Raney and Peggy Glass were absent.

Motion was made by Beebe, second by Grabow, to approve the final plat for Eagle's Landing Subdivision.

All in favor, Motion passed.

No Commissioner's had any comments.

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

The time was 5:06 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Vicki Blakeman  
VICE CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
March 19, 2007  
7:30 P.M.

The Livingston City Commission met in regular session on Monday, March 19, 2007. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Patricia Grabow.

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

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

- A. Approve March 5, 2007 regular City Commission meeting minutes.
- B. Accept bills and claims for 1<sup>st</sup> half of March 2007 and 2006.
- C. Department Heads monthly reports and other Committee/Boards minutes.

All in favor of consent items, Motion passed.

Variances:

Michael Sanders and Lindsay Aun, owners of property described as Lots 13 through 16 Block 29, Palace Addition, located at 401 & 403 North 9<sup>th</sup> Street, requested a variance from the side setback requirements for RII zoning districts.

Jim Woodhull, City Planner gave background information relating to this variance request. The City Board of Adjustments recommended approval of Michael Sanders and Lindsay Aun's variance request.

Motion was made by Blakeman, second by Beebe, to approve the Findings of Fact of the above reference variance request.

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Michael Sanders and Lindsay Aun variance request.

All in favor, Motion passed.

Ordinances:

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1984 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915, 1933**

**AND 1978 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY PROVIDING FOR LICENSING OF CATS, BY ESTABLISHING LICENSE FEES AND OTHER FEES BY RESOLUTION, BY REGULATING NUISANCE ANIMALS AND BY ESTABLISHING PENALTIES FOR VIOLATIONS.**

All in favor, Motion passed.

A public hearing will be held on April 2, 2007 at the City Commission meeting on Ordinance No. 1984.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1985 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING PORTIONS OF THE "WATSON ANNEXATION" LOCATED IN SECTION 24 TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AND IN THE EAST ONE-HALF OF SECTION 7, SECTION 8 AND THE NORTHEAST ONE-QUARTER OF SECTION 18, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS EITHER LIGHT INDUSTRIAL (LI), LOW DENSITY RESIDENTIAL (RI), PUBLIC (P) OR HIGH DENSITY RESIDENTIAL (RIII) WITH A DESIGN REVIEW OVERLAY ZONE ON THE NONRESIDENTIAL PROPERTY.**

All in favor, Motion passed.

A public hearing will be held on April 16, 2007 at the City Commission meeting on Ordinance No. 1985.

Motion was made by Blakeman, second by Beebe, to approve first reading of Ordinance No. 1986 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING PARCELS OF LAND IN THE "YELLOWSTONE PRESERVE ANNEXATION" WHICH IS LOCATED IN SECTIONS 5, 7 AND 8 OF TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS DESCRIBED BY CERTIFICATE OF SURVEY NO. 2132 AS EITHER LOW DENSITY RESIDENTIAL (RI), HIGH DENSITY RESIDENTIAL (RIII) OR CENTRAL BUSINESS DISTRICT (CBD) WITH A DESIGN REVIEW OVERLAY ZONE ON THE NONRESIDENTIAL PROPERTY.**

Grabow asked if the developers have heard from Montana Rail Link (MRL) and the Montana Department of Transportation (MDOT) about their permits for this property. Mr. Meece stated that those concerns are part of the subdivision platting process.

Grabow stated that she still has concerns about this Ordinance.

VanAken stated that he doesn't feel comfortable voting for this Ordinance.

3 in favor; Blakeman, Beebe and Caldwell, 1 abstained; VanAken and 1 against; Grabow, Motion passed.

A public hearing will be held on April 16, 2007 at the City Commission meeting on Ordinance No. 1986.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3833 – **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.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3834 to include changes of the agreement as requested by the Commission – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO PAYBACK AGREEMENT WITH LIVINGSTON CHRISTIAN CENTER FOR WATER AND SEWER IMPROVEMENTS IN THE AMOUNT OF \$71,794.28 FOR PROPERTY BENEFITED BY THE IMPROVEMENTS.**

After much discussion the requested changes by the Commission of the agreement include the following (as underlined and italicized):

**Section No. 4** in the agreement will read: "Whenever a Benefited Property connects to the City's water and sewer service, the City may, in its discretion, assess a payback charge for connection of the benefited property on a pro rata basis to the water and sewer extension."

**Section No. 6** in the agreement will read: "This agreement shall continue until Developer has recovered fifty percent (50%) of the Improvement Costs, or upon the expiration ten (10) years, whichever occurs first. This Agreement shall be deemed terminated and of no further force and effect on the tenth anniversary of this Agreement."

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3835 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO LEASE PURCHASE AGREEMENT FOR A MODEL 930G LOADER IN THE PRINCIPAL AMOUNT OF \$137,785.00.**

Grabow asked if this was an item was part of the budget for this fiscal year. Mr. Meece stated that this item was part of the budget, as a lease purchase.

Grabow feels that the Commission should prioritize items for the budget for the next fiscal year and commented that long-term strategic planning is necessary. Mr. Meece stated that during the budget process Staff goes

through great lengths to prioritize what equipment is necessary for that fiscal year.

4 in favor; Caldwell, VanAken, Beebe and Blakeman, 1 against; Grabow, Motion passed.

#### Action Items:

A discussion was held to potentially approve recruitment and funding arrangement for Vision Livingston Partnership staff (i.e. Main Street Program, as well).

Mr. Meece gave background information relating to the Vision Livingston Partnership staff. In 2006, the Commission gave authorization for the Urban Renewal Agency to hire Mr. Greg Krueger, Executive Director of the Billings Downtown Partnership, as a consultant in the local visioning process. Mr. Krueger helped establish the Vision Livingston Partnership board, which is 13 members; and completed Livingston's Main Street Application. As part of the Main Street Application, the URA and City Administration made tentative commitments to the funding of a full-time staff position (\$15000 each). At this time, the City Manager would like to provide the VLP with assurance that these commitments will be honored (from the TIF, FY 2007, and the General Fund, FY 2008).

The Commission gave their consensus to provide the funding from the TIF, in FY 07, with a commitment to explore additional funding for the Main Street Program through the FY 08 budget for the next fiscal year.

A discussion was held to review authorizing sponsorship of \$150 to Trout Headwaters, Inc. for the annual Fleshman Creek Clean-up.

A letter was provided in the Commission packet from Trout Headwaters, Inc. requesting this sponsorship.

Caldwell passed the gavel to Vice Chairman Blakeman, as he is not directly associated with the Trout Headwaters, Inc., but he does do some contract work for the organization.

Motion was made by Grabow, second by VanAken, to approve authorizing an expenditure of \$150 to Trout Headwaters, Inc. for the annual Fleshman Creek Clean-up.

4 in favor; VanAken, Blakeman, Grabow and Beebe, 1 abstained, Caldwell, Motion passed.

The City Manager's written comments reviewed:

- Grabow asked if there is a way to put the budget amendment on the website. Mr. Meece stated that it would be in the next City Commission packet and the packet can be viewed on the website.
- Grabow commented about the mural that is being coordinated by Mr. Pettit and suggested that the City take a serious look at creating a "Public Arts Commission".
- VanAken asked about the Affordable Housing meeting and wondered if this is something that the City will be able to budget for next fiscal year. Mr. Meece stated that at this point he is still evaluating the possibility of funding and will be working with the Rocky Mountain Rural Conservation and Development (RC&D) organization.
- VanAken asked what the time-line was for the budget process. Mr. Meece stated that the budget packets will be distributed to the Department Heads at their Staff meeting tomorrow. He expects the first budget meetings with the City Commission to occur in mid-May.
- Beebe asked if this is the first year that Park County has been cleaning the culverts in the City. Mr. Meece stated that it was the first full year since Park County asserted full authority in this area.

Commissioner Blakeman Comments:

- She said that it had come to her attention that it was Mr. Meece's first year anniversary last Friday. She congratulated him and suggested that the Commission schedule the City Manager's review.

After much discussion, it was the consensus of the Commission to have the City Manager's evaluation on April 9, 2007 at 7:00 p.m. in the Community Room of the City/County Complex.

- She commented that she really liked the questionnaire for the website which was provided with the utility bills this month, and is curious how much feedback the City will get back from the public.
- She asked how many trees in total will be taken down in the City due to the Dutch Elm disease. Mr. Meece commented that there will be 42 trees taken down within the City and only 5 are left to be taken down. Ms. Blakeman also asked if there is a schedule for replanting the trees that are being taken down. Mr. Meece stated that he wasn't aware of any schedule at this time but will inquire and get back to the Commission. Grabow stated at the City Tree Board meeting last month some members had suggested having a nursery started to replace the trees that are being taken down.
- She inquired about the street sweeping schedule but noticed that the street sweeper was out today. Clint Tinsley commented that usually the street sweeper schedule doesn't start until May 1<sup>st</sup>.
- She mentioned that she is very sorry for the loss of Mr. Schaffer's place of employment, however, she is also concerned about what remains of the building – from public health and safety perspective. Mr. Meece stated that when the Fire Department is finished with their investigation



the City will proceed with the available means to mitigate any nuisance conditions.

Commissioner Beebe Comments:

- She stated she was interested in the follow-up of Park County biohazard report and wondered if there was going to be any more meetings relating to this. Chief Mastin stated that he wasn't aware of any more meetings but will inquire and let the Commission know.

Commissioner VanAken had no comments.

Commissioner Grabow Comments:

- She complimented the flyer for the website being sent along with the water bills and thought that it was a good idea.
- She commented that the first two years she was a Commissioner, the prior City Manager asked the Commissioners for their priorities relating to the budget. Caldwell stated that it was a good idea conceptually, but the City Manager had five different lists of priorities and doesn't believe it was followed through. Mr. Meece stated that the administration is interested in what the Commission's priorities would be but would need them sooner than later. He suggested that the Commission give a list of priorities to the administration, and the administration could assist them in ranking the priorities for integration into the budget.

Blakeman stated that in FY 07, there wasn't much money to go beyond the basics of the budget and she believes that is the case this year also.

- Ms. Grabow would like to see the public television/public access consideration on the agenda for the next City Commission meeting.
- She wanted to ask everyone to convince legislators to support Senate Bill #284 (Resort Tax).

Chairman Caldwell Comments:

- He commented that the walkway at the Guest House construction has been very much improved.
- He asked if there was any new legislature that Mr. Meece has found out about. Mr. Meece commented with him being out of the office for a few days last week he didn't have any new items at this time but would keep the City Commission informed.

No public comments were given.

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

The time was 8:50 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
April 2, 2007  
7:30 P.M.

The Livingston City Commission met in regular session on Monday, April 2, 2007. Commissioners present were Mary Beebe, Patricia Grabow, Vicki Blakeman, Rick VanAken and Steve Caldwell.

Staff members present were Bruce Becker, Ed Meece, Shirley Ewan, Darren Raney, Clint Tinsley, Jim Woodhull, Duncan Edwards, Kevin Harrington, Peggy Glass, Jim Mastin and Pam Payovich.

Motion was made by Blakeman, second by Grabow, to approve consent items A and C and removing item D.

Motion was made by VanAken, second by Grabow, to remove item B from the consent items as follows:

- A. Approve March 19, 2007 regular City Commission meeting minutes.
- B. Accept bills and claims for 2<sup>nd</sup> half of March 2007 and 2006.
- C. Approve request for waiver of fees for the Montana Spay/Neuter Task Force Clinic to be held at the Civic Center on April 21, 2007.
- D. Accept and approve recommendation from Clint Tinsley, Public Works Director, for bid award for new garbage truck (cab & chassis) and compactor. Cab & Chassis to be awarded to Interstate and compactor awarded to Solid Waste Systems.

All in favor of items A and C, Motion passed.

VanAken asked if this was the appropriate time to ask about claims. Caldwell stated that it is preferred that Commissioners ask questions about consent items before the meeting but to go ahead and ask about his concerns tonight.

VanAken asked about the claim from Bison Ford and wondered why it was more than what was approved at the last meeting. Duncan Edwards explained that when the City purchases a vehicle from a State agency it is required to add an additional \$200.00 above the State rate.

VanAken asked about the claim from All About Vacuums and wondered why there was three different line items under the vendor for the same amount. Mr. Meece explained that the total invoice was divided into three different funds.

VanAken asked about the claim from Lumec for street lights and wondered why it was such a large amount. Clint Tinsley stated that these were the new "Night Sky" street lights for a street project. Grabow asked if the receptacle for the lights was already in the ground before the lights were placed. Clint

Tinsley stated that the receptacle for the street lights are put in place during the street project construction. Grabow asked if there was a map of lights that are going to put up with the 10-year Infrastructure program. Mr. Tinsley commented that there was a map for the lights.

VanAken asked about the claim from Jodi Litchfield and wondered what it was for. Mr. Meece explained that this claim was for closing out the 2000 Landscaping project.

VanAken asked about the claim from Karnatz Tree Service and wondered if the removal was for one tree. Mr. Meece commented that it was for removal of one large elm tree with the City crews helping pick up the debris.

Grabow asked about the Landscaping project and wondered whether the CTEP money was still in the budget for the sign that was not placed at the Landscaping project. Mr. Meece stated that since this expenditure was not made the money is still in the CTEP Fund and will be carried forward.

Motion was made by VanAken, second by Beebe, to approve consent item B.

All in favor, Motion passed.

Caldwell asked about consent item D and wondered if the City could buy the truck at full price rather than leasing the truck at an 8% interest rate for five (5) years. Mr. Meece stated that he would research the possibility and get back to Commission.

After much discussion and clarification with Staff and the Commission, Motion was made by Blakeman, second by Beebe, to approve consent item D.

All in favor, Motion passed.

#### Proclamations:

Steve Caldwell, Chairman of the City Commission read a proclamation for the month of July 2007 as "Americana, Music Month" and was approved by the Commission as corrected.

#### Public Hearings:

A public hearing was held on the second reading of Ordinance No. 1984 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1915, 1933 AND 1978 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY PROVIDING FOR LICENSING OF CATS, BY ESTABLISHING LICENSE FEES AND OTHER FEES BY RESOLUTION, BY REGULATING NUISANCE ANIMALS AND BY ESTABLISHING PENALTIES FOR VIOLATIONS.**

Marcia Evans of 110 South "C" Street believes that it is absurd to license cats and that this Ordinance will put dog and cats owners at odds with each other. She commented if the City wants to make more money then the City should enforce the leash and picking up feces (dog) laws. She feels that a good cat owner will claim their own cat, as she has all of her cats licensed with a local veterinarian. Ms. Evans asked if license for cats would be a one-time fee or an annual fee? Ms. Evans was told that the License for cats would be an annual fee just like dog licenses.

Bob Frisbey of 701 Northern Lights Road commented that he feels the purpose of this Ordinance is to protect cat owners from non-cat owners. The point is that if there isn't any way to protect property owners that do not have animals, then they will resort back to "shoot, shovel and shut up".

VanAken stated that he is for this Ordinance because he knows how hard the other Commissioners have worked on this Ordinance. It is not as subjective as some people may feel, but he believes that this will help control the cat population and the treatment of cats.

Beebe commented that this Ordinance would help the Animal Control Officer deal with the *real* problems and be able to enforce the law and protect animals.

Grabow stated that she appreciates Ms. Evans comments, however the fee for cats will not break the family bank. She suggested that if people have concerns about having to license their animals, then they should volunteer for the Spay/Neuter Clinic to help reduce the cat and dog population.

Motion was made by Blakeman, second by Beebe, to approve Ordinance No. 1984.

All in favor, Motion passed.

A Resolution of Intent will come back to the City Commission at their next meeting to adopt license fees for cats. If passed, the license fees for cats will become effective on July 1, 2007.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3836 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2006-2007 AND CALLING FOR A PUBLIC HEARING THEREON.**

Mr. Meece requested that the Commission change the Building Department line item from \$1200.00 to \$1500.00.

Motion was made by Blakeman, second by VanAken, to amend the Building Department line item #2394.143.42053.110 from \$1,200.00 to \$1,500.00.

All in favor, Motion passed.

Mr. Meece stated that he met with the Finance Officer. Mr. Meece explained that the purpose of the amendment is to try and reduce any impact on the fund reserves at the end of this fiscal year.

All in favor of Resolution No. 3836 as amended, Motion passed.

A public hearing will be held on April 16, 2007 for Resolution No. 3836.

Motion was made by Blakeman, second by VanAken, to approve Resolution No. 3837 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO CONTRACT #2007-18-01-26 FOR MONTANA DEPARTMENT OF TRANSPORTATION EQUIPMENT GRANT IN THAT AMOUNT OF \$4,000.00.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Grabow, to approve Resolution No. 3838 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH GRANITE ENTERPRISES, LLC, FOR ON-GOING COMPUTER AND NETWORK TECHNICAL SUPPORT.**

All in favor, Motion passed.

Action Items:

City Staff made a presentation regarding the funding of Street Maintenance districts.

Clint Tinsley, Public Works Director, stated that the Street Maintenance District revenues are insufficient to cover the cost(s) of future projects – as planned in the 10 Year Infrastructure Plan. A number of factors have a bearing on the matter: increased construction costs, missed and incorrect assessments, and a historical philosophy of not including all addresses in the District. Even with a change of philosophy in District participation, the City will have to increase the Street Maintenance District assessments by X%. An average improved building lot (*two lots*) in the City would then be estimated to increase an additional \$37.10 for a total assessment of \$134.40.

The Commission took no action.

A discussion was held to consider request from the Livingston Youth Soccer Association regarding expenditure of Skillman Trust funds on the North-Side Park and Soccer fields (FY 2007-08). A letter was provided to the Commission

in their packets from the President, Jeff Dickerson, of the Livingston Youth Soccer Association asking for this request.

Motion was made by Blakeman, second by Beebe, to approve the request from the Livingston Youth Soccer Association regarding expenditure (remaining monies) of Skillman Trust funds from FY 2006-07 and FY 2007-08 for the North-Side Park and Soccer field's projects.

All in favor, Motion passed.

A discussion was held to authorize City Manager to send letter to Park County Commissioners for the request for "Petition for Annexation" from Melvin Mantzey owning property as described on Certificate of Survey No. 395. This letter was provided in the packet for the Commission's review.

Motion was made by Blakeman, second by Beebe, to authorize City Manager to send letter to Park County Commission for the request for "Petition for Annexation" from Melvin Mantzey owning property as described on Survey No. 395.

All in favor, Motion passed.

A discussion was held to appoint applicants to the "At the Yellowstone" statue and "Lewis and Clark Gardens" advisory committee.

Motion was made by Grabow, second by VanAken, to interview the three (3) applicants for the positions to the "At the Yellowstone" statue and "Lewis and Clark Gardens" advisory committee.

After much discussion of the Commission determined that it was not necessary to interview these applicants. VanAken withdrew his second, Grabow withdrew her motion.

Motion was made by VanAken, second by Beebe, to approve the appointments of Hillary Taylor, Mike Gomez and Becky Douglas for a three (3) year terms to the "At the Yellowstone" statue and "Lewis and Clark Gardens" advisory committee and re-advertise for another applicant.

All in favor, Motion passed.

Motion was made by Grabow, second by Blakeman, to appoint the Parks & Recreation Foreman for a term of two (2) years to the "At the Yellowstone" Statue and "Lewis and Clark Gardens" advisory committee.

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to appoint Hillary Taylor as the person with a professional background in horticulture to the "At the Yellowstone" statue and "Lewis and Clark Gardens" advisory committee.

All in favor, Motion passed.

A discussion was held regarding a request to vacate right-of-way at 605 North "N" Street. A letter from Dan Kaul requesting vacation of right-of-way was provided in the packet for the Commission's review.

Motion was made by Blakeman, second by VanAken, to direct City Staff to bring back a Resolution of Intent at the next City Commission meeting, approving the request to vacate right-of-way at 605 North "N" Street.

All in favor, Motion passed.

A discussion was held reviewing Bresnan Communications response concerning the establishment of a Public Access, Educational & Government (PEG) Channel in the City of Livingston.

After much discussion, the Commission determined to proceed with a feasibility study for a (PEG) channel locally, emphasizing education and government uses and working with the School District.

Bob Moore of 403 North 3<sup>rd</sup> commented about the (PEG) Channel, and that it could allow to locally help the High School students (their multi-media class) interested in pursuing college degrees associated with the media.

The City Manager's written comments reviewed:

- VanAken commented about the City making some progress with Rail Link, after the trip to Missoula, but stated that there will need to still be a lot of work done.
- VanAken asked about the bonding company for AME Construction hiring a firm to take care of items done incorrectly and wondered what kind of items this would be, for example, could one of the items be the manhole on 3<sup>rd</sup> and Montana Street. Clint Tinsley stated that it would be one of the items taken care of.
- VanAken commended Officer Leonard's on his foot patrol findings.

Commissioner Blakeman Comments:

- She commented that she noticed in the claims that there was a claim from Nittany Grantworks for a pulverizer grant. She was wondering if this was for a new grant. Mr. Meece stated that it for the original grant for the pulverizer.
- She asked about the Solid Waste status. Mr. Meece stated that a copy of the letter from Park County was provided to the Commission tonight. Mr. Meece stated that the City did an RFP for the Solid Waste disposal and received one quote. The City Staff was not satisfied with the



response that was received from the organization and asked them if they could modify their costs based upon criteria provided by the Administration. The Administration will provide the Commission with a recommendation at the April 16, 2007 City Commission meeting.

- She suggested that since there has been problems on the North Hill with noisy bikes to maybe build another "Dog Park" there.
- She commented that she went to a "Water Shed Conference" this past week that was very beneficial. She has a lot of information and feels that this is something that should be pursued further by the City and County.

Commissioner Beebe Comments:

- She asked about the progress with the bridge on "M" Street and has had some users of Mayor's Landing volunteer to help the City do something about it. Mr. Meece stated that Ted Wood has offered some materials, and labor, and work will proceed when he is able to get to access the materials.
- She asked about the Trails and Greenways Task Force map that the Commission approved and was wondering where she might find one. The map is on the City of Livingston and the Park County websites.

Commissioner VanAken Comments:

- He mentioned his observation of the recycling bins at Pamida and feels that it is getting totaling out of hand. Caldwell stated that Bozeman has terminated their contract with Headwaters.
- He commented that he would be glad to help with the railroad situation as he worked for the Railroad a long time. It is his understanding that the rail containers provided by Envirocon were solely based on Park County's volume.

Commissioner Grabow Comments:

- She asked if the zoning maps for the Watson and Yellowstone Preserve properties could be publicly displayed in the City offices. The Recording Secretary will display the maps in the hallway by the City office in the City/County Complex.
- She has heard that the Willow Trees in the Eagles Landing Subdivision may be taken down. She would like to see if the trees could be preserved instead. She also asked that new subdivision be required to plant trees.
- She mentioned that she has some information on bio-carbon and will provide to the City Manager.
- She stated that she went to the Main Street Conference and mentioned that there will be a website posted regarding the conference.
- She asked about the Civic Center painting status. Mr. Meece stated that the Commission has not taken official action on the painting of the Civic Center. Budget authority for this project would need to be provided by the Commission in the FY 08 budget.

- She asked if the final audit was done. Mr. Meece advised that a copy of the final report was distributed to the City Commission.
- She mentioned that there are a lot of birds nesting in the lights downtown and wondered if Northwestern Energy has been notified. Clint Tinsley stated that Northwestern Energy has been notified of the problem.

Chairman Caldwell Comments:

- He asked if the City Manager could summarize the issues from the final audit report. Mr. Meece thoroughly explained the issues of the final audit.
- He asked if the Commission could receive a copy of the letter from Park County on their response relating to the care of culverts in the City. The Recording Secretary will provide the Commission with a copy of the letter.
- He asked the status of the RFP of East Side School. Mr. Meece stated that he is working on it and will provide the Commission his final draft by the next City Commission meeting.
- He asked about the physical condition of the Water Works Building and wondered if the integrity of the building is at risk without significant costs. Duncan Edwards stated that City Staff has removed all of the ivy off of the brick, trimmed the trees with dead limbs, and secured the building.
- He mentioned again that the City of Bozeman discontinued their contract with Headwaters, and are looking at the possibility of a pulverizer and curb-side recycling.

No public comments were given.

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

The time was 10:34 p.m.

ATTEST:

APPROVED:

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Pam Payovich  
RECORDING SECRETARY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION SPECIAL MEETING  
April 9, 2007  
7:00 P.M.

The Livingston City Commission met in special session on Monday, April 9, 2007 in the Community Room in the City/County Complex. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken and Patricia Grabow. Vicki Blakeman was absent.

Chairman Caldwell called the special meeting of the City Commission to order at 7:00 p.m.

In closing the special meeting of the City Commission, Chairman Caldwell determined that the performance evaluation of City Manager, Edwin Meece, was a matter of individual privacy and that the substantial value of a confidential evaluation was apparent and clearly exceeds the merits of public disclosure.

Thereafter, the City Commission went into executive session for the performance evaluation of the City Manager, Edwin Meece.

The City Commission came out of executive session at 9:05 p.m.

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

The time was 9:06 p.m.

ATTEST:

APPROVED:

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Bruce Becker  
CITY ATTORNEY

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Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
April 16, 2007  
7:30 P.M.

The Livingston City Commission met in regular session on Monday, April 16, 2007. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Patricia Grabow.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Clint Tinsley, Jim Woodhull, Duncan Edwards, Peggy Glass, Jim Mastin and Pam Payovich.

Motion was made by Blakeman, second by Beebe, to approve consent items A, B, C, D, E and G and deleting item F pending re-submission as follows:

- A. Approve April 2, 2007 regular City Commission meeting minutes.
- B. Approve April 9, 2007 special City Commission meeting minutes.
- C. Accept bills and claims for 1<sup>st</sup> half of April 2007.
- D. Department heads monthly reports and other committee/boards minutes.
- E. Approve request of waiver to use the Bandshell on April 22, 2007 from 2:00 p.m. to 9:00 p.m. for Earth Day from Emily Ketterer.
- F. Approve special event request from Lazy "H" Production, LLC, Bob Moore, for "A Song Runs Through It" concert to be held at the Bandshell on July 1, 2007.
- G. Approve recommendation from Public Works Director and CTA Nelson Engineering for the Water Main Replacement project to be awarded to Total Asphalt Repair, Inc. in the amount of \$268,594.00.

All in favor of items A, B, C, D, E and G deleting item F, Motion passed.

Public Hearings:

A public hearing was held for Ordinance No. 1985 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING PORTIONS OF THE "WATSON ANNEXATION" LOCATED IN SECTION 24 TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AND IN THE EAST ONE-HALF OF SECTION 7, SECTION 8 AND THE NORTHEAST ONE-QUARTER OF SECTION 18, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS EITHER LIGHT INDUSTRIAL (LI), LOW DENSITY RESIDENTIAL (RI), PUBLIC (P) OR HIGH DENSITY RESIDENTIAL (RIII) WITH A DESIGN REVIEW OVERLAY ZONE ON THE NONRESIDENTIAL PROPERTY.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Ordinance No. 1985.

All in favor, Motion passed.

A public hearing was held for Ordinance No. 1986 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING PARCELS OF LAND IN THE "YELLOWSTONE PRESERVE ANNEXATION" WHICH IS LOCATED IN SECTIONS 5, 7 AND 8 OF TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS DESCRIBED BY CERTIFICATE OF SURVEY NO. 2132 AS EITHER LOW DENSITY RESIDENTIAL (RI), HIGH DENSITY RESIDENTIAL (RIII) OR CENTRAL BUSINESS DISTRICT (CBD) WITH A DESIGN REVIEW OVERLAY ZONE ON THE NONRESIDENTIAL PROPERTY.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Ordinance No. 1986.

4 in favor; Beebe, Blakeman, VanAken and Caldwell, 1 against; Grabow, Motion passed.

A public hearing was held on Resolution No. 3839 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING 1.72 ACRES DESCRIBED AS REVISED TRACT NO. 11 OF CERTIFICATE OF SURVEY NO. 721, BEING A PORTION OF TRACT 121 OF THE ORIGINAL PLAT OF ACREVILLE, PLAT NO. 393, LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M. PARK COUNTY, MONTANA.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3839.

All in favor, Motion passed.

A public hearing was held on Resolution No. 3845 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2006-2007.**

No public comments were given.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3845.

All in favor, Motion passed.

Resolutions:

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3840 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT, PURSUANT TO THE ANIMAL**

**CONTROL ORDINANCE, TO ESTABLISH ANNUAL CAT LICENSE FEES AND CATTERY LICENSE FEES TO BECOME EFFECTIVE ON JULY 1, 2007.**

All in favor, Motion passed.

A public hearing will be held relating to Resolution No. 3840 at the next City Commission meeting on May 7, 2007.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3841 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN LEASE PURCHASE AGREEMENT WITH LEASING INNOVATIONS FOR THE PURCHASE OF FOUR DEFIBRILLATORS IN THE TOTAL AMOUNT OF \$107,625.00.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3842 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH OLNES & ASSOCIATES TO PERFORM ANNUAL AUDITS FOR FISCAL YEARS 2006-2007, 2007-2008 AND 2008-2009 IN THE AMOUNT OF \$12,500.00 PER FISCAL YEAR.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3843 - **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.**

All in favor, Motion passed.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3844 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE THE WESTERLY SEVEN FEET (7') OF THE NORTH "N" STREET RIGHT-OF-WAY IN VISTA VIEW SUBDIVISION DESCRIBED BY PLAT NO. 194 AND CALLING FOR A PUBLIC HEARING.**

All in favor, Motion passed.

A public hearing will be held regarding Resolution No. 3844 at the next City Commission meeting on May 7, 2007.

Motion was made by Blakeman, second by Beebe, to approve Resolution No. 3846 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH TOTAL ASPHALT REPAIR, INC. FOR THE WATER MAIN REPLACEMENT DESCRIBED BY SCHEDULE 1 THE BASE BID AMOUNT OF \$268,594.00.**

All in favor, Motion passed.

Action Items:

A discussion was held to review a draft Resolution and Request for Proposals (RFP) regarding the possible intent to sell the East Side School building and calling for a public hearing.

After much discussion the following motions were made.

Motion was made by Blakeman, second by VanAken, to explore the sale of the East Side School and fifteen feet (15') around the footprint of the building as a whole -- including the most easterly parts of Blocks 14, 15 and 16.

4 in favor; Blakeman, Beebe, Caldwell and VanAken, 1 against; Grabow, Motion passed.

Motion was made by Blakeman, second by Beebe, to direct City Manager to bring back a draft Resolution and RFP for the possible sale of the East Side School at the next City Commission meeting.

Motion was made by Grabow, second by Beebe, to direct Staff to contact Mr. Rypkema to provide the City for a written analysis that he discovered during his tour of the East Side School (during the White Elephant tour), as long as there is no additional cost.

All in favor, Motion passed.

4 in favor, to bring back a draft Resolution and RFP for the possible sale of the East Side School at the next City Commission meeting for discussion and action; Beebe, Blakeman, VanAken and Caldwell, 1 against; Grabow, Motion passed.

A discussion was held to advise the City Commission of the Administration's participation in a sewer line upgrade on 9<sup>th</sup> Street.

The Curry's are proposing to do a sewer main and lift station for their house at 530 South 9<sup>th</sup> Street. Administration recommends that the City share the cost of the lift station. Paybacks to the City of the houses that need to hook up later will reimburse some of the costs and eventually void the area of septic systems.

A discussion was held to determine method for finalizing the City Manager's Evaluation.

In the past, after the City Manager's evaluation, the City Commission had a discussion item on the agenda to determine a proposed salary increase for the City Manager. Then the City Attorney was asked to bring back a Resolution

along with the proposed salary increase for the City Commission to take action on.

Motion was made by Beebe, second by Blakeman, to direct Staff to bring back a Resolution with the City Manager's proposed salary.

All in favor, Motion passed.

A discussion was held to take action on Staff's recommendation regarding the Solid Waste Request For Proposals (RFP).

Mr. Meece provided the Commission with a memo regarding a proposed award of contract for the Solid Waste Hauling. The memo partially stated:

"The Administration has concluded our negotiations with Montana Waste Systems, in regard to their recent Request For Proposals (RFP) response, as well as internally researching several options for maximizing the cost-effectiveness of our solid waste hauling and final disposal. As a result, *the Administration recommends that the City award to Montana Waste Systems (MSW) a ten (10) year contract for the hauling and final disposal of our municipal solid waste - at the initial rate of \$36.93. In addition, the Administration recommends that the City internally loan \$600,000 from existing fund reserves, to the Solid Waste Fund in order to finance the cost of construction for a City transfer station; with each fund receiving a five percent (5%) interest return over a ten (10) year period.*"

"There are several advantages to pursuing this course of action:

- Lower the City's per-ton costs for solid waste hauling and final disposal, when compared to private (MSW) and public (Park County) providers.
- Position the City to more firmly control its solid waste operation - with less dependency on a single provider for either hauling or transfer activities.
- Provide additional space for the implementation of a more effective recyclable collection and marketing program, in cooperation with Park County and the surrounding area. This would include things such as the glass pulverizer and baling and storing recyclables.
- Although the financial analysis does not include these scenarios, it is possible that the City transfer station would be advantageous for other organizations that desire to utilize either our tipping or recycling services. Any revenues earned from such activities would only enhance the financial case presented herein."

"Finally, the Administration recognizes the importance of continuing to work with Park County where a joint effort will yield



benefits for both constituencies. Therefore, the Administration will again attempt to negotiate on topics such as recycling, solid waste pickup in the donut area, and the landfill. However, we are confident that the steps outlined in this memorandum, regarding solid waste transfer, hauling, and final disposal, are the best options available to protect the interests of our citizens and customers."

After much discussion with the Commission and Staff on the details of this memo, the following motion was made.

Motion was made by Blakeman, second by Beebe, to approve a contract with Montana Waste Systems and proceed immediately.

4 in favor; Blakeman, Beebe, Caldwell and VanAken, 1 against; Grabow, Motion passed.

The City Manager's written comments reviewed:

- Grabow asked about the Vision Livingston Downtown Partnership recruitment, and whether Mr. Krueger would be included. Mr. Meece stated that he would certainly keep in contact with Mr. Krueger but the City would take the lead with this search.
- Beebe asked if Mr. Piscarcik was taking someone's place with the Northern Rockies RC&D. Mr. Meece stated that he was hired as their new Regional Development Coordinator.
- Blakeman stated that RC&D will be hiring two more economic development positions for this region.

Commissioner Blakeman had no comments.

Commissioner Beebe Comments:

- She reminded everyone that the Spay/Neutered Clinic is on April 21, 2007 at the Civic Center from 8:00 a.m. until they get done.
- She commented about getting the neighbors of East Side School involved in the planning process.
- She mentioned that she has heard from residents about the "G" Street Park plans and would like to have an update on the proposed Water Park.
- She commented that there was another cat caught in a "leg hold" trap and stated that these traps can be lethal. She wondered if this could be specified in the Animal Ordinance as not being legal.
- She would like to see for the first year for cat licensing goes towards the Spay/Neutered Clinic. Her reasoning is that people have animals that really do care about them and this would provide an incentive.

Commissioner VanAken Comments:

- He stated that he has had several questions about the "Cat Ordinance" and feels that this needs to be clarified to the public. A public hearing

will be held on May 7, 2007 at the City Commission meeting for the Cat Fees Resolution.

Commissioner Grabow Comments:

- She stated that she spoke with State Senator Moss regarding bringing passenger train service back to Livingston (and other areas of Montana), and wondered if we could explore the option of a resolution of support. She will provide a model resolution.
- She wanted to know about application of the overlay district at "Arby's", and suggested that they not look like a "generic" business.
- She would like to pass onto the City Manager a letter from Mr. Warren McGee requesting that the City start a "Park Board" and that he be appointed Chairman of this board.
- She still is troubled by the resignation of the Yellowstone Country Board representative for the City and suggested that everyone voice their opinion about Senate Bill No. 284.

Chairman Caldwell Comments:

- He asked to advertise for the Yellowstone Country Board City representative.
- He requested the need to bring back together the Recycling Board.
- He asked about the study from the Trails and Greenways Task Force and was wondering where it stands. Mr. Meece commented that this study will be incorporated through the Subdivision regulations as an advisory document.

Public Comments:

- Bill Moser of Pray requested that the Commission consider a left hand turn off of South 8<sup>th</sup> Street from the "Y". He is requesting this because of the increased development in this community and the increase of traffic.
- Bill Moser made a suggestion for a design of the "B" Street Underpass before the Spring rains to help from flooding.

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

The time was 9:45 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
Pam Payovich  
RECORDING SECRETARY

\_\_\_\_\_  
Steve Caldwell  
CHAIRMAN, CITY COMMISSION

LIVINGSTON  
CITY COMMISSION MEETING  
MAY 7, 2007

The Livingston City Commission met in regular session on Monday, May 7, 2007. Commissioner present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Patricia Grabow.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Clint Tinsley, Jim Woodhull, Duncan Edwards, Peggy Glass and Jim Mastin.

Motion was made by Blakeman, second by Beebe, to approve consent items A, B, C, D. Items E & F were pulled for discussion.

All in favor of A-D items, motion passed.

Caldwell abstained from voting on item E as he is a board member for the Corporation for the Northern Rockies. Grabow asked if she should abstain as she is also affiliated with CNR. Becker replied that it was not necessary in this case. Motion was made by Blakeman, seconded by Beebe.

All in favor with the exception of Caldwell's abstention.

Blakeman made a motion to accept item F, Beebe seconded.

Grabow mentioned some concerns about watering of the trees with all of the events taking place at the Bandshell. Mr. Meece replied by stating that Mr. Miller (Parks Dept) also has that concern, works on a schedule to make sure the trees are getting proper care.

All in favor, motion passed.

**Public Hearings:**

A public hearing was held on Resolution 3947 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING THE WESTERLY SEVEN FEET (7') OF THE NORTH "N" STREET RIGHT-OF-WAY IN VISTA VIEW SUBDIVISION DESCRIBED BY PLAT NO. 194.**

No public comment was heard.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3847.

All in favor, motion passed.

A public hearing was held on Resolution 3848 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING ANNUAL CAT LICENSE FEES AND CATTERY LICENSE FEES TO BECOME EFFECTIVE ON JULY 1, 2007.**

No public comment was heard.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3848.

Beebe requested that the money from the licenses (from the first year) go to the Spay/Neuter Clinic. Becker replied that was not on the agenda at this time, and should be placed on the agenda for future discussion. Beebe moved to add it to the action items for next time, seconded by Blakeman.

All in favor, motion passed.

All in favor of the original motion (resolution 3848), motion passed.

**Resolutions:**

Motion was made by Blakeman, seconded by Beebe to approve Resolution #3849 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SELL THE EAST SIDE SCHOOL BUILDING AND CALLING FOR A PUBLIC HEARING.**

VanAken stated that there is an error on page 48; the date should be May 21<sup>st</sup>, 2007.

Grabow would like the City to look into condominiumizing the Eastside School before placing it on the market. She also would like to know where the money from the sale of the property would go? Becker replied by saying that the money would be held for future investments in other properties.

Grabow moved that the City Staff look into condominiumizing the Eastside School. Blakeman replied by saying that she did not know that much about condominiumizing to agree or disagree. Beebe agreed with Blakeman. Becker explained that condominiumizing meant dividing the building up into sections, and selling the sections individually, with an agreement between the owners on common areas/expenses and other issues. Caldwell asked how we would get more money out of the aggregate. Becker replied that he was not sure if it would. Blakeman has concerns as to how it would be divided up. She is not sure if it could be done before remodeling. Grabow stated that it would not take much to condominiumize; approximately \$1,500, to have the declarations and by-laws written up. Grabow gave several examples of other buildings that have been condominiumized. Caldwell stated those buildings were easier to condominiumize, as existing hotels, than an old school building.

VanAken seconded Grabow's motion to look into condominimizing the Eastside School.

Four in favor, Caldwell against, motion passed.

Roll call to approve #3849. All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3850 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN ITERLOCAL AGREEMENT WITH MISSOURI RIVER DRUG TASK FORCE.**

Beebe asked if there was any change in the community's drug enforcement status. Raney replied that he felt there has been some reduction in drug related issues. He also stated that the new Sheriff has implemented changes that are more proactive, and more progressive in nature than in the past.

Grabow asked what happens to the seized property and could it help with the funding? Raney replied by stating that the seized property was used to support the MRDTF. She also asked about litigation of the seized property. Raney stated that the litigation depended upon the jurisdiction of the conviction. Each jurisdiction did it differently. She asked if the board members on Item B, page 56 were board members or just the attorneys that saw the cases. Raney stated that they were all board members. Grabow asked why Park County was not included? Meece replied by stated that they were included, referring to the proper page in the agreement.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3851 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MONTANA WASTE SYSTEMS FOR TRANSPORTATION AND DISPOSAL OF SOLID WASTE FOR THE CITY OF LIVIGSTON AT THE INITIAL RATE OF \$36.93 PER TON WITH ANNUAL INCREASED BASED UPON CPI.**

Grabow stated that she is not in favor of separating the City's solid waste from the County. She stated that in the long run an incinerator would be much cheaper than transferring garbage and that the energy produced from the incinerator could be used productively. Over time the cost/ton would go down with an incinerator. Beebe stated that an incinerator still has possibilities but that she believes it should be funded privately, not by the City. It should be financed through private investors. Meece stated that the incinerator may have merits but that that is not the decision before us at this time ,and \$52.00/ton includes a new transfer station as well as the cost of transportation and tipping.

Four in favor, Grabow against. Motion passed.

Motion made by Blakeman, seconded by Beebe to approve Resolution 3852 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE REGULATIONS FOR MOUNTAIN VIEW CEMETERY FOOTSTONE REQUIREMENTS.**

VanAken asked if pets were allowed in the cemetery? Meece explained that they are not and that it is covered in the ordinance.

All in favor, motion passed.

Motion made by Blakeman, seconded by Beebe to approve Resolution 3853 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX BY PETITION LAND CONTIGUOUS TO THE CITY DESCRIBED AS BEING LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25 AND 26 ALL IN BLOCK 3 OF THE MONTAGUE PALACE SUBDIVISION LOCATED IN THE N ½ OF SECTION SEVEN, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., PARK COUNTY, MONTANA.**

VanAken asked Woodhull to give an explanation of how this annexation is different from the one last fall. Woodhull gave the Commission a copy of the letter omitted from the packet, and explained that the zoning request would likely be for RIII Residential Zoning. The area will not be zoned until after the area is annexed, but the intent of the owner was to zone it RIII. Grabow inquired as to whether there would be an issue with the smell of the compost pile? Woodhull replied by stating that it has not been an issue thus far.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3854 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH TOTAL ASPHALT REPAIR, INC. FOR THE WATER MAIN REPLACEMENT DESCRIBED BY SCHEDULE 2 THE BASE BID AMOUNT OF \$220,273.00.**

Meece clarified that this RFP was for the second part of the project. This is being approved prior to the budget process, to avoid re-mobilization costs and save the City approximately \$100,000. What the Commission will be approving is a commitment against next years budget. Grabow asked if this would be C & D Streets. Per Tinsley this would be the second part of that project.

All in favor, motion passed.

**Action Items:**

**Action item A.**

Tinsley apologized for writing up the recommendation wrong and that he had not recommended the lowest bid. This action item would remedy the error.

Motion was made by Blakeman, seconded by Beebe to approve the bid from Rocky Mountain Truck for the Garbage Truck Cab & Chassis and the Compactor be awarded to Solid Waste System.

Grabow stated that she was against this purchase and that we should be communicating more with the County. Blakeman stated that this purchase is not connected to the issues with the County and this is long-term strategic planning on the City's part. VanAken was curious as to how the 2 parts got put together. Tinsley stated that Rocky Mountain Truck puts the compactor on the truck. This truck would be replacing a 1998 worn out truck. Meece made mention of the fact that since the City automated solid waste worker's compensation and liability costs have been reduced in the Solid Waste Department.

Four in favor, Grabow against, motion passed.

#### **Action Item B**

Motion was made by Blakeman, seconded by Beebe to approve Julianne Blakely as the City's Representative on the City/County Health Board.

All in favor, motion passed.

#### **Action Item C**

Motion was made by Blakeman, seconded by Beebe to approve construction of an additional T-Ball field (at the existing baseball complex – Miles Park) by the Livingston Baseball Association.

Meece explained that this would be an expansion of the T-Ball activities with no cost to the City.

All in favor, motion passed.

#### **Action Item D**

Motion was made by VanAken to investigate Option C for the potential Wind Energy project, seconded by Beebe.

Meece explained that House Bill 330 has been voted out of both houses and that he was now coming to the Commission on a philosophical measure. He has 3 proposed approaches to using the CREB bonds to further wind energy capabilities. He would like to hear the Commissions preference at this time and whether they are concerned with the fact that the turbines may not be located in Park County.

#### Approach A.

We develop a Community Wind Energy project and use the bonds to hire engineers to manage the project. The Feasibility Study phase of this project would cost the City approximately \$6,000.

#### Approach B

We joint a cluster of communities, led by several RC&D's, to do regional wind energy projects. There would be a fewer number of sites, but some potential cost-efficiencies to the project. We may or may not have the windmills in our community with this approach. This option would cost the City approximately \$4,000 - \$6,000 to start the program up.

#### Approach C

This approach would be to join a similar coalition for use of the CREB bonds to finance additional turbines in Judith Gap.

Blakeman stated that she would like to see the turbines added to the Judith Gap project. Grabow stated that the windmills have been here for 20 years, and that the project would help with Community economic development. She would like to see the City proceed in Park County. Beebe stated that no matter where the turbines were we would still reap the benefits of the CREB bonds and that if we combined with another group we could get a bigger bang for our buck. Beebe feels that we would probably get better rates from Option C. Caldwell stated that Judith Gap is already set up for the turbines and transmission, etc. would not be an issue. VanAken stated that Approach B gives him some concern as to whether the turbines would be placed where the wind was consistent. He sees potential with all 3 options and would like to know what other agencies would join the Option B coalition i.e. as the County. Meece explained that the County was hedging and he was not sure if they would even be going through with the project. Blakeman stated that the Judith Gap plan was a sure thing.

Motion was made by VanAken, seconded by Beebe to investigate Approach C.

Four in favor, Grabow against, motion passed.

#### **Action Item E**

Meece explained that this item did not need a vote he just wanted to let the Commission know that he has decided on an intern from Montana State University, with an expected start date of June 1 2007.

#### **Commission Questions on the City Manager's Comments:**

Beebe stated that Jean Marie Souvigney has a bridge plan that may be used on the pedestrian bridge at M Street. Meece stated that he would look into it, as he is still waiting on the Forest Service for their design.



Blakeman asked if the engineers would be giving a plan on funding the railroad underpass? Meece answered that it would accompany their final report, a draft of which will be presented at the May meeting of the Project Advisory Committee.

Caldwell asked if the pulverizer was a done deal? Meece answered with not yet but it is getting closer.

**City Commissioners Comments:**

Blakeman would like to know if Spring Clean-up was done. Meece replied not yet. It will probably be done by the end of this week.

Grabow stated that she does not want the Fleshman Creek Trail to be referred to as the Mandeville Trail it is the Bozeman Trail. Caldwell explained that this would be referred to only at that section as Mandeville, because it is listed that way in the Trail Study. This way that section of the trail could be identified as to where it was. The overall trail is still referred to as the Bozeman Trail.

Grabow would like to know when the F Street project will begin? Meece stated that it probably start around June 1, 2007. Grabow would like to know where the funds for the fine issued to the Guest House would go? Meece explained that it was a State fine and the money would go into their coffers. Grabow would like to know when to expect the resolution supporting the train service will be before them? Meece stated that he is still waiting on the model resolution. Grabow would like the Community to know that she is in support of the bio-diesel fuel project being located in Park County, as it is a clean manufacturing project and the Commission should nurture the project.

VanAken would like to know how to add the Park County Museum support to the agenda? Will it be part of the budget process or should it be an action item at a Commission meeting? Meece explained that it could be either. Grabow requested that it come back before the Commission as an action item on the June 4<sup>th</sup> meeting other Commissioner concurred.

Grabow mentioned that she is still concerned about the painting of the Civic Center. Grabow let the Commission know that the Yellow Buses would be returning to Livingston on June 30<sup>th</sup>, 2007.

**Public Comments:**

Lenny Gregory addressed the Commission in regards to the green containers distributed by the City and whether he could put any limbs in them. The flyer stated that limbs could not be put in the green containers and he would like to know what he's suppose to do with them? Meece told him that he would talk to Mr. Tinsley and find out what could be done about the problem.

Being no further business motion was made by Blakeman, seconded by Beebe to adjourn the meeting. Motion passed.

The time was 9:18 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
Chairman, City Commission

LIVINGSTON  
CITY COMMISSION MEETING  
MAY 21, 2007

The Livingston City Commission met in regular session on Monday, May 21, 2007. Commissioner present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Patricia Grabow.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan and Darren Raney.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A, D, E, F, & G. Items B & C were pulled for discussion.

All in favor of A, D, E, F & G items, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Consent Item 3.B.

Grabow questioned Park County Refuse District claim on page 19. Meece explained that the claim included all of March and part of April up -- to the point when the City began hauling to Logan. He also explained how the amount, including fuel, was still cheaper than delivering to the Transfer Station owned by the County. Grabow would like Mr. Meece to check into whether the City paid part of the bonds to purchase the County transfer station when it was originally built. She feels that the City owns part of that building. Grabow would like to know if the cost of the fuel to Logan is included in the Bear Claw Petroleum claim. Meece stated that it is. Meece also explained that the \$52/ton, recently discussed, included building a new transfer station. In actuality we are only paying \$39.93 per ton while we deliver to Logan. VanAken asked what the metal was bought for on page 18, claim to Pacific Steel & Recycling. Ewan stated that it was purchased to hold garbage cans in place.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Consent Item 3.C. Grabow would like to know why the Historic Preservation minutes are not in the packet? She would like to see them in the packet. Meece will check on this.

All in favor, motion passed.

Scheduled Public Comment:

John Beck and Reverend Carol Sims appeared before the Commission to request funding for a mental health Crisis Program. Presently, there is no support for clients in mental crisis. They would like to have available counselors and support people to sit with patients that are considering harming themselves or others; until the Crisis Response Team can respond. Rev. Sims stated that the County and the

Hospital presently contribute to the mental health program, however, they are requesting that the City contribute also. Grabow requested the City Grant Writer look into a grant option. Caldwell agreed with that idea, as the grant committee would be meeting this week. Raney stated that what is needed is a place to hold people, and someone to sit with them if they are manageable. Mr. Beck replied that the Hospital is currently looking to establish a place like that. Caldwell stated that the place to request this would be through the budget process. Grabow would like the proposal written up (along with what the attendant would be doing) and submitted to the City. Meece asked if this person or the Crisis Response Team would be the ones to respond if a crisis situation arose. He would like to know the following 3 items; 1) who would be attending the issue? 2) does an assessment need to be done? 3) after the assessment what do we do with the client? Mr. Beck stated that the Crisis Response Team would determine if the person needed medical care or if a support person would be able to help the client.

#### Variance Requests:

The variance request of Yellowstone Preserve was cancelled and will be presented at the June 18<sup>th</sup> meeting.

#### Public Hearings:

**A public hearing was held on Resolution 3855 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING BY PETITION LAND CONTIGUOUS TO THE CITY DESCRIBED AS BEING LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25 AND 26 ALL IN BLOCK 3 OF THE MONTAGUE PLACE SUBDIVISION LOCATED IN THE N ½ OF SECTION SEVEN, TOWNSHIP, 2 SOUTH, RANGE 10 EAST, P.M.M., PARK COUNTY MONTANA.**

Vickie Shulins addressed the Commission asking how many homes would be added to the subdivision? She also stated that there are traffic problems out there and what would be done about them? Caldwell stated that those questions would have to be answered in the subdivision review process. He stated that annexation is a 3-step process, at this point all they were doing is annexing the property through petition of the landowner. Becker told the public that this is a legislative process and the petitioner requested annexation. That means there really isn't a protest mechanism. Neighbors should be taking their complaints or questions to the next 2 steps -- the zoning and subdivision meetings. Becker stated that the land is currently zoned RII in the County, which means it is zoned for single homes. Shulins has heard that if she were within 500' of a water main and sewer main she would have to hook into the City water system. Becker stated that he didn't believe she would be required to hook-up unless her water of septic system failed. Becker reiterated that there are no grounds for protest at this time. Blakeman stated that

traffic concerns would be addressed at the subdivision review level, and the current neighbors would not be expected to pay for the development of roads.

April McNamee also addressed the Commission speaking against annexing Miles Road into the City. Becker stated that land annexations do not include roads. Roads have to be annexed separately. Meece replied by stating that he believed Miles Road was previously annexed into the City, at the request of Park County. Caldwell told the public that the largest reason why property owners requested to be annexed into the City was to have the benefit of City water and sewer.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3855.

All in favor, motion passed.

A public hearing was held on Resolution 3858 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA TO SELL THE EAST SIDE SCHOOL BUILDING.**

Eleanor Wend addressed the Commission with some questions in regards to the sale. 1) Has the asset been evaluated by the City as to use as space for City offices, etc.? 2) Would the City retain part ownership of the building? 3) Have we considered condominimizing the building to make more money?

Caldwell replied with we are looking into preserving a portion of the building for City use, or at least leasing a portion of it from the new owner. The rest of the questions would be answered at the next Commission meeting. Meece stated the purpose of tonight's hearing is to get public feedback on offering the building for sale. Grabow reiterated that the building is in excellent shape and is free of environmental contamination.

Motion was made by Blakeman, seconded by Beebe to approve Resolution #3858.

Four in favor, Grabow opposed. Motion passed.

**Resolutions:**

Motion was made by Blakeman, seconded by Grabow to approve Resolution #3856 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, SUPPORTING SENATE BILL 294 AND SUPPORTING THE RETURN OF AMTRAK PASSENGER RAIL SERVICE TO THE CITY OF LIVINGSTON, MONTANA.**

Grabow would like to extend thanks to the Commission for supporting Senate Bill 294. VanAken sees the next step as sending this resolution out to the State and Federal delegations with an attached letter from Mr. Meece.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3857 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2006-2007 FOR STREET LIGHT REPLACEMENT PROJECT AND CALLING FOR A PUBLIC HEARING.**

Meece stated that this project resulted in a higher than expected cost, which requires the budget amendment. Also, the street lighting effort is running a couple of years behind schedule. This amended amount would catch up L-P Streets. H Street is planned for FY 07-08 Caldwell inquired as to whether the new lights would follow the Night Sky Ordinance? Meece assured him that they did. VanAken inquired as to where the additional funds would come from? Meece stated that they would come from reserves with the Street Lighting Fund. Meece also explained that issues regarding street lights would come back to the Commission during the budget process. Grabow inquired as to whether there were any grants available for the street light replacement? Meece told her he did not know, Caldwell stated he was on the grant committee and would inquire.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3859 in the amount of 5% beginning on July 1, 2007 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING INCREASE IN SALARY FOR CITY MANAGER.**

Meece handed out a general survey of salaries for city managers in other communities. The only specific local information he could find was of Billings, Bozeman & Lewistown; other Montana communities only reported ranges. Blakeman stated that she had no idea how big the towns on the printout were and she couldn't judge the increase by the survey. Beebe inquired how it was done in the past? Blakeman stated that the amount was just filled in and they voted. VanAken feels that in the future this should be negotiated like the unions are done. Blakeman stated that she feels his performance has gone above just a cost of living raise. Grabow concurred. VanAken wonders if the Department Heads will be asking for more if the Commission grants the City Manager more? Caldwell stated that those amounts were based on performance issues. Blakeman stated 5% would work, which includes the cost of living raise (a total of 5%).

All in favor, motion passed.

**Action item A.**

Discussion and/or approve contracts related to the construction of a solid waste transfer station.

Meece explained that CTA Nelson & Hyalite Environmental would be doing additional work regarding design and environmental assessment for the new transfer station. Caldwell asked if they would be working in a liaison role rather than each doing the same thing? Meece replied that they would be working together. Blakeman wanted more information on the lot, would it be on the north side of where the compost pile is now located? VanAken would like to know where it was in comparison to residential properties? Meece showed the Commission exactly where it would be located, and stated it would be across the street from some residential properties. Caldwell replied to Mr. VanAken's question by reminding him that the garbage would only be transferred, not stored, at this location.. VanAken wanted to know if the location was set in stone and if it would look as unsightly as the County's. Meece replied that the Administration was very comfortable that this is the best site. Grabow asked if we would be requesting bids for the construction. Meece told her that there would be an RFP process.. Grabow has concerns about the smell from the garbage and compost pile and requests that some sort of buffer be put up i.e. trees or boulevards. Beebe stated that she thought we were looking for another place to put the compost pile. Meece stated that is correct. Blakeman reminded the Commission that the prevailing wind blows away from the houses.

Motion was made by Blakeman, seconded by Beebe to direct the staff to enter into preliminary contracts with CTA Nelson and Hyalite Environmental and bring the Resolutions back to the Commission on June 4, 2007.

Four in favor, Grabow opposed. Motion passed

**Commission Questions on the City Manager's Comments:**

Mr. Meece introduced the new City Manager Intern, Robyn Keyes and explained to the Commission that she would be rotating through all of the departments to see how they are ran and then would be working on special projects for the City.

Grabow commended the City Manager on the way the school bomb threat was handled. Meece stated that Captain Farrell led the response and did an excellent job.

VanAken commented on the way the City was taking on the Schaefer property. He appreciates the work being done.

Beebe would like the Drug Abuse Task Force to include the Mental Health representatives, as there is substance abuse and they deal with substance issues also. Meece told her he was confident the task force would include the mental health perspective. She also inquired as to when the next City/County meeting would be? It will be on June 5<sup>th</sup>, 2007 at 4:00 p.m. She also inquired about the Railroad Underpass meeting. Meece stated that no date has been set yet but it would probably be in the first week of June.

### **City Commissioners Comments:**

Blakeman would like to see set back requirements with regard to waterways proceed, as there was a consensus of the Commission to go forward with the project. Meece replied that the staff has some difficulties with the draft ordinance but it would be back to the Commission soon. Mr. Zimmer (from the audience) stated that he has left a draft ordinance to be considered in the City Manager's office. Caldwell & Grabow would like Mr. Meece to deliver a copy of the draft ordinance to them. Meece stated that he would. Caldwell wants to make sure the copy is clearly stamped "PRELIMINARY DRAFT". Mr. Zimmer stated that he would provide the City with a watermarked draft copy of the ordinance. Meece stated that the ordinance would be difficult to enforce on certain waterfronts such as Fleshman Creek and near Sacajawea. He thinks we would have to grandfather most residents/lots, and apply the ordinance to future development.

Beebe would like to see the cat license revenue issue show up on the action items for next time. She stated that the Skateboard Park is in disarray again around the fence. She has been told that MMIA does not require a fence around skate parks anymore, and would like the City Manager to find out if that is true. Beebe is also concerned about the fact that many groups don't understand that City residents pay County taxes – and so a portion of anything the County pays for is with City revenues. There needs to be a public relations campaign on this issue letting citizens know what is state mandated, to County government, and that County contributions include funding received from City residents.

VanAken would like to compliment the group that is doing the mural on the underpass. He understands that it is the Big Brothers & Big Sisters organization. He realizes that Sky Credit Union is taking care of the park on the south side of the underpass, but would like to see someone take care of the north side. It really needs cleaned up. He felt that the City Officials workshop in Billings was very valuable to those that attended. He would like to see our relations with the County improve but realizes that this is a common problem amongst other cities as well. He also would like the Commission to consider supporting the Yellowstone Gateway Museum in the upcoming budget process. He would like the cataloger to give a presentation to the Commission on the June 4<sup>th</sup> meeting.

Grabow agrees with VanAken in regards to the Museum. Grabow is having trouble with the lag time in land use decisions and especially with the Board of Adjustments. She would like to see this presented to the Commission in a more current fashion. She would also like to comment on the poor condition of the Cemetery. It is a mess. Caldwell stated that he had heard similar statements from the public. She would also like to make a correction to the Minutes. The Yellow Buses will be arriving on June 1<sup>st</sup>, not May 30<sup>th</sup>. She would also like us to consider increasing the charge for the rental of the bandshell. She would like to see the City develop a Planned Unit Development System (PUD) for land use intensity. Meece stated that the Administration has been developing a PUD ordinance for the City Commission to consider.



Caldwell wonders if Mr. Gregory's questions had been answered from last meeting. Meece stated that he had contacted Mr. Gregory to tell him that small hedge clippings, etc, may be put in green containers. Caldwell would also like to reiterate that consent items are items that shouldn't require discussion, and Commissioners should talk to staff prior to the meeting to get their questions answered.

**Public Comments:**

No public comment was heard.

Being no further business motion was made by Blakeman, seconded by Beebe to adjourn the meeting. All in favor, motion passed.

The time was 9:37 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
Chairman, City Commission

LIVINGSTON  
CITY COMMISSION MEETING  
MAY 21, 2007

The Livingston City Commission met in regular session on Monday, May 21, 2007. Commissioner present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Patricia Grabow.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan and Darren Raney.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A, D, E, F, & G. Items B & C were pulled for discussion.

All in favor of A, D, E, F & G items, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Consent Item 3.B.

Grabow questioned Park County Refuse District claim on page 19. Meece explained that the claim included all of March and part of April up -- to the point when the City began hauling to Logan. He also explained how the amount, including fuel, was still cheaper than delivering to the Transfer Station owned by the County. Grabow would like Mr. Meece to check into whether the City paid part of the bonds to purchase the County transfer station when it was originally built. She feels that the City owns part of that building. Grabow would like to know if the cost of the fuel to Logan is included in the Bear Claw Petroleum claim. Meece stated that it is. Meece also explained that the \$52/ton, recently discussed, included building a new transfer station. In actuality we are only paying \$39.93 per ton while we deliver to Logan. VanAken asked what the metal was bought for on page 18, claim to Pacific Steel & Recycling. Ewan stated that it was purchased to hold garbage cans in place.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Consent Item 3.C. Grabow would like to know why the Historic Preservation minutes are not in the packet? She would like to see them in the packet. Meece will check on this.

All in favor, motion passed.

**Scheduled Public Comment:**

John Beck and Reverend Carol Sims appeared before the Commission to request funding for a mental health Crisis Program. Presently, there is no support for clients in mental crisis. They would like to have available counselors and support people to sit with patients that are considering harming themselves or others; until the Crisis Response Team can respond. Rev. Sims stated that the County and the Hospital presently contribute to the mental health program, however, they are requesting that the City

contribute also. Grabow requested the City Grant Writer look into a grant option. Caldwell agreed with that idea, as the grant committee would be meeting this week. Raney stated that what is needed is a place to hold people, and someone to sit with them if they are manageable. Mr. Beck replied that the Hospital is currently looking to establish a place like that. Caldwell stated that the place to request this would be through the budget process. Grabow would like the proposal written up (along with what the attendant would be doing) and submitted to the City. Meece asked if this person or the Crisis Response Team would be the ones to respond if a crisis situation arose. He would like to know the following 3 items; 1) who would be attending the issue? 2) does an assessment need to be done? 3) after the assessment what do we do with the client? Mr. Beck stated that the Crisis Response Team would determine if the person needed medical care or if a support person would be able to help the client.

#### Variance Requests:

The variance request of Yellowstone Preserve was cancelled and will be presented at the June 18<sup>th</sup> meeting.

#### Public Hearings:

**A public hearing was held on Resolution 3855 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING BY PETITION LAND CONTIGUOUS TO THE CITY DESCRIBED AS BEING LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25 AND 26 ALL IN BLOCK 3 OF THE MONTAGUE PLACE SUBDIVISION LOCATED IN THE N ½ OF SECTION SEVEN, TOWNSHIP, 2 SOUTH, RANGE 10 EAST, P.M.M., PARK COUNTY MONTANA.**

Vickie Shulins addressed the Commission asking how many homes would be added to the subdivision? She also stated that there are traffic problems out there and what would be done about them? Caldwell stated that those questions would have to be answered in the subdivision review process. He stated that annexation is a 3-step process, at this point all they were doing is annexing the property through petition of the landowner. Becker told the public that this is a legislative process and the petitioner requested annexation. That means there really isn't a protest mechanism. Neighbors should be taking their complaints or questions to the next 2 steps -- the zoning and subdivision meetings. Becker stated that the land is currently zoned RII in the County, which means it is zoned for single homes. Shulins has heard that if she were within 500' of a water main and sewer main she would have to hook into the City water system. Becker stated that he didn't believe she would be required to hook-up unless her water or septic system failed. Becker reiterated that there are no grounds for protest at this time. Blakeman stated that traffic concerns would be addressed at the subdivision review level, and the current neighbors would not be expected to pay for the development of roads.

April McNamee also addressed the Commission speaking against annexing Miles Road into the City. Becker stated that land annexations do not include roads. Roads have to be annexed

separately. Meece replied by stating that he believed Miles Road was previously annexed into the City, at the request of Park County. Caldwell told the public that the largest reason why property owners requested to be annexed into the City was to have the benefit of City water and sewer.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3855.

All in favor, motion passed.

A public hearing was held on Resolution 3858 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA TO SELL THE EAST SIDE SCHOOL BUILDING.**

Eleanor Wend addressed the Commission with some questions in regards to the sale. 1) Has the asset been evaluated by the City as to use as space for City offices, etc.? 2) Would the City retain part ownership of the building? 3) Have we considered condominimizing the building to make more money?

Caldwell replied with we are looking into preserving a portion of the building for City use, or at least leasing a portion of it from the new owner. The rest of the questions would be answered at the next Commission meeting. Meece stated the purpose of tonight's hearing is to get public feedback on offering the building for sale. Grabow reiterated that the building is in excellent shape and is free of environmental contamination.

Motion was made by Blakeman, seconded by Beebe to approve Resolution #3858.

Four in favor, Grabow opposed. Motion passed.

**Resolutions:**

Motion was made by Blakeman, seconded by Grabow to approve Resolution #3856 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, SUPPORTING SENATE BILL 294 AND SUPPORTING THE RETURN OF AMTRAK PASSENGER RAIL SERVICE TO THE CITY OF LIVINGSTON, MONTANA.**

Grabow would like to extend thanks to the Commission for supporting Senate Bill 294. VanAken sees the next step as sending this resolution out to the State and Federal delegations with an attached letter from Mr. Meece.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3857 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2006-**

## **2007 FOR STREET LIGHT REPLACEMENT PROJECT AND CALLING FOR A PUBLIC HEARING.**

Meece stated that this project resulted in a higher than expected cost, which requires the budget amendment. Also, the street lighting effort is running a couple of years behind schedule. This amended amount would catch up L-P Streets. H Street is planned for FY 07-08 Caldwell inquired as to whether the new lights would follow the Night Sky Ordinance? Meece assured him that they did. VanAken inquired as to where the additional funds would come from? Meece stated that they would come from reserves with the Street Lighting Fund. Meece also explained that issues regarding street lights would come back to the Commission during the budget process. Grabow inquired as to whether there were any grants available for the street light replacement? Meece told her he did not know. Caldwell stated that since the committee was meeting the following week, it might be helpful to explore grant opportunities for street light replacement. VanAken stated he was on the grant committee and would inquire.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3859 in the amount of 5% beginning on July 1, 2007 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING INCREASE IN SALARY FOR CITY MANAGER.**

Meece handed out a general survey of salaries for city managers in other communities. The only specific local information he could find was of Billings, Bozeman & Lewistown; other Montana communities only reported ranges. Blakeman stated that she had no idea how big the towns on the printout were and she couldn't judge the increase by the survey. Beebe inquired how it was done in the past? Blakeman stated that the amount was just filled in and they voted. VanAken feels that in the future this should be negotiated like the unions are done. Blakeman stated that she feels his performance has gone above just a cost of living raise. Grabow concurred. VanAken wonders if the Department Heads will be asking for more if the Commission grants the City Manager more? Caldwell stated that salary increases include both a cost-of-living increase component and a performance/equity component, which supports the idea of a salary increase for the city manager that included a performance component consistent with the City Manager's performance review. Blakeman stated 5% would work, which includes the cost of living raise (a total of 5%).

All in favor, motion passed.

### **Action item A.**

Discussion and/or approve contracts related to the construction of a solid waste transfer station.

Meece explained that CTA Nelson & Hyalite Environmental would be doing additional

work regarding design and environmental assessment for the new transfer station.

Caldwell asked if there was any overlap between the contractors' scope of work? Meece replied that they could work together, as needed, however, the projects are separate – with Hyalite limited to the Environmental Assessment. Blakeman wanted more information on the lot, would it be on the north side of where the compost pile is now located? VanAken would like to know where it was in comparison to residential properties? Meece showed the Commission exactly where it would be located, and stated it would be across the street from some residential properties. Caldwell replied to Mr. VanAken's question by reminding him that the garbage would only be transferred, not stored, at this location. VanAken wanted to know if the location was set in stone and if it would look as unsightly as the County's. Meece replied that the Administration was very comfortable that this is the best site. Grabow asked if we would be requesting bids for the construction. Meece told her that there would be an RFP process.. Grabow has concerns about the smell from the garbage and compost pile and requests that some sort of buffer be put up i.e. trees or boulevards. Beebe stated that she thought we were looking for another place to put the compost pile. Meece stated that is correct. Blakeman reminded the Commission that the prevailing wind blows away from the houses.

Motion was made by Blakeman, seconded by Beebe to direct the staff to enter into preliminary contracts with CTA Nelson and Hyalite Environmental and bring the Resolutions back to the Commission on June 4, 2007.

Four in favor, Grabow opposed. Motion passed

#### **Commission Questions on the City Manager's Comments:**

Mr. Meece introduced the new City Manager Intern, Robyn Keyes and explained to the Commission that she would be rotating through all of the departments to see how they are ran and then would be working on special projects for the City.

Grabow commended the City Manager on the way the school bomb threat was handled. Meece stated that Captain Farrell led the response and did an excellent job.

VanAken commented on the way the City was taking on the Schaefer property. He appreciates the work being done.

Beebe would like the Drug Abuse Task Force to include the Mental Health representatives, as there is substance abuse and they deal with substance issues also. Meece told her he was confident the task force would include the mental health perspective. She also inquired as to when the next City/County meeting would be? It will be on June 5<sup>th</sup>, 2007 at 4:00 p.m. She also inquired about the Railroad Underpass meeting. Meece stated that no date has been set yet but it would probably be in the first week of June.

#### **City Commissioners Comments:**

Blakeman would like to see set back requirements with regard to waterways proceed, as there was a consensus of the Commission to go forward with the project. Meece replied that the staff has some difficulties with the draft ordinance but it would be back to the Commission soon. Mr. Zimmer (from the audience) stated that he has left a draft ordinance to be considered in the City Manager's office. Caldwell & Grabow would like Mr. Meece to deliver a copy of the draft ordinance to them. Meece stated that he would. Caldwell wants to make sure the copy is clearly stamped "PRELIMINARY DRAFT". Mr. Zimmer stated that he would provide the City with a watermarked draft copy of the ordinance. Meece stated that the ordinance would be difficult to enforce on certain waterfronts such as Freshman Creek and near Sacajawea. He thinks we would have to grandfather most residents/lots, and apply the ordinance to future development.

Beebe would like to see the cat license revenue issue show up on the action items for next time. She stated that the Skateboard Park is in disarray again around the fence. She has been told that MMIA does not require a fence around skate parks anymore, and would like the City Manager to find out if that is true. Beebe is also concerned about the fact that many groups don't understand that City residents pay County taxes – and so a portion of anything the County pays for is with City revenues. There needs to be a public relations campaign on this issue letting citizens know what is state mandated, to County government, and that County contributions include funding received from City residents.

VanAken would like to compliment the group that is doing the mural on the underpass. He understands that it is the Big Brothers & Big Sisters organization. He realizes that Sky Credit Union is taking care of the park on the south side of the underpass, but would like to see someone take care of the north side. It really needs cleaned up. He felt that the City Officials workshop in Billings was very valuable to those that attended. He would like to see our relations with the County improve but realizes that this is a common problem amongst other cities as well. He also would like the Commission to consider supporting the Yellowstone Gateway Museum in the upcoming budget process. He would like the cataloger to give a presentation to the Commission on the June 4<sup>th</sup> meeting.

Grabow agrees with VanAken in regards to the Museum. Grabow is having trouble with the lag time in land use decisions and especially with the Board of Adjustments. She would like to see this presented to the Commission in a more current fashion. She would also like to comment on the poor condition of the Cemetery. It is a mess. Caldwell stated that he had heard similar statements from the public. She would also like to make a correction to the Minutes. The Yellow Buses will be arriving on June 1<sup>st</sup>, not May 30<sup>th</sup>. She would also like us to consider increasing the charge for the rental of the bandshell. She would like to see the City develop a Planned Unit Development System (PUD) for land use intensity. Meece stated that the Administration has been developing a PUD ordinance for the City Commission to consider.

Caldwell wonders if Mr. Gregory's questions had been answered from last meeting. Meece stated that he had contacted Mr. Gregory to tell him that small hedge clippings, etc, may be put in green containers. Caldwell would also like to reiterate that consent items are items that shouldn't require discussion, and Commissioners should talk to staff prior to the meeting to get their questions answered.

**Public Comments:**

No public comment was heard.

Being no further business motion was made by Blakeman, seconded by Beebe to adjourn the meeting. All in favor, motion passed.

The time was 9:37 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
Chairman, City Commission



LIVINGSTON  
CITY COMMISSION MEETING  
JUNE 18, 2007

The Livingston City Commission met in regular session on Monday, June 18, 2007. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Patricia Grabow.

Staff members present were Bruce Becker, Shirley Ewan, Glenn Farrell, Peggy Glass, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A, B, C, D, E, & G. Item F was pulled for discussion.

All in favor of A, B, C, D, E & G items, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Consent Item 3.F.

Grabow questioned the need for this sewer main pump project. Tinsley was asked to voice his concerns on this issue. He stated that the Curries' property was not currently on the City's sewer system. The properties are located on 9<sup>th</sup> and 10<sup>th</sup> Streets between Crawford and Cambridge. The properties are currently on septic systems and due to the fact that they are in the city limits they are required to hook up to the sewer system if their septic systems fail. The Curries' system is failing, and they are willing to contribute \$25,000 to the \$75,000 project. Each home in the area that connects to the system will be required to pay \$5,000 plus hook up fees. There are 10 homes that will eventually connect to the system. The City will be reimbursed for the \$50,000 as the residents connect and each pays their \$5,000. Tinsley stated that the sewer main project would run north of the old water plant and would not interfere with the surroundings of Fleshman Creek.

VanAken questioned why this issue would be coming up again later in the agenda. Caldwell stated that this was a consent item for the project and the Resolution would be consent for the contract, which is a separate action.

All in favor, motion passed.

Scheduled Public Comments:

Vicki Johnson chose not to address the Commission at this time.

## Variance Requests:

### Item 6A.

Woodhull addressed the Commission with an explanation of the variance that is being requested by Yellowstone Preserve. Woodhull explained that the variances that were being requested included:

1. A variance from the minimum lot size requirements
2. Front and side setbacks variance.
3. Building height variance for RIII zoning districts.
4. Setback requirements variance for RI zoning districts.

The Yellowstone Preserve is requesting minimum lot size of 1,800 sq. ft. in the RIII zoning districts, front and side setbacks in the RIII Zones of 8 feet and 3 feet respectively, and a maximum building height of 45 feet. In the RI zone, they are requesting front and side setbacks of 15 feet and 10 feet. Code requires RIII minimum lot size of 3500 sq. ft., RIII front setback of 20 feet and side setback of 5 feet; max building height is 36 feet. Code for RI districts requires front setbacks of 25 Feet and side setbacks of 15 feet.

Woodhull explained that the board of adjustments approved 3 of the 4-variance requests. They did not approve the 25-foot front setbacks. Their opinion was this was too close to the street for general safety of residents.

Blakeman, seconded by Beebe to accept the Board of Adjustments findings of fact, made motion.

Four in favor; Grabow opposed, motion passed.

Grabow has requested the minutes from the Board of Adjustments. She is wondering if the PUD (Planned Unit Development) was considered. With the buildings being 3 stories high and the water level 3 feet deep, what would the buildings intensity ratio be? She feels that these elements should be considered before building in that area.

Becker stated that the Board of Adjustments gave notice and that those concerns should have been aired at that time. The decision now was the responsibility of the Planning Boards. The Planning Board would make the final decision on what could be built in that area.

Woodhull stated that the PUD was not an issue in this case; currently, we do not have one at this time, but the City is working on developing one. Woodhull stated that he was not at the last

Commission meeting; thus, he did not realize that Grabow had requested a copy of the minutes of the Board of Adjustments minutes. Grabow stated that being there was no public testimony available to the Commission that they should at least be privy to the minutes. Woodhull apologized for not having the minutes in the packet.

VanAken stated that per the City Manager this was a package deal for the Commission to vote on, either the Commission approved all four variances or none of them.

Grabow feels like the City is giving the Board of Adjustments Carte' blanche on what they approve. Woodhull stated that the Commission could overrule anything the Board of Adjustments approves.

Woodhull explained that the City knew prior to the process that the Yellowstone Preserve would need several variance requests. Blakeman stated that the height request variance would give no buffer zone to the adjacent properties and that the City would not have any control over these. Woodhull stated that there were specific buffers to RIII but the RII buffers were out of our jurisdiction as they were on County property. Caldwell stated that 45' would not be that high in a lower elevation area, which this area is in. Woodhull agreed and stated that it was a three-story building, and it was no different than anywhere else in town. VanAken feels that it is hard to visualize what it is going to look like and has some reservations about the variances. This does not mean that he will not approve the variance, but he still has reservations. Caldwell stated that the concept is still the same as the original plans. Beebe explained that the reason that VanAken might have some difficulties visualizing the concept is that he came into the Commission after the concept was shown to the Commission a year ago in April; VanAken was not on the Commission at that time.

Blakeman asked if the approval of these variances would set precedence for other variances. Woodhull stated, "no it would not, as each variance was decided on it's own merits." Becker stated that each variance is type specific and this would not be necessary after the PUD is developed.

A motion was made by Blakeman, seconded by Beebe, to approve the Yellowstone Preserve variance request.

VanAken abstained, Grabow opposed, motion passed.

### Resolutions

Motion was made by Blakeman, seconded by Beebe, to approve Resolution 3864 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO THE YELLOWSTONE PRESERVE WEST CONSTRUCTION AND MAINTENANCE AGREEMENT FOR A RAIL CROSSING FOR THE YELLOWSTONE PRESERVE SUBDIVISION IN THE AMOUNT OF \$275,901 AND EASEMENT AGREEMENT WITH MONTANA RAIL LINK.**

Discussion:

Blakeman stated that she is concerned about the funding of this project. Will the Railroad be coming to the City for funding? Becker replied that the Railroad has already agreed to put the crossing in and fund the crossing. Grabow asked if this was OK with Burlington Northern also? Becker replied that it is, as Montana Rail Link had prepared the documents. Grabow is also concerned with the liability and safety of this crossing. Becker stated it would be the same as the 5<sup>th</sup> Street Crossing. The liability would be the Railroads as they are obligated to maintain the crossing. The cost of the repairs would revert to the City.

Caldwell inquired as what the liability would be to the City. Becker stated that the Railroad would install and maintain the crossing and that the benefit would be greater than the liability. VanAken mentioned that extended arms are available that cover the entire crossing so that traffic would not be able to duck between the arms. Randy Schumacher (from the audience) stated that this crossing would have a median so there would not be any way to jump the curb and gutter to duck the crossing arm.

Four in favor, Grabow opposed, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3865 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO ENTER INTO THE YELLOWSTONE PRESERVE EAST CONSTRUCTION AND MAINTENANCE AGREEMENT FOR RAIL CROSSING FOR THE YELLOWSTONE PRESERVE SUBDIVISION IN THE AMOUNT OF \$243,777.00 AND EASEMENT AGREEMENT WITH MONTANA RAIL LINK.**

Discussion:

VanAken would like to know where the contract is? Becker replied that the agreements were the same as the previous contract, though the schematics were different, and to cut back on paper usage, only one agreement was placed

in the packet. The agreement is available at the City Office, if Mr. VanAken would like to review it.

Four in favor, Grabow opposed, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3866 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING CITY MANGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NITTANY GRANTWORKS NOT TO EXCEED \$24,300 WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY.**

No discussion was heard.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3867 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO ANNEX CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING ALLSPAUGH STREET, FRANK STREET, McCAW STREET, MILLER STREET, A PORTION OF GARNIER AVE, FROM BENNETT STREET TO ALLSPAUGH STREET, ALL LOCATED IN SECTION 7, TOWNSHIP 2 SOUTH, RANGE 10 EAST.**

Discussion:

Grabow inquired about the zoning. Woodhull explained that zoning was not pertinent as all that was being annexed were the roads.

Blakeman inquired as to what was the next step. Becker explained that there would be a public hearing on July 23<sup>rd</sup>.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3868 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANGER TO SIGN SUB-RECEIPIENT AGREEMENT WITH NORTHERN ROCKY MOUNTAIN RESOURCE CONSERVATION & DEVELOPMENT AREA, INC.**

No discussion was heard.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3869 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**

**LIVINGSTON, MONTANA, APPROVING COMMUNITY DEVELOPMENT LOAN FUND PLAN FOR THE CITY OF LIVINGSTON.**

Discussion:

Grabow would like a more detailed explanation of the loan plan.

Caldwell inquired as to if she had specific questions?

Grabow stated that she would like the whole plan explained. Josh Keller (with the RC&D) stated that the format for the plan was formatted after the Department of Commerce's plan. Some of the safeguards placed in the plan were all loans of the revolving loan fund would be made only with the Commission's approval. The Loan Review Committee would have a City representative. The City representative would be a voting member. Grabow asked who the City representative would be? Would it be an employee or Commissioner? Caldwell stated that was the Commission's discretion.

Blakeman asked that the RC&D give quarterly reports on the revolving funds. Keller stated that would be no problem.

Grabow inquired as to whether the RC&D would be using any principle for administration. Keller stated that they would not be using any of the principle except for loans.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution No. 3870 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE LOAN OF \$600,000 TO SOLID WASTE FUND #5410 WITH \$200,000 COMING FROM GENERAL FUND ACCOUNT #1000.101000, \$200,000 COMING FROM SEWER FUND ACCOUNT #5310.101000 AND \$200,000 COMING FROM PERPETUAL CEMETERY FUND ACCOUNT \$8010.101000.**

Discussion:

VanAken inquired as to why we were charging interest. Ewan stated that we were charging interest as the Solid Waste Fund is an enterprise fund and is ran like a business and the Cemetery Perpetual Fund required charging interest.

Grabow does not understand why we are borrowing money for a duplicate transfer station. She does not believe that her constituents feel this is a City priority. We have an option of staying with the County and getting an incinerator. "We are acting like a rogue government and are not interested in the needs of the community," quoted Grabow.

Beebe stated that her constituents do not agree. They feel that this is the prudent thing to do. The incinerator option is gone, and the City needs to fix the trash problem now.

Caldwell stated that this loan is for the transfer station financing only.

Grabow inquired as to whether the City owned part of the County's transfer station. Becker stated that he had put his opinion in the last packet and the citizen's of Livingston helped pay off the bonds. The City, as an entity, does not own any part of the incinerator.

Four in favor, Grabow opposed, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution No. 3871 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO LEASE PURCHASE AGREEMENT FOR 2008 INTERNATIONAL DUMP BODY AND PLOW HITCH IN THE PRINCIPAL AMOUNT OF \$84,506.00.**

Discussion:

VanAken inquired as to when this was brought before the Commission and was it budgeted for? Tinsley stated that it was originally approved by the Commission in or around January and that it was budgeted for. Tinsley stated that he would look it up and give VanAken a note as to when it was first brought up to the Commission.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution # 3872 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO ENTER INTO PROFESSIONAL SERVICES AGREEMENT FOR PARK COUNTY AND CITY OF LIVINGSTON WITH BRIDGER COMMUNICATIONS TO PROVIDE SERVICES FOR PARK COUNTY 911 DISPATCH CENTER, PARK COUNTY SHERIFF'S OFFICE, PARK COUNTY DETENTION CENTER AND THE LIVINGSTON POLICE DEPARTMENT.**

Discussion:

VanAken referred the Commission to page 175 and questioned all the different rates the Company was charging. Peggy Glass stated that those were the different rates they charged, depending on whether the call was a scheduled maintenance call or an emergency call.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3873 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RESOLUTION OF INTENT TO ANNEX BY PETITION LOT 2 OF CERTIFICATE OF SURVEY #395 LOCATED IN SECTION 7 OF TOWNSHIP 2 SOUTH, RANGE 10 EAST P,M,M, (MANTZEY ANNEXATION).**

All in favor, motion passed.

A motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3874 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO CONTRACT WITH ADVANCED EXCAVATION FOR 9<sup>TH</sup> STREET PUMP STATION PROJECT IN THE BASE BID AMOUNT OF \$49,665.49.**

All in favor, motion passed.

**Action Item A:**

Discuss Riparian Setback Ordinance.

Woodhull stated that if the Commission approved the draft ordinance, it would go back to the Planning Board for their approval. Majority of the Commission agreed to move forward with it. Grabow moved to table. No Second was heard.

Blakeman made a motion to approve this item and later present to the zoning board. Grabow seconded the motion.

All in favor, motion passed.

**Action Item B:**

Discussion, and possible action, regarding the City's interest in continuing with the development of a community wind project – utilizing Clean Renewable Energy Bonds.

The Commission did not have enough time for full discussion. VanAken made a motion to table this action item until the next City Commission meeting on, July 9, 2007. Grabow seconded the motion.

All in favor, motion passed.

**Action Item C:**



**Discuss Draft Ordinance – AN ORDINANCE OF THE CITY OF COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1940 A CODIFIED IN CHAPTER 26, ENTITLED STREETS AND SIDEWALKS OF THE LIVINGSTON MUNICIPAL CODE BY REQUIRING RIGHT-OF-WAY, AND BY ESTABLISHING A CIVIL INFRACTION FOR VIOLATIONS.**

Becker commented on the reason for the ordinance resurfacing was due to construction dumpsters taking parking spots. He noted that he used the city of Missoula's ordinance, with the highlighted parts being added to show the City of Livingston's modifications. Grabow questioned the regulation of flowerpots. Becker, Grabow, and Blakeman all addressed insurance concerns. Becker stated that every business must show proof of liability insurance. Tinsley requested the staff re-evaluate this ordinance prior to the Commission's approval, as he is ready to set garbage cans around downtown. The merchant's that purchase the can may not have the can in front of their store but their name would be on the can. Garbage cans were purchased for \$1,100 each and would be set around in the downtown district. Grabow requested that we look into the Mainstreet USA program to see what they do.

VanAken moved to return this to staff to re-work the ordinance. Beebe seconded.

All in favor, motion passed.

**Action Item D.**

This was not an agenda item but due to the emergent nature of the item, the Commission added it. Due to the family emergency of the City Manager, an interim manager needed to be appointed. Caldwell suggested the Tinsley be in the interim manager until the return of Raney from vacation. All in favor. Tinsley will be manager until the return of Raney on June 25<sup>th</sup>, 2007 at which time Raney will be acting manager until the return of Ed Meece.

**Commission Comments or Questions of City Manager's comments.**

Grabow commented on the fee requested for "Park Shut Down". She would like to see the money used for an underground sprinkler system set up around the bandshell to ensure that the trees are properly watered. Becker stated that the intent of the shut down fee was to compensate the overtime used by City employees to shut down the park for an event. There would not be any additional revenue. Caldwell questioned whether piping would cause problems for the tents, etc. that maybe would be set up down there. Tinsley stated that was not an issue as we would need drippers for the trees and the cost of that would be approximately \$200,000. Grabow asked if it was possible to raise the fee more than \$650 to get a sprinkler system. VanAken suggested that the City

add this to the fee schedule. Becker stated that he would bring it back to the Commission as part of a fee schedule for the park.

City Commission Comments:

Beebe inquired about the garbage cans downtown. Tinsley stated that there have been 10 of them made @ \$1,100 per can. The cans will be delivered soon.

Beebe has been asked to see if it is possible to get summertime RV parking somewhere around town.

Beebe also stated that the Live Poker Sign is still up at the Sport and it closes in two days. Please have them remove it.

Caldwell wondered if the Commission was interested in moving the July 2nd, 2007, meeting to July 9th due to the holiday. Motion was made by Grabow, seconded by Beebe to move July 2<sup>nd</sup> meeting to July 9<sup>th</sup> and the July 16<sup>th</sup>, meeting to July 23<sup>rd</sup>, 2007.

Four in favor, VanAken opposed, motion passed.

Staff will advertise the change in meetings.

VanAken commented on the letter from Eddie Miller to the Tree Board in the Committee reports and stated that Mr. Miller was stating only one side of the story in regards to the trees at the bandshell. He requested that when a letter like that is put in the packet he would like to see the letter that is in disagreement also.

Grabow agreed with VanAken and felt the letter to the Tree Board was disrespectful to Mr. McGee.

Grabow questioned if the budget meeting on the 25<sup>th</sup> of June was being cancelled due to the family emergency? Caldwell stated that it would be.

**Public Comments**

Bob Zimmerman, 119 S. H Street, discussed the Yellowstone Preserve variance. He said that he spoke at the Board of Adjustments. He stated that variances are usually given on individual basis without a PUD, and the City should not be giving a mass variance.

Brenda Adams, 802 E Butte, had several questions for the Commission.

- 1) Would the Board of Adjustments meet on July 8<sup>th</sup>?
- 2) Will Fleshman Creek be discussed in July or August?
- 3) Who brought up the riparian ordinance?

- 4) Variances should be open to public comments and more than one night of hearings should be held.

Caldwell answered her questions. The Planning Board would take public comment at their meeting on July 18<sup>th</sup>, 2007 in regards to the riparian ordinance. Freshman Creek may be discussed at that time. The riparian ordinance was brought up in November 2006 as the flood plain was discussed along the river and streams. Bob Zimmerman was a key player in discussing an ordinance and offering a draft ordinance for guidelines. Any Citizen may send written comment as the draft is for discussion purposes to begin with.

*Use the current proposed ordinance.*

Caldwell said that public can submit written comments, and a draft for discussion only. On July 18, 2007, there is a scheduled meeting for the planning board public comment on riparian ordinance.

Brenda Adams commented that such effects the property rights by Freshman Creek and should be notified by mail of next meeting. The public needs individualized notification.

Chris Rogers, 200 Block of E Callender, commented on the process of the selling of the East Side School. Caldwell stated that the City had the right to reject all bids if a reasonable offer does not come in.

Being no further business, motion was made by VanAken, seconded by Beebe, to adjourn the meeting. All in favor, motion passed.

The time was 9:36 PM.

ATTEST:

APPROVED:

\_\_\_\_\_  
Tiffany Wood  
Recording Secretary

\_\_\_\_\_  
Steve Caldwell  
City Commission, Chair

*The draft was for discussion only.*

*The Ordinance  
Submit written & oral  
Comments.*

LIVINGSTON  
CITY COMMISSION MEETING  
JULY 9, 2007

The Livingston City Commission met in regular session on Monday, July 9, 2007. Commissioners present were Patricia Grabow, Vicki Blakeman, Rick VanAken, and Steve Caldwell, with Mary Beebe absent.

Staff members present were Bruce Becker, Shirley Ewan, Peggy Glass, Jim Mastin, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by VanAken, to approve consent items A, B, and D. Item C and E were pulled for discussion.

All in favor of A, B, and D items, motion passed.

Motion was made by Grabow, seconded by Blakeman, to approve Consent Item 3.C.

Blakeman stated that there were two claims for Montana Waste systems in the amount of \$3,000 for a garbage truck lease. Tinsley responded that she was correct and it was the same truck. Ewan responded that one of the claims was for June and one for July.

All in favor, motion passed.

Motion was made by Blakeman, seconded by VanAken, to reconsider and pull Consent Item A due to a wording error that Caldwell failed to fix prior to meeting.

All in favor, motion passed.

Motion was made by Blakeman, seconded by VanAken, to approve Consent Item A.

Caldwell stated that he would like to make a change on page eleven of the June 18, 2007 minutes to read, "Caldwell said that public can submit written comments and **the current proposed ordinance is** a draft for discussion only. Blakeman questioned if it was a ordinance yet; Caldwell said it is a draft only, not an ordinance for approval. Grabow asked if this was the ordinance presented by Mr. Zimmer, 119 S. H Street; Caldwell stated that this is the one by him. Blakeman wondered if Commission was asking for a written comment on the draft or if we were asking for a written comment on the idea. Caldwell stated that public could submit written comments on both.

Grabow gathered from the Commissioners that the public can submit written comments but the ordinance for the commission is for discussion only. Becker mentioned that it should include oral comments as well.

Motion was made by Grabow, seconded by VanAken, to restate the following on page eleven of June 18, 2007 minutes to read, **"the public can submit written and oral comments and the draft presented to the Commission is for discussion only."**

All in favor, motion passed.

Motion was made by Grabow, seconded by Blakeman, to approve Consent Item E.

Grabow questioned, 1) Outdoor Music event Fridays, from 6-8 PM, between 2<sup>nd</sup> and Main, with guidelines of specific location based on sponsor, 2) the events on 7/20 and 8/13 are to be determined based on sponsorship, possibly the Sport, Bar & Grille. Grabow stated that if we are going to close off streets, her understanding is that it has not been the policy of the Commission to give a carte' blanche to special events, the applicant does need to be specific as to who the sponsorship is and where the event will be held. Grabow understands that there is a time factor issue since the event is coming up soon. However, on page two, number 7.C, it said that the sponsoring business will provide security. Possible concerns are that streets could end up corded off and cause conflict with another event in town. Tinsley stated that the Downtown Association has an agreement with the public works department to avoid this problem. Becker stated that the first event was this Friday, July 13, 2007. Raney said that the Livingston Downtown Association requested this event last year, but it was always in front of the Owl. Raney recommended the Commission allow the event with at least seven days notice, and then have the Public Works department charge them the fees and coordinate with them, thus, allowing the event to be set up right and run smoothly.

Caldwell asked whether there is a conflict on one of the nights, July 20, 2007, as the date may be reserved for the Art Walk. From a parking standpoint and with that the overflow of people, this could create an issue. Becker pointed out that Friday, July 20, was the first day of Summerfest, also. Grabow questioned if the Livingston Downtown Association had to have the event in July; could they possibly get the sponsorship and let the Commission know where they were going to hold these events? Raney agreed that he does not like the event conflicting with the Art Walk and Summerfest, as parking with those two events will already create parking concerns; therefore, he made a recommendation for disapproval of the Livingston Downtown Association for July 20, 2007.

VanAken pointed out that the first weekend in August is the County Fair, and wondered if that also might present a conflict? Raney said that this would not cause conflicts with the Fair itself; however, it may cause conflicts with Fair goers wanting to go downtown. The businesses downtown would be the only ones affected by the event. VanAken stated that the City be careful in allowing the event to take place and possibly placing a hardship on other businesses that are trying to carry on their restaurant or other business. People might have disrupted the event to get inside the restaurant. "It seems a little tricky," VanAken said. "I appreciate the idea and am supportive of the event, but there is just not enough advanced time to notify all the businesses," stated VanAken.

Per Raney, the Downtown Association event is from 6 – 8 PM. Raney said that last year that they had the event on 100<sup>th</sup> Block of N. 2<sup>nd</sup> St, and it never was a problem. The event was poorly attended last year, Raney recalled. Grabow wondered if there was a chance that we could approve the Friday, July 20<sup>th</sup> event and ask them to come back to the next city commission meeting with an application noting who is sponsoring and where the street will be corded off. We also should advise them that the July 20<sup>th</sup> is the opening of Summerfest, and their event may not be well attended due to this. "Is there a chance that they can come back in two weeks which would not interfere with other dates, (i.e. 7/27, 8/3), with writing of specific event timing," questioned Grabow? VanAken believed that it could be done so long as the city knew that the street is going to be blocked off, and had advanced notice, so everyone in town could be aware.

On page one of application, Blakeman noted to the Commission that the Livingston Downtown Association had already planned to hold one event on July 6, 2007. Per Raney, they were not allowed to hold this event because of tardiness on the application to the City; hence, this was not in last meeting's packet. Tinsley stated that Association did know about the application process and the one-month-ahead policy. Becker said there was street closure on 2<sup>nd</sup> Street and Callender last year. Tinsley said we should make a change from Saturday, July 21 to Friday, July 20. There was confusion as to what specific street they would want closed.

Blakeman made a motion, seconded by VanAken, to send this back to the planners and ask for more specifics and make sure they consult with the Gallery Association and come back to City Commission with an update.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Public Hearings:**

None.

**Ordinances:**

Motion was made by Blakeman, seconded by VanAken to approve Ordinance No. 1987 – **AN ORDINANCE OF CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING BLOCKS 11, 12, 13, AND 15 AND LOTS 1, 2, 3, 4, 5, 6, AND 7 OF BLOCK 14 OF THE MONTAGUE ADDITION TO THE CITY OF LIVINGSTON, MONTANA, LOCATED IN THE NORTH ONE-HALF OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS MEDIUM DENSITY RESIDENTIAL (RII).**

Discussion:

Grabow questioned where the annexed blocks would be adjacent? VanAken said he was a little lost in regards to the map on pg. 65. After clarification from Becker, the two ordinance maps were understood. The one in discussion is blocks 11, 12, 13, and 15 and only those lots listed in block 14. VanAken understood. Grabow mentioned her concern for the property. She looked at the property today, and spoke with a neighbor concerning the property; there are two houses in which she was under the impression that there might be plans to move them. Woodhull stated that the removal of the house has not been determined yet. Caldwell asked if the County right of way survived the annexation or did it go away? The problem is with the County rather than the City, stated Raney; it only becomes our responsibility if it comes to a City right of way. VanAken clarified with Woodhull that it is now a City issue that would have to be resolved. Woodhull stated that he has given thought to specific remedies as to what to do with the house as the house is in the street right of way. The owner said that they have plans to move the house as it is an older structure that is probably not saleable stated Woodhull. Becker asked if this is what was being annexed? Tinsley stated that it is.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Rick VanAken, to approve Ordinance No. 1988, with the exception of the wording in underline change from MEDIUM DENSITY RESIDENTIAL (RII) to read– **AN ORDINANCE OF CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25, AND 26 OF BLOCK 3 OF THE MONTAGUE ADDITION TO THE**

**CITY OF LIVINGSTON, MONTANA, LOCATED IN THE NORTH ONE-HALF OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS HIGH DENSITY RESIDENTIAL (RIII).**

Discussion:

The map applied to this annexation is on page 68 of packet. Per Grabow, on page 61, is that the RIII as well? Caldwell said that it would come back to the Commission on the first meeting in August 2007. "Do they want to increase the density because of townhouses," quoted Grabow? Per Woodhull, the reason is that they have to do a substantial higher utility extension and the higher density level would make it more plausible. "Is the higher density policy consistent with the growth policy, asked Caldwell? Woodhull said the City's growth policy is commercial versus residential and, in this case, it would be residential. Grabow questioned how far the extension would be? Tinsley said that it is approximately 1000 ft.

All in favor, motion passed.

Note: Ordinance No. 1987 will be discussed on August 6, 2007 for Public Hearing.

**Resolutions**

Motion was made by Blakeman, seconded by Grabow, to approve Resolution No. 3875 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MCLEES INC. FOR CIVIC CENTER ROOF REPLACEMENT.**

Discussion:

Blakeman brought to the attention that on page 83, the part in yellow did not copy very well, and questioned if the entire roof was being replaced. Tinsley stated that it is only the REC side of the building, (the one that leaks close to the steps of the building). Per Tinsley, the main roof (dome) was completed in 2006.

All in favor, motion passed.

**Action Item A:**

Discussion of the Jondrow dedication of road right of way.

Raney does not see any issues with road right of way and stated that he was not up to speed with Jondrow right of way. Woodhull stated that the Jondrows



were going to develop the property over time, and is quite a distance from the current developer. It cannot hurt to have a right of way. The crossing does not come as far as Highway 10, rather as far as the Railroad Crossings. VanAken questioned 1) If we accept right of way, what responsibilities would it would revert to the City? Woodhull commented that it was a public right of way and would be a future sub-divider. 2) Would such right of way be connected to anything right now? No, stated Woodhull; currently, Mr. Mandeville, who is the developer, has been made aware of having to work around the sub-division. Becker questioned if we could make this a part of a subdivision process? Woodhull stated that the City could, but it would not be a part of our jurisdiction. This right of way does not line up with Meredith Ranch Road, but lines up perfectly with Northern Road Crossing, Bozeman Trail. This would give this developer opportunity to work with the railroad crossing and get across to Highway 10, thus, helping with traffic flow. In the past, the City has paid \$20,000 – \$30,000 for right of ways for roads. Mr. Mandeville is offering to dedicate this to the City at no cost. For future access plans, this would be an access to those subdivisions and then get a railroad crossing; it is a win-win situation. Woodhull said that right now it is a right of way that is a hayfield or pasture and until there are subdivisions going up, there would not be any extra cost to City. VanAken stated that letter basically said that all City would do is write a letter stating acceptance. Grabow questioned if we could connect Meigs Road with Meredith Ranch Road, would this complete such access? Woodhull said there are still large pieces missing, and Jondrow right of way would be a plus, thus helping with future right of ways. Grabow stated that the train is working so hard to get up that grade now that this would be a great place to go under the railroad; the land is conducive to that.

Blakeman made motion to send letter to Jondrow family with acceptance from City of road right of way. Motion was seconded by Grabow.

All in favor, motion passed.

**Action Item B:**

Review and determine if the Commission is in agreement with the amended growth policy to include a trails plan. First reading will be on July 23<sup>rd</sup> if agreed upon.

Caldwell wondered if the growth policy would be referenced as a required review or as consideration? Per Woodhull, everything in the growth policy is all part of a mandatory review process which is only suggestive. Caldwell said that the planning board recommended that the trails plan be incorporated into the subdivision regulations. Caldwell asked for Woodhull to verify; Woodhull stated that he would research for the Commission.

Blakeman made a motion to recommend approval of the growth policy amendment having Livingston Park County Trails Plan as Appendix A.

All in favor, motion passed.

**Action Item C:**

Review and determine the Commission's approval of a Veteran's Memorial to the right of Sacajawea Statue in Sacajawea Park.

Caldwell asked whether we had the committee for the Sacajawea Monument look at the plan for the Veteran's Memorial in regards to the specific location and sizing. Per Tinsley, Sandy Wulf was in charge of committee and henceforth represented the City on the location of the Sacajawea structure. We did have one on the committee concerned on location and upon her findings and concerns, she would discuss it with the Committee. Grabow objected to the location because it detracts from the Sacajawea Statue and the Memorial would detract from Statue. Both deserve a unique place in the park.

Blakeman was confused about the look of the Monument. "Would all four branches of military be included, and would the Wall of Names be displayed elsewhere, asked Blakeman? Per Tinsley, he had not followed up with Committee, however, the drawing is only an idea of the resemblance of Monument. Raney stated that he is unsure if they have funds to proceed right away. The committee at present would like the City's blessing to allow the Monument in the Park.

Blakeman made motion for the City to approve of the idea and concept of the monument, with the exception for the Committee to look for alternative placement in the Park. Motion seconded by Grabow.

All in favor, motion passed.

**Action Item D:**

Determine if the Commission wishes to pay American Society of Composer, Authors, and Publisher for Summerfest musicians.

Becker stated that whenever you play music that is not in a public domain, ASCAP comes into effect. See clipping on page 94 of packet for definition. Grabow believed that for the protection of artist in the field, we should pay the ASCAP. VanAken questioned 1) If the only thing ASCAP is asking is the \$284.00 license fee, and 2) Would there be any additional charges? Per Becker, the fee is based on the population size of community and \$284.00 would be the only amount that city would need to pay the musicians; this amount is in lieu of a special amount fee.

All in favor, motion passed.

**INTERIM CITY MANAGER COMMENTS:**

No comment.

Calendar of Events:

Per Caldwell, do we have a City/County Meeting coming up? There is one scheduled on Tuesday, July 10<sup>th</sup> at 4PM, but failed to make it on the Calendar. Grabow mentioned that she would not be attending the meeting on July 17, 2007, due to knee surgery; VanAken will cover for her. VanAken will not be at Regular Commission Meeting on July 23, 2007, due to a previously planned vacation.

**CITY COMMISSION COMMENTS:**

Grabow questioned 1) if the roadwork on E, F, and G would be starting soon?

In response, Tinsley stated that water projects would begin this week, the plan is to do Park & Callender Streets, and then E, F, & G. The plans at present are to get water projects completed first; the city is two weeks away from beginning project on streets. 2) Is the work being done on Park St. part of Park St. plan? (Yes, responded Tinsley.) 3) How many bids have we gotten on the East Side School that was due on the 8<sup>th</sup>? Becker stated that it was extended to the 18<sup>th</sup> or 20<sup>th</sup> of the month. Only one bid has been received so far, said Ewan. 4) Have we clarified the Tax Increment District money from the county? Ewan stated that last years TIF value was \$57,000. Ewan said that this year, the budget includes an amount of \$99,000 TIF revenue. There has been some question with TIF money and procedures. Ewan stated that there is a rumor going around that the TIF money has been frozen. She recently received a call in regards to the rumor. Ewan would like the Commission to know that the funds are not frozen.

VanAken commented 1) He was glad to see revision to the minutes in regards to Riparian Setback. He heard from three different individuals who reside on Fleshman Creek who are excited that City will maintain some kind of setback. The creek runs through the neighbors' backyards, and fortunately, they reside on the upper end of Fleshman Creek on 11<sup>th</sup>. He pointed out to the neighbors that the Planning Board Hearing is to take place soon, and strongly encourages them to attend or write comments regarding their viewpoint on the issue. They were told this is only a draft proposal at present. 2) He would like to know how the Total Asphalt Repair job is going. This is the Company that was hired by A.M.E's

bonding company. Per Tinsley, the old asphalt has been chipped out and is now ready for new asphalt. Is there an indication if Total Asphalt will be coming to finish the other jobs that were not done correctly? Tinsley stated that Total Asphalt will begin at the end of this week, July 9-13, 2007. Repair will take place on different places around town; approximately ½ dozen places need repair.

Blakeman had no comments.

Caldwell commented on the Tree Board owned by Tom Murphy. He may have some green ash trees to donate to place in front of the Band-Shell to provide shade. Could the tree board get in touch with him? Grabow volunteered to coordinate.

### **PUBLIC COMMENTS:**

Kate Sullivan, 121 E Calendar Street, addressed the East Side School vacancy. She noticed that there was one bid on it. The friend that she talked with stated that he would like to see the building placed as a public space at no charge to the users. The community could use the building for the community, i.e. a free store, bike repair, activities or programs to benefit community such as a Youth center. She does not know if the Community would be willing to support such an effort but it would be a good way to use the building.

Dick Baerman, 706 Northern Lights, addressed placing a new railroad crossing on Front Street. He said, "59 years ago, this was suggested and now we have ½ of the City's population north of the tracks." He understood that the railroad would not allow any more crossings and then later find out that the Railroad will be putting 2 crossings at Yellowstone Preserve. "It does not seem right that long term residents get shafted, and new comers come in and they get what they want." Per Raney, the rail crossing is at no cost to tax payers because a private developer would be installing crossing. Raney stated that the City is in process of doing an Engineering Feasible Study that is almost completed as far as 1) where the new crossing should be, 2) the design, 3) how it is going to tie into the current streets, 4) the cost to build. Raney said that the preliminary plan that will be presented in August looks like a good proposal as far as tying into existing roads, i.e. new development and Highway 10. Baerman was concerned of the sixty years it has taken to study Railroad Crossing. "Is the hospital set in stone as to its location?" Raney stated that it is a private deal with the Hospital so he could not answer for them.

Being no further business, motion was made by Blakeman, seconded by Grabow, to adjourn the meeting. All in favor, motion passed.

The time was 8:35 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
AUGUST 6, 2007

The Livingston City Commission met in regular session on Monday, August 7, 2007. Commissioners present were Mary Beebe, Patricia Grabow, Vicki Blakeman, Rick VanAken, and Steve Caldwell.

Staff members present were Bruce Becker, Peggy Glass, Jim Mastin, Ed Meece, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

\*Note from Chairman, Public Hearing regarding the zone change for the F Street property has been delayed per Dan Kaul's request.

Barbara E. Williams, 230 S. G St., asked if City could re-notify citizens of the new date of discussion of F Street Zone Change by letter.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A, B, and C.

All in favor of A, B, and C items, motion passed.

**Scheduled Public Comment:**

Stephanie Anderson, 621 W. Chinook St., had several concerns regarding Vince's Shop on Chinook St. 1) *Safety of children in area where mice, rodents, etc. are present creates a public health issue.* Per Becker, the city has requested that property owner submit a plan to City for repairing the property, but he has not responded. The time limit for such proposal has long expired. The City has hired a structural engineer to look at the building; he is not available until September. 2) *Junk Vehicles on Property.* Per Becker, this is a State of Montana issue. However, the DEQ deadline was July 15<sup>th</sup>, but no report has been seen. 3) *Status of building.* Per Becker, this is a city issue that can not be answered until structural engineer has toured the building. 4) *Who is responsible for children playing on property?* Vince Shaffer, owner, is responsible party. 5) *Is there something we can do for safety of children?* Per Becker, as a city building code, citizens have right to bring a private civil suit, in this case, a private nuisance which renders the property unsafe. Citizens can maintain civil action against his property. According to Meece, the city has made an attempt to prosecute a nuisance against the property a few years ago. A jury hearing proved him not guilty. Two questions of concern: 1) what could city do with current regulations? 2) *The Montana Department of Environmental Quality* must investigate the property and enforcement of junk vehicles. Did Mr. Shaffer reply to State? City has not heard from State. However, the City could use the fire as a new piece of leverage to address issue. "Before we can

mitigate the building or remove the nuisance, the City must be able to prove building as unsafe structure," stated Meece, and this, can only be done through a structural engineer. 5) *Grandfather clause - residential area in business zone. If he sells property, then could another business owe it, or if required to tear down building, could we put another business on it?* Woodhull stated that they must obtain business license from city. Obviously, it is not fit for public occupancy and he would not get a business license, stated Becker. 7) *How can I find if he has applied for license? Public Records in courthouse would have record?* Note from Blakeman, business license runs from January-January. 8) *Explain the city regulations on junk vehicles.* STATE has authority and city cannot regulate those vehicles. City sent a letter in mid-July and is still waiting for response. Legal Notes from Becker: 1) Public nuisance is a crime. A private nuisance is a civil matter, not unanimous jury. 10) *At first of September, can I be notified of building update?* Per Becker, City should know status of building by end of September and citizen can contact me. Becker stated that we cannot take someone's property without due process; an attorney has to have some reason to go into property. Structural engineer will issue report to justify legal action. After then, a Court Hearing will be held and neighbors could testify how it affects their lifestyle and any concerns they may have on issue.

### **Public Hearings:**

Action of F Street Zone Change will not take place as it has been delayed until a new time; To be announced at a later date.

### **Public Comments on Issue:**

Sherry Newman, 206 S. G Street, had questions in regard to the city's growth policy. 1) In order to prevent this type of zone change from happening, can the city look into their growth policy so our city does not replicate Red Lodge, with duplex and condos? On a legal standpoint, if a person requests a zone change, they have list of questions to answer, to the Planning Commission. The Planning Commission's action is then brought to city commission for approval/disapproval. Per Caldwell, for approval of variance or zoning changes, commission first approves findings of fact, and then another motion is made for approval/disapproval of zone change. If this passes, what happens with further zoning? Per Meece, the growth policy where vacant or undeveloped lots are present encourages a high density use to fill. To change the growth policy, the request goes before the zoning commission; they hear it, look at findings of fact, and later make a decision. Change of growth policy does not prevent an application, it just means there would be a different criteria for which it would be judged. The concern is that currently there is now a single family home, where the change is being sought. This is RII zone which means that there can be up to a duplex on property within the zone change.

Caldwell stated that several citizens in audience requested that commission notify them of any future zone change request. A certified letter to citizens affected by change should be mailed.

VanAken asked 1) who receives notice of change? Per Woodhull, the certified letter is sent to citizens within 300 ft of zone change. Also, requirement per law, is that letter is mailed to 20% of those people within 150' of the rear of which the application was made. In most cases, not all of the same people are notified. 2) When would the change of growth policy be effected? Current policy can not be changed for Bawek Zone Change; however, growth policy could be changed for future zoning changes, stated Meece.

Of the six (6) individual property owners qualified to protest, five (5) have signed the petition. This represents 83.3% protest. Anything more than 20% protests requires a super-majority of 4 votes in order for the city Commission to approve this zone change."

Per Becker, petition is still valid for the next proceeding action. The public hearing for Monday, August 7, 2007, has been delayed; however, the request has not been and will be presented again upon Mr. Bawek's request.

Becker suggested that commission place Barek Zone Change on agenda for Monday, August 20, 2007 meeting, and then hold a public hearing on Monday, September 5, 2007. Per Meece, this would allow Mr. Barek four weeks for any changes or withdrawals to application.

Barbara Williams, 230 S. G St., understood that citizens within 150' of property could sign petition. The neighbor who lives next door, would she receive notice? Per Woodhull, she would receive notice.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3882 - **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 \$699,050.00 FOR FISCAL YEAR 2007-2008 AND LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS AGAINST ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT.**

All in favor, motion passed.

**Resolutions:**



Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3879 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH TETRA TECH, INC. TO MAKE APPLICATION TO THE STATE OF MONTANA FOR A CLASS II TRANSFER STATION PERMIT FOR THE CITY OF LIVINGSTON.**

Meece clarified that this item was introduced at last meeting. Correction to Resolution now reads, Tetra Tech, Inc. rather than Montana Waste Systems. The permit and consulting costs are not part of proposed building costs, it would come from the operation budget. The fees for DEQ is not included in the construction costs as well.

Discussion:

Grabow remains opposed to duplicate transfer station and the application for this station due to lack of examination on the effect this would have on community in the next 20 years.

Motion passed 4-1, with Grabow against.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3883 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO MAKE APPLICATION TO BECOME A PRESERVE AMERICA COMMUNITY TO THE PRESERVATION OF ITS HERITAGE ASSETS.**

All in favor, motion passed.

### **Action Item A**

Discuss proposed 'Development agreement' with Yellowstone Preserve.

Meece stated that the Yellowstone Community Partners (YCP) are currently before the Planning Commission with the subdivision process and have submitted a proposed development agreement with City of Livingston. In summary, it allows for them to phase the development for a longer period of time, 15 years. Due to the size and cost of development, YCP thought it would be beneficial for both as this would allow them not to come back in 3 year increments, rather it would be extended from 1-15. Per Woodhull, this would benefit city, since they would not come in every 3 years and ask commission to re-modify plan.

Meece stated that this requires no action at present, staff and commission are in the review process.

Grabow brought up that impact fees over the course of 15 years would increase. Would they be entitled to increase fees, or are they locked in plan through Year 15? Woodhull stated that he would further investigate this issue.

Meece stated that Commissioner need to come up with a list of issues/concerns, and submit them to either Meece or Woodhull for review.

### **Action Item B**

#### **Recommend approval of the Eagle Landing Subdivision.**

Meece stated that Eagle Landing Subdivision has made request to Planning Commission with changes to their original development plan-condominium units-, and thus, requires city commission action for this to occur.

Woodhull stated that the proposal is to reduce the total of condominium units from 160 to 110. It will be accomplished by removing all the 24 building units proposed and replace them with 12 unit, 4 unit, and 3 unit structures amounting to the same footprints. Sewer, water, etc. has been installed and no alteration would be needed. The planning board has reviewed this change and is recommending approval of this subdivision.

Blakeman had concern to the height of building. Heights would be less than originally stated.

Grabow was concerned about willow trees on property. Tree board voted to retain and take care of these trees? Meece stated that trees are in public right of way and cannot be cut down, without approval of Tree Board.

Motion was made by Blakeman, seconded by Beebe, to approve the *Findings of Fact*.

All in favor, motion passed.

Blakeman, Beebe seconded, moved to approve the request and carry over any original conditions from the first Eagle Landing subdivision request.

All in favor, motion passed.

### **Addendum Action Item C**

#### **Discuss further action with response to Trails Study and Subdivision Regulations.**

Meece stated that City Commission a while ago voted to make the trails study, an advisory document to city's current growth policy. As part of study, it was

recommended that the trail study be included as an advisory document for subdivision regulation process. Possible options for City Commission: 1) The trail study be considered an advisory document during the subdivision review process as established city policy, or 2) go in with consultation with planning commission and change subdivision regulations to read, "The trail study should be used as an advisory document to the subdivision review process."

Per Becker, the subdivision process would be more binding.

Per Woodhull, the state law only requires that city consult growth policy for subdivision review.

Meece stated that at June meeting when the Planning Commission made recommendation to city commission, they were of the opinion that growth policy and/or subdivision process would be used.

Blakeman asked how does a sub-divider or developer become aware of the trail plan? Per Woodhull, when sub-dividers make application, they are given a copy of growth policy as part of the application process. Sub-dividers must understand general policy in regard to density and open space.

Two sub-issues stated Meece: 1) The existing trail study- identifying certain routes-, would any of those routes identified in trail study fall within the proposed development? 2) A piece of ground that is not being developed and not touched by existing trail map, would the sub-division review process ask, if there is logical connection? If not, does city take approach to go down another road in terms of open trails?

Blakeman would like trails study to be used and however that gets accomplished, she is in favor of proceeding.

Woodhull stated that he could take a look at the Park Space Dedication Section of the Subdivision regulations to see if there is a formula to mention the existence of trails. Caldwell stated there needs to be a parallel process that is independent of the subdivision review that works with existing city resources and routes.

Meece stated that city can do high degree of planning, but if there are no dollars, the planning would be obsolete. If a new development is developed, and in addition to those within plan, if on city right of way, there would be a construction cost. City would need to identify that piece of trail that is most important and feasible, and build it. "How do we do this and incorporate into planning process," questioned Caldwell? City would need to take priorities, and then run an economic study so that it becomes a budget item through Parks' Department. Grabow stated that public groups could help with this, ie.

citizen group. Meece stated that these groups are not always best at implementation. This would be more problematic than of worth.

**City Manager Comments:**

No comment.

**City Commission Comments:**

In regards to the F Street property, at least two commissioners showed by hand that they would like to see back on agenda at next meeting, August 20, 2007. Also, they questioned the delay of item.

**Public Comment:**

Barbara Williams, 230 S. G St, commented on the difficult of hearing at meeting. Commissioners/staff need to speak in microphones.

Being no further business, motion was made by Blakeman, seconded by Beebe, to adjourn the meeting. All in favor, motion passed.

The time was 8:54 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
SEPTEMBER 4, 2007

The Livingston City Commission met in regular session on Tuesday, September 4, 2007. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Patricia Grabow.

Staff members present were Shirley Ewan, Peggy Glass, Ed Meece, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe, to approve consent items B and C, with consent item A pulled for discussion.

All in favor of B and C, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve consent item A. VanAken discussed that he has issues with the August 20, 2007, minutes, concerning language and grammar. He would like to meet with the City Manager for further discussion, and table approval until after that meeting.

All opposed, motion denied.

**SCHEDULED PUBLIC COMMENT:**

Alex Scaff, Jr., 322 South F Street, addressed the Commission on two issues: 1) Future addition to the G Street Park. He is concerned with numerous safety issues at the park. The City Manager will follow-up on the matter. Mr. Scaff offered to volunteer, if needed. 2) Old Eastside School Lawsuit. Mr. Scaff asked why is there a lawsuit, and why is time being wasted? Grabow stated that she does not believe the City followed the law and that her attorney, Mr. Wittich, would be happy to answer any questions. Caldwell reminded citizens of several points: 1) The City Commission has never expressed an interest in selling the building at a bargain price; thus, the City Commission declined the only offer due to its insufficiency. 2) The City Commission's objective in marketing the Eastside School is to see it restored, according to Historic Preservation standards, and returned to productive use. A private restorer would be able to take advantage of the tax credits, not available to City. Likewise, the City does not have funds to restore the building. Mr. Scaff asked if a public-private partnership was an option for the City and a private restorer? Per Caldwell, it is a possibility. According to Grabow, a copy of the lawsuit is available for public review.

**PUBLIC HEARING:**

Motion was made by Blakeman, seconded by Beebe, to approve, Resolution No. 3889 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2007-2008, ESTABLISHING THE TAX LEVY, MAKING APPROPRIATIONS AND AUTHORIZING THE CITY MANAGER TO AMEND THE BUDGET.**

Discussion

Grabow voiced her objection to the 'duplicate' transfer station. She also noted that only six of the City Commission's priorities were included in the budget, and the others were ignored.

Blakeman questioned the Medicare line-item in the Judicial budget. Specifically, if the number should be \$81, or different, due to an extra dollar sign. Per Ewan, the correct number is \$81.00. Blakeman stated she was comfortable with six out of twelve budget priorities from the City Commission being implemented in the 2007-08 budget.

VanAken stated that he is in favor of the budget, and knows that budgets can get amended over time.

Beebe stated her praise for the budget, and like VanAken, knows that budgets may get amended over time to adapt to needs that may arise.

Meece stated his appreciation to the City Commission, Ms. Ewan, and staff, for their hard work on the 2008 budget.

Motion passed 4-1, with Grabow against.

**RESOLUTIONS:**

Motion was made by Beebe, seconded by VanAken, to approve Resolution No. 3885 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH STAFFORD ANIMAL CLINIC (HUMANE SOCIETY).**

Blakeman noted her abstention from a vote, on this matter, since she is the Executive Director of the Stafford Animal Shelter.

Meece clarified that changes shown in the agreement are actually from last year. Grabow questioned if the increase in cat and dog licenses helps fund the animal control expenses. Meece stated that additional dog

license revenues continue to go to the general fund, and the cat license revenue increases will be used by the spay and neutering program.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3886 – **A RESOLUTION OF INTENT TO MODIFY THE BOUNDARIES OF SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE CITY OF LIVINGSTON, MONTANA, AND TO APPORTIONS LIGHTING, MAINTENANCE AND REPLACEMENT OF SUCH COSTS AGAINST THE PROPERTY EMBRACED WITHIN THE BOUNDARIES OF SAID DISTRICT AND CALLING FOR A PUBLIC HEARING ON SEPTEMBER 17, 2007 TO HEAR PROTESTS FROM PROPERTY OWNERS.**

Discussion:

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3887 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ASSESS SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR REPLACING OR PLACING STREET LIGHTS THEREIN AND OF ITS INTENT TO ASSESS ALL PARCELS OF PROPERTY WITHIN SAID DISTRICT FOR 100 PERCENT OF SAID COST FOR FISCAL YEAR 2007-2008 ESTIMATED TO BE IN THE AMOUNT OF \$77,214.00 AND CALLING FOR A PUBLIC HEARING THEREON.**

Discussion:

Meece clarified that Resolution Nos. 3887 & 3888 work together; #3888 takes care of the energy costs of the lighting district, and #3887 takes care of the capital improvements cost for the district. Caldwell reminded citizens of the Public Hearing set for next meeting, September 17, 2007.

Brenda Adams, 802 E. Butte, questioned the location of lighting district 20. Per Caldwell, "it is the entire city."

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3888 – **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 PERCENT OF SAID COST FOR FISCAL YEAR 2007-2008 AND CALLING FOR A PUBLIC HEARING THEREON.**

Discussion:

VanAken pointed out to citizens in attendance that there will be Public Hearings for Resolution Numbers, 3886 & 3888, at next meeting, September 17, 2007.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3889 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO VACATE A PORTION OF THE SOUTH ½ OF THE UNDEVELOPED OLD FLESHMAN CREEK ROAD RIGHT-OF-WAY ABUTTING BLOCK 1, PALACE ADDITION TO THE CITY OF LIVINGSTON.**

All in favor, motion passed.

**ACTION ITEM A:**

Approval of Yellowstone Preserve Preliminary Plat.

Woodhull stated that the City Commissioners received his staff report, in the meeting packet. The staff report states that the subdivision in question is in "Sections 5, 7, and 8, T2S, R10E, with a proposal to subdivide 568-acre parcel into approximately 781 lots in seven phases. This project is proposed as a mixed-use development containing 850 residential units of varying density and approximately 30,000 square feet of commercial space." The applicant has requested several variances to the subdivision regulations. The Planning Commission has reviewed the variance requests and given their approval – along with other conditions for preliminary plat approval.

Blakeman, seconded by Beebe, made a motion approving the Findings of Fact.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve the subdivision request for Yellowstone Preserve Subdivision Preliminary Plat with the conditions listed in the staff report.



Grabow mentioned her concerns with potential flooding, and the expansion of this development into the Hart-K ranch, i.e. shopping centers, etc.

Barry Long, Design Associates, addressed in further detail, approval condition number 9, which requires the approval of floodplain delineation by FEMA prior to final plat approval. He stated that they will rely on FEMA, and follow their recommendations regarding floodplain and floodway designations.

VanAken cautioned the press that the developer's application states there will be 781 lots on 561 acres, which averages 3 quarters of an acre/per lot. However, a considerable amount of land will be left undeveloped; remaining as open space and preserve. Mr. Long re-stated their intent to preserve much of the land and keep the river in its current state.

Beebe questioned how the privately held land will be utilized by the public. Per Long, the Homeowner's Association will maintain the property, and make it available for public use.

Caldwell noted that some properties front green space, with access from the alleys. Per Long, this is a popular, and accepted, development pattern to have your house front to green space. There are only a few lots like this in the development, most come off a paved street.

Motion passed 4-1, with Grabow against.

**ACTION ITEM B:**

Discussion of potential Jesson Annexation.

Meece presented a letter, from Mr. Vuko Voyich, on September 4, 2007, asking to withdraw the Jesson petition for annexation. The letter also states that they would like to have further conversations, with staff, in regard to the property. It was discussed that, prior to re-submittal, a public workshop might be beneficial as well.

**ACTION ITEM C:**

Approval of Mantzey Annexation request for High Density-RIII zone.

Meece stated that the City has a recommendation from the Planning Commission that the Mantzey Annexation be zoned High-Density RIII. The map located on page 81 of packet shows the annexation, in particular lot 12.

Motion was made by Blakeman, seconded by Beebe, to approve findings of fact for Mantzey Annexation, High Density RIII.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, for the City Commission approve of zoning this parcel RIII.

Discussion:

Grabow questioned whether RIII, as opposed to RII, is an appropriate level of density for this development. Meece stated that RIII is the requested zoning from the developer. The Growth Policy encourages that any 'in-fill' areas are to be of a high-density use (for the compaction of utilities and other public services). Montague to the east is zoned RIII.

Grabow would like to know how this annexation would affect the relationship with Green Acres sub-division. According to Meece, that development is zoned by County regulations. The Administration hasn't had any conversations with Green Acre residents on this matter.

Blakeman stated that the City needs to add RIII to the housing inventory to help those who need lower income housing, and that the annexation is adjacent to the trailer park - an existing high density use.

Per Meece, the property is totally accessible from city streets, and is to the front of Green Acres sub-division, placing the higher density use in front. Likewise, the compaction of utility services could also serve other adjoining homes, including Green Acres.

VanAken asked what tools or leverage the City has, once the subdivision is approved, to require affordable housing. Meece stated that the City does not have a formal tool, rather it is a market-based decision for the developer. Grabow commented that N Street has some houses zoned RIII and these are quality homes.

Brenda Adams, 802 E. Butte St., stated that she feels North M Street and North N Street are only half-developed. For example, houses are on top of each other and the parking is very limited. She suggested that the City should clean up its RIII zones before adding more RIII type zoning.

Grabow asked about the status of adding a Planned Unit Development Zone (PUD) to the zoning code. Meece does not think that the issues at hand would benefit from a PUD because there isn't a mix of uses. According to Woodhull, staff continues to develop a PUD zone for

addition to the zoning code. Grabow asked to table any action until the public has a chance to comment.

Tom Moody, 711 N. Street, an employee from Absoroka Consultants, addressed several issues. This project is not faced with the same elevation and grade difficulties as the N Street development. The developer is considering how best to tie into water and sewer, including nearby trailer parks and Green Acres. The RIII density is necessary to make the project economics work.

Motion passed 4-1, with Grabow against.

**ACTION ITEM D:**

Riparian Ordinance – Report from Planning Commission.

Meece stated that the Planning Commission considered a draft ordinance, prepared by Mr. Zimmer, regarding Riparian Setbacks. The Planning Commission recommends that no further action be taken. VanAken praised the recommendation of the staff on this action item.

**ACTION ITEM E:**

Approval of "New" Job description for the position of Fire & Rescue Shift Captain.

According to Meece, no approval was required from the City Commission, it is only for informational purposes.

**ACTION ITEM F:**

Bawek Zone Change

Per Meece, Mr. Kaul sent a letter withdrawing this item from any further consideration [page 99 of packet].

**ACTION ITEM G:**

Discussion of Veteran's Memorial.

At the August 20, 2007, meeting, there was discussion of a local group's desire to erect a Veteran/Military Memorial in Sacajawea Park.

Christina Nelson (109 Runway Ln), Marsha Carlin (100 Willow Creek Rd.), and Shelley Kurschner (213 Ash Lane) addressed the City Commission about the Veteran's Memorial. Meece stated that staff does

not have any concerns about the proposed location, at this time. All Commissioners praised the team for their work on the Memorial. Staff will continue working with the group as they continue the project.

**CITY MANAGER COMMENTS:**

Blakeman asked if the City would get a report, in regard to the Schaeffer property. Per Meece, there will be a report with recommendations and findings about the property.

**CITY COMMISSION COMMENTS:**

Blakeman questioned the proposed expenses for Summerfest 2008. Meece stated that the rental costs have increased, along with the need for other types of equipment. Blakeman also stated that she attended the Hospital's vision-setting meeting, as a representative of the City Commission. The article in the Livingston Enterprise was an accurate depiction of the session.

Beebe had two concerns. 1) The trees on H Street are looking sick. Della Tucker, a resident, noticed that the trees have not been watered. She asked if there was a maintenance agreement for continued watering, or if it is the responsibility of the residents. Meece stated that he would investigate the matter and advise the City Commission and residents further. 2) The housing development across from Fleshman Creek, and its intrusion on the river, is of concern. Representative Bob Ebinger has taken action, by bringing FWP and DNRC staff together to look at the problem. However, Beebe questioned if the City has a procedure for making people aware of the regulations related building in a riparian area. Per Woodhull, the DNRC recently audited the City's flood plain operations. As a result, the City was made aware of our obligation to advise citizens of the joint-application form for a Section 310 permit. Prior to this, the City did not have a copy, and was not aware of its obligation in such matters.

VanAken stated that he would not be in attendance at next meeting, September 17, 2007. He would be on vacation returning on September 25, 2007.

Grabow asked about the status of developing a tree regulation and/or requirement for the City. Per Meece, this project has not been a priority, but it is on the work list. Grabow mentioned her desire that the City be represented at the 'Greening of Yellowstone Conference' scheduled for September 12, 2007 in Big Sky, Montana. Grabow also stated that she had a conversation with Mr. Ebinger about the possibility of cities getting

back 4% of the funds collected from the state tourism tax. Representative Ebinger is working on the issue.

Caldwell attended a meeting on Thursday, August 30, 2007, with Congressman Rehberg, and other government agencies, stressing the importance of Yellowstone Park to the regional economy.

**PUBLIC COMMENT:**

No public comment from citizens in attendance.

Being no further business, motion was made by Blakeman, seconded by Beebe, to adjourn the meeting. All in favor, motion passed.

The time was 9:29 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
City Commission, Chair

**LIVINGSTON  
CITY COMMISSION MEETING  
OCTOBER 1, 2007**

The Livingston City Commission met in regular session on Monday, October 1, 2007. Commissioners present were Patricia Grabow, Steve Caldwell, Rick VanAken, Mary Beebe, and Vicki Blakeman.

Staff members present were Bruce Becker, Shirley Ewan, Ed Meece, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A and B.

All in favor, motion passed.

**SCHEDULED PUBLIC COMMENT:**

None.

**PUBLIC HEARINGS:**

None.

**RESOLUTION:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3896 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING OF AGREEMENT WITH YELLOWSTONE COMMUNITY PARTNERS LLC.**

Discussion:

Meece stated the following as background information: 1) This development agreement was previously discussed as part of Yellowstone Preserve's preliminary plat application. 2) It has been reviewed by City legal and planning staff, both are satisfied with the proposed agreement. Caldwell noted that changes were made in impact fees and limitations. He also asked if there are any other changes desired by Staff. Per Meece, no.

Grabow had several questions in regard to agreement. 1) She questioned the liability of the contract and stated that City Commission should have a workshop for more discussion. The contract, as written, does not allow for future commissioners to make decisions, and the public would be held to current commission approval. Meece stated that it is an accurate perspective, but if any changes are made to the approved plat the developer would need Commission approval 2) Grabow further mentioned, on page 29, it states, "Developer may, at its sole discretion, cease all further development after

completing any phase of the Subdivision." A scenario: The developer could put sewer and water into the development with phase I and II. Then they would develop commercial space. Then they would have a chance to build a shopping mall on the Hart ranch. If developer then states that he wants to sell this to another developer, then the wording of quote above would allow the "new" developer to do as he sees fit.

Per Meece, in concept Grabow is correct, but the agreement requires additional Commission approval before the development agreement could be transferred to a new owner. The Hart-K Ranch would need to be annexed and follow all of the City policies and procedures with regard to zoning and subdivision processes. Becker stated that state law requires annexation for water and sewer for each piece of property. Grabow commented the reason for bringing the issue up is because Missoula had a Wal-Mart come in under this same kind of "agreement." Meece stated it is his understanding 1) any developer could cease after any phase that has been approved; it is not unique. If someone has not completed utility work and have posted a letter of credit or another security, then the City would execute that security and finish utility work. The City cannot require a developer to finish development at any phase. The time involved for this project is much longer than most. 3) On page 35, it states, "For the purpose of computing the time periods, times in which war, civil disasters, **acts of God** or extreme weather conditions occur, will not be included to the extent that such events prevent Developer or the City from performing their respective obligations under this Agreement." Grabow asked if a flood a consideration is "an act of God?" Per Becker, it is standard language in most contracts. The period of time that land is under water would be excluded from the time period for construction. Almost every contract has this clause, known as "force majeure." 4) On page 33, the agreement states that the new Park space would not be owned under the City. Commissioner Beebe stated that although the park space will not be owned by the City, it will be available for public use. Grabow asked if the City could build trails in the area. Per Caldwell, the sub-divider has taken it upon itself to build and maintain trails since it is private land. Blakeman stated that trails were previously identified for construction within Yellowstone Preserve.

As a reminder, Becker stated that once a preliminary plat has been approved the City Commission can not add any additional requirements.

Beebe asked if the discussion, for this evening was really limited to just the proposed time line. Per Caldwell, anything in the agreement is open for discussion.

Motion was made by Grabow, seconded by VanAken, to delete the wording on page 29 which states, "Developer may, at its sole discretion, cease all further development after completing any phase of the Subdivision."

Discussion:

VanAken asked, "If such was deleted, does the developer have the right to cease project whether or not it is written in this contract?" According to Meece, if the developer's business is failing, they may choose to stop further development whether it is stated as such in the development agreement. Meece reminded the commission that the City did a twenty-year development agreement with LYSA for development of the north soccer park. The language written in that contract is very similar to language of Yellowstone Preserve.

Motion declined 4-1, with Grabow in favor.

Motion was made by Blakeman, seconded by Beebe, to approve Yellowstone Preserve agreement.

Motion passed 4-1, with Grabow against.

**ORDINANCE:**

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1990 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 17 OF THE LIVINGSTON MUNICIPAL CODE AS ENACTED BY ORDINANCE NO. 1735 AND AS AMENDED BY ORDINANCE NO. 1895 BY INCREASING BUSINESS LICENSE FEES AND MAKING PROVISIONS FOR THE REGULATION OF STREET VENDORS.**

Discussion:

VanAken asked why the ordinance would have a lower license fee for sexually oriented businesses than telephone companies. He stated that far more staff time is spent with SOB enforcement than a telephone company. Meece clarified that the license increase is a straight 14% increase, with some dollar rounding. The commission could certainly change any of the license fees if desired. Caldwell stated this is not the only revenue received from sexually oriented businesses, there are additional permit costs as well.

Grabow questioned the deleted wording on page 72 regarding to 'snake-oil' salespeople. Becker stated it goes back to the days of "medicine shows." Medicine and drugs are now regulated by the federal government.

Blakeman questioned page 68, the 'going out of business' sales, fire sales, etc. "Is this applied to an ongoing business that wants to close?" According to Becker, this is to prevent the same store from going out of business continually. There is a time frame of 90 days for closing. Caldwell asked if there were provisions for garage sales. Becker stated no. Blakeman asked,



"Would the same apply to page 62, to the sale of merchandise on streets and sidewalks?" The same would apply stated Becker. Grabow questioned licenses for condominiums and apartments. Per Becker, condos are individually owned and residents are not required to get a business license.

Blakeman questioned how the City enforces business licenses with regard to condos and their payment of property taxes. Per Ewan, a sign-off is required of the owners, and periodically the City does verify this information. Duplexes do not have to have a license. VanAken asked for clarification on page 53, section B. For example, the Senior Center is a non-profit and requires a license for the rental units only. Per Ewan, the Thrift Store does not have a license because it is a non-profit organization.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1991 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 11.33 OF THE LIVINGSTON MUNICIPAL CODE AS ENACTED BY ORDINANCE NO. 1497 AND AMENDED BY ORDINANCE NO. 1836 BY INCREASING THE FEES FOR FIRE INSPECTION AND BY REQUIRING COMPLIANCE WITH FIRE INSPECTIONS.**

Discussion:

Blakeman noted a typo on page 83, the third whereas, it reads *afore*, it should read "for".

VanAken noted that there will be a public hearing on Ordinance #1990. Is there a public hearing needed for Ordinance #1991? According to Becker, the public notice for #1991 was accidentally not placed in the packet. On October 15, 2007, there will be public hearings for both ordinances.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1992 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 13.52 OF THE LIVINGSTON MUNICIPAL CODE AS ENACTED BY ORDINANCE NO. 1658 BY ALLOWING ACCESSORY BUILDINGS TO RECEIVE WATER THROUGH THE SAME METER AS THE PRIMARY RESIDENCE.**

All in favor, motion passed.

**ACTION ITEM A:**

Discussion and/or approval of "op-ed" regarding Yellowstone National Park.

Meece stated that Ms. Blank, National Park Conservation Association, has requested the City's endorsement of the draft Op-Ed piece. This document will be published in various newspapers, and if the Commission approves, it would state, "supported by Livingston City Commission."

Blakeman stated her support of document and that Livingston relies on the Park for a lot of economic development; and it is currently under-funded. According to Caldwell, such a document is consistent with two previously passed resolutions.

There was a consensus by all.

**CITY MANAGER COMMENTS:**

Meece gave Congratulations to Firefighters Lobaugh, Wood, Bruha, Schonen, and Jacobsen for completion of their Firefighter I certification. Captain Herrington, and Firefighters Walker and Chambers are soon to complete the Firefighter II certification. Under the new contract, the certifications must be kept current, to be eligible for certification pay. If certification has expired, firefighters must re-certify before 2009.

Meece again congratulated Chief Mastin for receiving the *Award of Excellence* from the Montana Fire Chief's Association.

Grabow questioned if the Corps of Engineers, 205 Study was distributed by e-mail. Meece stated the draft Highway 89 bridge assessment was sent in an e-mail. Grabow asked if a copy of the 205 Study could be placed in her mailbox, and how will the information get to the public? Meece stated that he would post both the Section 205 study economic analysis and the Highway 89 bridge assessment on the City website.

VanAken praised the Public Works Departments' 'Roaming Crew' for an excellent job at G-Street Park. Alex Scaff addressed the Commission a few weeks ago, and it would appear that his safety concerns were fixed.

**CITY COMMISSION COMMENTS:**

Blakeman had no comments.

Beebe had no comments.

VanAken reminded the commission of the Senior Center Meeting on October 10, 2007. the topic of discussion is the CDBG Grant for the Senior Center. Also, VanAKen asked if the City could we pass a resolution to forward to the DOT about expediting Highway 89 bridge process? Meece stated a resolution could be done on the matter.

Grabow asked if 1) the Commissioners could receive a report from the Montana League of Cities and Town Convention. 2) The work done by Park County to the bridge at Sacajawea Park is quite a disappointment. She plans to report her concerns to the county. The original design does not match with the progress now. 3) The City Tree ordinance was not followed when Park County cut down trees at the City/County complex. She would like to check into the process and possibly fine the county. 4) Reminder: October 4<sup>th</sup> and 19<sup>th</sup>, the bio-diesel buses will be in town for public tours.

Caldwell reminded the commission about the City/County meeting on Tuesday, October 2, 2007 at 4PM. Meece asked that Commissioners get their written comments to him, regarding the Highway 89 bridge assessment, by Wednesday, October 3, 2007. Caldwell noted that there was no discussion on the Bennett Road construction/schedule, and limited information regarding the trade-off's related to pier scouring and the desired alternative.

**PUBLIC COMMENTS:**

No public comments.

Being no further business, Blakeman made a motion to adjourn the meeting, Beebe seconded.

The time was 8:36 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
Commissioner Chairman

**LIVINGSTON  
CITY COMMISSION MEETING  
OCTOBER 15, 2007**

The Livingston City Commission met in regular session on Monday, October 15, 2007. Commissioners present were Rick VanAken, Patricia Grabow, Mary Beebe, and Steve Caldwell. Vicki Blakeman was absent.

Staff members present were Bruce Becker, Shirley Ewan, Jim Mastin, Ed Meece, Darren Raney, Clint Tinsley, and Jim Woodhull.

Motion was made by Beebe, seconded by VanAken, to approve consent items A and C, with consent item B pulled for discussion.

All in favor, motion passed.

Motion was made by Beebe, seconded by Grabow, to approve consent item B.

Discussion:

Grabow was concerned with the amount paid to the Stafford Animal Shelter this month, in the amount of \$3,179.50. Originally, the City had designated \$700.00/month to the Shelter. Grabow requested an itemized bill and, specifically, how it relates to the dog and cat license increases. Per Meece, much of the costs reflected in these bills are attributable to the cat hoarding situation. This amount is far above what City pays on a normal monthly basis. "What are the monthly fees for dog and cats?" asked Grabow. According to Meece, although the City renewed the contract with the Stafford Animal Shelter a few meetings ago, that contract was for the same rates established in 2006. Per Beebe, the increase in cat fees were dedicated to the spay-neuter program, within the 2008 budget.

All in favor, motion passed.

**SCHEDULED PUBLIC COMMENT:**

Caron Roberti, of the Human Resource Development Council (HRDC), addressed the City Commission in regards to the Rehabilitation Program for homeowners in Livingston. The Northern Rocky Mountain RC&D, HRDC, and the City of Livingston have implemented a program to offer rehabilitation to low-income households. The program currently helps those in low-income occupied homes, ie., the elderly and disabled. The City provided \$17,000.00 for start-up costs, and currently, \$134,000.00 has been invested in eight homes in the city; this averages to about \$17,000.00 per home. However, most of the homes are in the floodplain to comply with federal regulations; this involves: 1) publishing a public notification (it was completed two weeks ago),

2) conducting a public meeting, and 3) mitigating any damage to the floodplain. Most of the work done has been roofs, plumbing, electric, and windows – no changes have been made to building or lot configurations that would have an effect on the floodplain footprint. Grabow asked the location of the homes. Per Roberti, most of the locations are on the east side of town.

**PUBLIC HEARINGS:**

**\*Note: Public Hearing “D” has been postponed until further notice.**

Motion was made by Beebe, seconded by VanAken, to approve Ordinance No. 1989 – **AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING LOTS 12 OF CERTIFICATE OF SURVEY NO. 395 LOCATED IN SECTION 7, TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., AS HIGH DENSITY RESIDENTIAL (RIII).**

Public Comment:

Carlo Cieri, 107 Elm Lane, Green Acres, stated his concern about changing the zoning classification from original RI (COUNTY) to RIII. It has been annexed but the “square” is all by itself. Per Meece, within 90 days of annexation, the City must zone newly annexed property. The zoning request has gone through the Planning Commission for consideration, and the City Commission heard it for the first time at its last meeting; tonight is a public hearing. Woodhull clarified that the RI classification of 1 acre lots from the county zoning no longer applies to the property once it is within the city limits. The developer (owner of the parcel) is requesting this proposal, per Beebe. Woodhull stated that the owner will propose a subdivision plan that meets the conditions of an RIII zone. Grabow said that the owner did appear before the Commission; he was interested in providing affordable housing and in bringing city sewer and water to nearby subdivisions as well. Per Cieri, the 35’ high buildings would create a New York City feel and it takes away from the scenic view of the mountains.

According to Meece, the City does not have a subdivision review requirement for ‘view’ purposes. Cieri asked, “Will the sewer and water come regardless?” Beebe said that the subdivision review is when the “details” take place; public comment and concerns need to be voiced once that plan has been presented. When asked by Grabow, Cieri stated he would be in favor of an RII zone. He is opposed to an RIII zone. When the City zones a piece of property that has no other development on it, the idea is to zone it to its best use – so developers know how to create a development plan it. It does not make sense to zone it RII, and then later on move it to an RIII development plan.

Roberta Pugliano, 105 Elm Lane, Green Acres, is concerned about the zoning classification. If it is zoned the RIII, now, the City has opened the door for

anything permissible in RIII zone. Then, the public does not have much voice at time of discussion. Per Meece, the statement is correct to the extent of doing what is permitted in the zone; however, a development plan cannot be done without a zoning classification. VanAken stated that the underlying problem with RII is that the developer can do anything up to a duplex and the RIII allows the developer to do more than a duplex. According to Meece, an RIII zone could have any density from single family homes up to 35' apartment buildings. The developer is not *required* to build to a higher density.

Tom Moody, engineer for the developer, said that an RIII zone is necessary in order for the development to cover the cost of the utility extensions. According to the developer, their plan is to combine single story and 2-story structures. The height issue may be a non-issue, as they are not looking at a 3-story structure presently.

Caldwell encouraged the Green Acre residents to participate in the discussion of the preliminary plat at the Planning Board. (This would be the next step in the process.)

Discussion:

Grabow voiced her objection to the RIII zone as other homes in Green Acres are RII.

Motion passed 3-1, with Grabow opposed.

Motion was made by Beebe, seconded by Grabow, to approve Ordinance No. 1990 - **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 17 OF THE LIVINGSTON MUNICIPAL CODE AS ENACTED BY ORDINANCE NO. 1985 BY INCREASING BUSINESS LICENSE FEES AND MAKING PROVISIONS FOR THE REGULATION OF STREET VENDORS.**

Public Comment:

None.

Discussion:

Beebe stated that page 71, Sec. 17-14 of the ordinance should include "or animals".

*Amendment:*

Motion was made by Beebe, seconded by Grabow, to revise Ordinance No. 1990 wording in Sec. 17-14 to read, "It shall be unlawful for any person to sell or hold or conduct any sale of goods, wares or merchandise, food, **or animals** of any description, upon any street, sidewalk or other public place within the City without first obtaining a City business license."

All in favor of amendment, motion passed.

All in favor of Ordinance No. 1990, motion passed.

Motion was made by Grabow, seconded by Beebe, to approve Ordinance No. 1991 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 11.33 OF THE LIVINGSTON MUNICIPAL CODE AS ENACTED BY ORDINANCE NO. 1497 AND AMENDED BY ORDINANCE NO. 1836 BY INCREASING THE FEES FOR FIRE INSPECTION AND BY REQUIRING COMPLIANCE WITH FIRE INSPECTIONS.**

Public Comment:

None.

Discussion:

VanAken questioned page 93, darkened area, stating, “and shall correct any violations of the fire code days and provide proof thereof to the Fire Department within thirty (30) days.” Is “days” to be included? Per Becker, days should be deleted.

Amendment:

Motion was made by VanAken, seconded by Grabow, to eliminate the word “days” from Ordinance No. 1991, Sec. 11-33.

All in favor of amendment, motion passed.

All in favor of Ordinance No. 1991, motion passed.

**Note: Item D, has been postponed.**

**VARIANCE A:**

Katner Variance – from the side setback requirement for RII zoning districts.

Woodhull stated that Mr. Doug Katner, owner of the property on 428 N. 5<sup>th</sup> St., requested the variance from the side setback requirement for RII zoning districts. He wishes to remodel existing bedrooms in the home, which would be approximately three (3) feet from the side property line. The Zoning Code requires a five (5) foot side setback. The Board of Adjustments are recommending approval on this variance request.

Motion was made by Beebe, seconded by Grabow, to approve the Findings of Fact.

All in favor, motion passed.

Motion was made by Beebe, seconded by VanAken, to approve the Katner Variance.

All in favor, motion passed.

### **RESOLUTIONS:**

Motion was made by Beebe, seconded by VanAken, to approve Resolution No. 3897 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE RATE FOR COLLECTION AND DISPOSAL OF SOLID WASTE FOR RESIDENTIAL CUSTOMERS IN THE AMOUNT OF \$1.00 PER MONTH AND A 10% INCREASE FOR COMMERCIAL CUSTOMERS.**

#### Discussion:

Grabow stated her disapproval of this resolution as it affects the businesses economic well being. The costs involved in the "duplicate" transfer station have created an increase in the Waste budget, and this is an added cost.

Beebe asked if there was a linkage between the increase in solid waste and the transfer station. Per Meece, there is no linkage between them. As discussed in budget hearings, the Administration said in the 2006-2007 budget process, there was a need to increase fees. At that time, the City agreed to hold off one more year. The budget increase is strictly based on the operations of the solid waste department: fuel, salary, etc. This excludes the new transfer station. Per Becker, the last residential increase was in 2002. In 2003, the commercial fees were decreased by 10%, as stated in the resolution. Caldwell stated that a dollar value of a 10% increase, now, is less than the dollar value of a 10% increase on the original base.

VanAken had a question on page 112. The rate increase is shown on the chart, noting "after" the increase in solid waste collection per month. He also reminded the public of the Public Hearing scheduled for the next meeting, Monday, November 5, 2007.

Caldwell noted a typo error on page 109 on the first "whereas." The amount should read \$1.00 per month, not \$1.00 per ton - per month.

Tinsley stated that the biggest issue in the increase is in the amount of fuel and wear on the tires. The trucks not only collect normal trash, but other collections are figured in such as cardboard, glass, etc. Another issue is the labor cost. Over the last three years, the operation has been in the hole. The rate increase is not enough to get the City out of the hole, but enough to get the City by while the new transfer station is being implemented. After that, the City will re-evaluate its costs.



Caldwell noted that if City was increasing at the rate of inflation, it would be a 30% increase; if it at the rate of fuel cost increases, it would be a 60% increase. I believe the 10% increase is reasonable.

Motion passed 3-1, with Grabow opposed.

Motion was made by Beebe, seconded by Grabow, to approve Resolution No. 3898 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MAKE A NON-MONETARY AMENDMENT TO THE BUDGET FOR FISCAL YEAR 2007-2008 BY AMENDING JOB CLASSIFICATIONS AND SALARIES.**

Meece pointed out two corrections: 1) On page 116, on the line of *Assistant Police Chief*, it shows annual budget *in the amount of \$38,693.00*; however, the amount budgeted was \$46,636.00. 2) On page 116, on the line of *Police Shift Commander Sergeant*, it is listed as *\$42,136.00*; the amount should be changed to \$39,693.00.

VanAken asked about the changes that led to creation of the Assistant Director of Public Works. Per Meece, currently, the position is listed as Project Coordinator. Since the position began, it has morphed informally into an Assistant Director. The only thing that has not changed is the job description and the rate of pay.

All in favor, motion passed.

**ORDINANCE:**

None.

**ACTION ITEM A:**

Discuss the funding and distribution of Park & Trails Brochure.

Meece stated that the Parks & Trails Brochure was presented at the City-County Meeting, as well as cost information for duplication of the maps. The Administration needs direction from the City Commission with regard to printing an initial set.

Beebe asked if this was the final draft. She has a correction: the piece of road next to ThomasBurns home from the alley of Crawford and 7<sup>th</sup> Street. Is this trail ready? Caldwell stated that it could be added. Grabow liked the idea, as well. Per Caldwell, the trails can change as things move forward, but would those changes would not be shown on the original published map.

Caldwell stated that the Chamber of Commerce and developers might find the map useful. "How much money is needed for" publishing, asked Grabow? Per Meece, it could be from \$500 - \$1000.00. As stated by Caldwell, the Commission could ask for another quote from Printing for Less. Grabow would like to do a 50-50 split with the County, but if they decide not to help with printing the City needs to continue with publishing process.

**ACTION ITEM B:**

Confirm appointment of Wayne Hard for completion of Probationary Period.

Meece stated that on page 122, a letter was received from Chief Raney that the City Commission confirm his appointment, as he has satisfactorily completed his probationary period.

Motion was made by Grabow, seconded by VanAken, to confirm the appointment of Wayne Hard for completion of Probationary Period.

All in favor, motion passed.

**ACTION ITEM C:**

Discuss and/or approve time extension for Tower Terraces Subdivision.

Woodhull commented that Tower Terraces Subdivision was approved two years ago, near Water Tower avenue, just below the City's water tank (west of High Ground Subdivision). None of the preliminary infrastructure has started, and the developer needs approval of a time extension - as stated in subdivision regulations.

Beebe made a motion, seconded by Grabow, to approve the extension of time for Tower Terraces Subdivision.

Discussion:

VanAken asked if the developer has given any reason to doubt his time frame. Per Woodhull, the developer has not physically done anything and the City is not out any money, etc.

**ACTION ITEM D:**

Discuss and/or approve engineering contract related to Composting Grant (amended by State of Montana).

Per Meece, on page 124 of packet, there is a proposal from Nelson Engineering as it relates to the \$15,000.00 grant from the State of Montana for the purpose of studying our composting systems. Originally, the City thought it might

include how to expand the current composting program to include school lunch foods, etc. Now, the City would like to take it further and include the feasibility of integrating composting of the materials produced at the wastewater treatment plant. It could require making changes to how City treats wastewater.

Grabow made a motion, seconded by Beebe, to approve the contract as related to the composting grant.

Discussion:

VanAken asked for clarification as it relates to budget. Meece stated that the money budgeted for the Digester Lid would be used to finance the City portion of the study. The Digester purchase would be postponed during the project. The study would tell City whether or not to change City's method of treatment, if so, then a new Digester Lid would not be needed.

All in favor, motion passed.

**ACTION ITEM E:**

Discuss advertisement for Urban Renewal Appointment.

Caldwell asked, "who is leaving?" Per Meece, there are two appointments coming up, 1) for the seat of Mr. Walters, 2) for the seat of Mr. Spencer. "Does city need a CPA?" asked Caldwell. There is no requirement for that type of appointment, commented Meece. These are general seats that have four-year terms. The first order of business is to: 1) have permission to advertise those effective January 1, 2007, 2) discuss the possibility of having a member of the school district sit on the Urban Renewal Authority. Mr. Walters has indicated that he does *not* wish to serve another term; Mr. Spencer does wish to serve another term. On November 6, 2007, there is a Urban Renewal meeting that will include this issue.

Grabow and Caldwell stated that school-board members have been reluctant to attend meetings of this nature. Beebe stated that City should give school-board priority for this seat.

**ACTION ITEM F:**

Request to purchase 2008 Chevrolet Colorado pickup for a police patrol vehicle.

Meece stated that Administration is requesting approval of a quote to purchase a Chevrolet Colorado pickup truck through the GMAC Purchase Program. This

is part of the fleet rotation in the police department. The City purchased two trucks last year, and the 2008 budget includes one truck.

Motion was made by Beebe, seconded by VanAken, to approve the lease purchase of the 2008 Chevrolet Colorado pickup for the City Police Department.

Motion passed 3-1, with Grabow opposed.

**CITY MANAGER COMMENTS:**

Grabow applauded the comment that the City is pursuing local interest in an extension of the bike path which currently terminates at Washington Street and Hwy. 10; possibly to the intersection with Front Street. As per VanAken's question, Meece clarified that the intersection is at *Frontage Rd.*

VanAken questioned the City's temporary transfer station operation date. It should state 10/8/07 not 10/18/07. Meece apologized for the error.

**CITY COMMISSION COMMENTS:**

Beebe had two comments. 1) She had a neighbor ask about street lights being on during the day. Per Tinsley, when street lights on power poles are not working properly, the City does report it to Northwest Energy. If they are broken still, then Northwest Energy has not fixed them. 2) My concern is with using the issue of water quality as an organizing principle for planning; and how can the city and county work together to attain this objective. For example, the City of Helena and Lewis & Clark County have worked together on planning and growth based around the operational principle of water quality. At the Municipal League, the discussion was centered on water systems and wells. This issue is something citizens can relate to as high density appears in the City of Livingston. Possible suggestion: the City could talk with City of Helena and Lewis & Clark County.

VanAken clarified that 1) the Planning Board Meeting is scheduled for Wednesday, October 17, 2007. One of the topics is the zoning classification of the Montague subdivision. Woodhull stated that the ordinance passed first reading, then, the second time, at public hearing, it failed. In order to have the property zoned, the process must start over. A mailing was sent out to those neighbors that testified in opposition to the previous zoning proposal. 2) A section in the paper that denotes special events in local papers does not show Livingston's special events such as Art Walk, etc. The City may want to submit happenings to [www.americanprofile.com/happenings](http://www.americanprofile.com/happenings). 3) He also asked about the date of the 205 study which is in December. 4) At the public meeting at the Senior Center, regarding the pending grant request, one point of discussion was to have a Resolution from the City Commission in support of the project.

Per Meece, Ms. Benner has provided the desired information and Mr. Becker will draft a Resolution for the November 5, 2007, meeting. 5) The report from Peggy Glass about the auction was fascinating in relation to the bikes. VanAken asked what happens to the property that is not sold at the auction. To which Meece responded that it is sent to the landfill.

Grabow questioned when the 205 study meeting would take place. Per Meece, the Corps is planning to come to Billings at the end of October. The Administration will meet with them to informally discuss the layout for the December meeting planned for Livingston. There is no exact date as of present. 2) Could the condition of the lagoon be discussed with them? Per Caldwell, this is not a part of the 205 scope of work. Meece asked Grabow to explain her concerns that there are sediment deposits in the channel leading to the lagoon. Meece asked Tinsley if the City has issues with sediment falling into the lagoon? Per Tinsley, the city does have issues with sediment that goes along the channel and has had those issues historically. 3) There is no information in the packet regarding the Historical Preservation Commission and the Urban Renewal Board. She would appreciate it if these were added to packet in monthly reports. 4) I would like to hear more of the happenings of Livingston Museum, as publicity in newspaper. 5) Is there a way to put the MSU document on the website from the Urban Design Committee? "Yes," stated Meece. 6) She praised Jim Walters for his hard work with the Urban Renewal Board. A letter of gratitude would be a nice gesture to send to him from the City. Meece stated that the City will write a letter, and this is usually done as someone leaves a board/committee seat.

Caldwell stated a concern with the Mayors Landing Trail, and the beaver issue as it relates to the flooding of Fleshman Creek. Per Meece, the City has begun a program to help mitigate beavers and will continue with program through mid-November.

**PUBLIC COMMENTS:**

No public comments.

Being no further business, Blakeman made a motion to adjourn the meeting, Beebe seconded.

The time was 9:22 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
Commissioner Chairman

**LIVINGSTON  
CITY COMMISSION MEETING  
NOVEMBER 5, 2007**

The Livingston City Commission met in regular session on Monday, November 5, 2007. Commissioners present were Vicki Blakeman, Mary Beebe, Steve Caldwell, Patricia Grabow, and Rick VanAken.

Staff members present were Bruce Becker, Peggy Glass, Jim Mastin, Ed Meece, Darren Raney, Clint Tinsley, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A, B, C, and D.

All in favor, motion passed.

**SCHEDULED PUBLIC COMMENT:**

Joe Sikes, 215 S. 6th Street, voiced her concern about Mayor's Landing [she made reference to Resolution No. 2227 - A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF LIVINGSTON AND THE MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS.] At that time, the City had agreed to build a fishing access site at Mayor's Landing which included a restroom, ample parking for fishermen, and a small grassy oval in the middle of the parking area. My concern is that the grassy oval in the parking lot is being used for parking and is now half its original size. I have put notes on vehicles and they are aware, but there are no "trespassing" signs to prevent cars from parking there.

Beebe and Caldwell agreed that the parking area needs to remain as it was stated in Resolution No. 2227. The Commission was in consensus that the matter should be further researched and appropriate action will taken on this issue.

Ed Meece, City Manager, explained the recent re-organization within the Police Department, and that this resulted in the creation of a new Assistant Police position and reclassification of the our Shift supervisors from Captain to Sergeant rank.

Raney noted that the rank structure of Police Department has been the same for over fifteen years, and there has not been an Assistant Police Chief for over twenty years. After evaluation, the City believes that with these positions supervision, administration, and employee development can be better accomplished There has not been any new personnel added; the ranks have been restructured. The new Assistant Police Chief, effective November 1, 2007, is Glenn Farrell, an employee for

fourteen years. Farrell expressed his thanks to the Chief and City Commission and hopes the new position will facilitate the department's development. The new Sergeants will serve as Shift supervisors and the administrative responsibilities performed by the former Captain's will be transferred to the Assistant Chief. Sergeants will focus on street level supervision and deal with personal development. Dale Johnson, a nine-year employee of department and former School Resource Officer, is the new Sergeant, effective November 1, 2007. Johnson thanked Raney for the opportunity to serve in new position. Meece added that the police force is highly trained, for example, locating stolen vehicles before owners aware, and should be commended for their hard work.

Mike and J.J. Mullin, 7 Felix St., and Josh Adams, 414 N. Main St., addressed their concern of the vandalism in the City cemetery in the baby section in August 2007. Mrs. Mullin quoted from the Livingston Enterprise:

*The baby section in the Livingston cemetery was the focus of thousands of dollars worth of vandalism on Wednesday night Robert Harper [is quoted as] manager of the cemetery. Rock angels, a dove, cats, and seventy to hundred of natural and imitation flower arrangements were some of the damaged property, Harper said. "I drove by and thought, oh my God, what happened?", and he said on Thursday morning that it is a disgrace to our society. Livingston Police Captain, Eric Stevenson, said that \$5,000.00-\$8,000.00 dollars of damage was done on Wednesday night, including the vandalism of 10-15 headstones. City insurance should pay for the damages said Harper. Police have no suspects, however, the Livingston Department has a reward for information and prosecution, Stevenson said.*

When our family went to see the damage, only rocks were left of my twin boys' angel statues. Mr. Harper had saved the remnants of the shattered statues which we took them home with us. He said that experts were to look at them, from Wisconsin - and he gave us a catalog of replacement statues to look at. Later, we were told that the City's insurance would not cover the damage and that we must use homeowner's insurance for replacement. Our homeowner's insurance was not replacement value, and after 37 years, with a \$500 deductible, we would only receive \$500 in settlement.

The baby part of the cemetery is not deeded; it is only a 2/3 foot plot. If we were remodeling our home and the water meter was broken, we would be responsible to pay for it. We think the City should pay for this damage. Butte and Missoula are doing something about their cemeteries which were recently affected by vandalism. Our homeowners' insurance



states, "Please be aware that your policy contains several duties that you are required to met in view of a claim, these duties include but not limited to protecting property from further damage making reasonable repairs from the property keeping an accurate record of expenses." The only solution for this is to "sleep at the cemetery at night." The Mullins would like to see a fence put up and gates looked up at night around the cemetery. Adams asked the reason why that Ewan would not let him look at the professional care agreement and was then referred to the City Attorney. It is not right to say that "this[cemetery] is "city property" but the "city" is not paying for it.

Meece stated that he had met with the Mullins' on Friday, November 2, 2007 and noted that Mr. Mullins' did a nice repair job to the two angel statues. According to city policy, the Administration cannot act on this issue. Currently, liability is covered for a person who might trip while in the cemetery, but it does not cover personal property (such as the headstones and statues). Meece recommends that the city investigate the policy of other cities, as to whether the City should help offset such costs or pay in full in some cases.

Grabow asked what happened with the City not following through on the article to the newspaper. The Mullins stated that they were ignored, and they had to keep persisting. Does the City negotiate the terms of "damaged property?" Per Meece, there are some ways to add 'riders' for additional items to the insurance policy. However, one of the first mistakes that the City miscommunicated its ability to be of financial assistance. Beebe asked the date of the vandalism; Mullins' said it was probably the Wednesday prior to the Friday's release on the publication.

#### **PUBLIC HEARINGS:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3899 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING THE RATE FOR COLLECTION AND DISPOSAL OF SOLID WASTE FOR RESIDENTIAL CUSTOMERS IN THE AMOUNT OF \$1.00 PER TON PER MONTH AND A 10% INCREASE FOR COMMERCIAL CUSTOMERS.**

#### Public Comment:

None.

#### Discussion:

Grabow noted that the cost increase to commercial customers is not fair to them; she opposes.

Blakeman stated that four to five years ago, there was a 10 % reduction for business garbage rates; in essence, the City is staying as before. Also, the City is pursuing the glass crusher and composting, this will reduce the commercial waste stream and reduce their costs.

Motion passed 4-1, Grabow opposed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3900 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, MAKING AN AMENDMENT TO THE BUDGET FOR FISCAL YEAR 2007-2008 BY AMENDING JOB CLASSIFICATIONS AND SALARIES.**

Public Comment:

None.

Discussion:

Blakeman noted that the position of “Assistant Director of Public Works (ADPW)” was excluded from the list. Meece stated it is listed, but it states, “Project Coordinator.” That should be changed to Assistant Director of Public Works. Grabow noted that the ADPW has a salary increase, is that budgeted? Meece replied that the ADPW, Assistant Police Chief, and Sergeant salary are budgeted, or will be absorbed within the present budget.

All in favor, motion passed.

**VARIANCE:**

A. Arby’s Restaurant is asking request for variance for windmill. **Note: This item is for informational purposes only and was not discussed.**

**RESOLUTIONS:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3901 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO SUPPORT THE PARK COUNTY SENIOR CITIZEN CENTER RENOVATION PROJECT.**

Discussion:

VanAken requested that the Commission prepare a resolution of support for the Senior Citizen Center. The Senior center needs multiple support letters of support for the renovation project.

Barb Williams, President of the Park Co. Senior Citizen Center, thanked the City for the Resolution noting that it will go a long way in supporting

the project. She invited individual citizens to also write a letter of support for the center and/or to make financial donations. The deadline for the letters is the end of November 2007. The template for a support letter is available at the Senior Center.

Grabow asked if there is a way the City could do a press-release regarding letters for the Center, and Mr. Meece that it could be done.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3902 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CTA ENGINEERING FOR PRELIMINARY ENGINEERING SERVICES FOR COMMUNITY-WIDE COMPOSTING SYSTEM IN THE AMOUNT OF \$30,000.00.**

Meece that the contract with CTA is related to a grant from DRNC for the purpose of studying the local composting system. Beebe questioned how it is related to the oxidation process of the compost (anerobic versus aerobic digestors). Per Tinsley, anerobic digestion adds air, makes less smell, and it is easier to compost with grass and leaves and arobic digestion is process for composting. Currently, this waste goes to landfill. Grabow questioned the professional service agreement in response to the T-sep funds under “purpose and agreement.” On page 66, does the \$30,000.00 apply to the funding? Per Meece, the grant awarded by the State of Montana was for \$15,000.00 and it means if the state does not make good on the grant promise, the contract would be voided.

VanAken had two questions: 1) On page 67, the whereas, says “in the amount of \$30,000.00 plus reimbursable expenses”, then it states under item 4, “not to exceed \$30,000.00 plus reimbursable expenses”. Does the “not to exceed” need to be included in the Resolution. Per Meece, Mr. Nelson knows that \$30,000.00 is the limit, including any reimbursable expenses; therefore, the resolution is fine as is. Mr. Becker noted that on page 77, the City estimate for reimbursable expenses is \$0.

All in favor, motion passed.

#### **ACTION ITEM A:**

Discuss and/or approve zoning for Davis Annexation.

Meece noted that on page 83 is a staff report with recommendations from the Planning Commission to recommend that the Davis Annexation be

zoned RIII. According to Woodhull, "this is a 1.72 acre parcel located at the intersection of Loves Lane and Willow Drive."

Blakeman made a motion, seconded by Beebe, to approve the Finding of Fact.

Discussion:

Caldwell asked what the zoning was on the property to the east and west. Woodhull stated that the property to the west is zoned RI-Residential in the county as well as the east, adjacent to the Comfort Inn. Currently, the zoned property is vacant. VanAken asked if the square inset inside the "L" lot (on the map) is RI in county. Grabow noted that it is close to the freeway; Woodhull stated it is within 100' of freeway. Per Woodhull, three or four town-homes are planning to be built on the subject property.

Blakeman made a motion, seconded by Beebe, to approve the zoning request for the Davis Annexation RIII.

All in favor, motion passed.

**ACTION ITEM B:**

Discuss and/or approve zoning for Montague Annexation with stipulations (RII).

Woodhull commented that the Montague annexation has gone back to the Zoning Board, and they are recommending approval as an R-II residential with two stipulations: 1) that the City annex and maintain Grandview Blvd, 2) the property owner, through legal covenant or deed, restrict the development of all lots to single family 'stick built' homes only.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact.

Discussion:

Grabow praised the Planning Department and Planning Commission on their hard work. "Does it make sense to annex Grandview Blvd.," asked Caldwell. Per Woodhull, it does if the City wishes to maintain it. Will there be a maintenance agreement with the County? Woodhull stated that the City could pursue it.

Public Comment:

Jolyn Jerde, 306 Grandview Blvd., voiced her objection to the zoning, even with stipulations. RII zone is fine; however, the road to the property is not. I am against it since my children ride 4-wheelers on the road, etc. Why couldn't the city place a different road for access to the new subdivision? Meece stated that it could be done if the 'city' wanted it to be done; however, it is normal procedure to use roads previously built. Caldwell noted that the annexation of the road is not on the table for discussion; the city is only deciding on the zoning of the parcel.

According to Becker, in 2005, there was a change in state law in annexation; it provides that when the City annexed property it must also annex the adjacent roads. Blakeman stated that she understands Mrs. Jerdes' concern, as Livingston has "growing pains", but the benefit of annexing the road is to make the roads better for all residents in the area.

Shirley Nelson, 312 Gradview Blvd., addressed her concern on the zoning. What are they building on the lots? Those lots are too small to build single dwelling homes on one lot; there would need to be two lots per home. Would they be two-story homes? If it states stipulations, which equates to conditions, who signs it and then who gets sued? She noted that she would 'sue' the City if something were not done. Per Meece, the stipulations would be apart of the zoning action and a part of the decision of the City to take final action on the property. Woodhull stated that the lots are big enough to build a single home house; these lots can be compared to S. 8<sup>th</sup> St. homes. Mrs. Nelson stated that she lives in a 150/120' lot, three bedroom home with 2-car garage, and only two people in the home; this is an old town, and most homes in the town are too small for today's living. Could you place the stipulations in writing and have it signed by the City?

According to Meece, the City lots are being compared to county lots. City exist to create a certain amount of density; whereas, the county does not work that way. Blakeman stated that the homeowner could buy more than one lot for building. According to Mrs. Nelson, homeowners on Grandview are leaving the area before the building process begins due to these circumstances. Tinsley pointed out that the new houses on 5<sup>th</sup> and Calendar are on 50' lots; Nelson stated no one lives in those homes.

Blakeman made a motion, seconded by Beebe, to approve the zoning recommendation of RII with the stipulations that there be only single-family homes, a road up-grade, and no duplexes.

All in favor, motion passed.

**ACTION ITEM C:**

Discuss and/or approve amendment to Subdivision regulations - accepting trails as park land.

Meece stated that this action is part of integrating the plan from the Trails/Greenway Task Force into the growth policy. The language would let the City accept the dedication of trails/greenways as part of the Park land dedication requirement of the subdivision regulations. This would enhance the City's trail system as guided by the Livingston County trails plan.

Blakeman made a motion, seconded by Beebe, to have staff bring this back to Commission in the proper form for the purpose of formal action.

Discussion:

Caldwell asked, 1) "is the intent to require that equivalent acreage be dedicated?" Woodhull stated it would be up to City Commission discretion. 2) What if we restrict it as guidelines as 'guided by the Park-County trails plans? Woodhull stated that this language actually loosens the regulations and gives the City more options in regard to a specific route.

All in favor, motion passed.

**ACTION ITEM D:**

Discuss and/or approve Bid Award for Rotary Park.

Meece commented that the City of Livingston has been working with the Livingston Rotary regarding development of a 'water park or splash playground.' The location, at present, is G St. Park. The City underwent an RFP process for design/build of such a water park. The Administration and the Rotary are asking that the Commission accept a bid in the amount of \$197, 611.32, from Watco Pools, on the condition that the contract not be finalized until the Rotary has completed the required fundraising (expected to occur by June 2008). Staff has been in discussion with Watco Pools, and has told them that 'city' would award the bid based on these conditions.

Blakeman stated that Rotary needs to know they 'may need to come up with more money', depending on whether there is an escalation of the price.

Blakeman made a motion, seconded by Beebe, to accept the Bid, with Watco Pools, and enter into a contract agreement with the stipulation that the work will proceed unless the Rotary has raised the necessary funds by June 2008.

VanAken questioned the Rotary's timeline. Tinsley stated the Rotary already has some funds committed, although he was not sure how much. He also said that the three Rotary members of the committee thought funding would be available by May-June 2008. If the timeline is not met, the City can shut down the project until the money is available.

All in favor, motion passed.

**ACTION ITEM E:**

Discuss and/or approve contract for Water modeling analysis.

Tinsley stated that CTA-Nelson Engineering would perform the modeling and analysis of the water system. After further discussion, Blakeman made a motion to give staff direction to enter into a contract with CTA Nelson engineering for the modeling and water system analysis; Beebe seconded.

All in favor, motion passed.

**ACTION ITEM F:**

Discuss and/or approve contract for Sewer modeling analysis.

Blakeman made a motion to direct staff to enter into a contract with CTA Nelson Engineering for the modeling and sewer analysis; Grabow seconded.

All in favor, motion passed.

**ACTION ITEM G:**

Discuss and/or approve Amsk Annexation.

Woodhull stated that the property is owned by the Harris'. It is approximately 10 acres and is adjacent to the radio station, the Krohn property, and the Yellowstone River. Mr. Amsk, prospective buyer, is requesting that it be annexed in order to build a house on the property for his own use. The reason for annexation is to allow him to connect to existing city utilities that cross the property. He is aware of the costs for such connections.

Grabow stated that she is disturbed by the annexation request. Woodhull stated that Mr. Amsk would like be required to use city utilities, and that requires annexation. Beebe praised the owner for wanting to his personal home on the property, as opposed to a development.

There was considerable discussion among the Commissioners with regard to concerns about the placement of potential structures (distance from the river), height, etc. Mr. Woodhull stated that these could best be accomplished with an annexation agreement, similar to what was done with Ted Watson or Yellowstone Preserve. The Commission directed staff to develop an annexation agreement with Mr. Amsk and bring it back for further consideration.

**CITY MANAGER COMMENTS:**

Beebe questioned if there was a firm date for the Corps visit, yet. Meece, stated that he did not have a firm date and was trying to get one from the Corps of Engineers.

VanAken had a question as to the meaning of the third item, "Where was the alley opening?" Per Meece, it was on 13<sup>th</sup> and Summit St.

Blakeman had question in regard to the Planning Board meeting on November 21, 2007 as it is the day prior to Thanksgiving. Per Woodhull, for now it is still scheduled.

**CITY COMMISSIONER COMMENTS:**

Beebe brought up the issue of the "poop bags." Nancy Boider was in Boise, Idaho and they had dispensers of inexpensive bags for folks to pick up their "doggie poop." Also, on the long term, my neighbor has been wondering why street lights are on during the day. Is there a way to get control over our own street lights? Caldwell then asked "since we are replacing the lights over time, does problem go away with new fixtures?" Per Woodhull, as lights are replaced they belong to the City (not Northwest Energy) and we get control over repair and maintenance.

VanAken had several comments. 1) Reminder: City/County Meeting at 4:00PM on Tuesday, November 6, 2007, and the Urban Renewal Meeting at 7:00PM on Tuesday, November 6, 2007. 2) Compliments to Ed and Tiffany for the revisions to the August 20, 2007, minutes. 3) In the November 5, 2007 "Tidbits" section of 'American Profile' magazine, Livingston was the only city listed under Montana. It is a description of the return of the Yellow Buses event with Yellowstone National Park.



4) The City/County Maintenance Committee has a scheduled meeting on November 6, 2007 at 3:30PM. The reason for the meeting is that Montana Clean is dissatisfied with the space they are given to store supplies and equipment.

Grabow asked about the Arby's variance letter, which was in the packet. Caldwell stated it is only for information because it needs to go to the Board of Adjustments first. 1) The candidate debates at the Beanery for elections went well, the public could learn and benefit from these events. 2) Can a press release be done about the Underpass meeting on November 8<sup>th</sup>. Meece stated that 'city' would do that, but it has been previously advertised. 3) She raised concerns that the digging on H street was done without proper archeological review, and disturbed original site of 'Clark City'. In the future these things should be considered. 4) What are the plans for lights on H St? Meece stated that the lights on H St. have been ordered and will go in the Spring of 2008. The lights will be owned by the city. 5) Grabow saw a sign that a City had put up saying "Human, please pick up your dog's mess; Dog - Woof, Grr, Bark - Good Dog." I think this would be a great sign to display to remind people to pick up after their dog.

**PUBLIC COMMENTS:**

Meece noted that City is grateful to the Community Closet for their donation of \$1500.00 to outfit all the police officers with digital cameras. Also, a letter about Captain Wood's deployment to Afghanistan is enclosed. Let's wish him the best and keep him in your prayers.

Being no further business, motion was made by Blakeman, seconded by Beebe, to adjourn the meeting.

The time was 9:48 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
Commission Chair

**LIVINGSTON  
CITY COMMISSION MEETING  
NOVEMBER 19, 2007**

The Livingston City Commission met in regular session on Monday, November 19, 2007. Commissioners present were Rick VanAken, Vicki Blakeman, Mary Beebe, and Steve Caldwell. Commissioner Patricia Grabow was absent.

Staff members present were Bruce Becker, Shirley Ewan, Peggy Glass, Robin Keyes, Ed Meece, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe to approve consent items A & B.

All in favor, motion passed.

**SCHEDULED PUBLIC COMMENT:**

John Orendorf was scheduled for public comment regarding ambulance transfers, but was not in attendance; he has been placed on the agenda for next meeting, December 3, 2007.

**PUBLIC HEARINGS:**

None.

**VARIANCES:**

**A. Katner - 428 N. 5<sup>th</sup> St.**

Jim Woodhull stated that Doug Katner, owner of property, located at 428 North 5<sup>th</sup> St., is requesting a variance from the front setback requirement for RII zoning districts. He wishes to add a deck to the existing porch on the home, which would be approximately eight (8) feet from the front property line. Code requires a twenty-five (25) foot front setback. The Board of Adjustments met on November 13, 2007, to hold public hearing on this issue; a quorum was not present at the meeting, but staff recommendation is to approve the variance.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact.

All in favor, motion passed.

Blakeman made a motion, seconded by Beebe, to approve the Katner Variance request.

Discussion:

Blakeman asked what was the concern from the lady that was against the variance. Per \_\_\_\_\_, her concern was that at some point in time the deck would be closed at a later date, and it would not be attractive to the neighborhood. The Katner's stating that they were not interesting in enclosing deck and would not mind putting a 'clause' in variance request that stated 'they would not enclose deck.'

Amendment:

Blakeman made a motion, seconded by VanAken, for approval of a condition that the porch/deck not be enclosed.

All in favor, motion passed.

Discussion on Variance Approval:

VanAken mentioned that the home next door to this property was his grandparents. He noted, the existing limitations of the surrounding neighborhood. The property already has a guesthouse on the back of property as well as a garage. With more variances added, it makes for a bigger footprint on a small piece of land. On October 15, 2007, the commission approved the widening of his bedrooms. Why were these requests not together? Per Woodhull, "it did include porch, but was neglected from the packet in the meeting."

Caldwell asked about the third *finding of fact*, "Most of the other existing homes in this zoning district do not meet the current twenty-five (25) setback requirement." Do we have a feel for how many homes do not meet the setback requirement? Per Woodhull, the majority of homes are less than 25', some are 21-22', and a few are 10-11'; he noted that there were no setbacks before 1989.

All in favor, motion passed with condition.

**B. Mustain – 226 S. 'F' St.**

Jim Woodhull stated that Marcos Mustain, owner of property located at 226 South "F" Street, is requesting a variance from the front setback requirement for RII zoning districts. He wishes to build a porch addition onto an existing home on the property; the addition would be approximately 4 feet 5 inches (4'5") from the front property line. Code requires a twenty-five (25) foot front setback from the property line. Staff has recommended variance approval and the Board of Adjustments met and there was not a quorum; therefore, no recommendation. Per

Woodhull, the addition would match an architectural feature of the existing home that is 4' 5" from the front property line.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact.

Discussion:

There was brief discussion of the drawing submitted, and the feature in question.

All in favor, the motion to approve findings of fact passed.

Blakeman made a motion, seconded by Beebe, to approve the variance request from Mr. & Mrs. Mustain.

All in favor, motion passed.

**C. Stanton – 304 S. Yellowstone St.**

Rod Stanton, owner of property located at 304 South Yellowstone Street, is requesting a variance from the side setback requirement for RII zoning districts. He wishes to build an addition onto an existing garage on the property; the addition would be approximately five (5) feet from the side property line. Code requires a ten (10) foot side setback on a side adjacent to a street/corner lot. Staff recommended approval, and the Board of Adjustments met; there was no quorum, therefore, no recommendation.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact. All in favor, the motion passed.

Blakeman made a motion, seconded by Beebe, to approve the Stanton variance.

All in favor, motion passed.

**RESOLUTIONS:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3903 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CTA ENGINEERING FOR PRELIMINARY ENGINEERING SERVICES FOR WATER SYSTEM MODELING AND ANALYSIS IN THE AMOUNT OF \$2,500.00.**

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3904 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CTA ENGINEERING FOR PRELIMINARY ENGINEERING SERVICES FOR SANITARY SEWER SYSTEM MODELING AND ANALYSIS IN THE AMOUNT OF \$2,500.00.**

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3905 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A MONTANA RENEWABLE RESOURCE GRANT AGREEMENT WITH THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) FOR THE GLASS PULVERIZER IN THE AMOUNT OF \$100,000.00.**

Discussion:

VanAken asked for clarification regarding the grant and cost coverage. Per Meece, the original plan was to build a stand-alone structure just for the glass pulverizer; it would have been \$100,000.00 grant here and about \$150,000.00 match on city's part. Since that time, staff has decided to place this within the new 'transfer' station, a new development since the writing of 'glass pulverizer' resolution. The \$100,000.00 will be spent first to utilize the glass pulverizer equipment and then remaining will go toward construction costs for the new 'transfer' station. The match of \$150,000.00 would be create for the cost of 'transfer' station minus \$100,000.00.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3906 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CITY OF LIVINGSTON MOVIE POLICY.**

Robin Keyes, City Management Intern, addressed the Commission regarding revision of the movie policy. Last summer's experience showed some holes within our policy. These changes are the result of reviewing policies in other cities, and input from local industry experts and the state film commission. Most importantly, #19 – the premium fee - *to insure compensation for crucial business time* - was added.

Blakeman questioned the #1 of policy stating 'restoration of property to its original condition after use for filming purposes.' "Do we need to add anything?" asked Blakeman; for instance, the Band shell was re-painted, and we would not want it back the way it was. Becker stated that only the things that are detrimental to the City would need to be replaced.

Blakeman noted a typo on # 9 – it should be 'swimming pool' not poor.

VanAken questioned #16 of policy: Item A – Evening shooting (outside of 8 a.m. to 9 p.m., Monday-Saturday, 9 a.m. to 8 p.m. Sunday.) *Filming in residential locations can be extended with signatures of approval from residents.* What is considered residential areas? For instance, does this include the Senior Center? Per Meece, it should be read 'residential locations'. VanAken is concerned with shooting late in the downtown area after everyone has cleared out, would this apply to downtown 'residences'. Then they should be responsible for getting signatures. Caldwell asked the wording to be changed to "*filming near residential locations.*" (*The 200' radius would apply.*) Per Meece, staff will modify the wording, no motion necessary.

Caldwell has one suggestion on the filming questionnaire, (*Item 9*). Since we have a Local Agent, it would be nice to add a "Local Agent" to the contact lists. That change will be incorporated into the policy.

Blakeman and Caldwell asked - if we are still waiting for input from the state organization, on the actual policy, do we need to wait? Per Keyes, there is no state approval; they are more of a guideline source. According to Meece, if substantive changes are needed we can always amend the policy further.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3907 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH 49ER DINER AND CASINO TO CATER SUMMERFEST 2008.**

Discussion:

Blakeman asked if this was the only bid received. According to Becker, there was one other additional bid from the Owl Bar for a percentage bid of total sales; this did not seem like a 'sure thing.' Meece stated that it has been more than three years since a bid process was done, and it was at Becker's request that City undertake the bid process.

Caldwell questioned the 'nature of relationship' under "Now therefore", 3<sup>rd</sup> line, on page 100. 'Not' should be deleted, due to the use of double negative. Also, on page 101, item 4, it should read: *The Caterer shall perform its obligations under this agreement for a fee of \$2,250.00...for clarification purposes.* "Non-refundable" deposit of \$1,000.00 should be added to item 4, contract price, in case the Caterer fails to perform, the City would be able to find a back-up caterer. Per Meece, the language will be added to contract.

Blakeman wanted clarification on the bidding process. Per Becker, the current bid would go to 49er Diner for next year as well.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3908 – **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 2007-2008.**

Per Meece, this is an annual policy that is brought before the Commission following the audit each year. Beebe questioned 1) the 'transportation and distribution' part of the water enterprise fund (pg. 111 of packet). Is that the cost of vehicles that were purchased this year? According to Meece, the \$-722,735.84 is the depreciation account. Per Ewan, this account has been in the hole for several years. 2) In some of the reserves, can people, as citizens, make donations to particular accounts? On page 109, there are 'tree donations and Sacajawea statue' as examples of where people can make donations, per Meece.

Caldwell had a question regarding *Item 4, 'Undesignated General Fund reserve will be maintained equal to at 15 percent of annual expenditure level.'* Currently, the City is running less than 10 percent, per Ewan. Meece stated that for several years the City has tried to shift budget policy so as not to spend reserves in General Fund. Caldwell asked, "Is that creating issues maintaining 15 percent as stated in the Resolution?" Meece said that is a goal set for Livingston.

VanAken clarified about the reserves. According to Meece, each fund has reserve accounts set up for it; they could be different things such as cash or operating account, or it could be restricted for special use

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3909 – **A RESOLUTION OF THE CITY COMMISSION OF**

**THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2006-2007, AND CALLING FOR A PUBLIC HEARING THEREON.**

Meece stated that this is a 'housekeeping' amendment the City does annually after an audit. For instance, the Street Department purchased a loader for a 5-year lease. For their purchases, the entire loader would have to be in the budget; whereas city just paid the first payment on it. In order to do that, city would need to go back and change the 'original' budget to incorporate 'loader' purchase. Do you have a payable for the remainder? asked Caldwell. 'Yes,' replied Ewan.

VanAken wanted an explanation for the reasoning of why the auditor recommends that rather than wiring money on July 1<sup>st</sup> the City pay it in June. Per Ewan, last year July 1<sup>st</sup> was on a weekend so the city would get a penalty if it were not there by 6 PM on June 30<sup>th</sup>. Auditors recommended to make two payments in the one fiscal year (June) so that city would not be penalized for July 1<sup>st</sup> deadline of 10:00 AM.

All in favor, motion passed.

**ORDINANCES:**

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1993 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING 1.72 ACRES DESCRIBED AS REVISED TRACT NO. 11 OF CERTIFICATE OF SURVEY NO. 721, BEING A PORTION OF TRACT 11 OF THE ORIGINAL PLAT OF ACREVILLE, PLAT NO. 393, LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M. PARK COUNTY, MONTANA AS HIGH DENSITY RESIDENTIAL (RIII).**

Discussion:

Per Caldwell, the map used for Ordinance No. 1993 is the one near Albertson's.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1994 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING BLOCKS 11, 12, 13, 15, AND LOTS 1 THROUGH 7**



**OF BLOCK 14 OF THE MONTAGUE PLACE SUBDIVISION LOCATED IN THE NORTH ONE-HALF OF SECTION 7 TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M, PARK COUNTY, MONTANA, AS MEDIUM DENSITY RESIDENTIAL (RII).**

Discussion:

Blakeman asked for clarification on ordinances. Ordinance No. 1993 was behind Albertson's and right across from Eagle's Rest, outside of town. Ordinance No. 1994 is the Montague addition off of the Grandview subdivision. Per Caldwell, it has gone back to the Planning Board for a second look. Becker stated that there will be a second hearing on both Ordinances; this is the first reading tonight, stated Caldwell. Beebe questioned if this is the one where the residents came forth and said that RII was in everyone's interest rather than RI; one of the conditions was no duplex and the road was part of the discussion.

All in favor, motion passed.

Note: Public Hearing for Ordinance No. 1993 & 1994 will be held on December 17, 2007.

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1995 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE CITY OF LIVINGSTON'S SUBDIVISION REGULATIONS AS ENACTED BY ORDINANCE NO. 1982 BY MAKING PROVISION THAT THE CITY MAY ACCEPT LAND FOR TRAILS OR GREENWAYS IN LIEU OF PARK DEDICATION.**

Discussion:

Meece stated that the Commission instructed Staff to begin the process of how we might implement the trails plan as guiding policy for the City. The Commission has discussed the language within the Ordinance to allow us to use dedication of trail land as part of the calculation when accepting land for green space/park space.

All in favor, motion passed.

**ACTION ITEM A:**

Discuss and/or approve PFL request for Speed Limit change on Hwy. 10.

Meece referred to the letter from Print for Less (PFL) about reducing the speed limit on the highway in front of their building. In discussion with the Department of Transportation, the first step in the process is for the property owner to petition the City to undertake process. City would

need Commission's approval to direct staff to forward this letter to DOT; they are then responsible for determining whether the speed needs to be altered.

Blakeman asked if Commission could send a letter stating that we agree with this request. Per Meece, a support letter would be an appropriate gesture.

Blakeman made a motion, seconded by Beebe, to direct Staff to forward this letter with one from the City of Livingston requesting lower the speed limit on Highway 10 right in the PFL area.

Discussion:

VanAken questioned whether we would want to limit it to that area. Caldwell said that we a change could be made at the end of the existing 45 mph zone.

All in favor, motion passed.

**ACTION ITEM B:**

Discuss and/or approve proposed Annexation Agreement with David Amsk.

Meece stated that staff had previously presented the annexation petition to the City Commission, which directed that an Annexation Agreement be developed with Mr. Amsk. There were concerns over distance between the new home and river, as well as possible height issues.

Woodhull stated that Staff discussed the 'height above grade' agreement of 'not to exceed 2 stories above grade nor 31' in total height. The number was in by the height limit of 27' plus the additional flood elevation of 4'. The landowner in this document would agree to construction site being no closer than 75' from any high water from river or stream on property. The other three bullets given information of what is required to be annexed within the city limits.

VanAken questioned whether the city has any designation of lots that are platted. According the Woodhull, "no, it is roughly 10 acres." When we say that no construction site will be closer than 75' from the high water mark from any river or stream (Yellowstone River), what is considered the high river mark? It is the same as the stream access, per Woodhull.

Beebe questioned the benefit to the city for annexation of this property at present. Per Woodhull, the benefit is that tax base is larger; in addition, there would be sewer and water customers.

Blakeman asked how far from the end of city water lines to this property? The sewer goes through the property and the water dead-ends at the end of the street pass the Cul-de-sac, per Tinsley. Per Amsk, he would have to install his own water line, and there is already an easement agreement for the City to provide water and sewer taps. What was the agreement? Blakeman asked, "What do these agreements commit the City to?" Per Becker, it allows us to cross their property with city sewer-line; city has agreed to do certain things in exchange for that.

Beebe asked about the risks of annexing or not annexing in regards to being able to control the development in order to determine the larger question of potential development on the floodplain.

VanAken questioned if there is a residence on property currently. Per Amsk, 'no, there is not.'

According to Meece, by approving the agreement, it does not guarantee approval of annexation.

The Commission would like additional information from Mr. Amsk in regards to: the original contractual commitments on the provision of water/sewer and information on restrictions proposed by the county on development of residential property.

Blakeman made a motion, seconded by Beebe, to make a motion to table this annexation agreement for discussion at the next meeting when more information is available from the water/sewer commitments.

Blakeman asked, "What accesses to the property currently?" Per Amsk, just past KPRK there is a private road.

All in favor, motion passed.

**ACTION ITEM C:**

Discuss and/or approve Brookstone subdivision.

Woodhull gave the following informational facts: Mr. Melvin Mantzey, owner of property located in the NW ¼ of section 7, T2S, R9E, located to the west of the intersection of Miles Avenue and Maple Street near Green Acres, is proposing to divide this seven (7) acre parcel into twenty-two (22) high-density residential lots. The Planning Board has held its public hearing and is recommending conditional approval of this subdivision. The following are the staff recommendations for conditions as follows:

- 1) A waive of SID protest must be signed by the Subdivider that guarantees the participation of all lots in the subdivision in a future improvement district for public improvements.
- 2) All sewer and water main extensions will be a minimum of eight (8) inches.
- 3) A Montana licensed engineer, or his supervised representative, will be required to be on site during utility construction.
- 4) Any utility reimbursement plan must be submitted to, and approved by, the City prior to the beginning of construction.
- 5) The subdivider will be responsible for all required street signing to include traffic control signs as well as street name signs. All signs will be built and installed according to City specifications. Painting of curbs at fire hydrants will also be required.
- 6) Any improvement agreement(s) for deferred infrastructure construction needs to be reviewed and approved by the City prior to the beginning of construction.
- 7) The final covenants for this subdivision will clearly limit all structures built within the development to not more than two (2) stories and not more than thirty (30) feet above grade.
- 8) The final covenants for this subdivision will prohibit the placement of any no-site-built structures.
- 9) The subdivider will, in consultation with the County Extension Office, prepare a noxious weed plan to mitigate the spread of weeds to adjacent properties. Proof of compliance with this plan will be required in order to gain final approval.
- 10) The subdivider will be required to provide fencing on the west boundary of this development to prevent livestock from entering the property.
- 11) All outdoor lighting in this development will be required to be night-sky friendly. One streetlight will be required at the intersection of Brookstone Street and Miles Avenue.
- 12) The final covenants of this subdivision will contain a plan, approved by the City Tree Board, for boulevard tree planting.
- 13) Prior to final approval, the subdivider will provide the City documentation verifying the preservations of all water rights associated with the irrigation ditch located on this property.
- 14) The final plat of this subdivision will show an easement, for a future public roadway, connecting to Brookstone Street and extending to the west boundary of this property across a portion of what is shown as Lot 7.
- 15) The final covenants of this subdivision will state that public sidewalks will be required to be built within one (1) year of occupancy of any structure.

Caldwell questioned if item 15 commits the subdivider or the City?  
Per Woodhull, the City would always have the fallback position of

being able to order sidewalks and this just puts the original purchasers on the list. How wide are the street lots in Yellowstone Preserve? There are seven different ones with range of 32' to 56'. What are staff's thoughts on 54' rights of way? The actual street section, width, does not change; the space is lost in the boulevard.

VanAken asked for an outline for the piece of property; is it totally surrounded by county land except for the street annexation? Per Woodhull, the street right of way is at Miles Lane, and the zone is under RII restriction – with half acre minimum and one central utility or goes by state regulations of: one acre per well/septic. Per Blackeman's question, there is a trailer park to the east of property.

VanAken asked for a rationale of the property due to its unusual layout of lots, which are all square, as opposed to the standard length-wise lots. Per Woodhull, each lot in this subdivision would be like three lots of standard lots in City. If it is all four-plexes, that equates to 88 residents in the area, and is a lot of residential compaction, stated VanAken.

Meece stated the purpose of high density (RIII) is to create more density in development. The cost of the utility extensions requires this type of density in order to show a positive cost/benefit. To clarify, Blakeman reminded the Commission that there is a need for affordable housing in Livingston, and RIII would help address this condition. Beebe stated her praise that the covenant for the subdivision is limited to two-stories.

Vicki Schlens, 413 Gardner Ave, questioned why it is zoned RIII. The state codes say that they have to be compatible to county's zoning. It also states that there should be 15 days notice given to residents before a zoning. "There was never given a notice, and I came to the Planning Board meeting thinking it would be zoned, however, I was told that it had previously been zoned." Does the City want to make up the difference for having a 'slum' put in? The roads will not bear the traffic of 100-200 residents; it is not wide enough. "I am in favor of seeing the 'development' but am opposed to it not being compatible with other homes in the neighborhood." How difficult will it be to build a wide street along the subdivision when it comes into Alspaugh and Miles?

Meece clarified the 'notice question.' The statute requirement requires 15 days notice from the time and place of the hearing and an official paper of general circulation, which the City did. This notice was given and it did not require a personal notice requirement; it only required a standard 'general' notice.

Donna Goldner, 203 Bickford Ln, addressed her concern of the lack of alleyways in case of a fire. There have been two fires out there with major loss of property. Also, the fence put up for livestock would limit my privacy on my property. The acre adjacent to my home would be where children would play leaving me possibly liable for them. A connecting street with Bickford would not be fair as Bickford is a private road. Is the City going to maintain Bickford road for the other residents? According to Blakeman, the City is not connecting the road with Bickford Road; it would be just an easement for future development.

Susie Danton, 616 N. I St., local banker, asked why would someone build a home versus a four-plex? This concerns me because of the resale value of the duplexes in the Northern Lights subdivision. When it is completed, would a four-plex still meet the needs of affordable housing? The roads are an issue without much alleyway.

Dedra Mackamy, 410 N. Miles, stated from the *Livingston Municipal Code* from City website the following: "When a parcel of land laying outside of the cooperate limits of the City of Livingston and within the Park County zoning jurisdiction is annexed to the City of Livingston. The property shall retain the classification that it has in the county but will be reviewed by the City Zoning Commission and a recommendation sent to the City Commission either reaffirming the county classification or changing the zoning classification.

1) In this case, the City reviewed and went from an RI county to an RIII city; this is a huge density jump. The roads still remain an issue for this subdivision. "Has the Public Works Department of the Fire Department had any concerns in regards to street width?" asked Caldwell. Per Meece, the street width is not an issue; the street is the same amount of paved width. There is an alley that sets to the rear of at least twelve of the lots. 2) Was this the variance that was at the planning board to get rid of the alley? Per Woodhull, there was a variance with alleys because everyone lot does not have an alley. The 'alley' in the subdivision would allow for fire trucks, etc. Currently, the average street widths in town are 38', and these streets would be as wide. 3) What would be the other choice since it is already zoned RIII? Per Caldwell, our question is more of configuration of layout. In respect to density and zoning, it has already been made at this point.

Blakeman, seconded by Beebe, made motion, to approve the subdivision with conditions stated.

Discussion:

VanAken stated his opposition to the subdivision especially in regards to the layout.

Motion passed 3-1, with VanAken opposed.

**ACTION ITEM D:**

Discuss and/or approve City Council Workshop with Town of Three Forks.

Per Meece, there is a letter from Montana State University and MMIA regarding Workshop opportunities for the City Commission. The City of Three Forks is hosting a Workshop on January 17, 2007. The City has offered to split the cost of the workshop with them for the opportunity to have Livingston Commission attend the Workshop. The cost would be \$250.00. Such a workshop would be helpful to the entire Commission.

Blakeman made a motion, seconded by Beebe, to approve City Manager to set up the workshop, with Three Forks, for the City Commission.

Beebe asked who could attend. Meece stated that the cost is the same for 2 as for 5.

All in favor, motion passed.

**CITY MANAGER COMMENTS:**

1) VanAken attended the URA meeting and it seemed that his presence helped URA move forward. Caldwell stated he plans to attend the next meeting on December 5, 2007. 2) On the Schaeffer nuisance issue, is the ordinance still in place? Is a car still illegal if it does not have an engine in it? The DEQ's findings are very disappointing. Meece stated that City is also disappointed with DEQ's involvement, as it was rather limited. Becker's concern is that we have tried to prosecute under existing ordinances previously and the property owner was acquitted. Staff has not given up and has plans to go back to the 'drawing board' with further action. "Is there anything the City can do beyond what the state has done?" asked Caldwell. Per Becker, the property is behind in taxes where a person could redeem the property for taxes. There is nothing that prohibits the neighbors from bringing a private nuisance action.

Blakeman commended the City on the Wellness Initiative.

**CITY COMMISSION COMMENTS:**

Blakeman would like to see action on the city-recycling program as the City is close to finishing the 'transfer' station. I would like to put out word for public input on what the city wants to see in terms of a recycling program. The Commission would like to re-invigorate the existing Recycling Committee.

Beebe informed the Commission that Montana Spay-Neuter Task Force spayed and neutered 170 cats and 50 + dogs at its latest clinic. There was one local vet, Dr. McCormick, that volunteered his assistance. 2) Praise to the staff for the water brochure inside the water bills. The information on spay/neuter and licensing in the brochure was a good reminder to citizens.

VanAken will be visiting the Animal Shelter within the next week. 2) On page 29, on the Communications Committee report, it shows the August 16<sup>th</sup> minutes. Has this situation moved forward as far as what the access is for granite, for example? This seems to be disturbing. Per Meece, the City has resolved the situation through some careful negotiations from Chief Raney.

Caldwell questioned what happen to the archeological survey on the Bozeman trail, and if it has been completed. Per Meece, the City has received a copy of the report in the last week. It basically states that the portion of trail studied is not historically significant as a piece of the Bozeman trail.

They're being no further business; Blakeman, seconded by Beebe, made motion to adjourn the meeting.

The time was 9:31 PM.

ATTEST:

APPROVED:

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Tiffany Wood  
Recording Secretary

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Steve Caldwell  
Commissioner Chairman



**LIVINGSTON  
CITY COMMISSION MEETING  
NOVEMBER 19, 2007**

The Livingston City Commission met in regular session on Monday, November 19, 2007. Commissioners present were Rick VanAken, Vicki Blakeman, Mary Beebe, and Steve Caldwell. Commissioner Patricia Grabow was absent.

Staff members present were Bruce Becker, Shirley Ewan, Peggy Glass, Robin Keyes, Ed Meece, Darren Raney, Clint Tinsley, Jim Woodhull, and Tiffany Wood.

Motion was made by Blakeman, seconded by Beebe to approve consent items A & B.

All in favor, motion passed.

**SCHEDULED PUBLIC COMMENT:**

John Orendorf was scheduled for public comment regarding ambulance transfers, but was not in attendance; he has been placed on the agenda for next meeting, December 3, 2007.

**PUBLIC HEARINGS:**

None.

**VARIANCES:**

**A. Katner - 428 N. 5<sup>th</sup> St.**

Jim Woodhull stated that Doug Katner, owner of property, located at 428 North 5<sup>th</sup> St., is requesting a variance from the front setback requirement for RII zoning districts. He wishes to add a deck to the existing porch on the home, which would be approximately eight (8) feet from the front property line. Code requires a twenty-five (25) foot front setback. The Board of Adjustments met on November 13, 2007, to hold public hearing on this issue; a quorum was not present at the meeting, but staff recommendation is to approve the variance.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact.

All in favor, motion passed.

recommendation from the Board. Per Woodhull, the addition would match an architectural feature of the existing home that is 4' 5" from the front property line.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact.

Discussion:

There was brief discussion of the drawing submitted, and the feature in question.

All in favor, the motion to approve findings of fact passed.

Blakeman made a motion, seconded by Beebe, to approve the variance request from Mr. & Mrs. Mustain.

All in favor, motion passed.

**C. Stanton - 304 S. Yellowstone St.**

Rod Stanton, owner of property located at 304 South Yellowstone Street, is requesting a variance from the side setback requirement for RII zoning districts. He wishes to build an addition onto an existing garage on the property; the addition would be approximately five (5) feet from the side property line. Code requires a ten (10) foot side setback on a side adjacent to a street/corner lot. Staff recommended approval. The Board of Adjustments met on November 13, 2007, and there was not a quorum; therefore, no recommendation from the Board.

Blakeman made a motion, seconded by Beebe, to approve the Findings of Fact. All in favor, the motion passed.

Blakeman made a motion, seconded by Beebe, to approve the Stanton variance.

All in favor, motion passed.

**RESOLUTIONS:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3903 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CTA ENGINEERING FOR PRELIMINARY ENGINEERING SERVICES FOR WATER SYSTEM MODELING AND ANALYSIS IN THE AMOUNT OF \$2,500.00.**

Blakeman questioned the #1 of policy stating 'restoration of property to its original condition after use for filming purposes.' "Do we need to add anything?" asked Blakeman; for instance, the Band shell was re-painted, and we would not want it back the way it was. Becker stated that only the things that are detrimental to the City would need to be replaced.

Blakeman noted a typo on # 9 - it should be 'swimming pool' not poor.

VanAken questioned #16 of policy: Item A - Evening shooting (outside of 8 a.m. to 9 p.m., Monday-Saturday, 9 a.m. to 8 p.m. Sunday.) *Filming in residential locations can be extended with signatures of approval from residents.* What is considered residential areas? For instance, does this include the Senior Center? Per Meece, it should be read 'residential locations'. VanAken is concerned with shooting late in the downtown area after everyone has cleared out, would this apply to downtown 'residences'. Then they should be responsible for getting signatures. Caldwell asked the wording to be changed to "*filming near residential locations.*" (*The 200' radius would apply.*) Per Meece, staff will modify the wording, no motion necessary.

Caldwell has one suggestion on the filming questionnaire, (*Item 9*). Since we have a Local Agent, it would be nice to add a "Local Agent" to the contact lists. That change will be incorporated into the policy.

Blakeman and Caldwell asked - if we are still waiting for input from the state organization, on the actual policy, do we need to wait? Per Keyes, there is no state approval; they are more of a guideline source. According to Meece, if substantive changes are needed we can always amend the policy further.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution No. 3907 - **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH 49ER DINER AND CASINO TO CATER SUMMERFEST 2008.**

Discussion:

Blakeman asked if this was the only bid received. According to Becker, there was one other additional bid from the Owl Bar for a percentage bid of total sales; this did not seem like a 'sure thing.' Meece stated that it has been more than three years since a bid process was done, and it was at Becker's request that City undertake the bid process.

**THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2006-2007, AND CALLING FOR A PUBLIC HEARING THEREON.**

Meece stated that this is a 'housekeeping' amendment the City does annually after an audit. For instance, the Street Department purchased a loader for a 5-year lease. For their purchases, the entire loader would have to be in the budget; whereas city just paid the first payment on it. In order to do that, city would need to go back and change the 'original' budget to incorporate 'loader' purchase. Do you have a payable for the remainder? asked Caldwell. 'Yes,' replied Ewan.

VanAken wanted an explanation for the reasoning of why the auditor recommends that rather than wiring money on July 1<sup>st</sup> the City pay it in June. Per Ewan, last year July 1<sup>st</sup> was on a weekend so the city would get a penalty if it were not there by 6 PM on June 30<sup>th</sup>. Auditors recommended to make two payments in the one fiscal year (June) so that city would not be penalized for July 1<sup>st</sup> deadline of 10:00 AM.

All in favor, motion passed.

**ORDINANCES:**

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1993 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING 1.72 ACRES DESCRIBED AS REVISED TRACT NO. 11 OF CERTIFICATE OF SURVEY NO. 721, BEING A PORTION OF TRACT 11 OF THE ORIGINAL PLAT OF ACREVILLE, PLAT NO. 393, LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M. PARK COUNTY, MONTANA AS HIGH DENSITY RESIDENTIAL (RIII).**

Discussion:

Per Caldwell, the map used for Ordinance No. 1993 is the one near Albertson's.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Ordinance No. 1994 – **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING BLOCKS 11, 12, 13, 15, AND LOTS 1 THROUGH 7**

need Commission's approval to direct staff to forward this letter to DOT; they are then responsible for determining whether the speed needs to be altered.

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Blakeman made a motion, seconded by Beebe, to direct Staff to forward this letter with one from the City of Livingston requesting lower the speed limit on Highway 10 right in the PFL area.

Discussion:

VanAken questioned whether we would want to limit it to that area. Caldwell said that a change could be made at the end of the existing 45 mph zone.

All in favor, motion passed.

**ACTION ITEM B:**

Discuss and/or approve proposed Annexation Agreement with David Amsk.

Meece stated that staff had previously presented the annexation petition to the City Commission, which directed that an Annexation Agreement be developed with Mr. Amsk. There were concerns over distance between the new home and river, as well as possible height issues.

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- 13) Prior to final approval, the subdivider will provide the City documentation verifying the preservations of all water rights associated with the irrigation ditch located on this property.
- 14) The final plat of this subdivision will show an easement, for a future public roadway, connecting to Brookstone Street and extending to the west boundary of this property across a portion of what is shown as Lot 7.
- 15) The final covenants of this subdivision will state that public sidewalks will be required to be built within one (1) year of occupancy of any structure.

Caldwell questioned if item 15 commits the subdivider or the City? Per Woodhull, the City would always have the fallback position of

Donna Goldner, 203 Bickford Ln, addressed her concern of the lack of alleyways in case of a fire. There have been two fires out there with major loss of property. Also, the fence put up for livestock would limit my privacy on my property. The acre adjacent to my home would be where children would play leaving me possibly liable for them. A connecting street with Bickford would not be fair as Bickford is a private road. Is the City going to maintain Bickford road for the other residents? According to Blakeman, the City is not connecting the road with Bickford Road; it would be just an easement for future development.

Susie Danton, 616 N. I St., local banker, asked why would someone build a home versus a four-plex? This concerns me because of the resale value of the duplexes. When it is completed, would a four-plex still meet the needs of affordable housing? The roads are an issue without much alleyway.

Dedra Mackamy, 410 N. Miles, stated from the *Livingston Municipal Code* from City website the following: "When a parcel of land laying outside of the cooperate limits of the City of Livingston and within the Park County zoning jurisdiction is annexed to the City of Livingston. The property shall retain the classification that it has in the county but will be reviewed by the City Zoning Commission and a recommendation sent to the City Commission either reaffirming the county classification or changing the zoning classification.

- 1) In this case, the City reviewed and went from an RI county to an RIII city; this is a huge density jump. The roads still remain an issue for this subdivision. "Has the Public Works Department of the Fire Department had any concerns in regards to street width?" asked Caldwell. Per Meece, the street width is not an issue; the street is the same amount of paved width. There is an alley that sets to the rear of at least twelve of the lots. 2) Was this the variance that was at the planning board to get rid of the alley? Per Woodhull, there was a variance with alleys because every lot does not have an alley. The 'alley' in the subdivision would allow for fire trucks, etc. Currently, the average street widths in town are 38', and these streets would be as wide. 3) What would be the other choice since it is already zoned RIII? Per Caldwell, our question is more of configuration of layout. In respect to density and zoning, it has already been made at this point.

Blakeman, seconded by Beebe, made motion, to approve the subdivision with conditions stated.

Discussion:

**CITY COMMISSION COMMENTS:**

Blakeman would like to see action on the city-recycling program as the City is close to finishing the 'transfer' station. I would like to put out word for public input on what the city wants to see in terms of a recycling program. The Commission would like to re-invigorate the existing Recycling Committee.

Beebe informed the Commission that Animal Shelter spayed and neutered 170 cats and 50 + dogs at its latest clinic. There was one local vet that volunteered his assistance. 2) Praise to the staff for the water brochure inside the water bills. The information on spay and neuter in the brochure was a good reminder to citizens.

VanAken will be visiting the Animal Shelter within the next several months. 2) On page 29, on the Communications Committee report, it shows the August 16<sup>th</sup> minutes. Has this situation moved forward as far as what the access is for granite, for example? This seems to be disturbing. Per Meece, the City has resolved the situation through some careful negotiations from Chief Raney.

Caldwell questioned what happen to the archeological survey on the Bozeman trail, and if it has been completed. Per Meece, the City has received a copy of the report in the last week. It basically states that the portion of trail studied is not historically significant as a piece of the Bozeman trail.

They're being no further business; Blakeman, seconded by Beebe, made motion to adjourn the meeting.

The time was 9:31 PM.

ATTEST:

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Tiffany Wood  
Recording Secretary

APPROVED:

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Steve Caldwell  
Commissioner Chairman



\$26.00 for 'in town' residents and \$215.00 for residents in Fleshman Creek Acres. He gave two suggestions to the city: 1) Change the system of assessment where all 'city' residents are assessed an equal portion of the district's costs (without varying by lot size), or 2) set a 'cap' on the amount of property (per lot) to be assessed - an option permitted under state law.

Meece suggested that this property was annexed, under the current assessment method, and was not added to the tax roles in 2006, due an error by the Revenue Cabinet. In the meantime, the City increased the Street Maintenance budget by 31% -- resulting in a significant increase in assessment. There is no difference in commercial/residential property within the districts, so Printing for Less (PFL) lot and the Watson property are assessed in the same manner. The assessment is divided by unimproved and improved property which is applied to all 'in town' residents.

Beebe would like to re-visit this issue at the next meeting, December 17, 2007. She asked for clarity on surrounding community policies as well as well as a present copy of the 'law.' Consensus was made by all.

#### **PUBLIC HEARINGS**

None.

#### **VARIANCES:**

None.

#### **RESOLUTIONS:**

None.

#### **ORDINANCES:**

None.

#### **ACTION ITEM A:**

Discuss and/or approve Discovery Vista Final Plat - 1<sup>st</sup> phase.

Woodhull noted there is a letter in the packet concerning plat approval, and containing background information. He also stated that all items required at Preliminary Plat approval had been completed, except street signs and the park survey. Per Woodhull, Resolution No. 3911 would come to Commission for approval if action were to approve. In response to Beebe, Woodhull stated that Phase I is the initial phase with four phases planned in total. Caldwell mentioned that the City recently received a copy of the Archaeological survey regarding the Bozeman Trail, and it indicated that there is not a portion of the Bozeman Trail that crosses this property. Grabow asked about tree requirements in the development, and Woodhull noted that trees would be in the subdivision: two boulevard trees and one private tree, for each lot.

All in favor, motion passed.

**ACTION ITEM D:**

Discuss and/or approve advertisement and/or filling vacant board positions.

Meece stated that the Commission had requested a list of pending appointments, after 1/1/8. After review of the open seats, Meece made the following suggestions: 1) to advertise the positions, normally, and hold a volunteer meeting in December to try and roundup applicants, and/or 2) to purchase an entire page in the Livingston Enterprise to include: a description of the seats available, a volunteer application, deadline, etc. Beebe asked that it also be published in the Livingston Weekly and on the website. VanAken stated that a volunteer meeting would be 'hard' to make successful due to the Christmas season.

No motion was made; there was a consensus for one-page advertising in the Livingston Enterprise and Weekly.

**ACTION ITEM E:**

Discuss the City Commission's *Rules of Conduct*, as related to a recent letter from Commissioner Grabow (to the URA Board.)

Meece introduced the issue, saying that two Commissioners had requested the item be placed on the agenda for discussion. Blakeman stated that she was not aware if there was any merit to the letter, as she wasn't at the meeting, but Commissioner Grabow's behavior violates Rules of Conduct sections 2.1, 2.2, 2.3, 4.2; the City Commission acts as a body. It was inappropriate to write a letter, as a 'sitting City Commissioner,' it should have come to the City Commission. Mr. Meece is an employee of the City Commission as a whole - Commissioner Grabow is taking the City Manager to task for behavior that should have been discussed, and looked into by the City Commission. Grabow apologized and stated that the original draft said, "I am not acting on behalf of the City Commission"; she is not sure why another draft was sent out. Grabow said she was simply acting as someone sitting in the situation, and had 2 wait staff ask about the interaction that night. "Commissioner Blakeman has a good point, I never thought about bringing it to the Commission and expressing my concerns." Caldwell stated that even before coming to the City Commission, Grabow should have discussed the matter with the City Manager and City Attorney first.

Meece voiced his concern that neither he, nor Mr. Becker, was given the opportunity to discuss the matter with Commissioner Grabow before the letter went out. Unfortunately, many of the statements are misleading and wrong, such as the allegations about Mr. Moore's phone number, or dominating board

VanAken stated that he was in attendance at the meeting of the URA, sat within 3 feet of Commissioner Grabow and did not see any 'unbecoming' behavior. The location of the meeting was distracting, and was not the best place for this type of discussion. In regard to the letter, he stated that he did not believe Grabow was a member of the URA Board, but the letter seems to speak for the URA Board. Also, she says, "since I know he will not". The next day the City Manager asked him if he behaved inappropriately, and probably would have apologized if he had thought there was a problem. Grabow needs to think these types of statements through very clearly, before she puts them out.

Chris Rodgers made public comment on the Rules of Conduct, and thinks the City Commission should re-examine the legal advice from the City Attorney.

Bob Moore, 407 N. 3<sup>rd</sup> St., Chair of the URA stated his reasoning for holding the forum with Janet Cornish. The workshop in conjunction with the Downtown partners was to explain the meaning behind TIF and 'how it works.' He was not satisfied with the public notice given about the forum. The location was held at the 'SPORT' because there was no 'room space' in the Courthouse. He did correct Mr. Meece by stating that the contact number was changed from his phone number to the City Manager's office. "Mr. Meece likes to control things, and this was inappropriate", claimed Mr. Moore.

Meece explained that he was not even aware of the matter, until he received a copy of Grabow's letter. The request for advertising the meeting did not go through him; it went through administrative staff and the City Attorney. Mr. Becker put the notice in routine legal notice form, which uses the phone number and name of the City Manager. It was sent to the newspaper in such a format, and Mr. Moore's objection was not received (by clerical staff) until the ad was scheduled to run again. There was no conspiracy to change someone's phone number, or an attempt to control the event, by the City Manager.

**CITY MANAGER COMMENTS:**

Grabow had no comments.

VanAken noted a spelling error on 'Manuel.' It should be spelled 'manual', Manuel is someone's name.

Beebe had no comments.

Blakeman asked if there was advertisement for the floodway meetings. According to Meece, there has been a press release done. The new flood pamphlet, put together by Commissioner Elect Jones, and a copy of the press release will be included in a mailing to property owners in the proposed floodway (using addresses from the GIS database).

Meece stated that there would be an additional yard-waste pick up scheduled for Wednesday, December 5, 2007. 2) A copy of the Harris agreement (with regard to the water/sewer line easement on Mr. Amsk's property) was distributed with the packet and will also be addressed at the next meeting, December 17, 2007.

Being no further business, motion was made by Blakeman, seconded by Beebe, to adjourn the meeting. Motion passed unanimously.

The time was 9:21 PM.

ATTEST:

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Tiffany Wood  
Recording Secretary

APPROVED:

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Steve Caldwell  
Commission Chair

LIVINGSTON  
CITY COMMISSION MEETING  
December 17, 2007

The Livingston City Commission met in regular session on Monday, December 17, 2007. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Patricia Grabow.

Staff members present were Ed Meece, Bruce Beckcr, Shirley Ewan, Darren Raney Farrell, Peggy Glass, Sandy Wulf, Jim Woodhull, and Brad Haefs.

Motion was made by Blakeman, seconded by Beebe, to approve consent items A through F. Item G was pulled for discussion.

All in favor of A, B, C, D, E & F items, motion passed.

Motion was made by Blakeman, seconded by Grabow to approve Consent Item 3.G.

Grabow questioned whether insurance was acquired and if the pageant was a non-profit event. Meece pointed out that the insurance was enclosed on page 80 and Vanessa Bednar (applicant) stated that the event was not a non-profit event.

All in favor, motion passed.

Scheduled Public Comments:

No scheduled public comments were heard.

Variance Requests:

Item 6A.

Haefs addressed the Commission with an explanation of the variance that is being requested by Carisch Brothers located at 2000 West Park Street. They wish to build an 80' tower to provide wind power for Arby's Restaurant. Mr. Haefs stated that the Board of Adjustments has disapproved the findings of fact on the wind generator and are willing to waive the variance re-submittal guideline if the Commission will adopt a policy for wind energy in the City limits.

Vicki Blakeman moved to accept the finds of fact, Beebe seconded. All in favor findings of fact passed.

Blakeman made a motion to approve the variance, Beebe seconded.

Discussion:

Blakeman stated that she had mixed feelings in regards to wind energy in the City. She was at the Board of Adjustments workshop and many citizens spoke against this wind turbine. She feels that a broader policy is needed. Blakeman proposed a workshop to discuss establishing a boarder policy, research, etc.

Grabow stated that there are smaller wind generators available that would not have the devastating effect of one of the blades coming loose and harming someone. She is in support of wind energy in the City and would like to see a workshop to discuss the prospect of wind energy in the city limits. She feels that if the City were to add economic incentives to developers it may become more popular. She asked about moving the generator away from the restaurant, and would the City be willing to look at that. Mr. Woodhull state that the public hearing was closed and this could be discussed in a workshop but not at this meeting as it is not agended. Caldwell stated that only the variance is on the table tonight. VanAken stated that he was at the board meeting and felt that the Board's reasoning and rational behind disapproving the variance is quite valid. They are looking to the Commission for direction as to how the City would like to see these generators used and appear throughout the City.

All disapproved, motioned denied. Variance was denied.

Motion was made by Blakeman, seconded by Beebe to waive the 12 month waiting period for the Carisch Brothers after the workshop is held and wind generation options are explored, seconded by Beebe.

Discussion:

Caldwell agrees with this idea. Beebe stated that the locations of generators should be discussed at this workshop. Grabow requested that someone at the State level be invited to the workshop. Caldwell stated that Northwest Energy would also be good to have a presentation. Blakeman requested that we invite Rural Electric to the workshop. VanAken asked if the wording on the motion should be reworded, as we still won't be ready next month to make a decision on the generators. 12 months was added to the motion.

All in favor, motion passed.

**Public Hearings:**

**Ordinances:**

**Ordinance No. 1993: AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30,13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING 1.72 ACRES DESCRIBED AS REVISED TRACT NO. 11 OF CERTIFICATE OF SURVEY NO. 721, BEING A PORTION OF TRACT 11 OF THE ORIGINAL PLAT OF ACREVILLE, PLAT NO. 393, LOCATED IN SECTION 23, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M. PARK COUNTY, MONTANA AS HIGH DENSITY RESIDENTIAL (RIII).**

Caldwell requested where this area is located. Woodhull stated that it is on Loves Lane across from Eagles Landing development.

Caldwell opened the ordinance to public comment.  
No public comment was heard.

Blakeman made a motion to accept Ordinance No. 1993, seconded by Beebe.

Discussion:

Grabow stated that she still feels that high density is too much for this property as it is located adjacent to the freeway.

Four in favor, Grabow opposed. Motion passed.

**Ordinance No. 1994: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY ZONING BLOCKS 11, 12, 13, 14 AND Lots 1 THROUGH 7 OF BLOCK 14 OF THE MONTAGUE PLACE SUBDIVISION LOCATED IN THE NORTH ONE-HALF OF SECTION 7 TOWNSHIP 2 SOUTH, RANGE 10 EAST, P.M.M., PARK COUNTY, MONTANA, AS MEDIUM DENSITY RESIDENTIAL (RII)**

Woodhull explained that the Montague Subdivision is located north of the City Shop behind Grandview Estates on Arbor Drive.

Caldwell opened the ordinance to public comment.  
No public Comment was heard.

Motion was made by Blakeman, seconded by Beebe to approve Ordinance No. 1994.

Discussion:

Meece explained that there is a typo on page 100 – under the first Whereas – Blocks should be 11,12,13, 15 and Lots 1 through 7 of Block 14.

All in favor, motion passed.

**Ordinance No. 1995: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE CITY OF LIVINGSTON'S SUBDIVISION REGULATIONS AS ENACTED BY ORDINANCE NO. 1982 BY MAKING PROVISION THAT THE CITY MAY ACCEPT LAND FOR TRAILS OR GREENWAYS IN LIEU OF PARK DEDICATION.**

Caldwell opened the ordinance to public comment.

No public comment was made.

Motion was made by Blakeman, seconded by Beebe to approve Ordinance No. 1995.

Discussion:

No discussion was heard

All in favor motion passed.

### **Resolutions**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution 3913 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A LEASE PURCHASE AGREEMENT FOR A 2008 CHEVROLET COLORADO IN THE PRINCIPAL AMOUNT OF \$22,253.39.**

Discussion:

Meece state that this vehicle is in the current budget and that the police department is going with pickups vs. cruisers. The pickups have more storage space and transportation works just as well. The older pickups will be rotated to other departments as they are replaced.

Caldwell would like to know which vehicle this new one will replace.

Raney stated that it would replace an Intrepid.

Four in favor, Grabow opposed, motion passed.

Motion was made by Grabow, seconded by Beebe, to approve Resolution 3910 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**



**LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR THE FISCAL YEAR 2006-2007.**

Resolution was postponed. Should be a public hearing. Resolution will be before the Commission on January 7<sup>th</sup>, 2008 for approval.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3912  
- **A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH THE MONTANA ARTS COUNCIL AS SPONSOR FOR A MONTANA CULTURAL TRUST GRANT FOR THE YELLOWSTONE BALLET COMPANY.**

Discussion:

Grabow thanked the Manager for putting all of the information into the packet and stated that the Yellowstone Ballet performed in Europe in 2000 with the performance of Romeo and Juliet in the Rockies and it was considered one of the best performances at the event.

Blakeman asked if the grant has been approved? Meece stated that the City was just the facilitator of the grant and he thought that it had been approved.

All in favor, motion passed.

**Action Item A:**

Discussion of methods of calculations of Street and Light Maintenance Districts.

Meece stated that after the scheduled public comment and letters from Matthews and Woodruff, both of which were distributed to the Commission, he has contacted eight other jurisdictions to research how they assess maintenance districts. It appears that each City does what best fits their community. Billings and Lewistown have caps on square footage that can be assessed. Great Falls puts a cap on commercial properties only. Helena assesses 2 ways, 1) a equal share 2) square footage.

Meece has visited with Becker in regards to undoing the ordinance for 2008 and choosing a different way to assess. The method cannot be changed this year.

Beebe asked how many lots the City has over 20,000 sq ft.? Are these lots unique or quite common?

Woodhull stated that it is possible to let her know how many of these properties there are but that he does not have the records with him at present. He thinks it's a significant number of properties but by far not the majority of properties.

Beebe asked how much money the City would lose if we modify the assessment calculation to these properties? Woodhull said that he would let the Commission know what the amount would be. He also stated that if the assessments were taken off of the larger properties it would be put on the smaller properties, as the budget is set as to how much revenue is needed.

Caldwell stated that if the properties that had no lights in their area and the amounts were moved to other properties the impact would probably be very small.

Grabow feels that there is no compelling reason for caps. The City wishes to densify urban areas and larger lots lowers the City's density and induces sprawl.

VanAken would like to know what the size of these lots is? Woodhull stated that they are between 1 & 2 acres. If a cap were applied VanAken would like to know what would be an appropriate cap?

Blakeman asked if these lots could be subdivided? Per Meece, yes this is possible (by the City) but the subdivision's covenants may not let it be subdivided.

VanAken states that since it can't be changed for 2007-2008, there is no hurry on this and he would like additional information.

Caldwell feels that the associated cost to benefit should be proportionate. There should be an equal benefit for and that doesn't seem to be happening as the assessments are calculated now.

Grabow stated that this way of assessing maintenance districts would have a greater effect on larger lots such as those at Yellowstone Preserve. Caldwell stated that Watson Subdivision would have even more ramifications.

Meece state that any "cap" would probably first require that commercial and residential properties be handled separately for assessment purposes.

Blakeman would like a breakdown of developed vs. undeveloped properties throughout the whole City.

Grabow feels that a demographer is needed as larger lots will be more inducive to the public if they are capped and it defeats the high density in urban areas that the Commission is seeking.

Blakeman agrees with Grabow in regards to the higher density needed in the City and we should not give an incentive to larger lots. The larger lots are more valuable and the owners should pay for it.

**Action Item B:**

**Discussion of the Amsk (Harris) Annexation Agreement.**

Meece told the Commission that Administration believes that the conditions of the original easement agreement with Harris' have been satisfied. The only other obligation of the agreement is to allow hook ons to the utility system. Per Woodhull, if the land is left in the County the land could not be developed the same as what the City would allow. The County has adopted the new flood plain map and, at most, this could be an RV Park (without septic).

Beebe feels that there is too much up in the air with flood plain issues. She does not want to take more on with the floodway problems now. She feels that non-action would be the correct course at this time.

Blakeman agrees with Beebe.

Grabow agrees with Beebe and Blakeman that the City is in the middle of the 205 Study and should wait until it is done.

VanAken would like to know if this is a 2 step process? 1) Approve the agreement? 2) Annex the property? Meece stated that yes that is the process. He also stated that if no action were taken the agreement would not start the process.

Commission provided no action.

**Action Item C:**

**Discuss and/or approve Headwaters Recycling**

Meece has provided the e-mail from Ms Depuy asking if the City would like to renew the contract. In the past the contract was for 1 year and this contract is for 5 years. He not received a copy of the agreement from Ms Depuy. He has concerns about renewing a contract for 5 years when

the City is trying to set up the new transfer station where other options may be available.

Caldwell stated that the current contract expires in April of 2008. Blakeman would like to see this postponed until the City/County meeting on January 8<sup>th</sup>, 2008.

Commission was in concurrence with discussing this at the next City/County meeting.

**Action Item D.**

Discuss and/or take action regarding Urban Renewal Chairman's letter to the State of Montana.

Blakeman would like the City Manager to write to the Urban Renewal Board and clarify to them what is expected of them and what their responsibilities are. She would like to see this done sooner rather than later.

Grabow stated that the letter to the state was written by Ms Cornish and that Mr. Moore just signed it. The URA (Urban Renewal Agency) did not censor Mr. Moore for the letter and that she has heard that Tax Increment Districts are in jeopardy with the School District, County and State because of the way they are managed. She feels that Ms Cornish should be back in January and that we should then ask her what she meant by writing the letter.

Meece agrees with Blakeman in clarification to URA and that he has tried to do so by delivering all of the studies to the Board and has made them aware of the Urban Renewal laws and plans. Possibly a workshop with Ms Cornish in attendance would be appropriate to identify their duties. His point for the Action Item is to document the issue and that he has resolved the issue with the State.

Grabow would like to see the URA create a budget with their priorities in mind and present it to the Commission and the Commission will decide to accept it or not. It didn't happen this year but she would like it to happen next year.

Caldwell reminded Grabow that the URA does not have budget authority it is at the Commission discretion.

Meece stated that the budget authority is not in the ordinance that developed the URA. He has previously asked for what they would like to see in their budget and has received nothing from them.

Caldwell would like Meece to clarify the budget as well as their duties in his letter to the Board.

Motion was made by Blakeman, seconded by Beebe for Meece to write a clarification letter to the Urban Renewal Agency Board.

Three in favor, Grabow abstained, motion passed.

**Action Item E.**

Discuss approve/disapprove the Eastep one-lot subdivision.

Haefs told the Commission that the lots were being subdivided for town houses.

Motion was made by Blakeman, seconded by Beebe to accept the Findings of Fact.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve the Eastep one-lot subdivision.

VanAken would like clarification as the location of the subdivision. Haefs showed him on the map.

Blakeman stated that 2 of the lots face a drop off behind Treasure Lanes Bowling Alley.

All in favor, motion passed.

**Action Item F.**

Discuss and approve/disapprove the Vision Livingston's request to move the downtown improvements to 1 year later than planned.

Meece stated that Frazier, Tinsley and he met and have decided that administration would be comfortable with this plan. It would also give them a chance to develop a possible Business Improvement district. He does not want to see it put off for more than 1 year though. This would give the City time for more research on a way of dealing with the vaults located under the current sidewalks. It also gives Vision Livingston liaison and the City a chance to look at alternative parking and marketing plans for downtown.

Caldwell would like to know what will be done instead of the downtown district in 2008. Meece stated that we would probably go west of downtown and come back to the downtown area after that.

Caldwell would also like to know if the Infrastructure plan would need to be amended? Meece stated that the Committee would do that.

Meece is generally asking for the Commission's approval of this plan.

VanAken would like the City to understand that the Senior Center is putting in for grants to add a sprinkler system to the Senior Center and has coordinated with Tinsley to move the water line to the street rather than the alley and hopes that this will not disrupt the Senior Centers plans. He also would like to let Mr. Prahl know that the Business Improvement District will take at least a year to get started and that he needs to know that time is of the essence and the district needs to get started immediately.

Meece agreed with VanAken that these were 2 good points and that he has Tinsley working on the Senior Center issue and that Ms Frazier has already started on the Business Improvement District and will be going even faster after the first of the year.

Consensus of the Commission is to move the Downtown improvements up one year and to proceed in that year regardless of whether the Downtown Improvement District is ready.

### **City Managers Comments**

Grabow would like to commend the Watsons for their public trail donation.

Beebe wonders if the roaming crew could do a survey of streetlights (and location of) that are not working correctly. Meece told her to call the Utility Shop with problem lights. The new website will have the ability to help Public Works track these orders electronically, and for citizens to submit complaints.

### **City Commission Comments**

Blakeman inquired as to who is to be emptying the garbage cans downtown? Per Wulf the owner of the can should be emptying it. Blakeman state that several downtown businesses have issues with they system. Meece stated he would revisit the issue with Mr. Tinsley and the affected businesses.

VanAken referred to the Letter to the Editor in the paper, and appreciates completion of the guardrail project. He has spoken to Tinsley and suggested returning the concrete barriers left at the edge of the hill on 3<sup>rd</sup> street to their previous places at the end/edge of Main and 2<sup>nd</sup> Streets in response to concerns about those barriers from 3<sup>rd</sup> Street residents.

Grabow mentioned that the Business Improvement District (once it's in place) could take care of the downtown trashcans as one of their projects. She stated that she will continue to be active in City business.

Caldwell would like to have a discussion on how to proceed with the trail development dedication in a future meeting. He also asked how the beaver ponds are doing. Haefs told him that the beavers are gone and the dens are being removed.

Meece informed the Commission that registration forms for the Three Forks workshop were available, and he would like their return by early January.

**Public Comment**

Representative Bob Ebinginer stated (in regards to Grabow's comment) that he did not have the feeling that Tax Increment Financing was on the way out at the State level. He wanted to clarify that the legislature actually expanded the TIF program in 2007.

Being no further business, motion was made by VanAken, seconded by Beebe, to adjourn the meeting. All in favor, motion passed.

The time was 9:24 PM.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair