

**LIVINGSTON  
CITY COMMISSION MEETING  
January 7, 2008**

The Livingston City Commission met in regular session on Monday, January 7, 2008. Commissioners present were: Steve Caldwell, Vicki Blakeman, Mary Beebe, Juliann Jones, and Rick VanAken.

Staff members present were: Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Jim Mastin, Jim Woodhull, Clint Tinsley, Peggy Glass, Brad Haefs, and Robyn Keyes.

New commissioners Juliann Jones and Rick VanAken were sworn into office.

Motion was made by Blakeman, seconded by Beebe, to approve Consent Items A and B with the addition of Addendums I and II. Addendum I stated: Approve Claim for Community Development Service of Montana in the amount of \$700.00. Addendum II stated: Approve Claim for Granite Enterprises in the amount of \$1,471.51.

All in favor, motion passed.

A brief recess was called to welcome the new commissioners, with time set of 7:45 pm to reconvene.

Meeting was reconvened at 7:45 pm.

Caldwell called to move up Public Hearings before selection of Commission Chair and Vice-Chair. There was no disagreement.

**Scheduled Public Comments:**

Lewis Gunn, Science and Technology teacher for Sleeping Giant Middle School, Jamie Isaly, Science and Technology teacher for Park High School, Shawn Micken, representative from Western Community Energy in Bozeman, and a group of SGMS 8<sup>th</sup> grade students and PHS senior students made a presentation on their Wind Energy Project. Their presentation included information on the "Wind for Schools" program that SGMS/PHS have been selected to engage in an educational project revolving around implementation of a wind turbine to learn about alternative energy.

Hillary Taylor spoke regarding Ordinance No. 1966 (the Tree Ordinance) and the commission suggested moving the requested information by Taylor to the next meeting.

**Public Hearings:**

**Resolutions:**

**RESOLUTION NO. 3910- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR THE FISCAL YEAR 2006-2007.**

Caldwell opened the ordinance to public comment.

No public comment was heard.

Blakeman made a motion to accept Resolution No. 3910, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, motion passed.

**Resolutions:**

Motion was made by Blakeman, seconded by Beebe, to approve Resolution 3914- **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN SALES AGREEMENTS WITH CIESA INC AND REVIZE LLC TO DESIGN AND IMPLEMENT CITY OF LIVINGSTON'S WEBSITE.**

*\*Typographical error in January 7 meeting agenda; Resolution No. is 3914, not 3913.*

Discussion:

Blakeman stated that she was concerned with the high cost of the proposal by Ciesa Inc. and also did not see a Scope of Work in their proposal.

Meece stated that there was a Scope of Work that had not been included in the packet; however, all submitted RFP's had been analyzed by a small task force and it had been determined that Ciesa Inc was the best choice although they require a considerable amount of money.



Caldwell inquired into if there would be additional travel costs to the number provided by the company. Meece said there would be little to none due to the technological nature of this company. Caldwell also inquired into where and how training would take place as to how to use and upkeep the software. Meece stated it is mostly online.

Meece also added that in addition to the budgeted money put aside to spend on the website costs, the additional money needed to pay the company would come from the revenue from the City Auction that recently took place.

Blakeman inquired whether or not there had been local bids. Meece said there had been two.

Blakeman also inquired who would maintain the site once build. Meece explained that there would be trained individuals within the City who would maintain the site, and that there would be a board of 6 individuals who would track the progress of the site and help with important decisions during the building process.

VanAken inquired if the two companies, Revize LLC and Ciesa Inc were two separate companies, and Meece said yes, but they have a long history of integrating their services to compile all necessary services into one package. He explained that Ciesa Inc would be the one overseeing the project, however.

VanAken then inquired if the track record of the companies had been looked into, and Meece said yes, the task force who reviewed the RFP's had looked at the contacts provided in the RFP, and that also Bozeman, Montana uses the Revize software to run their own website.

Blakeman followed by questioning the annual subscription to the software and the cost of \$2880.00 and if the subscription was open-ended so the City could opt out at any time. Meece answered by saying yes, the City signed each year for only one year, and could get out at any time.

VanAken asked if the price of the software increased or the City was dissatisfied with the software if the City could opt out, and Meece again said yes, there is no requirement to keep it to keep the website.

Caldwell agreed with Meece and said since the contract only committed the City for a one-year subscription, it allowed the City the option to continue or discontinue use of the software each year.

Meece also stated that the upkeep of the software would require at least one person designated to maintain the site at least half-time or else a person would need to be contracted out to for maintenance, and he felt that using someone half-time in the City was the better option.

All in favor, motion passed.

**Selection of Chair of Commission for 2008:**

Blakeman nominated Steve Caldwell for Chair of the Commission for 2008.

No other nominations were made.

Motion to select Caldwell made by Blakeman, Beebe seconded.

No discussion.

All in favor, motion passed.

**Selection of Vice-Chair of Commission for 2008:**

Beebe nominated Vicki Blakeman for Vice-Chair of the Commission for 2008.

No other nominations were made.

Motion to select Blakeman made by Beebe, VanAken seconded.

No discussion.

All in favor, motion passed.

**Review of Committee Vacancies & Consider Nominations for Committee Appointments:**

Discussion:

Meece stated that although the City had put out two large advertisements in the Livingston Enterprise advertising the available positions, no response had been generated for the open seats. VanAken asked if people currently serving had to renew their applications, and Meece answered with yes.

Blakeman inquired whether or not the people currently serving on committees had been asked if they would like to continue, and it was answered that they had.

Caldwell suggested advertising for the spots again.

Meece followed by saying that the ads had not seemed to work so it might be a good time to incorporate an "Evening In" to see if some interest could be further generated. Caldwell agreed that it was a good idea, and VanAken suggested using the same get together as a place to work on filling the Wind Energy Board. Blakeman agreed it was a good idea.

Caldwell further stated that they would have to conform to the process and put an ad out again in the paper, but the additional ideas could also be used to attempt to generate community interest.

Motion was made to appoint Jones to the Commission position on the Tree Board by Beebe, seconded by Blakeman.

No discussion.

All in favor, motion passed.

Motion was made to appoint Blakeman to the Infrastructure Committee by Beebe, seconded by VanAken.

No discussion.

All in favor, motion passed.

#### **Action Item A:**

##### Discussion of potential 'cap' on square footage assessment of Street Maintenance and Street Light Districts.

Meece stated that he had requested the appropriate staff to prepare information on the topic, and he would now refer to Jim Woodhull for further information.

Woodhull said it was important to realize that this would impact only residential properties.

Caldwell stated that he felt the decision could put something in place that influences behavior in regards to requests for annexation.

Beebe inquired into what incentives would be created in terms of what percentage of a tax bill would this impact, and would it really create an incentive to make a change. Blakeman agreed that information would be good to know for her, also, and wondered what the difference would be on a tax bill for someone with a one-acre area under the cap. Woodhull answered that it would be 6-8%.

Meece reminded the commission that the cap is for the purpose of the Street Light and Street Maintenance Districts.

Beebe further questioned the portion of the tax bill that would be impacted and how much impact would take place when the break is only on a portion of the tax bill. Blakeman agreed and clarified her earlier question to ask if there would be an increase in everyone's tax bill by this method and how much of a decrease a taxpayer who owned one-acre of land would have. She continued by asking how much change the large property owner would feel versus the small property owner to which Woodhull and Meece answered it would cut it (the large property assessments) roughly in half.

Meece followed, saying that the large property owner might be influenced to do bigger lot developments. Jones added that she, too, was concerned with providing incentives to have big lots in the city.

Caldwell stated that he at the same time did not want to create incentives for large lots OR disincentives for potential annexation. Blakeman agreed that a varied size of developments in the communities is good.

Caldwell stated that he felt that, although the demand for large lots is largely independent of the dollar amount of taxes and assessments, a property owner's willingness to request annexation could be discouraged by significantly higher costs. Meece stated that all the concerns mentioned were similar to concerns mentioned in the process of developing the Yellowstone Preserve project.

Caldwell then brought up the idea of basing a cap on street frontage as criteria like Bozeman, Butte, and Havre have, which led to comments from Shirley Ewan about people who live on the corners, meaning they have double the street frontage.

VanAken brought up the idea of creating a considerably higher cap to provide the break, which would not impact such a large range of people as much.

Caldwell stated that it would be best to create a list of important principles and criteria to use to analyze the issue. VanAken agreed, since tax bills have

just been sent out and there is time to look deeper into the issue. Beebe agreed that it was a good idea to create a list of principles to use as a focus, with the possibility of creating a workshop on the topic. Blakeman also agreed but wondered about addressing the reasons that people want to annex as a whole.

Criteria developed were the following:

- 1) Impact on the City's ability to shape/control growth (growth policy).
- 2) Setting impact on other property owners in town (fairness).
- 3) Maximize density but provide various sizes.
- 4) Impacts on income (fiscal impact for City and residents).
- 5) Impact on land-use planning.
- 6) Incentives and disincentives to annex.

#### **Action Item B:**

Discuss and/or take action on speed limits for Swingly Rd. and Garnier Ave.

Meece explained that he had gotten a letter of recommendation from Chief Raney on speed limits to both areas, and would defer to him.

Chief Raney stated that it was self-explanatory; leave Garnier the same but East Gallatin needs to be decreased due to its recent annexation into the City. He suggested decreasing it to 25 mph but it is a state road so the DOT must approve it.

VanAken asked if Swingly, a recently annexed street, would automatically default to 25 mph once inside city limits unless otherwise stated, and Caldwell answered yes. VanAken then mentioned a few concerns he had about other speed limits signs lacking in certain areas. Meece said he would address this with VanAken at a later date.

Motion was made by Blakeman to set the speed limit on Garnier Ave. and Swingly Rd. at 35 mph, and set the speed limit on East Gallatin and Bennett St. at 25 mph, VanAken seconded.

All in favor, motion passed.

#### **Action Item C:**

Discuss and/or schedule a workshop regarding potential annexation of the 'West End' Trailer Court property (Jesson).

Meece stated the item had been previously discussed and then withdrawn by the property owner. They now appear ready to revisit the possibility of annexation. The idea is to schedule a public workshop to gain insight into public opinion, and to understand what the property owners are proposing to do with the property.

Blakeman agreed that a workshop would be extremely helpful because it would provide helpful public opinion on the item, and also to find out if opposition still exists as it had when previously attempted and how, if at all, public opinion had changed.

Caldwell set a public workshop date and time for Thursday, January 24<sup>th</sup> 2008 at 7:00 pm.

**Action Item D:**

Discuss and/or schedule a workshop regarding the development of a local 'wind energy policy' and the creation of a Wind Energy Task Force to direct such an effort.

Meece mentioned a variance request had been rejected by the Board of Adjustments of the Arby's Windmill, with the recommendation that the City develop a comprehensive Wind Energy Policy. Further research into the idea has been done, regarding other communities with alternative energy sources of this type. There is a base of information with which the Task Force could use as to start and then go from there under a designated time period. He stated that the point to the workshop would be to get an introduction into the subject, provide some background information, and then appoint the Task Force.

Caldwell suggested scheduling a public workshop in addition to the "Evening In" idea that had been previously mentioned to generate interest in filling the other available committee positions as well. Beebe felt that February would be a good time to get enough together to have such a large workshop.

The date of the workshop was set for Monday, February 11<sup>th</sup>, 2008 at 7 pm. Other possible locations were discussed and decision on location would be determined in the future.

Caldwell then discussed setting up the Wind Energy Task Force before the workshop. Meece mentioned that he had hoped to use the workshop as a time to draw more attention to the idea to add interested, helpful people to the Task Force.

Beebe inquired into who would appoint the Task Force members and when this would take place. Meece followed by stating he would like it to be a City Manager's task force to expedite the process. Caldwell agreed it would be best if put into the hands of the City Manager.

Blakeman inquired into the need to still have the workshop if the Task Force would be chosen beforehand to still generate interest, and both Meece and Caldwell said yes, it would be good to use to encourage people to join other committees.

### **City Manager Comments:**

Jones would like to compliment the City Manager on his new beard.

VanAken agreed with Jones' comment.

Beebe asked if it was known when the glass pulverizer would become a reality. Meece answered by saying the parts had not been ordered yet, and Clint Tinsley said they were currently deciding between two bids/brands but it would be well in place by the time the transfer station would be done.

Caldwell inquired into when the aforementioned transfer station bid proposals would be opened. Tinsley said the RFP is due January 10<sup>th</sup>, and the final product is hoped to be completed by June of 2008.

Blakeman had no comments.

### **City Commission Comment:**

Blakeman inquired about the Corps of Engineers Section 205 meetings taking place on 1/8, 1/9 and 1/10, and asked if there were specifics to talk about at the workshop on 1/9. Meece answered that the meetings were about evaluating alternatives for a full day on Wednesday and a half-day on Thursday.

Beebe questioned who empties the downtown garbage cans. Meece responded that he needed to go speak with the downtown people because it was part of the downtown business's agreement that they would empty their own. He stated that they either needed to pay the City to do it or that there

is the possibility of groups such as the high school who could do it as a fundraiser.

VanAken mentioned that he noticed some graffiti on the underpass mural and questioned what could be done to fix it. Meece explained that a sealant had been placed over the mural that was supposed to keep paint from sticking but it had not worked. VanAken also inquired into how often the streets are sanded during snow events. People have been asking him about certain areas where snow and ice seemed to stay all the time. Meece deferred this to Tinsley, who said that Public Works sands the intersections twice a day, as well as the downtown area and the hill which get extra attention. He mentioned that there had been one weekend when the trucks had waited to sand until early the next morning. Meece told VanAken to contact him if there were further complains or issues about areas of concern

Jones had no comments.

Meece mentioned that he had provided a copy of the proposal for the independent flood opinion/expert.

Blakeman also welcomed Jones to the Commission.

**Public Comment:**

No public comment.

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

The time was 9:36 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
January 22, 2008

The Livingston City Commission met in regular session on Tuesday, January 22, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Juliann Jones.

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

Motion was made by Blakeman, seconded by Beebe, to approve consent items. No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments were heard.

**Variance Requests:**

No variance requests were scheduled.

**Public Hearings:**

No public hearings were scheduled.

**Ordinances:**

**Ordinance No. 1996: AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL NEW COMMERCIAL CONSTRUCTION AND ALL COMMERCIAL ALTERATIONS AND RENOVATIONS RECOGNIZED BY THE INTERNATIONAL EXISTING BUILDING CODE AS ANTYTHING OTHER THAN LEVEL ONE ALTERATIONS TO BE DESIGNED BY A DESIGN PROFESSIONAL REGISTERED IN THE STATE OF MONTANA.**

Motion was made by Blakeman, seconded by Beebe, to accept Ordinance No. 1996.

Discussion:

Caldwell inquired as if a design professional meant an architect or an engineer. Woodhull replied that a design professional did include both architects and engineers.

Meece explained that a level 1 alteration is confined to such things as painting, recarpeting, etc. This ordinance applies to structural alterations such as electrical, mechanical, or changes to the occupancy level.

Caldwell stated that he has heard from Frank Horiel and John Bailey and they are concerned that this is just an additional expense to be placed on an individual that is trying to improve their property.

Woodhull stated that there is some discretion to be placed on these projects. If a project is barely a level 2 an individual is able to appear before the Building Appeals Board and argue their case.

VanAken would like to know how many 'levels' of structure there are?

Woodhull stated that there are 3 levels. Level 3 alterations include all new structures. Level 2 designations are more discretionary in that some parts of structures considered level 2 don't need to be brought up to the Existing Building Code if the remodeling is being done in another part of the building.

Blakeman would like to know if this is a life safety issue and are these grandfathered in and do the new codes apply?

Woodhull answered her question stating that if an individual can isolate the part of the building that is being remodeled and they don't touch the remaining part, the Existing Buildings Code will not apply to the remaining area but will apply to the part that is being remodeled.

Meece stated that the Existing Building Code only applies to existing buildings. Woodhull stated that this a companion code to the other building codes.

VanAken would like to know what if they are qualified architect or engineer do they have to be registered in the State?

Woodhull said that State Law requires that an architect or engineer be registered in Montana, in order to be able to 'stamp' a project.

All in favor, motion passed.

**Ordinance No. 1997: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 9-150 ENTITLED SPEED LIMITS OF THE LIVINGSTON MUNICIPAL CODE BY ESTABLISHING 35 M.P.H SPEED ZONES ON PORTIONS OF GARNIER AVENUE AND SWINGLEY ROAD.**

Motion was made by Blakeman, seconded by Beebe, to accept Ordinance No. 1997.

Discussion:

VanAken stated that he thought there were changes to occur on other streets, as well. Raney stated that the only ones that need to be changed are the speed zones that are over 25 m.p.h. All other streets default to 25 M.P.H. if not changed through an ordinance adopted by the Local or State Authority.

Caldwell would like page 60 to reference Swingley Road not Swingley Route.

All in favor, motion passed.

**Resolutions**

Motion was made by Blakeman, seconded by VanAken, to approve Resolution 3915 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, IN SUPPORT OF A HOME GRANT IN THE AMOUNT OF \$500,000 FOR THE PARK COUNTY SENIOR CITIZEN CENTER REHABILITATION PROJECT.**

Discussion:

VanAken stated that is the same kind of request that was made for the CDBG grant application. The Center is now requesting community support for the Home Grant. He is also requesting that City officials try to be present at the public hearing on January 31<sup>st</sup>, 2008 at 1:00 p.m. at the Senior Center to support this application.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution 3916 – **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF**

**LIVINGSTON, MONTANA, DESIGNATING CITY PLANNER AS THE ENVIRONMENTAL CERTIFYING OFFICER FOR MONTANA DEPARTMENT OF TRANSPORTATION GRANT FOR THE "SAFE ROUTE TO SCHOOL PROJECT" WITH PARK COUNTY SCHOOL DISTRICT #4.**

Discussion:

Meece explained the background with this request. Approximately 6 months ago the School District requested that the City help sponsor this project to make a safe route for school children. At that time the Commission agreed to use \$4,500 of the CDBG Revolving Fund money to support this project. The money was held back from the money that was sent to the Northern Rocky Development Council, and is still available. Mr. Woodhull has done this type of environmental checklist for the City before.

Blakeman asked if this was mostly for signage? Woodhull stated that it is for paths not signage.

Meece reiterated that the grant is for safe routes to schools, and the District will do some work on parking structures and egress/ingress issues also.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe to approve Resolution 3917 - **A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, ACCEPTING DEDICATION OF PARKLAND FROM TED AND GEORGANN WATSON AND ACKNOWLEDGING THAT SUCH DEDICATION MEETS A PORTION OF FUTURE PARKLAND DEDICATIONS REQUIRED DURING THE SUBDIVISION PROCESS.**

Discussion:

Blakeman asked if this was 11% of the project? Woodhull stated that of the 35 ½ acres this was about 5%.

Becker reminded the Commission the land along the river is also part of the dedication, although not mentioned in this resolution.

Blakeman asked if this would take care of the requirements for the subdivision process. Woodhull replied that it would take care of the Parkland dedication requirement (when the other land donation mentioned by Becker is included).

Caldwell has noticed that the deed states that bicycles are not to be used on the pathways. Becker stated that he would talk to the Watsons and see if the City could get that part amended.

Beebe stated that she also would like to see the use of bicycles on this path, so that eventually we can loop the trails together. Becker stated in order to make this available to bicyclers there would have to be bridges put in.

Meece speculated that possibly earlier discussions about not paving the paths are what precipitated the bicycle exception. VanAken would like to know if this would preclude the path from future paving and improvements. Meece stated that the original discussions had envisioned this as a natural trail.

The consensus of the Commission is to speak with the Watsons in regards to making this trail available to bicycles as well as walkers.

All in favor, motion passed.

Motion was made by Blakeman, seconded by Beebe, to approve Resolution 3918 - **A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH CTA ENGINEERING FOR ENGINEERING SERVICES FOR THE RECONSTRUCTION OF "C" AND "D" STREETS INCLUDING CALLENDER STREET FROM "D" STREET UP TO "B" STREET IN THE AMOUNT OF \$38,860. PLUS REIMBURSABLE EXPENSES.**

Discussion:

Blakeman would like to know if this work will be done this year?

Meece stated that it will be done over the calendar year not necessarily the fiscal year. A portion will be done this spring and the rest will be done after July 1<sup>st</sup>, 2008 in the next fiscal year.

Tinsley stated that the City will be able to get a better rate for the contract if both parts are done at the same time. E, F & G will be done in this fiscal year and C & D will be done after the 1<sup>st</sup> of July.

Caldwell would like to know if this is within the scope of the work that the City has set in the contract with CTA?

Becker stated that it is, but the City will be going out soon to re-bid the City Engineering contract. He believes that this needs to be re-bid every 2 years.

All in favor, motion passed.

**Action Item A:**

Discuss and/or authorize the City Manager to issue Request for Qualifications for Engineering Professional to review the USACE flood data and modeling and provide technical assistance as part of the FEMA flood map project.

Meece stated that at the January 7<sup>th</sup> City Commission meeting, a copy of the proposal from Clear Creek Hydrology was given to the Commission. The purpose of such an agreement is to review the data and modeling done by FEMA. Staff has visited with Clear Creek and feels that they have the qualifications to review the Corp's work. Per the City Attorney's review, Meece believes that the City should go out for RFQ (Request for Qualifications). Meece would like to bring a recommendation for award of the RFQ back to the Commission at the next City Commission meeting. Clear Creek Hydrology will resubmit their proposal as part of that process.

Blakeman asked if Mr. Mitchell was willing to answer some questions now? Mr. Mitchell from Clear Creek Hydrology stated that he would welcome questions at this time.

Blakeman asked Mr. Mitchell about what the time frame would be on this project? Mr. Mitchell stated that it depends on the weather, but he feels it could be completed in the next three months. DNRC and FEMA have the flood way maps available for review at this time, and there should be time to get an alternative flood map submitted before they have finalized the current maps. There is also a 90-day appeal period, after they have submitted their plan, in which time the City can also raise technical objections.

Mr. Mitchell stated that his company's first project was in 1971, since then they have studied at least 200 actual FEMA maps and FEMA has made 50 actual changes to their FEMA maps due to proposals submitted by Clear Creek Hydrology.

Jones inquired as to whether it would be better to give amendments to the Corp before they get into the actual process of concluding the maps? Mr. Mitchell agreed with Ms Jones and stated there are several set of maps out at this time and they are reviewing them at this time.

Beebe stated that many homes will be still involved in the flood plain regardless of how the maps change.

Mr. Mitchell stated that he feels that the north side of Fleshman Creek will be removed from the floodway. This means that they will probably be out of the floodway but not necessarily out of the flood plain. He is quite confident of this due to the fact that they have studied at least 4,000 miles of this similar kind and he's usually been correct.

Meece stated that what he is looking for at this time is a motion to go out for a RFQ (Request for Qualifications).

Blakeman made a motion to have the City Staff draft a request for qualifications for a company to review FEMA's flood maps and that the City Staff will review the RFQs and bring back a recommendation for the City Commission for the February 4<sup>th</sup>, 2008 meeting. Jones seconded.

VanAken would like to know when the expenditure would be approved?

Meece stated that the expenditure would be spent out of the budget funds designated to the flood issues.

VanAken inquired as to if this proposal is public record and can it be discussed with other citizens. Meece stated that it is public record and may be discussed.

All in favor, motion passed.

**Action Item B:**

Discussion of the "Community Garden" concept proposed to be located at the City Cemetery.

Meece stated that this was discussed 4-5 months ago with the City Commission. There is a group of local citizens that would like to form a Community Garden. The City would lease the property, to the rear of the Cemetery, to this group for a small amount and the group would sublease parcels to interested parties. The revenues they collect will pay for administration of the project and to build funds for construction of a geo-dome greenhouse in the future. The flowers grown in the greenhouse would be sold from this project, and also used by the City. There are still a few things to iron out such as liability insurance and water supply. At this time the main issue is to gauge the level of public interest. Sending these informational pamphlets to residents in the next water bill is the current proposal.

Caldwell asked what the cost to the City would be to mail these pamphlets?



Tinsley stated that they would go through the usual bulk mailing, with no additional cost to the City.

Meece stated that Bozeman and Missoula currently have these community gardens.

Tinsley explained the map of the proposed garden location.

Beebe asked what the time line would be for the project. Tinsley stated that the flyers will be going out shortly, and after the interest data has been collected he will develop a plan with the City Manager.

**Action Item C:**

Award bid for solid waste transfer station.

Meece stated that \$600,000 was budgeted for the transfer station and the bid came in at \$580,000. The winning bid came from Rotherham Construction, Inc. out of Bozeman.

Caldwell asked what their qualifications are for such a project. Tinsley stated that this company puts up their own steel buildings, and they have done several buildings in Bozeman. He has checked their credentials out and feels that they will do a good job for the City.

Motion was made by Blakeman, seconded by Beebe to accept the bid from Rotherham Construction, Inc.

All in favor, motion passed.

**Action Item D.**

Discussion of LPD's Annual Statistical Report.

Meece stated that this report shows what a good job is being done by the Police Department.

Raney stated that the crime statistics show that there is a positive trend in the lowering of criminal activity in the City. He also stated that vandalism and petty theft are both on a steady decline. Burglaries are generally down except for the 17 burglaries that were done by one individual (who was apprehended).

Raney showed that the number of complaints from citizens is going up by 2-2 1/2% over the last 10 years. These complaints take officers away from other

duties, such as traffic citations. Accidents rose this year due to the fact that the City has more roads due to the annexations of properties. If the City limits continue to expand there will be a demand for more officers, in order to provide the same levels of service and protection. Overall Raney is pleased.

Beebe asked if the number of complaints were coming from the same individuals? Raney responded that sometimes they are, but no matter who is complaining it takes time from the dispatchers and then an officer needs to be assigned to the complaint to follow through with it. These complaints affect the services to the rest of the community.

Caldwell wondered if 10 calls to dispatch on 1 accident are considered 10 different calls. Glass stated that no it is just considered one call.

Beebe asked if the calls were crime related or nuisance calls. Raney stated most of the calls are minor, but they place a burden on dispatch and also reflect on officer's response time.

Jones inquired as to whether these calls were to assist other agencies?

Raney stated that part of them are as they respond to public works, the Sheriff's department and others in the city.

VanAken asked if the number of vehicles in the City couldn't be charted in relationship to the number and type of accident, and other crime numbers similarly charted in relationship to the growth of the City, such as street miles, etc. Raney stated that the number of vehicle accidents has been consistent for the last 30 years. He stated that the vehicle accidents in the 40's and 50's were more serious, and frequent, vehicular accidents than those now. Caldwell wondered if this was due to the demographics of the City now -- as older citizens have fewer accidents.

VanAken noted that on page 5 of the report that sex offenses came in at 16 offenses and arrests for these offenses came in at 2.

Raney replied by stating that after investigation of the offenses some were unfounded and that sex offenses are difficult to prosecute. Some victims are reluctant to cooperate with the County Attorney.

VanAken also inquired about the racial profiling. He noted that the number of stops between officers was quite different. Raney replied that as of October 1<sup>st</sup>, 2008, all police officers are required to do a racial profile on every stop that occurs. He stated that the reason some officers have more stops than others depends on when they usually work (which shift) and that some officers are generally more aggressive in this matter.

Meece would like to commend the performance of the public service employees and stated that since 1992 only 1 additional fireman, 2 dispatchers & 1 police officer have been added to the City Force.

### **City Managers Comments**

VanAken inquired about the delegation to Washington D.C. He is wondering why the first phase of design only is being introduced? Meece stated that this is to get the City's foot in the door, and to show that the federal delegation that the community is willing to show a strong local financial match.

### **City Commission Comments**

Blakeman would like to know how the RFP for the website was posted? Meece stated that it was advertised in the newspaper. The task force also helped with the recommendations of several companies, to which RFP's were directly mailed. Several local firms answered the ad. Of the firms that sent in RFPs, 2 were from Montana and 1 from out of state.

Blakeman would like to revisit the dog ordinance. The City is losing revenue opportunity by not licensing additional dogs that citizens own. She would also like to look at the kennel license for cats. She would like to make sure that these licenses are given to professional breeders and not just people with a large amount of cats. Caldwell suggested that Blakeman get together with City staff and work out the changes. The Commission was in agreement with this idea.

Blakeman would also like to let the Commission know that she will be out of town from January 25<sup>th</sup>, 2008 through February 4<sup>th</sup>, 2008.

Beebe wanted to know if the other Commissioners received the certified letter in regards to shoveling of sidewalks. All of the Commissioners received the letter, as well as the City Manager. Meece will send the individual a letter explaining the enforcement of this ordinance and how much of it is based on the reasonable timing of snow removal depending on weather conditions. He will also make sure that a reminder is put in with the utility bills, on the website, do a press release, and visit with Vision Livingston and the Downtown Association to remind them of the ordinance.

Jones asked if the Commissioners should respond to the letter. Meece stated that staff will respond.

Blakeman wonders if some of the problems are from folks that are gone for the winter? If so they should still be obligated to arrange someone to shovel for them and they should be notified.

Beebe asked Chief Mastin if the Fire Department still has a list of individuals that they shovel for? Mastin stated that they do and they are willing to help those that need the help.

VanAken would like to remind the Commission of the meeting for the Home Grant at the Senior Center on January 31<sup>st</sup>, 2008 at 1:00 p.m.

VanAken would also like the Commission to look at last week's Livingston Weekly and let them know that the Whithorn collection is being catalogued and archived by the Museum Staff.

Blakeman would like to thank the Fire Department for the cleanup in front of the Hiatt House, following the recent stabbing.

Meece would like to commend Police Officer Harmon for his follow-up on a 911 call. When Officer Harmon arrived at the home, there were 2 small children by themselves and a small fire in the backroom. Officer Harmon removed the children and provided the Fire Department with important information about the fire prior their arrival.

**Public Comment**

Frank Horiel addressed Ordinance 1996 by stating that hiring a design professional may alleviate liabilities for the City but would increase the financial burden to the citizen-developers of the City. A project that would cost \$100,000 will now be 20% higher due to this ordinance. This may cause some individuals to decide to scrap the project due to the increase cost of the project.

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

The time was 9:15 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
February 4, 2008

The Livingston City Commission met in regular session on Monday, February 4, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Juliann Jones.

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

Motion was made by Blakeman, seconded by Beebe, to approve consent items. No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments were heard.

**Variance Requests:**

No variance requests were scheduled.

**Public Hearings:**

**Ordinance No. 1996: AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL NEW COMMERCIAL CONSTRUCTION AND ALL COMMERCIAL ALTERATIONS AND RENOVATIONS RECOGNIZED BY THE INTERNATIONAL EXISTING BUILDING CODE AS ANYTHING OTHER THAN LEVEL ONE ALTERATIONS TO BE DESIGNED BY A DESIGN PROFESSIONAL REGISTERED IN THE STATE OF MONTANA.**

Motion was made by Blakeman, seconded by Beebe to accept Ordinance No. 1996.

No Public Comment was heard.

Discussion:

Woodhull explained the difference between Ordinance No. 1998 and this ordinance. The City Planner/Building Department Director (Jim Woodhull) apologized for initially submitting the incorrect ordinance.

All opposed, Ordinance died.

**Ordinance No. 1997: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 9-150 ENTITLED SPEED LIMITS OF THE LIVINGSTON MUNICIPAL CODE BY ESTABLISHING 35 M.P.H SPEED ZONES ON PORTIONS OF GARNIER AVENUE AND SWINGLEY ROAD.**

Motion was made by Blakeman, seconded by Beebe to accept Ordinance No. 1997.

No Public Comment was heard.

All in favor, motion passed.

**Ordinances:**

**Ordinance No. 1998: AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA REQUIRING ALL COMMERCIAL CONSTRUCTION, NEW AND EXISTING, TO BE DESIGNED BY A DESIGN PROFESSIONAL REGISTERED IN THE STATE OF MONTANA.**

Motion was made by Blakeman, seconded by Beebe to accept Ordinance No. 1998.

Discussion:

Woodhull clarified the change in Ordinances. He explained that the main difference in the 2 ordinances was the additional discretion staff has in choosing between the levels of remodel. This ordinance gives the staff some discretion to determine if the remodel would need a design specialist or not.

Jones inquired as to why change of occupancy would be part of this Ordinance. Woodhull explained that if a retail store changed to an assembly hall the occupancy level (and therefore code requirements) would be drastically different.

Jones asked if the purpose of this ordinance is for liability purposes and less staff time to review? Woodhull said that it serves both purposes. There will be more professional review to catch errors or liability issues.

Blakeman would like an explanation of the permit process. Woodhull explained that if a remodel comes in for a permit and he determines that it is barely a Level 2, he would have the discretion to determine if it will be labeled a level 1 or 2 remodel.

Beebe asked if the customer would come to Mr. Woodhull first, if the project was a sizeable remodel, or would the designer come to him first. Woodhull said he would determine from the drawing what level the project would be placed in.

Blakeman asked if this would be determined at the time of purchasing a building permit. Woodhull stated that it would be prior to receiving a building permit.

Caldwell stated concern about the amount of discretion the ordinance gives the Director. One planner may be more lenient than the next one, or vice versa. Woodhull stated that Director is still under the guidance of the City Manager, as to the level of leniency/strictness. Woodhull also stated that Bozeman and Billings both use this method.

VanAken asked if an individual should presume that they would need a designer? He also wondered why Ordinance 1996 wouldn't do the same thing? Woodhull stated that the 1996 Ordinance is stricter than Ordinance 1998, and the additional discretion will be beneficial to the smaller projects.

Frank Horiel (City resident) rose to speak. He appreciates the wider latitude of this ordinance and the fact that it leaves discretion to the planner as which level it will fit into. He feels it's good to at least be able to argue the point as to which level the project is. He feels that even with this discretion the fact that a designer or engineer may have to be hired could increase the price of the project up to 20% -- and cause some projects not to be undertaken. He stated that he feels the cost of the project should determine the level of the project and would the Commission consider that? Woodhull answered by stating that a small project that requires large expenses may fit into a level one and a large project that requires little expense may fit into a level two if they are changing the structure of the building; so a cost range would not be appropriate. This new ordinance does not remove the City from liability should something be overlooked but it does have one more set of eyes on the development of the project.

Meece stated that this Ordinance is not to discourage developers but to help determine if the developer has a good design or a bad design. He stated that the City has been caught in one of these situations, where the appropriate designer/engineer was not used, the value of the

development was under \$300,000 and there were/are considerable problems managing the permit.

Carol Frazier, Director of Vision Livingston, questioned whether the infrastructure improvements downtown would fall under this Ordinance. Woodhull stated that some may and some may not. If the front façade of a building were being changed it probably would not be a level 2 unless they were changing the structure, or occupancy, of the building.

VanAken would like to know if it's possible to have a checklist for developers to fill out prior to meeting with the planner? The checklist would identify everything that would need to be done prior to being issued a building permit. Woodhull stated that the State of Montana has just such a checklist, but it does not cover every circumstance that occurs and presents several methods to satisfy the code requirements.

Meece stated that most owners that are working on a remodel would get a contractor, or designer, prior to applying for a building permit, to estimate the cost of the project.

VanAken questioned if they got the cost of the project first, then could they come in for discussion with the building department? Woodhull told the Commission after the cost of the project is determined he will sit down with the project manager, or owner, and let them know what level of remodel they are looking at; and the different ways in which they could proceed with code compliance.

VanAken stated that he's not always against new laws and certainly doesn't like to create new barriers for individuals but he does see the need for this Ordinance.

All in favor, Ordinance passed. Public hearing will be held on February 19, 2008.

### **Resolutions**

No resolutions were scheduled.

### **Action Item A:**

Discuss the sale and Commission direction of the "Old Waterworks Building" located on 10<sup>th</sup> Street.

Meece explained to the Commission that 1 year ago staff proposed retaining the Waterworks Building for the Building Department. The Building Department



was using reserve funds to purchase the building from the Water Department. The purpose of this purchase and remodel was to create a "One Stop Shop" for planning, zoning, building permits and development activities. The City Commission approved this in subsequent budget ordinances. Since that time the Building Department has lacked adequate revenues to continue the project.

Recently individuals interested in purchasing the building have contacted the City. Is the Commission interested in going forward with the sale of the property?

Caldwell stated that the first item would be to determine if the property is a surplus asset? Meece answered yes, it is surplus property; the City has no use for the building.

Beebe asked what happens if the City doesn't receive a suitable bid. Would we still have an option if the bid were not suitable? Meece stated that the City would have the option to reject all bids if none is suitable.

Caldwell stated at this point the City needs to look at holding costs including maintenance costs and foregone property taxes. Meece state that at this time the maintenance costs are minimal, but will increase over time.

VanAken remembers previous public discussions about how much land would be sold with the building; and a desire to keep the parkland public. Caldwell reminded the Commission that very little land was included the last time this building went out for bid.

Meece reminded the Commission that this property is zoned "Historical".

Blakeman asked if Meece could foresee a use of the building in the future if the economy picked up? Meece stated that he does not foresee using the building, unless there was a complete reverse in the building department's revenues. Blakeman asked how long he felt that might take, and Meece stated that he does not foresee a sizeable change to the average revenue stream for 7-8 years.

Becker reminded the Commission of the problems with the underground vaults and parking.

VanAken stated that he would like to see the inside of the building. Jones stated that she would like to see it also.

Blakeman stated that she would like to see an appraisal done on the building, before proceeding with a sale RFP. The Commission agreed.

**Action Item B:**

Discuss/Appoint/Deny enclosed applicants or renewals for the City of Livingston Planning Board and Historic Preservation Committee.

Caldwell asked Meece how he was doing on the rest of the appointments that are not filled? Meece stated that he's still 'twisting arms' regarding the 2 openings on the Urban Renewal Board.

Blakeman asked if the Commission would like to interview any of the applicants? Caldwell stated that the Commission has the right to interview but they are not obligated to do so. VanAken stated that he did not know Miss Hampton and he would like to meet her prior to appointing her.

VanAken made a motion to interview Miss Hampton prior to appointing her to the Historical Preservation Board, Beebe seconded.

All in favor, motion passed.

The interview will be on February 19<sup>th</sup>, 2008 at 7:15 p.m., prior to the next regular Commission meeting. Staff will check with Miss Hampton, to be sure this is convenient for her.

Blakeman made a motion to accept all of the other applicants for City Boards and/or Commissions, Beebe seconded.

All in favor, motion passed.

The following citizens were appointed:

Historic Preservation Board:

James "Tim" Williams - Renewal of Position

Linnea Prichard - Renewal of Position

Merri Ketterer - Renewal of Position

Reid Erickson - Renewal of Position

Diana Seider - Renewal of Position

City Planning Board:

Dude Tyler - Renewal of Position

**Action Item C:**

Discuss/approve/deny Requests for Qualifications from engineering firm to provide assistance in determining the accuracy of FEMA Flood Plain Study and maps.

Meece stated that in the packet is the original proposal from Clear Creek Hydrology; an updated proposal was received on February 1. Also, late Friday afternoon, Meece received a call from Mr. Knutson, with DNRC (Department of Natural Resources and Conservation), that the DNRC intends to object to several parts of the FEMA data and modeling process. Still, Meece feels that the City should hire an Engineering firm as an advisor on these matters. Meece said that the City's flood plain engineer would work with DNRC, as well as FEMA, to work out the concerns both suspected and stated to this point.

Jones would like an example of some of the concerns of DNRC. Meece replied that FEMA is treating structures as if water will flow through them, which is not an accurate depiction of how the water will be conveyed.

Blakeman stated that several Commissioners received a call from Pete Feigley, who is concerned about taxpayers having to pay twice for the same analysis? He feels that we are paying Corp of Engineers already, and now we want to pay someone else to do the same work. Blakeman would like to know if we could phase the contract in along with DNRC and not use the entire \$35,000 at once? Meece said that is exactly what we would do. Meece will outline where the Engineer should start, and they would proceed, within the process.

Beebe asked if this would change the role and mandate of the contract with the Engineer? Meece hasn't asked Clear Creek yet, but if the Commission authorizes the contract he will use them in the most economical and effective manner.

Caldwell stated that the City's engineer would not necessarily use alternative data but would use their expertise to do what we need relative to the processes involved with the flood maps.

VanAken stated that he feels that Mr. Feigley has credentials on these matters, and that subsequent emails seem to indicate that he is satisfied with what the City is trying to do.

Blakeman made a motion to have staff develop a contract with Clear Creek Hydrology, and bring it back to the Commission on February 19<sup>th</sup>, 2008, Beebe seconded.

All in favor, motion passed.

**Action Item D.**

Discuss/approve/deny refund to Kovash's for the overpayment on their taxes.

Ewan explained that the Kovash's appraiser submitted the wrong market value and size to the Department of Revenue when the house was built. The Kovashes missed the appeal date, to the Revenue Cabinet, and are now requesting the refund directly from the City.

Becker stated that there is no State Statute to cover this error.

Beebe stated that she is not comfortable with refunding the amount, as the error was not the City's but the appraiser's. VanAken has 2 issues with refunding the money, 1) the error was not the City's and 2) this may be causing a precedent for other individuals to request refunds. Jones also feels that this is setting a precedent for future requests of this nature.

Meece stated that the problem with starting to refund taxes is that the City would constantly be second-guessing the revenue stream.

Beebe made a motion to refund the overpayment by the Kovashes to them, Blakeman seconded.

All opposed, motion failed.

**Action Item E.**

Discuss/approve/deny new signage at 210 E Lewis. Let Them Bee Little Child Care is requesting a "loading/unloading" sign in front of their childcare business.

Meece stated that he has no problem with the signage but would like to have operating hours on the sign, such as ½ hour before they open until ½ hour after they close. This way the parking spot could be utilized when the business isn't open.

Blakeman asked if the childcare business would be responsible for the cost? Tinsley replied that it would not. Beebe stated that the business is next to the Baptist Church on Lewis.

VanAken made a motion to have staff draft an ordinance to approve the sign, with operating hours placed on the sign, Beebe seconded.

All in favor, motion passed.

**Action Item F.**

Discuss/approve/deny accepting Dick Anderson Construction's bid for Wastewater Treatment Plant upgrade and direct City Attorney to develop a contract for the project.

Caldwell asked if there were any other bids? Tinsley stated that the City had received 6 bids, and further explained how the cost of materials is increasing so fast that last spring's engineer's estimate was off by about \$400,000.

Caldwell asked if this would cause the City to increase sewer rates? Meece stated that staff was still looking at the possibility of raising rates 30-40%. He mentioned that the City of Livingston has some of the lowest rates in the state. We have been told, by the state, that the rates need to be raised to qualify for grants and low-interest loans.

Tinsley stated that the longer this is put off the higher the cost will be. He said that the other bids ranged from 1.7 million to 1.8 million and the bid from Dick Anderson is \$1.4 million. VanAken hates imposing higher costs on his constituents but realizes that it is just going to cost more in the future.

Blakeman moved to have staff develop a contract with Dick Anderson Construction for the upgrade work at the Wastewater Treatment Plant and bring back to the Commission on February 19<sup>th</sup>, 2008, Beebe seconded.

All in favor, motion passed.

**City Managers Comments**

VanAken was pleased with the snow removal letter and press release. VanAken understands that the Railroad Underpass funding will be discussed at the next Urban Transportation Committee meeting on February 12<sup>th</sup>, 2008 at 10 a.m. He asked if the money that the City is showing as State Match in 2012, would be enough. Meece stated that some future cost increases were incorporated into the 2012 cost estimate. Meece also stated that the Street Maintenance District would be able to fund the downtown infrastructure project, without Urban Route funds. That means the Urban Renewal money will accumulate to approximately 1.2 million dollars by 2012. The staff is researching the possibility of a new levy to finance the City share. All of these developments strengthen the City's case for convincing the federal delegation to obtain an earmark for the federal portion of the project.

Beebe thought the snow removal letter was great. She has noticed, while walking her dogs, that many homes, which seem unoccupied, are the most

hazardous places. She asked who should be alerted of problems. Meece told her to call Public Works and report the problem.

Caldwell would like to know if there was some other way of funding the railroad crossing other than using Urban Renewal money so we could have these funds available? He would also like to know if these funds are transferred or simply allocated to the City each year? Ewan stated that the money is allocated, and the City then authorizes its expenditure.

### **City Commission Comments**

Blakeman would like to know if anyone has gotten back to Hillary Taylor regarding the tree ordinance? Meece stated that he is drafting a letter, to be sent later this week. He has found out that the draft tree ordinance (that the Commission passed) had not come from the entire Tree Board. Blakeman also noted that Karnatz Tree Service was paid in this packet of claims and wondered if he had insurance. Haefs stated that he did.

Blakeman would like to know when the lighting project would begin on the eastside? Tinsley stated that street light replacement -- H Street through L Street from Park to Callender -- started today. The installation will have to wait for the frost line to thaw, before installing poles; so as soon as it thaws in early spring, the project will be completed.

Beebe stated that since the Wastewater Treatment Project has been approved, the City should publicize its "Green" initiatives. The publication could mention the ultra-violet light system at the treatment plant, compost pile, and the glass pulverizer to name a few.

VanAken mentioned his remarks in the paper regarding the Livingston Health Care meeting. He asked if they had thought about the difficulties with placing the hospital on the east side of the bridge prior to the bridge's replacement? He feels that the Department of Transportation, the Hospital and the City should meet together to make sure the hospital and the bridge are done in order. Meece stated that the MDOT has a plan for when they will begin construction on the bridge, and both entities (the City and the Hospital) are working closely with them. VanAken's concern is that the public isn't aware of this, and maybe it should be explained at the bridge meeting.

VanAken had a call from his neighbor in regards to licensing only 2 dogs when he has 3. Is the revision of the dog ordinance moving forward, and will it be done in the near future? Blakeman stated that it is being worked on, at this time.

VanAken would like to commend the staff on updating and assembling the new Commission Handbook.

Jones stated that she received an email from Mary Guakus, DNRC, concerning a flood awareness day in the 5<sup>th</sup> and 6<sup>th</sup> grade classes. Meece said he would follow-up with names and addresses to Ms. Guakus.

**Public Comment**

Mary Murphy addressed the Commission regarding the Old Waterworks Building. She has polled her neighbors for solutions, and they have recommended demolishing the building and using the rubble to fill in the tanks, thereby preserving the park. She has previously distributed a petition asking the public would they rather see the park or the building preserved. There was an overwhelming reply (93%) for saving the park. She feels that selling the building for future tax revenue is unacceptable to the citizens of Livingston. The Commission was elected to represent the citizens and they should do so.

Becker mentioned that the Grabow vs. City of Livingston hearing is February 14<sup>th</sup>, 2008 at 1:30 p.m. in the District Courtroom.

At this time the Commission went into Executive Session to discuss a personnel matter, and the City Attorney has determined that the demands of individual's privacy exceeds the merits of public disclosure. The time was 9:35 p.m.

Commission reconvened at 10:04 p.m. Motion was made by Blakeman seconded by Beebe to accept the personnel settlement agreement with the individual discussed in the Executive Session.

All in favor, motion passed.

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

The time was 10:06 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
February 19, 2008

The Livingston City Commission met in regular session on Monday, February 19, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman, and Juliann Jones.

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

Motion was made by Blakeman, seconded by Beebe, to approve consent items. No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments were heard.

**Variance Requests:**

Katherine Dayton (202 South K Street) is requesting a variance regarding front setback requirement for R-II MH zoning district. She is requesting a 13' setback; code requires a 25' setback.

Blakeman moved to accept the Findings of Fact, Beebe seconded.

Discussion:

Blakeman asked if there were other variations on that side of the street. Haefs replied with yes there is one other variation on that side of the street with a 16' setback. There are also 3 other variations on the other side of the street per Haefs.

Jones asked Haefs if Ms. Dayton was going to divide the property with 10 feet between the 2 homes. Haefs answered yes.

All in favor of approving Findings of Fact, motion passed.

Blakeman made a motion to accept the variance, Beebe seconded.

All in favor motion passed.



**Public Hearings:**

**ORDINANCE No. 1998: AN ORDINANCE OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING ALL COMMERCIAL CONSTRUCTION, NEW AND EXISTING, TO BE DESIGNED BY A DESIGN PROFESSIONAL REGISTERED IN THE STATE OF MONTANA.**

Caldwell opened the ordinance to public comment.

John Olsen spoke against the ordinance as he felt the ordinance would cause fewer new or expanded business ventures due to the cost of hiring a designer or engineer. Olsen stated that, as usual, the cost would be born by the average citizen. He feels that someone at the State level had their palms greased by architects and engineers to adopt this law.

Bob Ebinger asked how the City Planner would apply the law? There is no guarantee that, in the future, the City Planner would have the same standards as the Planner now; and the law may become stricter. He would also like to know how this would affect his project on 2<sup>nd</sup> Street. He used a designer who worked under an architect and the architect signed off on the project. Mr. Ebinger would like to know if he is now going to have to hire another designer to finish his project. He feels that the ordinance is too general, and would like to see more detail as to what will be permitted and what won't.

Patricia Grabow spoke as President pro-tem of the Downtown Business Association, and is concerned how this ordinance might affect the downtown 10 years down the road. She feels that the ordinance is too vague, will be ineffective in the future, and will cause an additional burden on the downtown building owners. She would also like to know what the definitions are in Section 6-12. If the definitions were made clearer, in 10 years everyone would know what they meant. Under the code what does "repair" mean and "occupancy" mean? She would like clear definitions.

Meece tried to answer some of the questions that citizens asked by explaining the Ordinance in greater detail. Whether it is a Level 1 or Level 2, project, regardless of the price of the remodel, depends on whether 1) the occupancy or the structure of the building are being revamped 2) changes being made to the ingress/egress or 3) major structural changes are being made. This ordinance is a safety issue and is for the benefit of the developer as well as the public. If the developer does not agree with the Building/Planning staff they have the option of appealing staff's decision to the Building Board of Appeals. This

ordinance is not to discourage downtown development but to make sure the changes are structurally sound.

Blakeman made a moved to accept Ordinance No. 1998, Beebe seconded.

#### Commission Discussion.

Blakeman appreciates the public's concern about the ordinance but this ordinance is a safety issue and many of the buildings downtown are extremely old, and if the remodel is done correctly it will help preserve the historic downtown. Blakeman also stated this ordinance gives some the Planner some latitude where as the previous draft did not.

Caldwell would like the audience to know that this ordinance does not have anything do with the City trying to tell the residents of Livingston what they can do with their property -- it just makes the developers look before they leap into construction. It imposes no new conditions on design or engineering, but pertains to the review process itself. Caldwell stated that the City Planner answers to the City Manager and the City Manager answers to the Commission, and if the public was dissatisfied with the regulatory enforcement they have the option of replacing the City Commission also.

Beebe stated that a lot of these questions and concerns have been addressed at prior meetings, and she feels that this ordinance makes the developers have a conversation with the building department prior to beginning their project. If someone is unsure if their project needs a designer all they have to do is talk to the planner. Beebe also stated that the definitions of the different words, i.e. occupancy, are in the building codes. Beebe stated that this ordinance gives the developer a clean start vs. fixing a mess afterwards, and that the ordinance is cautionary not restrictive.

VanAken stated that he received a call from Harlan Durgan, owner of property downtown, who has concerns regarding the new codes. VanAken told Mr. Durgan that this ordinance requires a closer scrutiny on how codes are applied. Mr. Durgan wondered if a new planner could manipulate the future enforcement of this law. VanAken told him it was the City Manager's job to make sure that the enforcement of this ordinance was consistent. Mr. Durgan stated that he is pleased with the Building Inspectors the City now has. Mr. Durgan was mostly concerned about the lack of information to the public.

VanAken said that, while he will vote for the ordinance, he is not totally in favor of the ordinance and is concerned about the repealer section of

the ordinance. He wonders if the City should state what these repeals are?

Jones stated that the design professional work is currently being forced on the City Staff and this ordinance will alleviate that problem.

Becker replied to VanAken's concerns about the repealer by stating that the statement in the ordinance was standard housekeeping. If there are inconsistencies in a prior ordinance this ordinance will override the conflicting provisions of the prior ordinance.

All in favor, ordinance passed.

### **Ordinances:**

**ORDINANCE No. 1999 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1960 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING AND STANDING BY ESTABLISHING A LOADING ZONE AT 210 EAST LEWIS STREET AND ESTABLISHING A PENALTY FOR VIOLATION.**

Blakeman, seconded by Beebe to accept Ordinance No. 1999, made motion.

Discussion:

Several typing errors were pointed out and will be addressed.

Caldwell questioned the 'minimum' fine amount. Becker stated that it is the same amount as elsewhere in the code. Caldwell thought that maybe \$10.00 was not enough of a deterrent to keep people from violating the ordinance. Meece stated that he would confer with Ms. Jacobsen (Parking Code Enforcement Officer) and see how she felt about the amount. VanAken asked if the minimum fine is \$10.00 what is the maximum fine? Becker stated that it could go up as high as \$500.00 and that would be at the Judge's discretion.

All in favor, motion passed. A Public Hearing will be held on March 3, 2008.

### **Resolutions**

**RESOLUTION NO. 3919 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH CLEAR CREEK**

**HYDROLOGY, INC., FOR ASSISTANCE IN FLOODWAY DETERMINATION AND MAPPING FOR THE CITY OF LIVINGSTON.**

Motion was made by Blakeman, seconded by Beebe to approve Resolution No. 3919.

Discussion:

Meece asked the Commission if they would consider changing page 88, under **Insurance**, to \$1,000,000 instead of \$1.5 million, as it is hard to get \$1.5 million insurance policies.

Blakeman moved to amend the general liability insurance and professional errors and omissions insurance during the Scope of the Work from \$1.5 million to \$1 million.

All in favor, amendment passed.

All in favor of accepting Resolution No. 3919 as amended.

**RESOLUTION NO. 3920 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN CONSTRUCTION AGREEMENT WITH DICK ANDERSON CONSTRUCTION, INC. FOR WASTEWATER TREATMENT PLANT IMPROVEMENTS IN THE AMOUNT OF \$1,416,140.**

Blakeman made a motion to accept Resolution No. 3920, Beebe seconded.

All in favor, motion passed.

**RESOLUTION NO. 3921 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING CONTRACT AND AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ROTHERHAM CONSTRUCTION, INC. FOR THE SOLID WASTE TRANSFER STATION IN THE AMOUNT OF \$580,110.**

Blakeman made a motion to accept Resolution No. 3921, Beebe seconded.

All in favor, motion passed.

**RESOLUTION NO. 3922 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE**

**BUDGET FOR FISCAL YEAR 2007-2008, AND CALLING FOR A PUBLIC HEARING THEREON.**

Meece recommended that his resolution be tabled until he is able to confer with the City Finance Officer.

Blakeman moved to postpone consideration the resolution until the March 3<sup>rd</sup>, 2008 meeting, Beebe seconded.

All in favor, motion passed.

**Action Item A:**

Discuss/approve/deny Millicent Hampton's appointment to the Historic Preservation Commission.

Ms Hampton was interviewed prior to tonight's meeting.

Blakeman made a motion to accept Ms Hampton's application and to appoint her to the Historic Preservation Commission, Beebe seconded.

All in favor, motion passed.

**Action Item B:**

Discuss/Approve/Deny Robert Gersack's appointment to the Urban Renewal Authority Committee.

Blakeman made a motion to appoint Robert Gersack to the Urban Renewal Authority Committee, Beebe seconded.

All in favor, motion passed.

**Action Item C:**

Discuss/approve/deny City participation with Park County as part of their contract with Headwaters Recycling.

Meece stated that this contract would be for the upcoming year.

Blakeman stated that she thought the Commission had already discussed this. Meece said that it had been discussed but the County would like a recorded vote.

Blakeman asked if this contract would be from April to April. Meece stated that it would be. The City will agree to participate until April 2009.

Blakeman made a motion to approve contract with Park County, VanAken seconded.

All in favor motion passed.

**Action Item D.**

Discuss/take action on preliminary plat approval of Loves Lane Townhome Subdivision.

Meece referred the explanation of this subdivision to Haefs (Asst. Planner/Code Enforcement/Building Inspector). Haefs stated that Bruce Lay would like build 6 residential townhouses on the lots, recently annexed by the City. The property is located in the SE ¼ of section 23, T2S, R9E, which lies at the intersection of Loves Lane and Willow Drive.

Blakeman made a motion to accept the Findings of Fact, Beebe seconded.

All in favor, motion passed.

Blakeman asked Haefs for clarification on where exactly the property was on the map supplied to the Commission. Haefs explained where the property lines are, and that there is a pasture behind the property with an existing home next to the property.

VanAken asked if the other property owner's land looped behind this property? Haefs answered that yes they share a property line.

VanAken would like to know what the side and rear setbacks would be? Meece stated that the side setbacks would be 5' and the rear would have a 100' back yard.

Blakeman stated that the lot at the east side of the map is where a house is at this time and this subdivision would not be close to the other property owner's home. Blakeman also stated that the townhouses would be single story homes and would be approximately 1800 square feet.

VanAken asked how close this subdivision would be to the State's easement? Haefs stated that the townhouses would have a 100' back yard and then there was a pasture behind their yards and then the 50' State easement. VanAken

would also like to know why condition #6 (maintenance of fencing between homes and horse pasture) is in the Staff Recommendations. Haefs replied because there is already a fence in that position.

Blakeman made a motion to accept the preliminary plat for the Loves Lane Townhome Subdivision with Staff recommendations as part of the approval of the plat, Beebe seconded.

All in favor, motion passed.

**Action Item E.**

**Discuss/take action on request for extension of preliminary plat approval for Discovery Vista Phase I, II and III.**

Meece explained to the Commission that the request for an extension is due to economic market issues.

Blakeman asked if this was the same process used on the property east of town, where an extension was granted. Meece answered that it is.

Blakeman would like to know if they decide to make any changes would it come back to the Commission first? Meece answered yes, just as was stated in the east end extension agreement.

VanAken would like to know if the 5-year extension on the other phases would be coming back to the Commission? Meece stated that staff will develop a separate agreement to come back to the City Commission for approval.

Blakeman asked if the other phases could be addressed on the April 5<sup>th</sup>, 2008 Commission meeting, and could the parkland issue be rolled into this extension. Meece answered that it could be rolled in and staff will have it ready for the April 5<sup>th</sup> meeting.

Motion was made by Blakeman to grant a 1-year extension on phase I of the Discovery Vista Preliminary plat, Beebe seconded.

All in favor, motion passed.

## **Action Item F.**

### **Planning Board recommendations regarding notice of annexations.**

Meece mentioned that these annexations are currently being noticed according to state law, which does not require notice to property outside of the city limits. This is adding another step to that procedure. His concern is if the City mistakenly violates the new rule, by not notifying everyone, it could become a legal challenge to the annexation.

Blakeman stated the Planning Board thought that many of the issues regarding the Ridgeview and Montague subdivisions could have been alleviated if the public had been better noticed. The residents around these subdivisions would like to be more involved with the decision making process, and they would like to be involved sooner rather than later.

Jones inquired as to which property owners would like to be more involved? Blakeman stated that the property owners adjacent to the subdivision and those in close proximity of the annexation. Blakeman feels that a generic letter could be sent to these residents.

Meece agrees with the intent, but what if this is adopted and not everyone is notified? Will it then trip up the annexation? Meece suggested that the petitioners be required to erect a sign on the property, rather than notify the adjacent property owners. Becker stated that we are currently doing what the State law requires.

Jones stated that she likes the sign idea. Blakeman mentioned that signs get torn down or blown down. Blakeman wants every effort made to communicate with the surrounding property owners.

Caldwell asked the City Manager if he had enough input to go forward with a plan? Meece stated that he would have the staff study the situation, and get back to the Planning Board and Commission with their recommendation.

### **City Managers Comments**

No questions or comments were directed to the City Manager on his comments.

### **City Commission Comments**

Blakeman stated that she is sorry to see Tahlia Ganser leaving the Enterprise. Blakeman would also like to remind everyone that February 20, 2008 is the lunar eclipse.



VanAken would like to remind the Commission that the hearing on the Yellowstone bridge replacement will be February 20, 2008, from 7:00 p.m. to 9:00 p.m. at the Best Western Motel. He would also like to invite anyone that is interested to the Annual State Museum meeting that is being put on by the Friends of the Museum and the museum staff on March 6, 7 & 8, 2008. Registration is \$100. VanAken would also like to let the Commission know that he will be out of town from March 24<sup>th</sup> - April 4<sup>th</sup>, 2008.

**Public Comment**

No public comment was heard.

At this time the Commission went into Executive Session to discuss on-going litigation. The City Attorney has determined that the litigation matter would have a detrimental effect on the litigation if discussed in an open forum. The time was 9:00 p.m.

Commission reconvened at 10:14 p.m.

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

The time was 10:15 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
March 3, 2008

The Livingston City Commission met in regular session on Monday, March 3, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken and Juliann Jones. Vicki Blakeman was absent.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Glenn Farrell, Peggy Glass, Clint Tinsley, Judy Roy and Brad Haefs.

Motion was made by Beebe, seconded by VanAken, to approve consent items. No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments were heard.

**Variance Requests:**

No variances were heard.

**Public Hearings:**

**Ordinance No. 1999: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1960 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING AND STANDING BY ESTABLISHING A LOADING ZONE AT 210 EAST LEWIS STREET AND ESTABLISHING A PENALTY FOR VIOLATION.**

Caldwell opened the ordinance to public comment.

No public comment was heard.

Beebe made a motion to accept Ordinance No. 1999, Jones seconded, all in favor motion passed.

**Ordinances:**

No ordinances were introduced.

## **Resolutions**

### **RESOLUTION NO. 3922 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2007-2008, AND CALLING FOR A PUBLIC HEARING THEREON.**

Motion was made by Beebe, seconded by VanAken to approve Resolution No. 3919.

Discussion:

No Commission discussion was heard.

All in favor motion passed.

### **Action Item A:**

Discuss/appoint/deny Karyle Frazier to the Historic Preservation Commission.

Meece stated that this appointment will fill the remaining vacancy to the Historic Preservation Commission. Ms Frazier is the Director of Vision Livingston.

Jones made a motion to accept Ms Frazier's application and to appoint her to the Historic Preservation Commission, VanAken seconded.

All in favor, motion passed.

### **Action Item B:**

Discuss draft ordinance modifying Ordinance 1984 (Cats and Dogs).

Caldwell informed the Commission and Public that this discussion would be held on March 17<sup>th</sup>, 2008 rather than this evening.

### **Action Item C:**

Discuss/approve/deny text amendment allowing residential uses in Highway Commercial Zoning Districts.

Meece referred the explanation to Haefs. Haefs stated that the Planning Board brought this up, thinking it would be good to have policy in the Commercial zoning districts match with previous similar actions in the

Central Business District. Currently, once a structure is changed from residential to commercial the building cannot return to residential, but must remain commercial. The Planning Board would like to amend the text to allow commercial buildings to go back to residential if the owner so desires. No one at the Planning Board meeting spoke for or against this change.

Caldwell asked what prompted this change? Woodhull stated that the central business district is done this way and the board felt that they all should be the same.

Becker stated that if the Commission approved the text amendment it would come back in ordinance form at the next meeting on March 17, 2008.

VanAken inquired as to whether this district was Park Street? Woodhull stated that it is Park through Callender from 10<sup>th</sup> Street to the east side of town. VanAken asked if an office in this area wanted to change back to a residence was it not possible at this time? Woodhull answered 'NO', and this is the reason that the Planning Board would like to see it changed.

Beebe made a motion to instruct staff to prepare an ordinance, for consideration at the March 17<sup>th</sup>, 2008, City Commission meeting, reflecting a change stating that Highway Commercial Zoning would now reflect the possibility of changing commercial buildings back to residential if the owners so desired, VanAken seconded.

All in favor motion passed.

#### **Action Item D.**

##### Consideration of SID 180.

Meece referred the explanation to Tinsley. Tinsley stated that the residents on Carol Lane are interested in developing this SID in order to replace their septic system with City sewer service. At this point Mrs. Pomajbo and one other resident are hooked up to the sewer main, and this would be an additional extension from that main. Letters were sent to all of the residents inquiring as to whether they would like this SID. All those that responded were in favor, 2 residents did not respond.

Tinsley stated that the sewer line would go down the middle of the street, there is still an issue with securing easement(s) for a new water main.

Meece stated that if SID 180 is approved the money would be borrowed from the Skillman Trust fund, and paid back with the revenues from the assessments from the SID residents (including interest).

Caldwell inquired as to how much is in the Skillman Trust at this time? Ewan stated that there's a little over \$100,000 ,as the interest that had accumulated on the trust has been given to the Soccer Association for the new soccer complex.

VanAken asked if the residents could opt out of this SID? Tinsley stated that they could not opt out, if the majority wanted it they would all have to go along with the SID.

VanAken asked if the SID would be assessed on an even basis as some residents have more bathrooms, use more water, and would use the sewer system more that others? Tinsley stated that everyone would pay the same amount regardless.

Jones asked if someone did not respond would they be included anyway? Becker stated that the next step would be a *Resolution of Intent to Create a Special Improvement District*, and the residents have a chance to protest at that time. If 75% of the residents protest the SID it will not be created.

Caldwell inquired as to why there was no Lot A & J in the draft ordinance, and Becker stated that A and J are already hooked to the sewer main.

Beebe made a motion to instruct staff to prepare a Resolution of Intent to Create Special Improvement District (No. 180) for consideration at the March 17, 2008 Commission meeting, VanAken seconded.

All in favor, motion passed.

### **City Managers Comments**

No City Manager's comments were in the packet.

Meece would like the Commission to know that the Corp of Engineers will be here on March 31<sup>st</sup>. and will have 2 public meetings on that day. The first meeting will be from 2:00 to 4:00 p.m., and the second one will be from 6:30 p.m. to 8:30 p.m. in the Community Room. The Corp will explain their analysis of the flood plain mitigation alternatives (developed at the January workshop) at that time. The Corp has finalized their plan today. A public notice will be done in regard to the meeting.

Meece told the Commission that the Wind Energy Task Force had their first meeting, and the group has requested more information and see a need to

expand the scope of their project to include other forms of energy also; i.e. solar energy. If the Commission knows of anyone else that would like to sit on this Committee please direct them to the City Manager. Caldwell asked how many are on the Committee? Meece stated that there are currently 9 on the Committee.

Meece stated that the meetings in Washington D. C. last week were productive. Meece, Caldwell, Representative Ebinger and Phil Odegard (Engineer from HKM) spoke with Senators' Baucus, Tester and Representative Rehberg in regards to funding of the railroad underpass. Caldwell mentioned that Odegard was very helpful in explaining the project and how much assistance was needed.

VanAken asked who paid for the trip? Meece stated that the City paid for the rooms/airfare and Odegard paid for the meals.

Beebe asked how much competition, for project funding, are we facing? Meece stated that at least one other community in Montana is also working on a railroad underpass project. Meece stated that, due to the upcoming elections, the funding is up in the air and nothing is likely to be decided until February or March of 2009. If the City is not awarded funding at that time there will be another opportunity with the Transportation Bill Re-Authorization in the Fall of 2009.

### **City Commission Comments**

No comments were heard from the Commission.

### **Public Comment**

Patricia Grabow addressed the Commission in regards to a special event that the Montana Stock Growers, Montana Rail Link, and other individuals are planning for April 6<sup>th</sup>, 2008. She asked why the event did not appear on the agenda tonight? Meece stated that the application was incomplete, and policy is that applications do not go to the Commission for consideration until the application is complete.

Meece stated that, as of last Wednesday, when the application was due, the insurance requirement was incomplete for liability and liquor liability. Grabow stated that the Montana Stock Growers have added a rider onto their policy to name the City of Livingston as insured. Per Grabow, the document was faxed on February 27<sup>th</sup>, 2008 to Bruce Becker. Grabow has spoken to the Fire Department, and the Police Department, and they feel that there will be no problems with this event. The event will be the band Sleep at the Wheel and per Grabow will probably draw at least 1,000 people. Per Grabow in order for the event to be approved 30 days in advance the event would have had to been

approved tonight, and she is asking the Commission to consider it at this time. Caldwell answered that the City Commission could not consider the event tonight, as it had not been advertised on the agenda.

Caldwell asked if the Commission would consider a Special Meeting to approve this event? The Commission was in consensus that this is a good event, and they would be willing to have a special meeting to approve the application.

Grabow stated that there would not be any alcohol provided at the event, therefore the additional insurance would not be needed. Becker stated that a Special Meeting would have to be advertised at least 12 hours prior to meeting. The special meeting was set for March 7<sup>th</sup>, 2008 at 1:00 p.m. in the Community Room. The promoters of the event will pay the City \$250.00 for the Special Meeting.

Robert Moore commented that the Sponsors of the Event were not trying to circumvent the process but they were having a hard time trying to get the alcohol insurance situation completed. Moore also stated that there will be other entertainment besides Asleep at the Wheel, Henry Real Bird will be reciting his poetry as well.

Bill Moser addressed the Commission in regards to the Yellowstone Bridge Project, 89 North, slated for replacement by the Montana Department of Transportation in three years. Moser has read the study put out by the DOT, and feels that the re-design of Bennett Street is going to be a traffic catastrophe. He feels that the City should contact DOT and let them know that the current plan is unacceptable. Moser feels that the City should contact the Railroad and MDT to work on a solution.

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

The time was 8:40 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
March 17, 2008

The Livingston City Commission met in regular session on Monday, March 17, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Juliann Jones.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Jim Mastin, Clint Tinsley, Judy Roy and Brad Haefs.

Motion was made by Blakeman, seconded by Beebe, to approve consent items. No discussion.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments.

**Variance Requests:**

Haefs explained the variance - Alexander Rome is requesting a variance from the rear setback requirement for R-II MH zoning districts to allow her to build a 2 foot 6 inch wall to connect 2 existing structures together that currently have a zero foot rear setback. Code requires a 5' setback. March 11<sup>th</sup>, 2008 a public hearing was held at the Planning Board meeting. No comments. The Board of Adjustments recommends approval of the variance.

Blakeman made a motion to accept the findings of fact, Beebe seconded.

All in favor, motion passed.

Blakeman made a motion to accept the Rome variance, Beebe seconded.

Discussion:

VanAken asked about the height of the wall, as only the width was stated in the variance request. Haefs stated that it would be 8-9' high to match the rest of the wall.

All in favor, variance passed.



Haefs explained the second variance – Aelbers Kellett is requesting a variance from the rear setback requirement for R-II zoning districts to allow her to build an addition onto an existing garage that currently has a zero foot rear setback from the rear property line. Code requires a 5' setback. March 11<sup>th</sup>, 2008 a public hearing was held at the City Planning meeting. No comments. The Board of Adjustments approved the variance.

Blakeman made a motion to accept the findings of fact, Beebe seconded.

All in favor, motion passed.

Blakeman made a motion to accept the Kellett variance, Beebe seconded.

No discussion.

All in favor, variance passed.

**Public Hearings:**

**Resolution No. 3923 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2007-2008.**

Caldwell opened the Resolution to public comment.

No public comment was made.

Blakeman made a motion to accept Resolution No. 3923, VanAken seconded.

No discussion.

All in favor, motion passed.

**Ordinances:**

**Ordinance No. 2000 – AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING THE ZONE CODE BY ALLOWING RESIDENTIAL STRUCTURES IN HIGHWAY COMMERCIAL DISTRICTS AS CODIFIED SECTION 30.30 OF THE LIVINGSTON MUNICIPAL CODE, BY AMENDING SECTION 30.40 LIST OF USES IN THE HIGHWAY COMMERCIAL DISTRICT TO ALLOW RESIDENTIAL USES**

**IN THE HIGHWAY COMMERCIAL DISTRICT (HC), BY MAKING PROVISIONS FOR CATTERYS IN THE INDUSTRIAL AND HIGHWAY COMMERCIAL DISTRICTS AND PROVIDING THAT ALL SPECIAL EXCEPTIONS IN THE LIGHT INDUSTRIAL DISTRICT ARE NOW ACCEPTABLE USES AS THE CITY HAS ENACTED DESIGN REVIEW STANDARDS.**

Motion was made by Blakeman, seconded by Beebe to accept Ordinance No. 2000.

Discussion:

VanAken inquired as to why 'cattery' was added to this ordinance? Becker answered, saying that 'catteries' did not have a zoning designation prior to this ordinance.

Jones asked about the special exceptions? Woodhull stated that when the design review overlay district was created not all of the land uses were acceptable in the zoned area unless they had a special exception granted, with these changes, those uses would be allowed.

Caldwell asked what the special exceptions were? Woodhull stated businesses such as nursing homes and restaurants.

Blakeman asked why lumberyards were not included in the Industrial Zone, was it because most of them have a retail business as well as a lumberyard? Woodhull stated that they could be included in the Industrial Zone as well as Highway Commercial and Light Industrial - it was on oversight. Blakeman asked if they could be added Industrial Zone at this time? Becker stated that he would add them to the ordinance.

At this time Blakeman made a motion to amend the ordinance by adding lumberyards to the businesses that will be acceptable in the Industrial Zone, Beebe seconded.

All in favor, amendment motion passed.

All in favor of the amended ordinance, motion passed. The ordinance will come to the Commission in the form of a public hearing on April 7, 2008.

### **Resolutions**

**RESOLUTION NO. 3924 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO CREATE**

**SPECIAL IMPROVEMENT DISTRICT NO. 180 FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO IN THE APPROXIMATE AMOUNT OF \$65,536.85 AND CALLING FOR A PUBLIC HEARING.**

Blakeman made a motion to accept Resolution No. 3924, Beebe seconded.

Discussion:

Blakeman inquired as to whether all of the participants in the SID (Special Improvement District) would receive the same assessment breakdown that is on page 87 of the packet. Meece answered that yes they all would, and the assessment would be placed on the tax bills.

Blakeman also would like to know if the participants were aware of what the cost would be. Tinsley stated that all of the residents were aware of the cost. Becker stated that if 75% of the residents protested, the SID would not go forward.

Caldwell asked if this protest would be done in a public hearing? Becker stated that SIDs are a different process and that residents will be given an allotted amount of time to protest the SID.

Blakeman asked if the cost would be included in the letter to the residents? Becker stated that yes the cost would be included.

Beebe asked why Lots A & J were not included in the SID, are they already connected to the sewer system? Becker stated that yes they are already connected, and would not be included in the SID.

Blakeman asked if the people that hooked on to the system would have to payback the City? Meece stated that yes the payback would be to the City in the form of an assessment on their taxes.

All in favor, resolution passed.

**RESOLUTION NO. 3925 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING PORTIONS OF THE CITY OF LIVINGSTON'S POLICY AND PROCEDURES MANUAL FOR ITS EMPLOYEES.**

Blakeman made a motion to accept Resolution No. 3925, Beebe seconded.

Discussion:

Meece explained to the Commission that this amendment is a result of the annual review of the policy and procedures manual. During the review process corrections and additions are made to the manual. Per Meece this project was delegated to Chief Raney, who organized a committee of Department Heads, Union and Non-Union employees. The proposed amended policies have also been approved by MMIA.

Blakeman inquired as to if the drug testing policy would come back as a separate policy? Meece stated that it would come back as a separate policy, and would be agency wide. Presently, only CDL drivers are involved with drug testing. The Administration is looking at a more comprehensive policy where pre-employment testing and random testing would be involved as well.

Caldwell asked about page 89 of the policy, he's wondering if the reference to "personal" conflicts in the "Conflict of Interest" section is too broad? Caldwell would also like to know how a conflict of interest is defined? Meece stated that he would review this with MMIA but typically state statute defines a conflict of interest

Caldwell asked if "Work Place Violence" should include overt threats also? Jones stated that she felt that was covered under harassment. Caldwell is not sure it is covered there. Meece stated that overt threats would be added to the policy.

Caldwell stated that on page 92, advertisement for positions should be advertised in local newspapers, not newspaper.

Caldwell would also like to see page 93, Section D, Item 4, state not only 'reference checking' but 'qualifications checking' will be done. Meece will add education and qualifications checking to that portion of the policy manual.

Caldwell asked whether pre-employment drug screening would be done. Meece stated that it would be in the policy.

Caldwell stated that on page 97, it shows the conflict of interest a second time - the same concern was noted regarding definition of "personal" conflict? Caldwell also asked whether there was a city policy governing the employee use of city vehicles, such as using city vehicles to commute to and from an employee's residence. Meece stated that has been covered by the IRS audit. Ewan stated that employee's are now paying taxes on the benefit of using a City vehicle. Meece stated that it is covered again on page 127. Prior to this, there was no written policy on

City vehicle usage when vehicles were dispensed to employees on an as needed basis.

Caldwell referred to page 107 and is questioning the Fifth Amendment rights of the employee in regards to requiring an employee to answer questions during discipline. Meece stated that the employee may have representation present to assist and clarify, but that the employee has to answer the question.

Caldwell inquired about Item B on page 111 in regards to the 1 ½ time's pay for callbacks. He feels that this should be clarified that this does not pertain to "Exempt Employees".

Caldwell stated that on page 113 the word "Additionally" should be struck. This is in regards to the workman's compensation reporting.

Caldwell referred to page 117 and asked if the EMS Director was an "Exempt Employee"? Meece stated that the position is part of the Union, as are the Captains in the Fire Department.

Caldwell asked if page 123, Section 24.2, Item A, Travel Approval was to be in writing from the supervisor? Meece stated, yes.

Caldwell stated that page 130; Section 24.18, Item A, is redundant as it is covered on page 95, Section 2.5, Item E. This is in regards to requirements of employee distance and time length it takes to get to their place of employment (within the City) from their home. Meece stated that Section 24.18 on page 130 goes on to explain the consequences, where section 2.5, Item E on page 95 does not.

Beebe asked if regular temporary employees received benefits such as Health Insurance. Meece stated if they are on a short-term project or filling in for someone gone, they do. It also depends upon how long they will be filling the position. Blakeman asked if they were treated as regular employees and Meece stated that yes they are.

All in favor, resolution passed.

**Action Item A:**

Discuss/appoint/deny Patricia Grabow to the Urban Renewal Board.

No motion was made.

**Action Item B:**

Discuss draft ordinance modifying Ordinance 1984 (Cats and Dogs).

Meece stated that the draft ordinance was reviewed and changed with Blakeman and Animal Control Officer Judy Roy's assistance. The biggest change in the ordinance is the number of dogs a household can have. In the present ordinance, it states that one household can have no more than 2 dogs. This revised draft ordinance changes that to 2 unaltered dogs or 4 altered dogs.

Jones clarified, that it is 4 altered dogs per household and 10 dogs per kennel.

Blakeman stated that they got their information, in regards to the changes, from other City ordinances around the State. Blakeman also stated, that many citizens now have more than 2 dogs and they are not being licensed as the law only permits them to license 2. Blakeman and the Animal Control Officer felt that this needed to be addressed.

Caldwell stated that 4 dogs seems like a lot of dogs.

Roy stated that from her experience, as Animal Control Officer, people that have a lot of animals generally take better care of them than someone that has only 1 animal. Roy also stated that there are a lot of provisions in the City laws to control the dogs if they get out of control, i.e. the barking ordinance.

Beebe stated that she has been in homes where there were 6 dogs and 4 people and the dogs behaved extremely well.

Caldwell stated his comfort in the fact that there are other alternatives to control the animals, i.e. the barking ordinance.

Blakeman would like to address the letter in the packet from Tara Eddy in regards to the leash law being reinstated at the riverbank property by Sacajawea Park. Presently it is a no leash area.

Caldwell stated that possibly litter bags and trash cans could be placed along the river front like they are at Mayor's Landing so people would be more inclined to clean up after their dogs.

Roy stated that the path along the river is narrow and that dogs on leashes may still jump on people that go by.

Blakeman is wondering if the Commission would consider some of the City's property on the north side to have as no leash areas for dogs?

Meece stated that dogs have the same tendency to jump on people on the sidewalks downtown, and the levy path is wider than the sidewalks. It's not the size of the path that is the concern; it's the control people have over their animals. Caldwell agreed with Meece.

Beebe stated that, historically, dogs ruled on that path. However, due to the increase of ball fields, and the use of the land for other City purposes, much of that area along the riverfront has been constricted. The reason this is such a great place to walk dogs is that it's convenient for people that don't want to drive down to Mayor's Landing. Beebe feels that maybe some type of signage should be placed at the riverfront that states that dogs have to be under voice command, and owners are responsible to clean up after their pets.

VanAken stated that the problem is that as long as there is only one trail by the riverfront this is going to continue to be a problem. Dog owners as well as walkers like to view the river, and scenery, along that path. VanAken thinks that possibly the dog walk portion of the path could be moved down further, by the band shell, and that owners need to address the jumping dog issue.

Caldwell thinks the ordinance should be left as is, in the draft ordinance, and the changes that the Commission would like to address can be discussed when the ordinance comes back for their approval.

Jones would like to address page 147, "Cruelty to Animals". She asked what happens to the animals that are leashed constantly, and never let loose from the leash in their yard? Roy stated that as long as the owner is providing food, water, and shelter, there isn't anything that can be done. Roy also said that these animals are hard to monitor in regards to cruelty.

Bob Ebinger spoke from the audience and asked that trash receptacles and litterbags be placed along the riverfront.

Blakeman made a motion to accept the ordinance, as written in its draft form, and to have it placed on the agenda for the April 7<sup>th</sup>, 2008 meeting for Commission discussion and approval, Beebe seconded.

All in favor, motion passed.

**Action Item C:**

Discuss/approve/deny text amendment to the Growth Policy Future Zoning Map.

Meece explained that the growth policy would be changed to include all of the property in Section 21, T2S, R9E, and north of Interstate 90 and

would be designated for future zoning as Light Industrial or Commercial. Per Meece this would include the West End Trailer Park. The purpose of this request is due to the possibility of annexation, and therefore it should be included in the growth policy.

VanAken questioned the wording on page 162, as to whether this area was to the north side of the railroad tracks? Woodhull stated that the section line runs northeast of the property and would be considered commercial property.

VanAken stated that the letter stated that Table 30.40 was attached and he did not see it. Becker stated that the table was on page 80 of the packet.

Patricia Grabow from the audience asked if this amendment would allow the Jessons, along with other property owners, the ability to add gas stations, restaurants and car dealerships to this area? Woodhull told her that it would not; those questions would be addressed in future annexation and zoning plans. Grabow asked if this were passed would the growth policy allow for "box stores"? Woodhull stated that they could be added if the property was annexed, and then zoned commercial, but at this time it is zoned as agricultural.

Vuko Voyich, attorney for the Jessons informed the Commission that the section line between 21 & 22, about 3 ½ acres in Section 22 was the legal description owned by the Jessons.

Blakeman made a motion to bring the Growth Policy Future Zoning Map back as a resolution at the next Commission meeting on April 7<sup>th</sup>, 2008. The resolution shall name the Jesson property in the growth policy, Beebe seconded.

Caldwell stated that the purpose of amendment of the growth policy was to facilitate future decisions regarding zoning and subdivision of the area proposed for annexation.

All in favor, motion passed.

#### **Action Item D.**

##### **Discuss approve/deny Jesson annexation agreement.**

Meece stated that this discussion has been reviewed in a previous workshop of the Commission at which time they stated their expectations and desires for the use of the property; therefore the draft is before them



at this time. Meece asked if the Commission had any questions or comments?

Beebe stated that she is reluctant to take any action until the Growth Policy changes are done. Beebe feels that this is putting the cart before the horse, and it would be prudent to do one piece at a time.

Jones stated that from the start of the discussion, she has liked what she has seen so far.

Caldwell stated that the Commission discussed applying commercial zoning to this area, but he does not want to see the zoning decision made as part of the annexation agreement. Becker reminded the Commission that this does not say what the zoning will be - that is decided after public hearings. Caldwell also asked, with respect to provision 3 of the draft agreement, what the trigger would be for Street and Light Maintenance District assessments would be, as "such time as development occurs" seem vague. Woodhull clarified that the trigger would be plat approval.

Blakeman stated that we need to clarify the suite of options, i.e., highway commercial, light industrial, neighborhood commercial or any of the other zones on page 80 of the packet.

At this time Meece asked for direction from the Commission. Meece understands the Commission's trepidation, and that they would like to proceed with caution. Meece stated that this is not like the Watson property, as there will not be a development plan available prior to annexation. The Jessons do not want to develop this property that will be left to future owners. The Jesson's requests are in regard to annexation.

VanAken asked if this annexation agreement were approved, as is, when would the annexation go into effect? Becker stated that the annexation agreement would go into effect immediately, upon approval, but the actual annexation process would be required before the property was within the City. This agreement could be brought back at the 2<sup>nd</sup> meeting in April, the same time as the public hearing for the Growth Policy Future Zoning Map. The Commission was comfortable with this direction.

### **Action Item E.**

Action Item E was pulled from the agenda.

**Action Item F.**

Sponsorship of Trout Headwaters Inc. cleanup of Fleshman Creek in the amount of \$150.

Meece reminded the Commission that this was an annual request and that the City has historically been a sponsor of the project.

Caldwell stated that he would be recusing himself from this decision as he has worked periodically with Trout Headwaters. He then handed the meeting over to Vice-Chair Blakeman.

Jones made a motion to have the City sponsor the Fleshman Creek cleanup with Trout Headwaters Inc. in the amount of \$150, VanAken seconded.

Four in favor, Caldwell recused himself, motion passed.

**Action Item G.**

Discuss, approve/deny agreement with Long Blue Yonder Movie Company for the lease of the Eastside School for the months of April – July, 2008 in the amount \$300/month.

Meece explained that the Movie Company had contacted him, as they need a space to rent while making a movie in Livingston. Long Blue Yonder has approximately 70 employees that will work out of the school, and would like to lease it for the months of April – August 2008. Since the boiler has been walled off, there will be no heat in the building (or hot water). Basically, they are renting a shell facility. Meece has placed the standard lease in the packet for the Commission to examine. LBY will pay \$300/month, and place a deposit of \$600 with the City. Meece also stated that LBY will have to meet the insurance requirements. The City has contracted to have the building cleaned, for \$500. LBY will reimburse the City for the cleaning expense. LBY will be responsible for the utilities, and has a minimum requirement of \$500,000 fire insurance.

Blakeman asked what the City's cost would be to open the building up for rental? Meece stated that he would have the cost estimate by Friday to get the water back on, which will require a plumber. The plumbing of the water pipes has to be re-routed around the walled in boiler.

Meece stated that Livingston will be the primary location of the movie, and that he has stressed the fact that the City desires the use of local vendors for their services.

Jones asked if ½ million dollars worth of fire insurance was enough? Becker stated that the last appraisal was \$200,000 and that he based the insurance amount on that appraisal.

The consensus of the Commission was to proceed with the agreement with Long Blue Yonder.

A Resolution, authorizing the City Manager to sign the lease, will be back before the Commission on April 7, 2008.

**Action Item H.**

**Discuss draft Resolution for ballot issue for the Railroad Underpass funding. Total cost of \$8.7 million, City share \$650,000.**

Meece explained that in order to secure federal funding, in the amount of 6 million dollars, the City has to show that they are able to finance their portion of the project. Therefore, Meece is recommending to the Commission that a ballot issue be placed before the Citizens asking them to participate in the cost of the railroad underpass. In order to have the \$650,000 of local match ready by construction, the City will need an additional mill levy of 11.25 mills per year; for the next 5 years. The cost, per homeowner, will be approximately \$22.50/year on a \$100,000 home and \$45.00/year on a \$200,000 home.

Meece stated that if the Commission approved the resolution, a special election would be held on September 9<sup>th</sup>, 2008 to take the issue to the public. If the ballot issue is done in September, the City will be able to place the additional mills on the November tax rolls. If the ballot issue is rejected, the City will be unable to move forward with the project.

Jones realizes that this is the amount, per homeowner, at this time but will the amount go up each year? Ewan told her that the rates that this amount are taken off of are indeed this years tax rates and that yes there is a chance of the amount going up each year in the amount of 1-3%.

Blakeman asked if what Meece just said could be placed on the ballot? Becker stated that no it could not as it would slant the vote; the ballot issue must be a simple statement of facts.

Meece stated that the Commission, and staff, would need to educate the community with regard to this issue.

Blakeman made a motion to go forward with the ballot issue to raise the City's portion of costs for the underpass, through a vote by the citizens of Livingston. VanAken seconded.

All in favor, motion passed.

### **City Manager's Comments**

Jones asked if the Commission could access the letter sent from Clear Creek Hydrology to FEMA. Meece stated that he will provide the Commission with a copy.

VanAken asked if the Commission was to solicit letters of support for the railroad underpass? Meece stated that it has already been done, and a few have already come in. VanAken asked how many requests were sent out. Meece stated that Jim Mastin, Fire Chief, was handling the requests and that all of the businesses on the north side as well as numerous community organizations had been asked to send letters of support. VanAken stated that he had not received such a request at the Senior Center. VanAken asked if Meece would accept letters of support from anyone? Meece stated that any support letters would be gladly accepted, and that the City will continue to forward these letters to the legislative delegations. VanAken offered his help in getting more letters of support.

Beebe asked the City Manager if the underpass was an 'earmark' project? Meece stated, yes. He stated that the legislators are now requesting more transparency in 'earmark' request processes. Beebe stated that earmarking could be a bad word for a project. VanAken stated that is not necessary bad to be an 'earmark' it just has to be proved that the project is of significant community value.

Meece stated that the project has not worked its way through the federal system, as of yet.

### **City Commission Comments**

Blakeman stated that she likes the new financial report. Blakeman also stated that a new street light has been installed on her street, which is working fine.

Beebe would like to remind the Commission, and Public, that the Spay/Neuter Clinic would be held at the Fairgrounds on March 30, 2008 from 8:00 a.m. until they are done.

VanAken stated that he received an agenda from Dave Eaton at Counterpoint for the Livingston Area Transportation Advisory Committee. He went to the meeting, and several groups were being asked to sign letters of cooperation on solving local transportation issues.

Meece clarified the point by stating that, approximately 2 years ago, MDOT began requiring local 'transportation coordination plans' from organizations that wanted to receive state/federal assistance monies for the purchase of transportation equipment. Both Angel Line and Counterpoint request such funds to purchase vehicles.

At that time, MDOT was also pushing that Angel Line and Counterpoint work together to form a local 'public' transportation system. It was decided that such a system is beyond the capabilities of both, or either, the present coordination plan to be submitted will simply show them cooperating (sharing vehicles), as needed.

At present the Angel Line Fund is paying Lisa Ballard, consultant, to develop a coordination plan. This plan will also include other agencies i.e. Frontier, and the cab company.

Jones would like to see initiatives developed to encourage businesses to stay in the downtown business district, rather than the growth of businesses on the outskirts of town.

**Public Comment**

No public comments were heard.

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

The time was 9:32 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
April 7, 2008

The Livingston City Commission met in regular session on Monday, April 7, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, and Vicki Blakeman. Juliann Jones was absent.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Jim Mastin, Clint Tinsley, Judy Roy and Peggy Glass.

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

No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

No scheduled public comments.

**Variance Requests:**

No variance requests were heard.

**Public Hearings:**

**Ordinance No. 2000 - AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING THE ZONE CODE BY ALLOWING RESIDENTIAL STRUCTURES IN HIGHWAY COMMERCIAL DISTRICTS AS CODIFIED SECTION 30.30 OF THE LIVINGSTON MUNICIPAL CODE, BY AMENDING SECTION 30.40 LIST OF USES IN THE HIGHWAY COMMERCIAL DISTRICT TO ALLOW RESIDENTIAL USES IN THE HIGHWAY COMMERCIAL DISTRICT (HC), BY MAKING PROVISIONS FOR CATTERYS IN THE INDUSTRIAL AND HIGHWAY COMMERCIAL DISTRICTS AND PROVIDING THAT ALL SPECIAL EXCEPTIONS IN THE LIGHT INDUSTRIAL DISTRICT ARE NOW ACCEPTABLE USES AS THE CITY HAS ENACTED DESIGN REVIEW STANDARDS.**

Caldwell opened the Resolution to public comment.

No public comment was made.

Blakeman made a motion to accept Ordinance No. 2000, Beebe seconded.

All in favor ordinance passed.

**Resolution No. 3932 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING SPECIAL IMPROVEMENT DISTRICT NO. 180 FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO IN THE APPROXIMATE AMOUNT OF \$65,536.85.**

Caldwell opened the Resolution to public comment.

Artyce Lizotte asked if this would cover the Montague addition. Caldwell told her it would not, these improvements are on Carol Lane.

Harry & Kaye Kolkmann, residents of Carol Lane, sent a letter to the Commission expressing their approval of the SID.

Blakeman made a motion to accept Resolution No. 3932, Beebe seconded.

All in favor Resolution passed.

**Ordinances:**

**Ordinance No. 2001 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1983 AS CODIFIED IN CHAPTER 4, NUMBER OF DOGS ALLOWED BY A RESIDENCE AND BY CLARIFYING DEFINITION OF CATTERY AND KENNEL.**

Motion was made by Blakeman, seconded by Beebe to accept Ordinance No. 2001.

Discussion:

Beebe stated that she has been doing some research on this subject, and in other Cities, where Beebe has lived, there is not a limit on the number of dogs/cats a resident can own. Beebe feels that a discrete number is arbitrary and has nothing to do with controlling the animals. Beebe would like to see this ordinance postponed until further research can be done. Beebe stated that quantity is not the issue a nuisance ordinance should be concerned with.

Blakeman stated that she has no problem taking time to research other Cities and their approach, and would ask that staff talk to their animal control officers about enforcement.

Caldwell asked if Blakeman & Beebe would like to see a wholesale revision of the ordinance? Blakeman stated that it's a good ordinance, however, she agrees with Beebe that its merit is not necessarily tied to the number of animals at a residence.

Beebe stated that, from her survey, most dog people would not increase the number of dogs they own just because of an ordinance change. The number of dogs an individual has does not tell how well they are taking care of those dogs. Some individuals could have several dogs while some individuals shouldn't have even one.

Patti Orndorff, City resident, spoke against increasing the dog limit to more than two dogs. She currently has neighbors that have three dogs and they bark all of the time, this is not Fort Collins so why are we looking at their ordinance.

Jim Hunt, City resident, stated that as close together as the homes are in Livingston, and how small the lots are, two dogs is plenty per home. Hunt stated that 4 dogs would be a nightmare, as most people don't clean up after their dog now and if they had four it would be worse.

VanAken is concerned about an arbitrary number being put in the ordinance. Setting the number at four dogs resolves the problems with people that have more than two dogs, but it could cause problems for other residents. VanAken would like to see a more workable number, for enforcement purposes. VanAken feels that with an arbitrary number of dogs there would not be enough code enforcement staff. VanAken's idea is to grandfather the people with more than two dogs, and leave it at two dogs per resident. VanAken doesn't feel that citizens should ask the government to legislate and settle problems between neighbors. They should be adult enough to settle it on their own. VanAken stated that he feels the catteries and kennels part of the ordinance is important and he would like to see Section 4-25 eliminated, but he's not ready to start the whole ordinance over again.

Blakeman stated that she does not have a problem with starting over and that a non-specific number of dogs may be better.

Blakeman made a motion to table this ordinance to the May 5<sup>th</sup>, 2008 meeting. Beebe seconded her motion.

All in favor, motion passed.



**Resolutions****RESOLUTION NO. 3926 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO PROFESSIONAL SERVICES AGREEMENT WITH BRIDGER COMMUNICATIONS TO PROVIDE SERVICES FOR 911 DISPATCH CENTER AND THE CITY OF LIVINGSTIN POLICE DEPARTMENT.**

Blakeman made a motion to accept Resolution No. 3926, Beebe seconded.

Discussion:

Blakeman inquired as to whether this agreement would be held by the City and shared with the County? Meece answered that this is no longer a shared contract, but is similar to the contract that the Commission has seen in the past. The contract was originally approved by the City and the County made some changes and sent it back. The City made those changes, then the County gave notice they would not sign it. This contract has removed any County references.

Caldwell questioned Glass as to whether this would create a problem? Glass answered that it would still cover the radio service, 911 and installation of computers.

Caldwell inquired as to whether the rates had changed? Glass stated that the rates have not changed.

All in favor, Resolution 3926 passed.

**RESOLUTION NO. 3927 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO EXCEED THE STATUTORY MILL LEVY BY 11.25 MILLS FOR FIVE YEARS UPON APPROVAL OF THE MAJORITY OF QUALIFIED ELECTORS TO RAISE \$657,651.51 AS CITY'S PORTION OF THE COSTS FOR THE WESTERLY END RAILROAD CROSSING UNDERPASS AND CALLING FOR A PUBLIC HEARING THEREON.**

Blakeman made a motion to accept Resolution No. 3927, VanAken seconded.

Discussion:

Meece explained to the Commission that this would come back to the Commission as a public hearing at the next meeting on April 21, 2008. If approved, the five year mill levy would generate the local match needed for the Federal portion of the 8 million dollar project.

All in favor, Resolution No. 3927 passed.

Patricia Grabow, City resident asked if the overpass did not become a reality would the money raised go into a slush fund to use for some other project? Becker stated that if the railroad crossing did not go through the money would be refunded to the residents of the City.

**RESOLUTION NO. 3931 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND ITS GROWTH POLICY'S FUTURE ZONING MAP BY INCLUDING PORTIONS OF SECTIONS 21 AND 22, TOWNSHIP 2 SOUTH, RANGE 9 EAST LYING NORTHERLY OF INTERSTATE 90 AS LIGHT INDUSTRIAL AND CALLING FOR A PUBLIC HEARING.**

Motion was made by Blakeman to accept Resolution No. 3931, Beebe seconded.

Discussion:

Meece stated that the Commission has had several discussions and workshops concerning this resolution and that the consensus was that it was not appropriate to add the Jesson property until a change was made in the growth policy.

Patricia Grabow, City resident, questioned if this resolution is Light Industrial/Commercial because the resolution did not state that. Woodhull stated that the title was incomplete and would be changed for the public hearing.

VanAken stated that he received 1 call as whether this Resolution would consider the annexing and zoning of the Jesson property? He told the citizen that this would create the leeway to annex or not to annex. This is the first part to deciding whether to annex the property.

All in favor, Resolution No. 3931 passed.

**RESOLUTION NO. 3929 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AUTHORIZE CITY MANAGER TO ENTER INTO AN ANNEXATION AGREEMENT WITH MARGIE JESSON FOR PROPERTY LOCATED IN A PORTION OF SECTION 21 AND 22 OF TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M.**

Motion was made by Blakeman, seconded by Beebe to accept Resolution No. 3929.

Discussion:

Meece stated that this has been discussed in a workshop and this draft represents the work of that session, and subsequent discussions with the Jessons'. Unlike the Watson and Yellowstone Preserve annexations, there are no development plans available for this property. If the City does not annex the property, the City will have no control over what is developed in that area.

Blakeman asked if the property is annexed does it preclude what any other owners would be able to do with the property if the Jessons sell the property? Becker stated that the Jessons and the City are subject to zoning laws of Montana, and that the subsequent owners would be subject to what the Jessons require of them.

Blakeman asked if the Commission would be able to see the plan before the owners build on the property? Becker stated that any development plan would have to come before the Commission, as part of the subdivision review process, prior to building on the land.

Blakeman would like to know the value of the resolution without a plan? Meece stated that it is not required to have a development plan prior to annexation. While he agrees that this resolution is not of the same level of detail as the Watson and Yellowstone preserve annexations, it still gives the Commission some control regarding future development. If it is not annexed, the City has no control at that intersection.

Caldwell asked if the plan would be more specific with the future owner? Meece stated that the subdivision review process would require a lot of details.

Beebe feels that there are a lot of risks with annexing this property, and that there is not enough specificity as to what will be done further down the road.

Blakeman stated that by annexing this property all the City is doing is making the property more valuable to the sellers of the property, and is that the City's purpose? Blakeman feels that there is no control at this point, and there are just too many variables left unanswered.

Meece stated that he does not see a risk by annexing the property.

Caldwell stated that there are just as many risks by leaving it in the County, at least, if it's annexed, the City will have some control.

VanAken stated that he had a citizen call him wondering if his taxes would provide the infrastructure to this property? The Citizen also stated that he feels the City should let the County take care of it. VanAken stated that the Commission was between a rock and a hard place, but at least, if the resolution is passed, the City will have some control over what's placed out in that area.

Blakeman asked if the zoning could be changed without the Growth Policy? Woodhull stated that it could not be changed without the Growth Policy.

VanAken asked if there would be a public hearing on this resolution? Becker stated that there would not be a public hearing on this. The public hearings will happen as development plans happen. VanAken wondered if this was a draft annexation and is the Commission just approving the draft? Meece answered VanAken by stating that yes this is the approval of the draft and if the Commission wishes to modify it will need to go back to the Jessons for their approval. Meece stated that by approving the Growth Policy resolution it would leave the door open to annex this property at a later time if the Commission desires.

Becker explained that to be annexed into the City a land owner has to petition the City, or the City can annex property if the property is surrounded by the City. The Jesson property is now being taxed as agricultural land, in the County, and is not surrounded by City limit property.

VanAken asked if maybe the City should go back to the table with the Jessons and work this out? Meece stated that he would need to know what specifics the Commission would like him to go back to the table with? At this point, there aren't any identified elements that haven't been addressed.

Blakeman stated that it wouldn't do any good to go back to the table, as the Jessons don't know what will eventually be there. Meece stated that during the subdivision review process the Commission would become aware of what the developer plans on putting on this property.

Blakeman asked how the trailer court was put on this property if the land is taxed as agricultural? Woodhull stated that in 1975 the Jessons went through the process with the County and had 5-6 acres zoned as commercial..

Patricia Grabow, City resident, asked if large commercial outfits could develop this property, without water and sewer utilities? Woodhull stated that it would be possible to develop on-site utilities, if they could afford the costs.

John Mueller, resident, asked if there would be a public hearing on resolution as the last paragraph of the resolution states that there will be one. Becker stated that yes there would be a public hearing on April 21<sup>st</sup>, 2008 at the next Commission meeting.

Three in favor, Beebe opposed, Resolution No. 3929 passed.

**RESOLUTION NO. 3930 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BROOKSTONE (MANTZEY ANNEXATION) TO ALLOW CONSTRUCTION OF SEWER AND WATER MAINS.**

Motion was made by Blakeman to accept Resolution No. 3930, seconded by Beebe.

Meece explained that this is a payback and authority agreement for this subdivision, to allow the developer to start running water and sewer mains to the Mantzey Subdivision. The previous payback agreement, made with the Montague developers, will not be executed if the agreement is not signed by April 15<sup>th</sup>, 2008. Blakeman asked Woodhull to show them on the map how this work would connect up with the Montague subdivision. Woodhull explained that Mantzey would hook up to the Montague lines, however, if the Montague agreement isn't executed, Mantzey will likely request another payback agreement to finish the connections left incomplete by the Montague Subdivision.

Meece stated that timeliness was critical, and the Montague developers have had plenty of time to sign the agreement and develop the infrastructure.

Artyce Lizotte, City resident, asked if these mains would go down Frank Street? She's quite concerned, as she has a lease with the City for horse pasture there and no one has informed her that something was going to happen. She has not been given any notice of this plan. Meece stated that he would have the project manager contact her, as well as Mr. Tinsley.

All in favor, Resolution No. 3930 passed.

**RESOLUTION NO. 3933 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING LOAN OF MONEY FROM PARK IMPROVEMENT TRUST FUND NO. 2700 IN THE AMOUNT OF \$68,813.69 TO CAPITAL IMPROVEMENT FUND NO. 4010 AND SID REVOLVING FUND #3400.**

Motion was made by Blakeman, seconded by Beebe to accept Resolution No. 3933, seconded by Beebe.

Discussion:

VanAken asked if this was connected to Resolution No. 3932 for the development of SID 180, and were the amounts different due to the amount that needs to be deposited in the SID Revolving Fund? Ewan stated that yes the amounts were different, as 5% of any SID needs to be deposited in the SID Revolving Fund in case the SID does not make the payments.

All in favor, Resolution No. 3933 passed.

**RESOLUTION NO. 3934 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS FOR A RECREATIONAL TRAILS PORGRAM GRANT #RT2008-19 NOT TO EXCEED \$14,000.**

Motion was made by Blakeman, seconded by Beebe to accept Resolution No. 3934.

Discussion:

Blakeman inquired as to whether this was an 80% - 20% grant where the City has to pay 20% of the costs. Meece stated that he believes it is, the City will be funding its portion with in-kind services.

John Mueller, resident, asked how much trail this would cover. Meece stated that it would be approximately 1 mile.

All in favor, motion passed.

**RESOLUTION NO. 3935 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO CONTRACT WITH MCLEES, INC. FOR CIVIC CENTER ROOF REPAIR IN THE AMOUNT OF \$45,529.**

Motion was made by Blakeman to accept Resolution No. 3935, seconded

by Beebe.

Discussion:

VanAken inquired as to where the funding would come from to replace this roof? Ewan stated that it would come out of the Capital Improvement Fund, where it was budgeted in 2007-08. Ewan also stated that this will complete the overall roof replacement project.

All in favor, motion passed.

**Action Item A:**

Discuss/appoint/deny changes to the Special Events Application and new rate schedule for City facilities.

Meece mentioned that Public Works has been working for several months on streamlining and updating the special events application, as well as revising the fee schedule. Sandy Wulf, Assistant Director, and John Gracie, Recreation Assistant, have done a cost study to compare both rental fees vs. costs and the rates of similar locations within the city.

Caldwell asked if there were any changes to the application itself. Meece stated that most of the changes were in condensing the materials provided, in addition to the proposed new rates. Also, on page 144, of the packet, a disclaimer has been added.

Rob Bankston, Market Master, representing the CNR - Farmer's Market, stated that in previous years the Market has had music at their event and that the Market paid the City \$25.00 and \$75.00 to the band. He would like to know if this is going to change his rates for the 2008 season. Meece stated that this would not affect CNR, as their event was approved during the Consent Items that the Commission passed earlier in the evening. Meece stated that it would affect CNR's costs for the 2009 season. Rob Bankston stated that the vendor's fees will have to be raised in the future, to accommodate these increases.

Blakeman stated that a revised fee structure has been needed for Miles Park, and this is a step in the right direction.

VanAken inquired about page 150, asking if these rates were strictly for the Civic Center and the Bandshell because on page 153, #3, states that there is a \$25.00 per day minimum for City Park Land Use Fee?

Blakeman stated that there is no charge for use of the Parks, unless they have to be closed down for the event. Per Blakeman these event fees

were adopted last March and that was originally put in there because sometimes the Commission lets people stay the night in the Park for the event.

Blakeman made a motion to accept the new application packet and fee schedule minus the Park Land Use Fee of \$25.00, VanAken seconded.

All in favor, motion passed.

**Action Item B:**

Discuss/approve/deny Airport Board applicants, Doug Lobaugh and Wes Hiner. Only 1 position is available at this time.

Meece stated that he has talked with Jeri Miller, Airport Board, who had reminded him that the City had a vacant seat on the board. She also stated that Mr. Hiner is interested, but not a City resident. In the interim, Meece asked Mr. Lobaugh to submit an application

Blakeman agrees that the person appointed should live in the City.

Caldwell asked if this was a 2-year term. Meece said that he believes it is.

Blakeman made a motion to appoint Doug Lobaugh to the Airport Board, Beebe seconded.

All in favor, Mr. Lobaugh will be the City representative on the Airport Board.

**Action Item C:**

Discuss/approve/deny Brookstone Payback Agreement.

Woodhull explained that this is the actual payback agreement that was discussed earlier in the meeting. It is for the construction of water/sewer mains for the Brookstone subdivision (Mantzey annexation). Becker stated that there is one change in the agreement, the administrative fee should read \$25 not \$15.00.

Blakeman made a motion to bring the Brookstone Payback Agreement back, in resolution form, with the change in administrative fees to \$25.00, VanAken seconded.

All in favor, motion passed.



**Action Item D.****Discuss approve/deny Kaul Subdivision.**

Woodhull explained that this is a 1-lot subdivision in the 200 block of South H Street. The Kauls are proposing to subdivide this 8,746 square foot parcel into 2 lots and create an additional building site. Woodhull stated that there would not be any impact on the neighborhood and that the Planning Board approved the subdivision.

Blakeman made a motion to accept the Findings of Fact, Beebe seconded.

All in favor, Findings of Fact passed.

Blakeman made a motion to accept the subdivision, Beebe seconded.

All in favor, motion passed.

**Action Item E.****Discuss Petition for Annexation of Lot 3 Subdivision Plat No. 253, Park County.**

Woodhull explained that the City has not been provided many details about the potential development, only that it will be residential. The area is on the Future Growth Plan Map. Woodhull explained that Ridgeview Trails is in the City limits, and so the City is directly contiguous to this property.

Caldwell asked if the property were annexed would the City be able to loop the utility lines? Tinsley stated that a benefit of the annexation would be that mains could be run from the water reservoir into Ridgeview Trails. The bad news is that the north side is at 80% capacity for sewer on Park Street, and other recent annexations (in addition to existing uses) have left the Front Street sewer mains near capacity.

Blakeman asked if the land is fully developed what would be the maximum capacity of the sewer lines? Tinsley said if the property were developed, completely, it would max out the current lines – and upgrade would be needed. Meece stated that larger transmission lines would need to be installed. Tinsley stated that one possible alternative would be to place a lift station at Main and Front. This alternative would be 2/3rds less expensive than new lines. Caldwell asked if this could be done with grants through DNRC? Tinsley said that would be one alternative.

Blakeman asked Tinsley what his recommendation would be? Tinsley stated that at this point in time there are no problems, however, he is giving the Commission a heads up. At this point it is recommended that the Commission annex the property in order to loop the utilities.

Caldwell asked how much land are they proposing to annex? Woodhull stated that its approximately 30 acres and some of it would probably be proposed as RIII (high density).

Caldwell asked the Commission which direction they would like to go with this annexation? Beebe stated that there would seemingly still be a capacity problem if it were developed.

Tinsley stated that there are no major housing subdivisions going on now, and at this time the capacity of sewer is not maxed out. The property is already surrounded by utilities. Tinsley said that if the property is annexed the City would be getting the tax revenue from it.

Blakeman stated that, unlike the west end annexation, at least the Commission will know more what the property is being used for, prior to annexation, so she has less problem with the annexation.

Blakeman made a motion to bring the annexation resolution back at the next City Commission meeting. VanAken seconded.

All in favor, motion passed.

### **City Manager's Comments**

VanAken appreciates the response in regards to the letter from the Park County Conservation District letter about 310 Permits along the river. Meece stated that although the City is responsible to advise the property owner of the need for a 310 permit, it is their responsibility to obtain one. The lack of a 310 permit is the homeowner's problem not the City's. Now that the City knows that we need to inform the homeowner of the permitting process, it will be done when they apply for a building permit.

Caldwell wanted to know if the final building permit would be held until the 310 permit is approved, or the Conservation District says they don't need or do need one? Meece stated yes.

VanAken asked if the Conservation District's boundaries had been clarified, with the map that was requested. Meece stated that it would seem to be the Conservation District's job to know where their boundaries are, not the City's.

Caldwell would like to know if the 404 permits were acquired for the removal of the beaver dams? Meece stated that yes the permits were obtained and the beaver dams have been removed.

### **City Commission Comments**

Blakeman informed the Commission that it is time for the City Manager's review and would like to know when the Commission could meet for it? The consensus of the Commission was that April 28<sup>th</sup>, 2008 at 6:30 p.m. would be good. Meece asked what preparation would they like him to have ready. The consensus was that the Commission would use the same format as last time. Meece will get a room, and Becker will place the notice in the paper.

Caldwell asked where the sale of the Eastside School stood? Becker stated that the City was still in the 30-day appeal period so nothing could be done yet.

Caldwell asked if any of the other Commissioners were interested in developing an action plan to implement a Trails Plan. Blakeman stated that she would like to see the staff work out a plan, and figure out an approach as to where the money could be raised to implement the plan. VanAken would like to see the staff actively pursue connecting the trails together. Caldwell mentioned that it might be possible to accelerate the funding through the Mountain State Foundation. Blakeman asked if it might be possible to add a mile a year to the trails system? Blakeman feels that we have gotten the study done, and now we need a plan for implementation. Meece stated that he will look into developing a plan and mentioned that currently there is no money available. Caldwell mentioned that maybe the Commission should have a workshop and figure on reapportioning some funds to get it started.

Blakeman asked Meece if he had contacted Hillary Taylor in regards to the Tree Board and the ordinance? Meece stated that he had sent a letter to Ms Taylor, and he would get the Commission a copy of it.

Blakeman commented on how nice the benches looked at Mojo Park. The benches were donated by Bev Steveson and placed by the Parks Department.

Blakeman stated that she had gone to the Warren McGee social on Friday night and that it was a nice event to have for him.

Beebe let the Commission know that the Spay and Neuter Clinic went well. 120 animals were neutered and the group is still working towards a 70% result in neutering the animals in Park County.

VanAken would like to thank Nancy Kessler for the grant information regarding recycling in Park County. Caldwell stated that he had forwarded the e-mail on to Lori Benner (Grant Writer) for further action.

VanAken would also like to know who would read the Arbor Day Proclamation at the Arbor Day Event this year. Caldwell volunteered to do it this year. Caldwell would like to know when and where it will be this year? Meece stated that he would find out and advise the Commission.

VanAken inquired about the meeting on the Wind Feasibility Study. Meece stated that a second meeting has not been set up, but is in the process.

**Public Comment**

No public comments were 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 9:42 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair

LIVINGSTON  
CITY COMMISSION MEETING  
April 21, 2008

The Livingston City Commission met in regular session on Monday, April 21, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Juliann Jones.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Jim Mastin, Sandy Wulf, Peggy Glass and Jim Woodhull.

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

No discussion was heard.

All in favor , motion passed.

**Variance Requests:**

Woodhull explained the variance request that is before the Commission. Bob Raney & Jeanne Souvigney owners of property located at 212 South 6<sup>th</sup> Street are requesting a variance from the rear setback requirement and side setback requirement for R-II zoning districts to build a shop at the rear of the property. Woodhull stated that they would be demolishing a shed that is presently there and replacing it with a new shop. The Board of Adjustments has approved this request.

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

All in favor Findings of Fact were approved.

There was no discussion from the Commission.

Blakeman made a motion to accept the Raney/Souvigney Variance, VanAken seconded.

All in favor, variance was approved.

Woodhull explained the facts of the Eyerly variance request. Kim and Marilyn Eyerly owners of property located at 225 South Yellowstone are requesting a variance from the side setback requirement to allow them to build an addition on the existing house. The side setback would be 3 feet. Code requires a 5-foot setback. The Board of Adjustments has approved this variance.

Blakeman made a motion to accept the Findings of Fact, VanAken seconded.

All in favor, Findings of Fact were approved.

Blakeman asked Woodhull if the setback is out back of the house or in front. Woodhull stated that the setback is in the back.

Blakeman made a motion to accept the Eyerly Variance, VanAken seconded.

All in favor, variance was approved.

**Public Hearings:**

**Resolution No. 3936 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ITS GROWTH POLICY'S FUTURE ZONING MAP BY INCLUDING PORTIONS OF SECTIONS 21 AND 22, TOWNSHIP 2 SOUTH, RANGE 9 EAST LYING NORTHERLY OF THE INTERSTATE 90 AS LIGHT INDUSTRIAL/COMMERCIAL.**

Caldwell opened the Resolution to public comment.

Ann Hallowell, from the audience, spoke in favor of the resolution stating that in the future there needs to be a place to develop alternative types of fuel i.e. bio fuel and this area would be a good place to place such a business.

Patricia Grabow spoke against the zoning of property as light industrial/commercial. The land should remain agricultural until the County Growth Policy changes it. Per Ms Grabow, the building owners downtown do not want to see this zoned commercial. The building owners downtown do not want to see this area compete with Livingston's Downtown. Commercializing this area would bring in "box stores". Grabow also stated that this land is adjacent to a wetland and antelope grazing area and has the Commission thought about the environmental impact on these items. Grabow is adamantly opposed to this being commercial versus industrial or residential.

Patti Orndorff spoke against the resolution, as she feels that this will create a lot more cost to City taxpayers. She would also like to know who pays for the water and sewer? Caldwell stated that the Developer would pay for the water and sewer mains to be put in.

Meece explained to the audience that this just amends the City Growth Policy, and it has no effect on the annexation process. There will be plenty of opportunities for the Citizens to discuss the use of the land during the annexation, zoning, subdivision and platting process of the Developer.

Vuko Voyich, the Jesson's attorney, stated that this resolution is consistent with future growth of Livingston.

Jim Barrett thanked Meece for explaining what was going on with this resolution. Barrett is representing the Park County Environmental Council. Barrett asked the Commission to maybe not consider commercial, as this would void any "Box Store" concerns that the residents of Livingston are concerned about. Barrett feels that it is not acceptable for 1 landowner to have the ability to sell his land to "Box Store" developer just because they have the opportunity to receive City water and sewer. He is opposed to the resolution and feels that the County couldn't do any worse than a "Box Store".

Dennis Glick stated that on page 1 of the City's Growth Policy it states that the objective of the Growth Policy is to support the existing businesses in town and by passing this resolution the Commission is undermining their own objectives of the growth policy.

Kate Todd asked if the 2 public hearing resolutions should be reversed?

Meece stated that actually they should not. The Commission has to amend the Growth Policy to even consider an annexation. Meece stated that this is just the 1<sup>st</sup> Public Hearing in which the citizens can give feedback to the Commission. There will be other opportunities, if the annexation process continues.

Caldwell mentioned that the wetland issue would be addressed in the subdivision review/platting process.

Jeff Mount stated that he is in favor of the resolution as he's tired of having to go to Bozeman for everything he needs because he is unable to find it in Livingston. Mount would prefer to shop here and would like to see the City boundaries expand for commercial growth.

At this time Blakeman made a motion to accept Resolution #3936, Beebe seconded.

Commission Discussion:

Blakeman is concerned about what use will go in that area. Blakeman stated that there are several tools the Commission has available to decide what kind of use is placed out there. Blakeman mentioned that it could be worse if left in the County; given the current lack of a County Growth Policy. At least the City will have some control if the property is annexed.

VanAken stated that this is just the preliminary step and the annexation cannot even be considered unless this step is taken. VanAken also stated that the Commission could control the type and manner of growth if annexation occurs. At this point in time, there is no land available downtown to expand any businesses. At least the Commission can decide in which direction the business expansion does occur. VanAken feels that due to the shape of this parcel of land it would probably be impossible for a "Box Store" to even build there. Previously, the City has been reactive on growth and this will let the City be proactive on the growth of our Community.

Beebe reminded the audience how PrintingForLess couldn't find a place to expand until they decided to move west of town. PFL chose to keep the jobs in town and the City was able to annex the property into the City limits, and has been able to receive the tax revenue from the business as well as satisfying PFL's concerns. Beebe would like to let everyone know that she also abhors "Box Stores" and it is better to be able to control what is added west of town rather than not.

Caldwell stated that this area is a future part of the City's development and feels that the area should be brought into the City limits. If it is not added to the City limits it will still be developed at some time and at least if it is brought in, the City will have the business added to the tax base and they will be paying their share. Caldwell is in favor of this resolution.

All in favor, Resolution 3936 passed.

**Resolution No. 3937 - A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ANNEXATION AGREEMENT WITH MARGIE JESSON FOR PROPERTY LOCATED IN A PORTION OF SECTION 21 AND 22 TOWNSHIP 2 SOUTH, RANGE 9 EAST, M.P.M.**

Caldwell stated that this resolution approves the terms of the annexation only.

Caldwell opened the Resolution to Public comment.



Patricia Grabow stated that this is not the first time that the Jessons have tried to get this property annexed. It was brought before the Commission in December of 2007 at which time the Commission had the wisdom to deny the annexation. The wisdom that was shown in December should be shown by the Commission now. This property is not of the same quality of terms that the City saw with the Watson and Yellowstone Preserve annexations. Grabow adamantly opposes this annexation. Grabow feels that once the process of annexation has begun the rest will be just part of the slide. On behalf of 28 building owners downtown she is requesting that the City not consider this resolution.

Jim Barrett inquired as whether the annexation is incumbent upon the Growth Policy?

Meece stated that prior to Watson's annexation agreement the City was petitioned to annex. At that time discussion was held to work out all of the elements of the annexation, and at the end of discussion the City and Watsons were in agreement. The annexation agreement sets the expectations out front so there will be no surprises. In the Watson annexation, the expectations were established on the front end of the annexation so it was no problem adding the property to the Growth Policy. This property will not be as smooth as the Watson property due to the fact that the owners have no idea what type of development might occur in the future.

Jim Barrett stated that the annexation agreement gives the perception that a deal already exists, and that this will become commercial property regardless as to what the public says.

Jones stated that the Commission is only entering into an agreement to work out the process of annexation. There is no done deal.

Meece stated that the reason to do it this way is the exact opposite of what Mr. Barrett is describing. The Growth Policy is being amended and the annexation agreement is being delivered to the Commission for public comment and hearings. The City is trying to discuss the matter up front, and provide for public input at the beginning, rather than after decisions have been made.

Ann Hallowell stated that she would like to see this go forward as the City currently has no areas available for industrial businesses at this time. What the City will end up with is lots of people and no jobs.

John Orndorff stated that this battle has been fought before with the gas station that went in south of Albertson's. For days a policeman sat out

there as the gas station was draining their pavement into Fleshmann Creek. To avoid such fiascos it's better to make this area west of town industrial like PrintingForLess rather than commercial.

Jim Hunt asked how close this property is to current water and sewer mains? Caldwell stated that it is right across the road. Becker stated that anyone within 500 feet of a sewer and water main would have to hook up to the City.

Blakeman made a motion to accept Resolution No. 3943, VanAken seconded.

Commission Discussion:

Blakeman inquired if #1 of the Resolution obligated the City to certain zoning? Becker stated that this does not obligate the City.

VanAken wonders if the title of this resolution was possibly a misnomer, as we are not annexing at this time---the City is just negotiating an annexation agreement. VanAken asked if the property out there now had a special exception for the trailer park at this time, as trailer parks are commercial. Woodhull stated that the land is still zoned agricultural and there is a special exception on the trailer park and that the City could grandfather that area in as commercial. Meece stated that the County has no Growth Policy at this time. The City does not have any obligation to the property owners of adding a benefit to the owner so that they can increase the value of their property.

Blakeman stated that what increases the value of the property is the water and sewer mains and that the developer pays for those. Caldwell stated that not only does the developer have to add the water and sewer but also has to install streets, gutters, sidewalks, etc. Beebe stated that they also have to pay impact fees to the City.

Blakeman stated that the City breaks even or loses on residential annexations but commercial properties add money to the City's coffers. Residential properties are a drain on City coffers.

All in favor, Resolution No. 3937 passed.

**Resolution No. 3943 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, EXCEEDING THE STATUTORY MILL LEVY BY 11.25 MILLS FOR FIVE YEARS UPON APPROVAL OF THE MAJORITY OF QUALIFIED ELECTORS TO RAISE \$657,651.51 AS CITY'S PORTION OF THE COSTS FOR THE WESTERLY END RAIROAD CROSSING UNDERPASS.**

Caldwell opened the Resolution to Public Comment.

Patricia Grabow stated that she was opposed to this mill levy.

Kate Todd addressed the Commission asking when the ballot issue would come before the citizens of Livingston? Meece stated that the ballot issue would appear on September 9, 2008.

Jim Barrett would like the Commission to know that he supports this levy.

Blakeman made a motion to accept Resolution #3943, VanAken seconded.

Commission discussion:

Blakeman asked what would happen to the money if the Federal and State resources do not come through? Becker stated that the money would be returned to the taxpayers, this is a statutory requirement.

Beebe would like to let the public know that the Commission would not be taxing the residents. The citizens would have an option to vote as to whether they agreed to the tax or not.

VanAken asked if there would be a timeline in which the money would be returned if the Federal and State did not come through? Becker stated that a 'reasonable period' is usually within 5 years of the date in which the project would/or should begin. Caldwell stated that the project would not begin until 2012.

Blakeman would like the public to know about the sunset provision on this levy. Meece responded that it terminates in 5 years.

Meece explained to the Commission that the election would be a General Election in which all registered voters in the City limits would have the opportunity to decide if they wanted to approve the underpass levy. Meece told the Commission that these 11.25 mills are above and beyond the normal mills that the City is authorized to levy. The mill levy will cost the owners of a \$200,000 home \$45.00 per year and the owners of \$100,000 homes \$22.50 per year.

Kate Todd asked when the underpass would be done and would it be going on at the same time the State was doing the bridge east of town? Caldwell stated that the bridge would begin in 2011 and the underpass would begin in 2012.

Beebe asked if the timeline of the Federal funding was known? Meece stated that the City would have a preliminary feel of whether the project will be accepted as early as May or June of this year. The City will not know for sure until after the presidential election, and completion of the federal budget process. If it is not accepted, there is still a second option, in the spring of 2009, through the Highway Transportation Bill.

Meece stated that the State Funding would be covered by the City's Urban Routes allocation. The City's share, generated by the mill levy, would be the \$657,000. Meece also mentioned that in order to get the funding from the State and Federal Governments the City has to have their money available at the same time to show that they can meet the matching revenues.

All in favor, Resolution No. 3943 passed.

At this time the Commission took a 5-minute break the time was 8:40 p.m. The Commission reconvened at 8:47 p.m.

**Scheduled Public Comments:**

Lori Ryker with the Artemis Organization made a presentation on projects that students from the Architectural School at MSU, through the Artemis Institute, have done in the past. Ms Ryker asked the Commission if they would be interested in coordinating similar projects, through the Artemis Institute, for Mayor's Landing?

Caldwell asked the Commission where they would like to go from here?

VanAken inquired as to how much the Pine Creek Pavilion cost to design and build? Ms Ryker stated that the cost was around \$57,000. VanAken asked if it was possible to receive a design and estimate and then raise the money? Ms Ryker stated that the estimate would be done prior to the design.

Blakeman inquired as to whether this group could do bridges? Ryker stated that yes they could do bridges but they would probably "piggy back" on the top of another project.

Jean Souvigney, from the audience, wanted to remind the Commission and Ms Ryker that the Mayor's Landing was a landfill that had been covered over, and per the EPA Brownsfield Grant there are restrictions as to what can be placed on top of a landfill. Souvigney mentioned that MSU did an entire plan for Mayor's Landing, about 6 years ago, and that maybe this group should look at that plan. She also stated that Mayor's Landing needs not just a single footbridge -- it needs 2 foot bridges.

Caldwell asked the Commission if they wanted to move forward with a project at Mayor's Landing? Blakeman suggested that it come before the Commission on the May 5<sup>th</sup>, 2008 meeting as an "action item". The consensus of the Commission was the same.

**Ordinances:**

No Ordinances were presented.

**Resolutions**

**RESOLUTION NO. 3938 - 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 LOT 3 OF SUBDIVISION PLAT NO. 253 LESS AND EXCEPTING TRACT A OF SUBDIVISION PLAT NO. 438 LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., PARK COUNTY.**

Motion was made by Blakeman to accept Resolution No. 3938, seconded by Jones.

Discussion:

Woodhull addressed the Commission stating that this land is owned by Carter Boehm and is surrounded by City limits

Meece stated that the City was petitioned by the owner to be annexed into the City.

Blakeman stated that this annexation would be a benefit to the City as it gives the Utility Department a way to loop the water line from the reservoir. Woodhull concurred with her analysis.

VanAken inquired as to if the public hearing would be on May 5<sup>th</sup>, 2008 and if there was any value in doing an annexation agreement? Meece stated that there is no advantage as the land can really only be used for residential structures; given its location.

Beebe asked if the basic benefit of annexing this property was due to the looping of the water lines? Woodhull stated that's the biggest advantage to the Utility Department as well as the tax base that will be brought into the General Fund.

Blakeman asked if the subdivision would be platted. Woodhull stated yes it would, as it is 1 tract now.

All in favor, Resolution No. 3938 passed.

**RESOLUTION NO. 3939 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A PAYBACK WITH BROOKSTONE DEVELOPING, LLC, FOR WATER IMPROVEMENTS IN THE AMOUNT OF \$80,407.78 AND SEWER IMPROVMENTS IN THE AMOUNT OF \$96,304.28 FOR PROPERTY BENEFITED BY THE IMPROVMENTS.**

Blakeman made a motion to accept Resolution No. 3939, Beebe seconded.

No discussion was heard.

All in favor, Resolution No. 3939 passed

**RESOLUTION NO. 3940 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING A NEW SPECIAL EVENTS POLICY FOR THE CITY OF LIVINGSTON.**

Motion was made by Blakeman to accept Resolution No. 3940, Beebe seconded.

No discussion was heard.

All in favor, Resolution No. 3940 passed.

**RESOLUTION NO. 3941 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING SUBMISSION OF THE TREASURE STATE ENDOWMENT PROGRAM (TSEP) APPLICATION TO THE MONTANA DEPARTMENT OF COMMERCE IN THE AMOUNT OF \$500,000 FOR A COMMUNITYWIDE COMPOSTING SYSTEM AND TO REPLACE ONE DIGESTER LID FOR THE WASTEWATER TREATMENT PLANT.**

Blakeman made a motion to accept Resolution No. 3941, seconded by VanAken.

Discussion:

Meece stated that the City has historically applied for infrastructure grants through TSEP, and has been told that we are not eligible because the City's utility rates are below the State average. TSEP does not feel that grants can be allocated to Cities without their own commitment through the rate process. Due to the fact that it is nearly impossible to get funding without having average State rates in place, the staff is

proposing 3 consecutive annual rate increases in the Water and Sewer Funds (14% each year for water, 19% each year for sewer). By the second year of the rate increases, the City will have met the State averages. Meece feels that it would be good fiscal policy to continue with the 3<sup>rd</sup> year rate increase also.

Caldwell asked if that was the purpose of the workshop on April 28<sup>th</sup>, 2008? Blakeman wanted to know if the public hearing would be held before the Commission? Becker stated that the public hearing would not be before the Commission, but would be held to hear citizen's concerns with raising the rates and the grant application.

Blakeman stated that, regardless of grants, the rates need to be increased to complete important projects; such as the digester lid.

Meece stated that the last increase in the utility department was in 2005 when water went up \$3.00/month and sewer went up \$4.00/month.

VanAken would like to know what the split is between the composting grant and the digester lid grant? Meece said that the lid is \$580,000 and the composting grant is for \$520,000.

All in favor, Resolution No. 3941 passed.

**RESOLUTION NO. 3942 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO LEVY AND ASSESS AGAINST EACH PROPERTY WITHIN SPECIAL IMPROVEMENT DISTRICT #180 AN EQUAL AMOUNT FOR THE COSTS OF IMPROVEMENTS AND EXPENSES FOR ADMINISTRATION IN THE APPROXIMATE AMOUNT OF \$68,813.69 AND CALLING FOR A PUBLIC HEARING.**

Motion was made by Blakeman to accept Resolution No. 3942, seconded by Beebe.

Discussion:

Becker stated that the District is now being created, and then requires a public hearing, and next the assessments will go through.

All in favor, Resolution No. 3942 passed.

**RESOLUTION NO. 3944 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN URBAN FORESTRY DEVELOPMENT GRANT WITH MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC).**

Blakeman made motion to accept Resolution No. 3944, seconded by Beebe.

Discussion:

Meece stated this is the grant for the trail going through the Mandeville development on the northwest side of town. The grant is in the amount of \$14,000.

All in favor, Resolution No. 3944 passed.

**Action Item A:**

Discuss the addition of a Friday morning Farmers Market in downtown Livingston.

Caldwell recused himself from discussion and voting, as he is on the Board of the Corporation for the Northern Rockies. He then turned the meeting over to the Vice Chair, Blakeman.

CNR is requesting that on Friday mornings, from 7:00 a.m. to 10:00 a.m., the street be closed on Callender from Main to 2<sup>nd</sup> Streets in order to hold the Farmer's Produce/Food Products Market (July 2d through September 26<sup>th</sup>). Per Meece, there are several administrative concerns with regard to closure fees, barricade set up, business deliveries and the other pending closures on Callender this summer.

Rob Bankston, Market Master, stated that the farm product producers picked the day and location. Several local restaurants are eager to pick up fresh produce to serve as specials over the weekends. His group is willing to store and place the barricades each Friday, if the City will let them. Meece had told Mr. Bankston earlier that the barricades were a liability issue, and that CNR could not do the barricades.

Lil Ericson stated that this is not rocket science; the Farmers Market Group could add the City onto their insurance policy as an additional insured. She feels if the businesses are congenial about the market there should be no reason it cannot occur.

Blakeman asked if the City Manager would like action taken on this item tonight? Meece answered yes he would like a decision tonight.

Meece asked Mr. Bankston if it would be possible to coordinate with produce vendors to have the market on Saturday mornings rather than Friday mornings? Bankston stated that the Bozeman Farmers Market is on Saturday mornings, and some of the producers would like to sell their



wares at both markets. Meece then questioned the problem with delivery trucks to the area on Friday mornings? Bankston stated that there are no businesses on that street that have deliveries on Fridays.

Meece questioned Mr. Bankston about the parking impact of this event. Mr. Bankston stated that the event would be over by 10:00 a.m. every Friday, and that he has contacted the Beanery and American Bank and they are willing to let people park in their lots during the event.

Meece mentioned that the paving project from B Street to F Street, on Callender, would be occurring this summer and those streets would also be closed during that project. Blakeman asked if the project would start on B Street or F Street? Meece is not sure but will find out.

Bankston mentioned that the barricades could be stored in the basement of Fiesta En Jalisco restaurant during the week. Per Meece, the City will not let this happen - for liability and risk management reasons. Blakeman asked the City Manager if there was some middle ground that could be met in this arrangement. Meece stated that this was an administrative decision, and he was not comfortable with someone other than the City closing the streets.

Bankston stated that at this point he is willing to do whatever the City requires of him.

VanAken inquired about the cars that are parked there first thing in the morning. Bankston said that they will put flyers on the cars on Thursday night, and if they were not removed CNR would work around the cars.

Meece stated that the charge to close the streets was not negotiable, as \$100 still doesn't full cover the City's costs; the actual cost to close the street every week would be closer to \$150/week.

Jones stated that she feels this is a positive thing for downtown.

Beebe also feels this is a good event and knows that it has helped in the past to hold our events on the opposite days of Bozeman. She feels the City should stay open-minded and see how it goes and we should stay flexible to changes and problems that may occur.

Motion was made by VanAken to accept the Downtown Farmer's Market on Friday mornings from 7:00 a.m. to 10:00 a.m. from July 2, 2008 through September 4<sup>th</sup>, 2008, Beebe seconded.

Four in favor, Caldwell recused himself.

**Action Item B:**

Discuss/approve/deny Jill Kraus' application as the City Representative on the Board of Health.

Blakeman inquired as if Ms Kraus is currently on the Board. Meece stated that she is currently on the Board and is reapplying as her term is over on April 30, 2008. The term is for 3 years.

Blakeman made a motion to accept Jill Kraus' renewal application to the Board of Health, Beebe seconded.

All in favor, Ms Kraus will stay on the Board of Health as a City representative.

**Action Item C:**

Discuss and schedule a workshop regarding possible changes to the Street Maintenance and Street Lighting Districts.

Caldwell asked whether and when the Commission would like to meet for this workshop.

VanAken would like to know when this decision is required? Becker stated that the Light District Ordinance is done in August and the Street District is done in October.

Blakeman asked if the Commission really needed a workshop to decide on this? Blakeman asked if this workshop was due to the Matthews subdivision request to find an alternative to assessing their properties? Meece stated that yes it is to determine if an alternative method should be utilized.

Blakeman stated that she doesn't feel a workshop needs to happen. Instead, the staff should prepare a matrix showing how each method will affect homeowners. VanAken stated that if the matrix is prepared then the Commission could discuss the methods. VanAken asked if the method would be changed by resolution. Meece stated that yes it would and he will have the matrix ready for the Commission on the 2<sup>nd</sup> meeting in May. (May 19<sup>th</sup>, 2008)

**Action Item D.**

Discuss and/or approve the next phase of hydrology study with Clear Creek Hydrology

Meece informed the Commission that Clear Creek Hydrology had gone over the data that was received from the Corp of Engineers and has found several errors in the data. Meece feels if the City is to keep on top of the Section 205 Study of the Flood Plains that it would be prudent to expand the contract for Clear Creek Hydrology to check the data from the next phase of the Study. At this point in time the data is being gone over by DNRC, FEMA and Clear Creek Hydrology. The consulting from Clear Creek Hydrology has come in at around \$30,000 and to have them continue watch over the Corp and FEMA it will cost the City another \$60,000, totaling around \$90,000.

At this time Meece handed the explanation over to Steve Mitchell from Clear Creek Hydrology. Mr. Mitchell explained that currently there are major flaws in the Corps study and that these flaws will be brought to the Corps attention to recalculate and redraw their maps. Meece stated that other studies from the Corp have had similar issues.

Mr. Mitchell went on to explain the map designs that the Corp has released to DNRC and Clear Creek. One of the largest concerns to Clear Creek in the Section 205's is that the Corp does not consider the current levy or the capacity of Fleshmann Creek's potential flooding. Mr. Mitchell explained that Clear Creek does actual ground field surveys where the Corp does not. Surface elevations are more accurate than the Corps estimates them to be. Clear Creeks actual ground elevations show that the flooding possibilities are not as high as the Corp shows them to be.

Jones stated that she would like to see the City go ahead with the use of Clear Creek Hydrology.

Blakeman asked where the additional \$60,000 would come from? Meece stated that he would have to look around the budgets/funds for the money.

Blakeman stated that if the 205 Study was not done out to completion we wouldn't need any additional money for those improvements. Meece stated that with the help of Clear Creek Hydrology we might be able to build a case to tell the Corp that we don't want the rest of the 205 Study.

Caldwell asked if it was possible to get the changes back to the Corp within 60 days. Caldwell asked if the Corp would consider the new maps calculated by Clear Creek Hydrology? Caldwell would also like to know if Fleshman Creek would be considered a separate floodway? Mitchell stated that Fleshman Creek would be part of Item 2 and would be a separate study. Mitchell stated that the maps will be sent back to the Corp and the City will see a whole new group of maps coming back from the Corp.

VanAken asked what the worse case scenario would be from the Corp? Mitchell stated that the worse case is that the Corp would not accept the data from Clear Creek. Mr. Mitchell also stated that he has never lost a case when it came to revamped maps.

Blakeman made a motion to expand the scope of the contract with Clear Creek Hydrology under Item 1 in the maximum amount of \$60,000 which will include maps and floodway calculations to be sent to FEMA for them to readdress their maps, Jones seconded.

All in favor, motion passed.

### **Action Item E.**

#### **Discuss and/or approve East Side School lease arrangements with Gallatin Valley YMCA.**

Meece explained to the Commission that the potential movie contract will not occur, as the film's Financier and the Director had a clash. Meece stated that now that the building has been cleaned, he would like the Commission to consider leasing the building to the Gallatin Valley YMCA for the summer months of June, July and August. Traditionally the YMCA met at the Washington School but it is not available to them this year.

The only rooms that would be used are the gymnasium and 1 classroom on the first floor. He has informed them that there is no heat and only cold water in the building. Meece has told the YMCA that the rate will be \$100/month and they will be responsible for utilities.

Blakeman made a motion to allow the YMCA to rent the Eastside School gymnasium and 1 classroom for the months of June, July and August of 2008 in the amount of \$100/month, Beebe seconded.

All in favor, motion passed.

### **City Manager's Comments**

VanAken asked about the wind energy group's progress. Meece responded that the Wind Energy Task Force met last week and has come up with standard ordinance language and will be firming up the draft on May 6, 2008. On May 19<sup>th</sup>, 2008 they would like to present it to the Commission for their approval. The draft will be presented to the Board of Adjustments as well as the School District prior to the 19<sup>th</sup>.

VanAken would like to know where the Arby's request that was tabled stands at this time? Meece stated that he has had nothing back from them as of today's date.

Caldwell asked if the School Wind Energy Project had been reviewed and approved. Meece stated that the school may have an application before the Board of Adjustments in May, and the BOA would then use the draft ordinance as guidance on the matter.

Blakeman asked if the Commission received the draft ordinance on May 19<sup>th</sup>, 2008 when would it be law? Becker stated that the entire process would conclude with the ordinance becoming effective by September.

Woodhull stated that the School could go ahead and apply for a variance so they could work on their project.

**City Commission Comments**

Blakeman inquired about the Executive Session on April 28, 2008 to review the City Manager's performance. Being the water and sewer rate hearings were that night she recommends that the evaluation be postponed until May 12<sup>th</sup>, 2008 at 6:30 p.m. The Commission was in consensus.

Jones would like noted that Arbor Day is on the 24<sup>th</sup> of April not the 25<sup>th</sup> of April as the packet calendar states.

VanAken would like to compliment the Sister Cities on their drum performance.

**Public Comment**

No public comments were 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 10:59 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
Shirley Ewan  
Finance Officer

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

LIVINGSTON  
CITY COMMISSION MEETING  
April 28, 2008

The Livingston City Commission met in regular session on Monday, April 28, 2008. Commissioners present were Steve Caldwell, Mary Beebe, and Rick VanAken. Vicki Blakeman and Juliann Jones were absent.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Jim Mastin, Clint Tinsley, Brad Haefs & Jim Woodhull.

Motion was made by Beebe, seconded by VanAken to approve consent items.

No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

Cork Luchi was not present.

**Variance Requests:**

Brad Haefs introduced the Dennison variance request. The Dennisons have made a request for a three-foot rear setback rather than the required five-foot rear setback. They wish to demolish an attached garage with zero foot rear setback and rebuild a detached garage. Code requires a five-foot rear setback from the property line for R-II zoning districts. The Board of Adjustments heard a public hearing. There was not a quorum present but the Board members that were present recommended approval of the variance.

Beebe made a motion to accept the findings of fact, VanAken seconded.

All in favor, Findings of Fact was approved.

VanAken made a motion to approve the Dennison Variance, Beebe seconded.

Discussion: VanAken would like to know if there have been other requests, in the past, in this neighborhood, asking for a structure deviation? Is this standard in this neighborhood? Haefs stated that yes it is standard in this neighborhood.

All in favor, Dennison variance passed.

**Public Hearings:**

No Public Hearings were on the agenda.

**Ordinances:**

No Ordinances were introduced to the Commission.

**Resolutions**

**RESOLUTION NO. 3947 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE BASE WATER RATE, IN THE AMOUNT OF 14% PER MONTH.**

Meece stated that the background for this increase has been discussed in previous meetings with the Commission. The first step in raising the water revenues is the 14% increase for next year. Staff is requesting 14% for the following 2 years after the first increase. Meece explained that estimated construction costs have gone from \$700,000 to over \$1 million at today's prices. Pages 60 & 61 of the packet give a summary of the projects that are needed in the next few years and without the increase they will not be done. Page 62 of the packet gives the breakdown of the City's rates before and after the 14% increase and also shows a comparison to other Cities in Montana. Page 63 of the packet shows the State of Montana averages that the State uses as a rating system for eligibility for large grants and low interest loans from TSEP.

Per Meece the revenue from these 14% increases over the next 3 years will not yield the revenue needed to pay for all of the projects but will give the City the opportunity to qualify for low-cost loans and grants from the State.

Beebe made a motion to accept Resolution No. 3947, VanAken seconded.

**Discussion:**

VanAken mentioned that he has had a few public questions in regards to the rate increases. The water is requesting around \$480,000 over the next 3 years and the sewer is requesting around \$752,000 over the next 3 years and VanAken has looked at the capital projects and these amounts will not cover the projects. Does this mean that there will be more increases in the future? Just with the water alone the next 3 years show well over \$1 million worth of capital projects and the increase will only yield approximately \$780,000. The increase will not cover the capital. How will the rate increase reflect actual funds needed in the future? Will the City be able to get the grant money within the next 2 years? Meece addressed VanAken's questions, noting that the

reason the staff is requesting a 3 year rate increase is because of the critical projects that need to be accomplished in the future will be matched or made possible with State grants or low interest loans. Without the increase the State will not consider grants as the City does not meet the State average on water and sewer rates. Within 2 years the City will have met the average and will be eligible for these grants. If the City were to immediately go to the State average rates the City would have to ask for a 42% increase in sewer rates alone the first year. Staff felt that the repercussions of breaking the increases over 3 years would cause less fallout from the public. The City needs to be at the State rates by August 2009 in order to stay on track with the projects that have been identified by staff that are critical to the City's welfare.

VanAken asked if the charts were mailed with the bills and do we know if Lewistown is raising their rates also? Tinsley stated that he did not know for sure if Lewistown was raising their rates this year but Bozeman is raising theirs by 20% and Billings is raising theirs by 30%.

Caldwell asked if the State average would go up by the time the City got to the current state average? Meece stated that is certainly a possibility.

Caldwell asked if the cash needs request included an escalation ratio for the future. Tinsley stated that yes they do and it is above the inflation rate. He is adding about an 8% increase as an escalation factor.

Beebe asked if there was any other source of income for the water and sewer departments besides rate increases? Meece answered her by saying no that because they are enterprise funds they need to run their departments with fees from the sale of water and sewer rates. Their rates have to cover their expenses.

Caldwell asked what would happen to the infrastructure projects if the rate increase did not occur? Tinsley stated that they would have to stop the projects. Tinsley also stated that 4 blocks are scheduled for this summer.

Being no further discussion roll call was requested. All in favor, Resolution No. 3947 passed.

**RESOLUTION NO. 3948 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE BASE SEWER RATE IN THE AMOUNT OF 19% PER MONTH.**

Meece explained that the background for this increase is the same as the water rate increase. At this time Tinsley showed slides of the damages that have occurred at the sewer plant and the projects that need to be



done. These projects include the RBC equipment and the Sewer Digester Lid, which is leaking methane gas due to rusting from the inside out. The lid is 25 years old and most sewer plants need to be updated every 20 years. The last upgrade to the sewer plant was in 1980. Tinsley then stated that the sewer mains are a big problem in the City and a year ago the City invested \$1.4 million into replacing 1-month sewer mains. Since that time 12 more mains have become problems. The City is currently investing \$20,000 - \$25,000 per year to vapor foam the mains. This process kills the tree roots in the mains. Tinsley also stated that the RBC (Rotating Biological Cocontact) trains consist of 4 RBCs in a row and 1 out of each train has broken down. These RBCs are 30 years old and the City can expect the rest of them to go out in the near future.

Motion was made by Beebe, seconded by VanAken to approve Resolution No. 3948.

Discussion:

Caldwell mentioned that Bozeman was considering using the methane gas produced by the sewer plant to generate power and has the City of Livingston looked into this? Tinsley stated that presently the City burns the methane gas and the City does not produce enough methane at the current level to make it profitable.

Beebe asked why the difference between the water rate increase and the sewer rate increase? Meece responded by stating that due to the age and nature of the sewer plant it costs more to repair the problems there. Caldwell stated that the sewage projects are much larger as they represent a larger existing capital investment and require many moving parts unlike the water system. Tinsley stated that Caldwell's statement is true. Morrison and Maierle did a study for the City in 2000 showing that the cost of the rehab of the sewer plant would be between \$7-9 million and those costs today are \$18-21 million. Caldwell stated that this shows that time is not on our side due to the inflation factor.

Beebe stated that after reading the financial report from the Finance Officer that sewer main claims are the largest claims that the City pays. Tinsley stated that yes this is true that the sewer's liability insurance has gone from \$23,000 per year to \$93,000 for the next fiscal year. Meece explained to the Commission that this is due to the fact that the City is now reapportioning the costs of the liability to the funds that use it the most and have the largest amount of claims paid out by MMIA, the City's insurance company. Meece said that sewer backups that the City is liable for have caused the premiums for the Sewer Department to increase. Beebe asked if the sewer claims were due to sewer structural

issues? Meece stated that if the main was the cause of the backup that the City is then likely to be responsible.

Beebe asked if the sewer lines that are being replaced are replaced with pipes that tree roots cannot get into? Tinsley answered that they are not fool-proof as the roots can enter individual's sewer lines and move to the mains. New sewer mains can still get roots growing in them.

Being no further discussion roll call was taken. All in favor of Resolution No. 3948. Resolution passed.

**RESOLUTION NO. 3949 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN INTERLOCAL AGREEMENT WITH MISSOURI RIVER DRUG TASK FORCE FOR FISCAL YEAR 2008-2009.**

Meece stated that this is a continuation of the participation with the County and the cost will not exceed \$10,000.

VanAken made a motion to approve Resolution No. 3949, Beebe seconded.

Discussion:

Caldwell inquired as to whether this is still a good program? Raney stated that yes it is. Just last Friday an arrest was made on a drug raid.

Being no further discussion roll call was requested. All in favor, Resolution No. 3949 passed.

**RESOLUTION NO. 3950 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN EMERGENCY SERVICES COMMUNICATION AGREEMENT WITH PARK COUNTY.**

Meece explained that this agreement is relatively unchanged. The agreement will cover the Dispatch Center, Fire, Police, Sheriff etc. Meece also mentioned that the County's attorney, Linneweber, has already approved the agreement.

Motion was made by Beebe, seconded by VanAken to approve Resolution No. 3950.

Discussion:

VanAken asked what the cost would be to the City due to this agreement? Meece stated that it would come as services were used only. All of the costs are prorated other than the 3-½% increase due to wage increases.

Caldwell asked if this would include any major projects? Meece stated that it would include the Meyers flat microwave project. The City's portion will be \$25,000 and will be included in the budget process. Mastin stated that this is the only large project and the State will be contributing \$1 million towards this project.

Being no further discussion roll call was requested. All in favor, Resolution No. 3950 passed.

**RESOLUTION NO. 3951 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN LEASE WITH YMCA FOR EASTSIDE SCHOOL.**

Meece stated that this was discussed previously with the Commission and that the lease would include 1 classroom and the gymnasium. The YMCA will be paying the utilities.

Motion was made by VanAken, seconded by Beebe to approve Resolution No. 3951.

Discussion:

VanAken asked if the \$100/month for rent would cover the costs of the building? Meece stated that the only purpose of their lease is to facilitate the YMCA when the weather is too bad to be outdoors. The insurance will cover any damages and the building was prepared for rent when the movie company requested a lease.

Meece stated that this program will include recreational activities for the summer for 25-30 youth and that the program is very popular.

Caldwell asked where the program was based in previous years? Meece stated that they had used the Washington School but the School District has made a change in their policy.

VanAken inquired as to security and liability issues? Meece stated that only 1 door would be opened to the youth and they will check in and out with the counselors. They will only be using the first classroom on the

right as you go in the main door and the gym so there shouldn't be a security problem.

**Action Item A:**

Discuss/Approve/Deny Transportation Coordination Plan (Angel Line).

Meece explained to the Commission that this study was done to meet the State's criteria to coordinate state funded vehicles routes and transportation. In order to receive State funding to purchase new vans the transportation groups in the community need to coordinate their plans. This is the final plan and needs to be adopted and forwarded on to the State.

Lee Parriott addressed the Commission stating that the only way she knew that this was coming before the Commission was through the newspaper. Parriott is the Chairman for the Angel Line Board. Parriott feels that the Commission should invite the people or groups that are going to be affected by the Commission to the meeting. Caldwell stated that this was a good point and in the future we will try to accommodate the individuals.

Motion was made by Beebe, seconded by VanAken to accept the study done by Current Transportation Solutions and to forward this study to the State of Montana.

All in favor, motion passed.

**Action Item B:**

Discuss/Approve/Deny Full Circle Recycling contract agreement.

Meece referred the explanation to Tinsley. Tinsley stated that this is basically the same agreement as last year. The agreement is for the pickup and transfer of cardboard. During the summer it takes 2 men 2 days to collect and deliver the cardboard to Pacific Steel in Bozeman. This contract will save the City on fuel and time. Full Circle Recycling did the job for three months last year so the City's men could work on other projects. Tinsley stated that by September or October the transfer station will be done and other options for recycling will be worked out at that time.

Caldwell asked if this was a month-to-month contract? Tinsley stated that yes it would be.

VanAken asked if the cardboard would be picked up bi-weekly? VanAken would also like to know how many dumpsters were we talking about? Tinsley stated that yes the cardboard would be picked up twice a week and that the City currently has 44 dumpsters

that cardboard is recycled out of. Tinsley stated that the City would serve as a backup for collections in case of a breakdown by Full Circle Recycling.

VanAken asked who the City liaison would be? Tinsley stated that it would probably be the Assistant Public Works Director, Sandy Wulf.

VanAken made a motion to bring back the Full Circle Recycling Agreement back in Resolution form for the next meeting, Beebe seconded.

All in favor, motion passed.

**Action Item C:**

Accept the 2006-2007 Audit Report from Olness and Associates.

This action item was postponed to the June 2, 2008 meeting when all of the Commissioners are present.

**Action Item D.**

Discuss Street Maintenance/Light Maintenance district matrix.

This action item was postponed to the June 2, 2008 meeting when all of the Commissioners are present.

**Action Item E.**

Accept Quit Claim Deeds and Transfer Certificate for required dedication in Northern Lights Subdivision.

Woodhull explained that Northern Lights paid cash to the City in lieu of donating greenway parkland. This easement is being donated so that water lines can be run to the cemetery property owned by the City. This will in turn give the Community Garden access to water.

VanAken made a motion to accept the dedication from Northern Lights, Beebe seconded.

All in favor, motion passed.

### **City Manager's Comments**

VanAken inquired as to where the transfer station was, due to the inclement weather? Meece stated that is behind due to the weather.

VanAken also would like to know how the Fire Chief interviews are going? Meece stated that the City has received 26 applications and 2 internal applications. There are several good candidates and he will begin phone interviews in the next two weeks.

Caldwell asked about the operating costs of the temporary transfer station? Meece stated that the contract was near completion with around 3,000 tons left before the City would have to start hauling to Logan again.

### **City Commission Comments**

Beebe would like to know if an RFP has gone out on the Old Waterworks building? Meece answered that no nothing has been done at this time. He will be requesting an appraisal first.

Beebe would like to know where the BNSF Lawsuit is at this time? Becker stated that it is in the discovery phase. Becker mentioned that the questions that were drafted by BNSF attorneys were quite complex and poorly drafted, making them hard to tell what they were asking for. The discovery period will be done by November of this year and then a trial date will be set.

Beebe asked where the street replacement schedule would start this year? Beebe would like to know if it would start on B Street or F Street? Meece stated that he thought it would be starting on F Street. Caldwell asked if Northwestern Energy was done on Callender Street. Meece stated that yes they were through.

Beebe would like to know if the Northwestern Energy lights on O Street would be taken out? The new City lights are installed as well as the Northwestern Lights and the neighbors feel this is out of compliance with the Night Sky Friendly Ordinance. Woodhull stated that the City is waiting for Northwestern Energy to take the old lights down. Meece stated that Northwestern Energy is behind on several of their projects at this time.

Beebe would like to see some signage put up at Miles Park. She would like to see the same kind of signage that is put on the road to Mayor's Landing that states that dogs must be under voice command when off of their leash. She would also like to see some garbage cans put along the path. She feels that these 2 requests would make the area more user

friendly and if it were posted there wouldn't be disputes as to where the dogs could be off of their leashes.

VanAken mentioned that he had attended the Sister City Meeting last week and feels that the City and the Sister City group have a better relationship at this time. VanAken would like to know if was possible to get the big drum in the Eastside School? Meece stated that yes it would be possible to get the drum in through the back door. Caldwell asked if it would be placed where the YMCA youth or others using the facility could not get to it? Meece stated that it would be placed in a secure place. VanAken also let the Commission know that the Sister City youth have raised most of the money they will need to tour Japan.

VanAken asked if the Wind Energy Draft Ordinance would come before the Commission on the June 2, 2008 meeting? Meece stated that no it would not as he has not received the application from the School District yet.

Caldwell asked if the City/County shared items for the 2008-2009 budget had been determined yet? Meece answered that no they have not.

Caldwell asked if the City had received the petition from the Jessons for annexation yet? Meece answered that it has not been received as of today's date.

Caldwell asked how Clear Creek Hydrology was doing on the floodway mapping? Meece said they would have the information to FEMA by Friday.

Caldwell asked if the Levy Trail could be cleaned up and trashcans and signs installed. Meece will talk to the Park Foreman, Eddie Miller, in regards to this.

Meece shared with the Commission that DNRC has contacted him in regards to using the balance of the grant from them to pay for Clear Creek Hydrology's work instead of the Corp of Engineers. Pam Smith from DNRC has sent an amendment to the City to change the vendor on the contract. Becker is now reviewing the contract and it will be before the Commission on the June 2, 2008 meeting. The City will then be responsible for the balance of the 205 Study with the Corp of Engineers.

### **Public Comment**

Nancy Adkins inquired as to when the Street/Light Districts would be discussed.  
Caldwell informed her that it would be on June 2, 2008.

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

The time was 8:16 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair



LIVINGSTON  
CITY COMMISSION MEETING  
May 5, 2008

The Livingston City Commission met in regular session on Monday, May 5, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Vicki Blakeman and Juliann Jones.

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

Motion was made by VanAken, seconded by Blakeman, to approve consent items.

No discussion was heard.

All in favor, motion passed.

**Proclamations:**

One proclamation was read by Chairman Caldwell in recognition of Youth Week from May 5<sup>th</sup>, 2008 through May 9<sup>th</sup>, 2008.

**Scheduled Public Comment:**

The scheduled public comment was postponed until May 19<sup>th</sup>, 2008.

**Variance Requests:**

No variances were heard.

**Public Hearings:**

**Resolution No. 3945 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVNGSTON, MONTANA, ANNEXING BY PETITION LAND CONTIGUOUS TO THE CITY DESCRIBED AS BEING LOT 3 OF SUBDIVISION PLAT NO. 253 LESS AND EXCEPTING TRACT A OF SUBDIVISION PLAT NO. 438 LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M., PARK COUNTY.**

Caldwell opened the Resolution to public comment.

No public comment was heard.

Blakeman made a motion to accept Resolution No. 3945, Beebe seconded.

All in favor, Resolution No. 3945 passed.

**Resolution No. 3946 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, LEVYING AND ASSESSING AGAINST EACH PROPERTY WITHIN SPECIAL IMPROVEMENT DISTRICT No. 180 AN EQUAL AMOUNT FOR THE COSTS OF IMPROVEMENTS AND EXPENSES FOR ADMINISTRATION IN THE APPROXIMATE AMOUNT OF \$68,813.69.**

Caldwell opened the Resolution to Public comment.

Karyn Sigler a resident of the proposed Special Improvement District 180 needed some clarification on the SID. Mrs. Sigler wanted to know if the \$68,813.69 was an estimate or the actual cost of the project? Tinsley stated that it is just an estimate at this time.

Mrs. Sigler noticed that the Jacobsen's have already hooked up to the City and wondered if they would part of the District? Tinsley stated that they are part of the District and would be assessed their portion.

Mrs. Sigler then asked if the assessment could be paid off early. Ewan stated that the assessment might be paid off at any time along with any interest owed. Mrs. Sigler would also like to know when the project would begin? Tinsley stated that the project would be going out for bid shortly, and the project should be completed this summer.

Being no further public comment, Blakeman made a motion to accept Resolution No. 3946, Beebe seconded.

Discussion:

Blakeman asked for an explanation in regards to the two different amounts on the Resolution. Ewan stated that the estimated cost of the project is \$65,536.85 and 5% is added to that amount for the purpose of protecting against property owner default.

All in favor, Resolution No. 3946 passed.

**Ordinances:**

No Ordinances were presented.

## **Resolutions**

No Resolutions were presented.

### **Action Item A:**

Discuss Mayor's Landing project in regards to the Artemis Institute.

Meece informed the Commission that the City Commission asked this topic be held over from the last meeting.

Jones stated that she thought the bridges at Mayor's Landing were a good idea. Meece stated that at this time there is no cost estimate, because a project has not been selected.

Blakeman stated that there might still be environmental issues at Mayor's Landing due to its history as a landfill. Caldwell stated that he would like the project fine tuned before making any decisions.

Blakeman also has concerns about the study that was done at MSU and feels that Artemis Institute should consult it prior to any decisions.

Meece's recommendation is that the Artemis Institute research what can be built at Mayor's Landing, due to the landfill, and meet with Mayor's Landing folks about potential projects.

Caldwell asked if we had to target Mayor's Landing? Blakeman stated that she feels that other spots in the City would be better suited. Caldwell asked if maybe the Commission should schedule a workshop to make a decision?

VanAken mentioned that he had introduced Lori Ryker to Jean Marie Souvigney in hopes that they would get together to discuss the previous study from MSU. He would like to encourage the Artemis Group to contact Ms Souvigney in regards to the study.

Meece stated that he would contact the Artemis Institute and the Mayor's Landing group and set up a workshop. Caldwell offered the date of June 9<sup>th</sup>, 2008 at 7:00 p.m. Blakeman stated that possibly the Water Park group would also like to be there as an alternative at G Street Park. Caldwell asked where the Rotary was on their fund raising? Meece stated that he did not know but would contact them and see.

VanAken asked if there was any time frame on the Artemis project? Meece stated that the project should be decided this summer for

implementation next summer or the summer after. It could be a 2 year phased project.

The consensus of the Commission is to have a workshop on June 9<sup>th</sup>, 2008 at 7:00 p.m. with the Artemis Institute, Mayor's Landing Group and the Water Park Group present.

**Action Item B:**

Discuss/approve/deny the City's sponsorship in the Highway Billboard Project initiated by the Yellowstone Gateway Museum.

Meece stated that he received a letter from Yellowstone Gateway Museum and he thinks that this should be part of the budget process to determine if there are funds available for the project.

VanAken had no insight into this request. Meece stated that perhaps the City should contact them for a presentation.

The consensus of the Commission is that this should be part of the budget process, more information is needed and a presentation from the Museum Board would be nice.

**Action Item C:**

Discuss/Approve/Deny Kylie Karnatz's application to the Tree Board.

Meece explained that two (2) Board members had resigned and this application is to replace either Hillary Taylor or Ron Nelson's terms.

Blakeman asked if the Board members were required to live in the City limits? Meece and Becker agreed that it is not necessary.

Caldwell asked if this was a qualified candidate? Jones stated that because her father is a contractor would there be a conflict of interest? For that reason, Jones has some reservations about the applicant.

Beebe asked that the residency issue be clarified and the conflict of interest be looked at before appointing this applicant.

Caldwell stated that he would like the City to advertise for the two (2) positions, clarify the residency question, and then the Commission could interview/appoint. The City Commission was in agreement.

**Action Item D.**

Discuss memo from the Planning Board regarding neighbor notification on Annexation Petitions.

Meece explained that the Planning Board has modified their original suggestion, and recommends that an annexation petitioner be required to provide a mailing, regarding the possible annexation, to all adjoining neighbors.

Woodhull stated that the City has put the notification requirement upon them all along. The Planning Board has determined that it should be the petitioners' responsibility to do the mailing to the neighbors.

Caldwell inquired as to whether the liability would fall upon the City if it were not noticed properly? Becker stated that if it was not noticed properly the annexation procedure would not go forward.

VanAken asked for more specifics as to who are the neighbors? Woodhull stated that the neighbors would be all of the adjacent property owners that share a boundary with the petitioners. Blakeman asked if this included the neighbors across the street? Woodhull stated that it would also include property owners across the street.

Blakeman made a motion to move the responsibility of noticing the adjacent property owners to the petitioner that is requesting annexation into the City, Beebe seconded.

All in favor, motion passed.

**Action Item E.**

Accept bequest from Alberta E Francis Estate and place funds in the Park Improvement Trust Fund for sole use in Sacajawea Park.

Blakeman made a motion to accept the Alberta E Francis Estate bequest, Beebe seconded.

All in favor, motion passed.

**City Manager's Comments**

Blakeman inquired as to what Skatepark improvements were planned? Meece stated that the plan at this time is for flat rails, pyramid ramps, etc. Meece said that the Committee

at this time has two priority lists they would like to address. The 4 things that they would like to see accomplished to start out with are:

- 1) Boundaries of the skatepark established.
- 2) They would like to see rules clearly posted. These could be done on the barriers or some form of signage.
- 3) They would like a social area set up in the area with picnic tables, etc.
- 4) They would like to have the flat rails physically attached to the pavement.

Their second list is for the items they would like to incorporate into the park itself, such as quarter pipes, a bunny slope for beginners (the skaters would be willing to teach the youngsters) and other types of ramps.

Caldwell inquired as to whether they were trying to expand the perimeters of the skatepark? Meece stated that is a possibility, but the Administration would probably not consider it until there is viable leadership (such as the Baseball Association).

Meece stated that there is a group from North Carolina that will be here to give the committee help and support in building the park ramps. Caldwell asked if they had enough labor for the work? Meece stated that he felt they did as the North Carolina Group would be helping with the labor and there would not be a whole lot of cost at this time.

Meece mentioned that a church group from North Carolina will be assisting with the improvements, and the group has held fundraisers for this purpose. Meece was quite impressed with the number of youth that showed up for the meeting, there were 12-15 youths.

Beebe said that the meeting went real well. The kids were more pragmatic than the adults, and realized that they would have to do a little at a time.

VanAken asked if it was possible for the Artemis Institute to build something at the Skatepark -- such as a shelter? VanAken feels it really needs to be jazzed up a little. Caldwell stated that the Artemis Group is looking for a natural setting, and the Skatepark would not qualify. Meece stated that Skateparks are by definition usually more of an industrial look, not a natural setting.

Blakeman mentioned that she knows of two (2) businesses that would help with the progress of the Skatepark.

VanAken inquired about the liability coverage on a Skatepark? Meece stated that the Park is covered under the City's plan with Montana Municipal Insurance Authority (MMIA).

VanAken also asked if the flat rails could be made out of materials left over from the railroad tracks? When they replace rails possibly the City could get some of their throw aways.

### **City Commission Comments**

Blakeman inquired as to how the \$5,000 from the Francis bequest would be used at Sacajawea Park, and would it be possible to use it for another bathroom there? Meece said that it also could be used at the Civic Center if the Civic Center was considered part of the Park. Blakeman asked what the process would be for making a decision? Meece stated that it would be determined during the budget process.

VanAken would like to let the Commission know that the Senior Center has received grants in the amount of \$950,000 and will be getting a loan for \$450,000. There will be a press release this week.

VanAken would also like to know what became of the nursery concept for trees? The Museum is working on cleaning up their area, and the Director of the Museum would like to get some professional landscaping done. The City also needs to consider the trees that have been cut down around town, and start to replace them. Tinsley stated that, at this time, Public Works has not started a nursery on the Cemetery land. Jones stated that maybe this would be a good project for the Tree Board. VanAken stated that he would like to see a plan developed, and for the City to move forward on it.

Caldwell mentioned that the Mountain Sky Foundation is conceptually interested in funding trail development in Livingston. They are interested in doing something locally, and would like a priority list on trails that the City would like to see developed now. He would like the Commission to develop some priority recommendations at the next meeting.

Caldwell reminded the Commission that the City/County meeting was May 6, 2008 at 4:00 p.m.

Beebe asked how the spring cleanup was going and where the crew is at this time? Tinsley stated that they are on F & G Streets now, and that the cleanup will probably take 2 weeks.

### **Public Comment**

Jay Kiefer addressed the Commission in regards to the Skatepark. He feels that if the City brought the young people and the business owners together it would be good for the Skatepark.

He also asked about the Water Park on G Street. He feels that those folks should be at the meeting on June 9<sup>th</sup> also. Meece stated that the Water Park came in with a high bid of around \$220,000 and that the Rotary Group had until mid June to come up with funding resources to ensure keeping that bid amount. Meece will get further updates from the group and report back to the public and Commission.

Kiefer asked why there was no forethought put into the tree replacement? Meece replied that the City was aware that the trees would need to be replaced, but the financial resources are not available at this time. VanAken would like to see the nursery as a priority in the 2008-2009 budget process.

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

The time was 8:25 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission, Chair



LIVINGSTON  
CITY COMMISSION MEETING  
June 2, 2008

The Livingston City Commission met in regular session on Monday, June 2, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken and Juliann Jones. Vicki Blakeman was absent.

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

Motion was made by Beebe, seconded by VanAken to approve consent items.

No discussion was heard.

All in favor , motion passed.

**Scheduled Public Comments:**

Cork Luchi was not present.

**Variance Requests:**

No variances were presented.

**Public Hearings:**

No Public Hearings were on the agenda.

**Ordinances:**

No Ordinances were introduced to the Commission.

**Resolutions**

**RESOLUTION NO. 3952 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH FULL CIRCLE RECYCLING TO PICK UP AND RECYCLE CARDBAORD.**

Beebe made a motion to accept Resolution No. 3952, Jones seconded.

Discussion:

No Discussion was heard.

All in favor Resolution No. 3952 passed.

**Action Item A:**

**Discuss Street/Light Maintenance Districts matrix.**

Meece explained that, per their direction, staff was to prepare a matrix showing the different ways that the Light and Street Maintenance Districts could be assessed (by State Statute). The matrix is on page 68 of the packet. Page 66 & 67, of the packet, has additional discussion of the assessment options. Also, enclosed in the packet is a letter from Stephen Woodruff stating his concerns of the way that assessments are currently being done.

Beebe stated that she has spoken to several people in the Community and they are interested in knowing if the street frontage would be the best way of assessing vs. square footage of the individual's property, and would it be worth the money to redo the assessment calculations? Beebe feels that the Tax Evaluation method might be the fairest way of assessing for these districts. Beebe also stated that this would probably be the easiest method to convert to, since the City has the assessment data. This way residents with small houses and large lots would pay less. Beebe feels that the ability to pay would be more consistent with the Tax Valuation method. She thinks fairness is a critical issue. Beebe also has a problem with redoing the whole system, which has been working fine, for a small group of citizens that requested annexation into the City. Beebe's recommendation is that if we are going to change the method, the Tax Valuation method would be the best.

VanAken has taken a thorough look at the issue, and feels all the City would be doing is placing the additional burden on someone else. He understands the Freshman Creek Acres issue, and would like to know if that street has been paved yet and if not when would it be paved? Tinsley stated that it has not been paved, and he's not sure when it will be paved. The City would like to get it paved this summer but the weather has been a definite factor. VanAken's recommendation, at this time, is not to change in the method of calculation.

Caldwell agrees with Beebe in the fairness issue of the Tax Evaluation method. Caldwell fears that the incentives of annexing into the City will be jeopardized if receiving high assessments due to large lot size penalizes folks. Presently the Freshman Creek group does not have paved streets, or lights, and their costs are the same regardless.

Beebe added that she realizes this may be unfair to a specific group and would like to move slowly with the decision of assessing. Beebe would like to see a few random samples taken from properties around the city, and see what the different methods would produce. This way the Commission could see if it is fairer doing the Tax Evaluation method of the Square Foot method. Caldwell agreed with Beebe and would like to see comparisons also, but would like to develop a system based more on a solid conceptual framework than on an examination of limited examples.

Ewan stated that if the City were to go with the Tax Evaluation method the Commission should be aware that many tax evaluations change yearly, and that the assessments would have to be recalculated every time assessments changed. By using the square footage method, the City would not have to change the base every year.

Meece stated that staff will do comparisons of different properties. Meece also stated that no matter which method the City chooses someone is not going to be happy. The Freshman Creek group voluntarily requested annexation, and should have been aware of the tax/assessment costs.

Caldwell stated that most annexed lot sizes haven't been a problem until the sizes of the lots have started to become larger. Caldwell would also like to re-address this issue with all five Commissioners present.

Becker mentioned that the Commission should be aware that this issue has to be decided by July, in order to have a public hearing and enact the assessments by August.

The consensus of the Commission was to bring the taxable valuation method back at the next meeting, with the property comparisons available for them to review.

Beebe stated that she is not saying that the City should change the method of assessing but she would like to see the comparisons as a fairness issue.

**Action Item B:**

Accept the 2006-2007 Audit Report from Olness and Associates.

Meece stated that notes to the financial statements were located on page 27 of the audit. Meece told the Commission that the Auditors use the City of Livingston's financials as examples to other Communities throughout the State. Meece asked the Commission if they had any questions of staff?

Caldwell inquired as to the Ambulance issues that were written up on the audit. Meece stated that the Ambulance has changed management staff and that they are trying to address the write-ups from the Auditors. Meece stated that the Ambulance Fund, currently, is right on budget with close to \$400,000 in revenues. The City is still having some issues with the bad debt collection procedures. Caldwell asked if the quarterly reports were often enough to be receiving outstanding billing information? Meece stated that at this point, quarterly has been sufficient. Ewan stated that quarterly would be fine if they were actually sending them that often. Currently, they are not. Meece stated that he would follow up on this matter.

Caldwell inquired as to whether the investment security issues have been cleared up? Ewan stated that the pledged-security level is being checked monthly.

Caldwell would also like to know why the Drug Forfeiture Fund still has a negative balance at the end of the year? Caldwell is wondering if this could be written against reserves. Ewan stated that the fund does not have any reserves.

Beebe made a motion to accept the 2006-2007 audit report, VanAken seconded.

All in favor, audit has been approved.

**Action Item C:**

Discuss/Approve/Deny 2008-2009 funding for Vision Livingston for the Development Partnership (Executive Director's Position).

Meece explained that this year the General Fund has contributed \$15,000 and the Downtown Tax Increment Fund has donated another \$15,000 so that Vision Livingston could hire a Director. Carol Frazier was hired for this position and has been with Vision Livingston since October 2007. Vision Livingston has gained momentum with the recent Main Street Conference. At this time, the Urban Renewal Agency is recommending that the Tax Increment District's funds be reserved for the downtown infrastructure improvements. Therefore, Meece is requesting that the Commission consider pre-approving a budget item, by allocating \$30,000 from the General Fund for the Fiscal Year 2008-2009.

VanAken stated that he has had some discussions with Vision Livingston and understands that they are at a cross roads; and without the City's support next year it would be a struggle. VanAken has no problem supporting the group for the next year but feels that the businesses in the district should come to the table, as Vision Livingston is for their benefit.

Caldwell agrees with VanAken, and stated that in the long term the downtown businesses should take more responsibility for the financial support.

VanAken stated that a critical element is that, in the public's view, this is a City operation. However, it is not a City operation, we are just fronting the money to get the operation started -- the businesses downtown need to keep it going.

Jones made a motion to support the Vision Livingston in the amount of \$30,000, out of the General Fund, for the Fiscal Year 2008-2009, Beebe seconded.

All in favor, motion passed to support Vision Livingston in Fiscal Year, 2008-2009.

**Action Item D.**

Discuss/Deny/Approve Urban Renewal Agency's recommendation for expenditure of \$19,000 in grants to Vision Livingston Downtown Partnership (\$5,000 downtown education materials; \$14, 000 to complete engineering study regarding effect of downtown improvements on buildings and basements within the TIF).

This item has been removed from discussion at this time.

**Action Item E.**

Discuss Draft "Wind Power Generator" Ordinance.

Meece explained that the Wind Energy Ordinance Task Force had done an exceptional job with the enclosed ordinance. The group had collected sample ordinances from all over the United States, and has used the best practices and patterns. They felt that the Commission should make the final decision, on several policy issues, not the Task Force. Several key points for policy consideration, in the ordinance:

- ❖ Linkage with the Growth Policy to protect the goals of the Growth Policy, while considering use of renewable energy resources.
- ❖ There should also be special emphasis on view-shed and the effect that the WPG would have on neighbors. This could be addressed through public meetings.

VanAken asked if there was anyone present that was on the Task Force? VanAken likes the idea of the fall zone, which would probably eliminate any WPG's being developed in the downtown area. Meece stated that it would be possible to develop WPG's downtown, however, they have to meet the structural setbacks and height limits.

Caldwell has some wording issues. Item 5, page 80, of the packet in regards to the noise issue. Caldwell feels that it should state "closest neighboring occupied building". Caldwell asked if the City would have any liability issues with this ordinance? Becker stated that MMIA (the City's insurance carrier) said the liability would be largest during the construction of a WPG, and that after it is built the liability would become entirely the property owner's. Caldwell would like to know if this ordinance would cause changes to other zoning ordinances? Woodhull stated that it would not.

John Orndorff from the audience addressed the Commission in regards to the Wind Ordinance. He reiterated the City's experience with windmills, and would like to see this ordinance go into effect so the School District could get going with their project. Caldwell asked Meece what he had heard from the School District. Meece stated that an application has not been received from them.

VanAken made a motion to bring the ordinance back to the June 16<sup>th</sup>, 2008 meeting for approval, Beebe seconded.

All in favor, motion passed.

Meece stated that he would have someone from the Planning Board, the Task Force and the Historical Board available at the next meeting.

#### **Action Item F.**

Approve/Deny Kerry Laduke's application for re-appointment to the Airport Board.

Meece told the Commission that Mr. LaDuke has been on the Airport Board and would like to serve another term.

No discussion was heard.

Jones made a motion to re-appoint Kerry LaDuke to the Airport Board, VanAken seconded.

All in favor, Kerry LaDuke has been re-appointed to the Airport Board for another term.

### **City Manager's Comments**

Meece made some additional comments regarding the flood study. He stated that the materials from Clear Creek Hydrology have been shipped to FEMA. There were some problems of sending them electronically, but the 'ftp' site will be up tomorrow, and that will be accomplished as well. Meece stated that the floodway, per Clear Creek Hydrology, has been significantly adjusted. Meece stated that Clear Creek Hydrology has more accurately reproduced the Corps maps, and calculations, in 60 days at a much lower cost.

### **City Commission Comments**

VanAken would like to remind the Commission of the Veteran's Memorial service at Sacajawea Park on Wednesday at 5:30 p.m.

VanAken shared with the Commission some of the fundraising ideas that the Senior Center would be using to support their portion of the grant to upgrade the Center. For example, they have some artists in to do portraits at the Center, which will be sold at an art show.

VanAken also mentioned that after this week's rain there is a lot of loose gravel on the northside hill and he would like to see it cleaned up.

VanAken also stated that he appreciated the way that Sandy Wulf handled the flower triangle in the Park, and appreciates the years that Mrs. Berrum has taken care of the garden.

Jones stated that she would like to see all new utility power lines buried rather than strung above ground. Meece told her that all new lines are required to be underground.

Caldwell would like to thank staff for the good audit report and the improvements and financial controls that are being initiated.

Caldwell asked if the Commission changed their meetings to 7:00, rather than 7:30 p.m., would it have to be done by ordinance? Becker stated

that yes it would. Caldwell would like to discuss this action at the next meeting.

VanAken would like to know the dates of the forums for the Railroad Crossing Underpass and where they will be held. Meece stated that the one at Winans School will be on the 9<sup>th</sup> of June and the one at the Washington School will be on the 17<sup>th</sup> of June.

**Public Comment**

Bob Moore would like to see the City better inform the public about what projects are planned with the additional revenues generated by the water and sewer increases.

Mr. Moore stated that the Urban Renewal Agency is still missing some members. Mr. Moore also stated what an asset Mr. Gersack has been to the Board. Meece stated that he is continuing to recruit for the Urban Renewal Agency, Tree Board, Historic Preservation Board, and that it has been rather difficult to find members.

Nancy Adkins mentioned that the new street lights are up on H Street but that they are still not working. Ms Adkins also stated that she is not opposed to higher utility rates but would like to know what is going to be done with the money and what projects will be done in the future.

Carol Frazier, Director of Vision Livingston, thanked the Commission for their past support and future support. She feels that there are some real positive projects beginning.

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

The time was 8:53 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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



LIVINGSTON  
CITY COMMISSION MEETING  
June 16, 2008

The Livingston City Commission met in regular session on Monday, June 16, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Juliann Jones and Vicki Blakeman.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Glenn Farrell, Brad Haefs, Jim Mastin, Clint Tinsley, Peggy Glass & Jim Woodhull.

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

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

Jackson Welker addressed the Commission in regards to the Skate Park Committee. Mr. Welker let the Commission know that they are once again active and will continue to stay that way. The current Chair of the committee is Jackson Welker, Vice Chair is Chris Newhouse, the Contact Coordinator is Gunner Hoy and the Treasurer is Trisha Brown. Mr. Welker explained some of the projects and benefits the committee has planned for the summer i.e. Barbecue and cleanup days (bi-weekly), Logo contest, Farmers Market skate lessons. He also let the Commission know that the Skate Park meetings are held every 2<sup>nd</sup> and 4<sup>th</sup> Thursday of the month at the Elks Club at 7:00 p.m.

Meece commended the group on the good steps forward with the park.

Beebe stated that this June 18<sup>th</sup> and 19<sup>th</sup> around 9:00 a.m. the group will be at the Skate Park working, and the afternoons would be designated for fun activities and music.

Welker mentioned that the Woodland Baptist Church group, from North Carolina, has been busy at the park rebuilding ramps, etc. The group has built two new ramps already. Thursday afternoon will be the barbecue, music, giveaways and a good time to thank all involved.

Mr. Welker also passed out a promotional packet to the Commissioners to introduce the group.

**Variance Requests:**

Brad Haefs introduced the variance request stating that Gilbert & Terri Guitierrez at 125 South 7<sup>th</sup> Street are requesting a variance from the front setback requirement for R-II Zoning Districts. They would like to build a deck off the front of their home. The deck would have an eight-foot setback; code requires a twenty-five foot front setback. The Board of Adjustments recommends approval of this variance request.

Blakeman made a motion to accept the Findings of Fact, VanAken seconded.

All in favor, Findings of Fact passed.

No discussion was heard.

Blakeman made a motion to approve the variance request from Gilbert & Terri Guitierrez, VanAken seconded.

All in favor, Guitierrez variance was approved.

**Public Hearings:**

**Resolution No. 3953 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA INCREASING THE BASE WATER RATE IN THE AMOUNT OF 14% PER MONTH.**

Caldwell opened the Resolution to the Public.

John Orndorff opened the comments stating he is against the rate increase for both water and sewer. Mr. Orndorff feels that the amount of increase will be too hard on retired, low-income, residents and those residents that are not currently employed.

Nancy Adkins addressed the Commission stating that the lights on H Street have just been put in, and wondered when will the streets be done on Callender from G through B? Ms Adkins stated that the sewer and water have been fixed on these streets, and still the roads have not been completed. She feels that before we start any new projects we should try to get the started ones completed. Ms Adkins feels the streets in this town are a disgrace and these things should be done first. Meece answered her by stating that this year's construction has been started late due to the weather. Likewise, due to the short construction seasons in Montana, the utilities are replaced one construction season and the streets are replaced in the next season. Meece stated that the streets

would be started by the 2<sup>nd</sup> week in July and the weather created a timing problem.

Lenny Gregory stated his opposition to the rate increase. Mr. Gregory stated that with a 14% (water) and 19% (sewer) increase the first year, that by the time we get to the 3<sup>rd</sup> year it will be a 99% increase and we can count on our rates being doubled from what they are now. Mr. Gregory feels that the Commission should listen to the people and consider smaller amounts of increases, as it would be better for the public. Caldwell stated that with a 16% increase for three years would create a 57% increase not 99%.

Bob Moore stated that he understands the needs of the City but does the rate increase have to be so much? He also would like to know what the money will be used for? His calculation shows that after 3 years the water will have increased by 59% and the sewer by 68%. He would like to know if the money will go for infrastructure rather than a duplicate transfer station?

Tray Heintz stated that, in approximately 9 years, the sewer rates have been raised 4 times and the water rates raised 3 times. He stated that this trend of raising rates bothers him. It's like the City is trying to squeeze blood out of a turnip. If the rates did not keep going up all of the time the community would be a more livable and desirable community to live in. He feels that the Commission should reward people who conserve water, and that the higher rates should be for those that wastewater, make them accountable by raising their rates. As far as Mr. Heintz can see there's no benefit to being conservative with water usage.

Patricia Grabow is against the water and sewer rate increases. The Country is in recession and people on fixed incomes cannot afford the increase. Ms. Grabow feels the City should be more frugal and not spend \$1 million on a new transfer station at \$110/ton. Caldwell informed Ms Grabow that this is a public hearing on the water and sewer rate increase not solid waste. Ms Grabow stated that she feels the City should tighten their belts and live up to the responsibility of the economic downturn.

Rainer Krapf recognizes the need to fix infrastructure in the City and approves of the rate increase. He would be willing to absorb even higher rates, if it would allow a break for others that can't afford the increase.

Bob Moore readdressed the Commission stating that he realizes that the public hearing is on water and sewer rate increases but when residents get their bills the garbage cost is on there also. Mr. Moore feels that the

City needs to do more about recycling and should look at becoming a "Green" advocate.

Patty Miller stated that the City needs to come up with a business plan where they can show the residents the "whole picture". Ms Miller said that tonight's paper was the first she had heard as to what the rate increase were going to be used for. Ms Miller stated that she knows two businesses in town will be closing if the City doesn't quit overtaxing and charging businesses so much. She also feels that Vision Livingston needs to be doing more with the downtown businesses. Caldwell stated that Vision Livingston is not on the agenda at this time and to please keep comments to the water and sewer increases. Ms Miller stated that the City should be more up front with the public.

Linda Mahr would like to know what the rate increases would be used for? Caldwell stated that Meece would go through those in a minute.

Motion was made by Blakeman to accept Resolution No. 3953, seconded by VanAken.

#### Commission Discussion:

Meece addressed several of the points made by citizens in the audience. First, he pointed out that the water and sewer departments are considered Enterprise Funds so their revenues and expenses do not cross over into any other funds. The Water and Sewer Departments do not take money from the General Fund, or vice versa. Next, Meece pointed out that the increases are "usage fees" not taxes. The water and sewer departments do not depend on or use tax revenues. Their departments are run on service fees, and some related miscellaneous revenues only. The City does not blend funds from one department to another.

Meece stated that the increases would be used to cover the high increase in construction costs related to infrastructure projects, both in personnel and materials. Caldwell asked if Meece or Tinsley could describe the recent increases in material costs versus labor costs. Tinsley stated that the cost of materials is up 40% over the past 8 months. These 40% higher costs include pipe, copper, etc.

Meece stated that the specific projects that the water and sewer departments would be working on were stated in the Enterprise, as well as the current Commission packet. Most of the projects include mainline construction and are 'have to do' cases not 'want to' projects. Meece also stated that the rate increases will not cover the entire cost of the projects

listed in the packet, but will allow the City to use the increased revenues as leverage for low interest loans and/or grants.

Caldwell asked Meece if the 3-year projects in the packet were part of the 10-year scope of projects that were planned several years ago. Meece stated that they are part of the 10-year infrastructure replacement plan and the City is trying to maintain the plan, despite rapidly increasing construction costs.

Blakeman asked how old the existing pipelines are? Tinsley stated that he would have to guess on the water mains, but most were put in around 1914 through 1919. He knows that some of the water mains are at least 100 years old, and that is why the City is replacing them at this time. Tinsley also clarified that the sewer mains in the downtown area are in the alleys, and gas lines were laid over the sewers years later. More of the water mains are now in the streets rather than the alleys.

The City has spent \$1.4 million in the last two years redoing 1-month sewer mains (mains that need to be maintained monthly due to problems) and now there are 12 more mains with similar problems. The problem mains that were fixed 2 years ago included 23 blocks of sewer mains.

Currently the water mains are less work than they were 10 years ago, as the older mains have been replaced. In 1984, the City was losing 51% of the water that was pumped due to leakage. The percentage of loss is currently at 20%. The City is pumping less water than it did in 1984, because so many of the problem water mains have been replaced.

Meece went on to explain that, in the FY 08-09 budget, the City will be internally charging insurance premiums to departments in proportion to their historical insurance claims to more accurately reflect their operational costs. Meece explained that liability insurance used to be based only on the City's payroll, therefore the General Fund has been subsidizing the Enterprise funds for years as the premiums rise due to usage of the insurance from infrastructure problems. The City will now be basing liability claims on payroll as well as claims submitted to MMIA. If the City does not pay for infrastructure it will pay on liability claims.

VanAken wanted the public to know that there have been several misstatements in regard to the percentage of the increases that have been going around, what the cumulative effect will be and that the reason that the rates are going up so high at this time is due to the years of neglect and we're now playing catch-up. VanAken will vote for the increase in order to keep the same problems that the City is facing now

from happening to the next generation. The combined increase of the two is 16.50%, for one year. If citizens are concerned with the rate increase they have the option of cutting the cost of utilities by being more conservative with their water usage.

Beebe stated that the sewer liability rates are the largest claims that the City has at any one time, due to sewer backups and sewer main problems. The sewer department will pay \$90,034 for liability insurance this year. The same insurance was \$25,456 last year. This shows that the City can pay to make the fixes, or pay later in claims and premiums for the sewer problems. Beebe also read a section out of Grass Routes at the Local Level in Montana by Ken Weaver stating that the City should address utility problems in a timely manner, or the community's infrastructure will fall apart.

Lenny Gregory inquired as to whether the Enterprise funds were maintained separately? Mr. Gregory knows that money has been loaned back and forth amongst funds in the past, and he would like to know if those loans are being paid back? Caldwell told him that yes the loans are being paid back, and at an interest rate equal to, or higher than, commercial lenders.

Blakeman stated that the water rate increases were going to be used for infrastructure improvements, and the same would be happening with the sewer rate increases.

Meece explained that liability insurance used to be based only on the City's payroll, therefore the General Fund has been subsidizing the Enterprise funds for years as the premiums rise due to usage of the insurance from infrastructure problems. The City will now be basing liability claims on payroll as well as claims submitted to MMIA. If the City does not pay for infrastructure it will pay on liability claims.

Caldwell stated that he appreciated the comments from the public and said that the rates in the City of Livingston are lower than the average state rates throughout Montana. Because the rates are so low the City finds it hard to get state grants, or low interest loans, as the DNRC believes we should be properly investing in our own infrastructure. Caldwell stated that the increase in water rate would be about \$2.78/month for a minimum user, and about \$3.17/month in sewer for a minimum user. This will be about a \$6.00/month increase, but smaller for less-than-average water users.

Discussion was heard and the Commission proceeded with the vote.

All in favor, Resolution No. 3953 passed.

**Resolution No. 3954 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING THE BASE SEWER RATE IN THE AMOUNT OF 19% PER MONTH.**

Chairman Caldwell opened the Resolution to public comment.

Patricia Grabow feels that voting for these increases will cripple the private sector and thus cause many families to be unable to feed their families. These increases will also cripple businesses, which in turn will cause layoffs and cripple the wage earners of the families.

Nancy Adkins inquired about the \$520,000 for a composting project and stated that this may be beneficial to restaurants and schools but the composting does not help individual citizens only the businesses. She also feels that there is a communication problem in the City. The City should have let the public know before last night as to what the money would be used for. Meece stated that the composting project is primarily for the disposal of sludge generated by the Wastewater Treatment Plant. The cost of the composting project will be allocated between the Sewer Department and the Solid Waste Department.

Blakeman made a motion to accept Resolution No. 3954, Beebe seconded.

**Commission Discussion:**

Blakeman stated that the composting project would have two very important components. It will take care of the sludge from the sewer plant as well as take care of the vegetable garbage from restaurants and grocery stores. Tinsley stated that the sludge composting would alleviate the need to dispose of sludge on land around the County. Tinsley hopes that eventually the composting will extend to table scraps, school lunch scraps and grass clippings as well as restaurant scraps. The most important reason for the compost pile is for the sludge but it could also lower garbage rates \$40 - \$50 per ton in commercial businesses.

Being no further comments the Commission commenced to a vote.

All in favor, Resolution No. 3954 passed.

**Ordinances:**

**Ordinance No. 2002 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "ZONE CODE" BY ENACTING THE CITY OF LIVINGSTON WIND POWERED GENERATORS ORDINANCE.**

Meece requested that this item be postponed, as he did not notify of all the groups that were requested for the discussion.

Linea Pritchard, Historic Preservation Board, stated that her group had not met on the topic but would like to participate in the discussion. Ms Pritchard feels that this is an issue for the whole community not just the historic district.

Blakeman made a motion to postpone the hearing of Ordinance No. 2002 until the July 7<sup>th</sup>, 2008 meeting, VanAken seconded.

All in favor, motion passed.

**Resolutions**

**Resolution No. 3955 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING AGREEMENT WITH THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR RENEWABLE RESOURCE GRANT FOR FLOODPLAIN DAMAGE REDUCTION (GRANT AGREEMENT #RRG-06-1265).**

Meece explained that since the City has hired Clear Creek Hydrology to validate the Corps of Engineers work and FEMA's flood mapping, DNRC suggested that Clear Creek be the vendor for purposes of this grant. The amount available, from the grant, is \$63,730. If FEMA and DNRC agree with the validity of Clear Creek Hydrology's data the Section 205 Study may not be continued.

Blakeman made a motion to approve Resolution No. 3955, Jones seconded.

**Commission Discussion:**

VanAken asked, due to limited resources, would DNRC be willing to award another grant to the City. Meece said that is a possibility, but could say how likely it would be.

Caldwell stated that because we are obligated to the Clear Creek Hydrology study now, and the Corps may or may not move forward, he



is willing to approve this resolution. Meece stated that the Corps is aware of this resolution.

VanAken asked if all of the grant would be used for Clear Creek? Meece stated that the first phase from Clear Creek was for \$25,000 and the second phase was for an additional \$60,000 so yes it all would be used.

Beebe asked when the 205 Study would be done? Meece stated that, without Clear Creek's information, it would probably have been complete by early February 2009. Caldwell asked if that would just be the Study? Meece said yes, that would be just the Study and not the environmental assessment, design, engineering, or construction.

Being no further discussion the Commission moved on to voting.

After discussion was heard the Commission proceeded with the vote.

All in favor, Resolution No. 3955 passed.

**Action Item A:**

Discuss/Approve/Deny CTA Nelson's recommendation for the 2008 Street Reconstruction Project with Knife River in the base amount of \$752,600 and bring back the resolution on July 7, 2008 for approval.

Meece explained the bid tabulation is on pages 69, 70, 71 & 72 of the packet. Tinsley stated that this was a good bid. Caldwell agreed with him, stating that the next lowest bid was \$200,000 higher.

Tinsley stated that the streets that would be within the scope of this work were C, D, E, F, G and Callender Street. C through H & Callender Streets will also have the new lights installed

Blakeman made a motion to approve the CTA Nelson recommendation and to have a Resolution brought back to the Commission with Knife River on the July 7<sup>th</sup>, 2008 meeting, Beebe seconded.

All in favor motion passed.

Tinsley stated that he would like to have Knife River contract started by the time of the next meeting and asked if it was possible to have a Special Meeting prior to the next regular Commission Meeting so Knife River could get started? Caldwell asked if the Commission was in agreement with a Special Meeting. The consensus of the Commission

was that the Special Meeting would be held June 30, 2008 at 6:00 p.m. prior to the Artemis Institute work session.

**Action Item B:**

**Discuss Street/Light Maintenance Districts (comparative samples).**

Meece stated that several comparative samples were generated, for the Commission to review, based upon the comparison tax valuation method.

Blakeman asked if it would hit the commercial businesses the highest? Woodhull stated it would. The only ones that would benefit would be the large residential lots.

Beebe said that the samples were missing the properties on the Westside. Woodhull stated that those properties would not change much, from the others shown, and would likely be comparable to properties in recently developed subdivisions on the northwest side.

VanAken stated that taxable valuation is not the answer, as he sees no benefit of assessing this way.

Beebe stated if the City went with the taxable value method it would look like the Commission was anti-business, given the resulting impacts to commercial properties.

Caldwell said the current method is not perfect but is broadly fairer. Caldwell asked Meece what he felt the Commission should do. Meece stated that the method of assessment should be left the way it is, since there is no other solution with a better benefit to the whole community.

Caldwell asked whether, in the event that the Commission desired no change to the current mechanism, the Commission should simply take no action. Blakeman said that she didn't see anything more equitable. Beebe stated that the comparisons did not come out the way she had expected. VanAken stated that he was taken aback by some of the increases in the comparisons. VanAken stated that the City should be providing streets and lights to the outlying areas that are within the City limits so they would get what they are paying for. Jones stated that she would like to see the assessments stay the way they are. Caldwell said the City has a system that works and any changes would cause greater problems to other areas.

Leroy Matthews addressed the Commission at this time and feels that the current assessment method is unfair. He thinks everyone should be paying the same amount, or there should be a cap on the amount that any one individual lot could be assessed. Mr. Matthews said that Billings has a \$1,200. cap, and Lewistown has a \$1,500 cap. Some individuals are already being abated in the City, and he would like to find out how many. Mr. Matthews was told that Becker would find out how many and let him know.

Meece stated that Mr. Matthews petitioned the City to be annexed, and the lots had already been zoned to 1-acre lots. Mr. Matthews stated that was a mutual agreement, and he was asked by Mr. Tinsley if he wanted to be annexed. Mr. Matthews felt it would be the best for the owners of the lots so he agreed, and he was informed that there would not be any SIDs for streets and curbs; but he was never informed that there would be outrageous light and street maintenance costs. Mr. Matthews stated that the assessments are not fair and should be capped.

Caldwell asked Meece if the lots could be abated? Meece stated that he would look into it.

Caldwell asked if Becker felt there was any need to further discuss the issue? Becker stated that the residents could protest during the protest period in July.

Caldwell asked if there are any abatements at this time? Meece stated that part of PrintingForLess.Com has been abated, as part of their land is a swamp area. Woodhull stated that there are still a few on the books. Meece stated that there are no abatements in residential districts that have been annexed in recently.

No action was taken.

**Action Item C:**

Discuss/Approve/Deny Urban Renewal Agency's recommendation for the expenditure of \$19,500 in grants to Vision Livingston Downtown Partnership (\$5,000 downtown education materials; \$14,500 to complete engineering study regarding effect of downtown improvements on buildings and basements with the TIF).

Meece pointed out the letter from Chairman, Bob Moore, in the packet approving both grants.

Blakeman inquired as to what the grants would entail? Karyle Frazier, Director of Vision Livingston, stated that the long-range plan was to use \$5,000 for promotion and printing costs in regards to the infrastructure downtown. \$14,500 would be used for an engineering survey of the downtown properties.

VanAken stated that the letter in the packet was all he needed to agree with Urban Renewal Agency.

Blakeman made a motion to approve the grant to Vision Livingston in the amount of \$19,500 and to allow the Finance Officer to cut a check in said amount, VanAken seconded.

All in favor, motion passed.

**Action Item D.**

**Re-Schedule Workshop with Artemis Institute.**

Caldwell asked the Commission if they would be interested in one of the next 2 Mondays (June 23<sup>rd</sup> or June 30<sup>th</sup>)?

The consensus of the Commission was that June 30<sup>th</sup>, 2008 would be fine with them. The meeting will be at 6:00 p.m. City Staff will arrange a room.

**Action Item E.**

**Review/Approve/Deny request for an encroachment of sidewalks for wheelchair ramp at Community Health partners Building (for PACE clientele).**

Meece explained to the Commission that on page 76 of the packet, the PACE organization would like to put up a wheelchair ramp in front of the Community Health Partners building in order to accommodate the handicap individuals that will be part of their program. There does not seem to be any conflict with the City Codes. If the specific use of the ramp, PACE, goes away the City could have the ramp removed.

Woodhull stated that the Historic Board has indicated no opposition to the ramp.

VanAken asked if the door would be against the Office Bar, the one with the stairs? Julie Jardine from the PACE organization stated that yes it

would be by the door with the stairs. Her group has leased space from Community Health Partners, and they would be installing a chair lift on those stairs. Ms Jardine pointed out that the grant to start this program was one of only 15 grants throughout the United States -- both Billings and Livingston were awarded in Montana. The grants will be used to assist and provide day care to elderly and handicapped individuals.

VanAken asked if there would be an outside railing so no one would trip over it. Ms Jardine stated that yes there would be, as the ramp will be ADA approved.

Blakeman made a motion to approve an encroachment permit for the handicap ramp in front of the Community Health Partners, with the understanding that it could be removed if the PACE program leaves this building, Beebe seconded.

All in favor, motion passed.

#### **Action Item F.**

Discuss changing Commission meetings from 7:30 p.m. to 7:00 p.m.

Chairman Caldwell asked for discussion on the issue.

VanAken stated that it would be an improvement.

Becker stated that the time was set by ordinance so the ordinance would have to come back before the Commission.

VanAken made a motion to bring the ordinance back before the Commission at the next meeting to change the Commission meetings time from 7:30 p.m. to 7:00 p.m., Beebe seconded.

All in favor, motion passed.

#### **City Manager's Comments**

Blakeman asked what the status was on the swimming pool? Meece stated that there would be divers examining the crack, this week, to see if it is repairable. VanAken asked if the pool has been emptied? Meece stated that no, as it is not environmentally safe to do so. Beebe asked if the chlorine has evaporated yet? Meece answered that the chlorine is dissipated before it is pumped out of the boiler room; accelerants have been added to assist in this process.

### City Commission Comments

Blakeman would like to know what the huge gravel pile is for right before entering the Cokedale road. Caldwell stated that it is probably part of the highway project. Meece said that he would find out.

Blakeman has had a citizen ask if pigeons could be shot with a shotgun in the underpass. There seems to be a larger amount of droppings there now. Tinsley stated that the underpass is swept and hosed down every Friday.

Blakeman asked about an update on the BNSF lawsuit. Becker stated that BNSF attorneys are doing a telephone survey in regard to citizen's opinions of the plume. The legal discovery required of the City has been sent to BN's attorneys, and this phase will be going through the fall of this year. If the Commission would like a copy please see him.

Beebe asked if any recent permits have been issued at the Willow Creek Bend site, across from Mayor's Landing? Per Woodhull, no new permits have been issued.

Beebe asked why Shakespeare in the Park was no longer at Sacajawea Park? Per Becker they are now located at Chico.

VanAken stated that in the calendar of events this Thursday's forum regarding the Railroad Crossing Mill Levy was not listed. He would like to let the public know that it will be at Winan's School.

VanAken advised the Commission that the Senior Center would be meeting with the CDBG and Home Grant folks to fine-tune the Home Grant. The Home Grant will be paying for 1/3 of the renovation of the housing portion of the building. It is required that the Home Grant money is only spent on housing. The next meeting will be Saturday evening May 21, 2008 at 6:00 p.m. and there will a banquet at the Center tomorrow, June 17<sup>th</sup>, 2008 at 12:00 p.m. The tickets are \$9.00 per person.

VanAken requested that public hearings have more communication with the Public; the Staff needs to draw a picture or at least explain more in depth as to what the issue is so the Public can understand it.

Caldwell was delighted to see the easement from the Girl Scout Council for the trails project.

Caldwell would like to know if the variance process could be more streamlined. He feels that the Board of Adjustments should be able to make the decision, and the variance should appear before the Commission only for the appeal process. Blakeman added that it would be more helpful for homeowners also. All Commissioners were in consensus, and Jones would like this brought back to the Commission for a vote.

Meece pointed out the two commendations in the packet for Officer Hard and Officer Tubaugh. VanAken added that there could have been dire consequences if they hadn't managed the situation the way they did. VanAken would like to acknowledge them at the next meeting.

**Public Comment**

Nancy Adkins, who grew up in Livingston, is sorry to hear about the pool. She hopes that the City will fix it, as there is not much more for the children to keep busy with over the summer. She feels that this is an urgent problem that needs to be fixed.

Jay Kiefer inquired as to when the street resolution would come back before the Commission as the roads are really a mess. Tinsley stated that the work would begin around the 2<sup>nd</sup> week in July. The City is meeting with the Contractor on Wednesday for a walk through of the project. The project will be done within 110 calendar days after it has begun.

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

The time was 10:10 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
Shirley Ewan  
Finance Officer

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

LIVINGSTON  
CITY COMMISSION MEETING  
July 7, 2008

The Livingston City Commission met in regular session on Monday, July 7, 2008. Commissioners present were Steve Caldwell, Mary Beebe, Rick VanAken, Juliann Jones and Vicki Blakeman.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Wayne Hard, Matt Tubaugh, Dale Johnson, Jim Mastin, Clint Tinsley, Peggy Glass & Jim Woodhull.

Special recognition was given to Wayne Hard, Matt Tubaugh and Dale Johnson for their exemplary performance in the line of duty. Chief Raney explained the dangers of each situation, and stated that the three officers had performed quickly with excellent instincts that avoided life-threatening injury. The Commission thanked the officers for their outstanding job.

Motion was made by Blakeman to pull items A and E from the consent items and approve Items B, C & D, seconded by VanAken.

No discussion was heard.

All in favor, motion passed.

Item A (Commission minutes from June 16, 2008) will come before the Commission at the July 21, 2008 meeting.

Item E (Special Event RY Timber Company Picnic) was pulled as Caldwell questioned the fact that the Insurance Certificate did not name the City of Livingston named as an Additional Insured. Becker stated that the Commission could approve the event with the condition of a receiving a modified Insurance Certificate naming the City of Livingston as Additional Insured.

Blakeman made a motion to approve the RY Timber Company Special Event Application with a condition that the City of Livingston be named as the Additional Insured, Jones seconded the motion.

All in favor, motion passed.

**Non-Scheduled Public Comments:**



Meece explained that he had forgotten to put the Community Garden representatives on the agenda, and that Linda Mahr was in the audience to speak in regard to moving forward with the project.

Ms Mahr gave an overview of the Community Garden/Greenhouse project, over the last 2 years. She has researched greenhouses and has taken part of her design from the Cheyenne Botanical Gardens Community Garden. Ms Mahr stated that the 4-5 acres at the Cemetery site should be an excellent food-producing park. The group will be trying new varieties of plants in this climate. The current plan is to subdivide a 100 ft circle into 28 plots to raise produce. The plan is ready to be implemented, but the group is having some objections from neighbors in the area. After the neighbors are comfortable with the garden the group will be applying for grants for a greenhouse.

Caldwell asked how the survey results went? Ms Mahr stated that the responses were great. The Community Garden group received between 100-170 responses. Ms Mahr stated that Big Timber is also starting a Community Garden, and that the 2 groups are great resources for each other. The group had planned on initially leasing 20 plots this year, but due to the lateness of the planting season they will delay breaking ground until next spring.

Jones inquired as to where the local grant was coming from? Ms Mahr stated that the Community Closet is considering a grant of money, and a local individual would cover the balance of the expenses.

Caldwell asked what the group needed from the City? Ms Mahr stated that they need to resolve some issues with the neighbors, before proceeding. Several individuals have visited with Mr. Tinsley to find out what is happening with the project. Ms Mahr would like to have a meeting to work with the neighbors that have concerns.

Caldwell asked the City Manager what should be the next move? Meece stated that there needs to be some further discussion between the neighbors and the Community Garden group.

Ben Wagman spoke to the Commission stating that he was one of the neighbors that bordered the easement. He bought his property with knowledge of the easement, but thought it would be only used for utility lines and otherwise left as a green space. The garden is 100 feet off of their patio deck. Mr. Wagman's concern is the additional traffic this garden will create in a neighborhood full of kids. The area already has baseball traffic, and now it will have Community Garden traffic. Mr. Wagman would also like to know what the garden was going to look like, and would it be cared for year-round or left to have the garbage blow into

the neighbor's yards? Mr. Wagman would also like to know why the City is entering into an agreement of land usage to a special interest group and is there any other place that this garden could be located?

Meece stated that there would be no formal action tonight but he will listen to the feedback, and then have a separate meeting with all parties concerned to resolve issues before bringing the Garden back to the Commission for action at a later meeting.

Jones asked if the land belonged to a private citizen? Meece told her that the City owns the land, and the City had agreed to let the Community Garden Group use it for the Community Garden.

Aaron Winfrey addressed the Commission stating that he lives next to the Wagnans. He agrees that it is better to inconvenience a few for the betterment of the Community, but feels that there needs to be specific times that the garden is open and specific times when power equipment can be used. Mr. Winfrey has no problem with the garden, if it is kept up and maintained. Mr. Winfrey stated that there is presently a barbed wire fence, and wanted to know if the fruit and nut trees would be planted behind the fence or would the group be picking fruit from his back yard? Mr. Winfrey also asked if dogs would be allowed in the garden, and if the fence would stay or be replaced with a row of trees?

Megan Hollingsworth, one of the Community Garden planners, stated that this was the only suitable place in town available for the group to put the garden. The land is close to town, and large enough to accommodate the project. Ms Hollingsworth stated that most participants in a Community Garden were the neighbors around the garden, and she welcomes these neighbors to join in. Ms Hollingsworth appreciates the comments this evening, and the group will address each and every concern. She wants the neighbors to know that she respects the fact that they are giving up some of their view, and that the garden will definitely have set hours and a no dog policy.

Ms Mahr stated that there would not be any parking on the neighbor's streets by the garden participants.

Blakeman asked if this would come back at the next meeting? Meece stated that Administration would attempt to get all of the problems worked out, and then bring the issue back at a future meeting if some form of action is needed.

**Variance Requests:**

No variance requests were heard.

**Public Hearings:**

No public hearings were on the agenda.

**Ordinances:**

**Ordinance No. 2002 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "ZONE CODE" BY ENACTING THE CITY OF LIVINGSTON WIND POWERED GENERATORS ORDINANCE.**

Meece stated that several months ago the Wind Power Task Force was formed, after Arby's made a variance application for installation of a Wind Mill. Since that time, several public forums have been held and the Task Force created this draft ordinance. The Task Force tried to use the best practices available, in other municipalities, to effectively encourage and control wind energy generators in the City.

Blakeman made a motion to approve Ordinance No. 2002, Beebe seconded.

Discussion:

Caldwell asked if there had been any changes to the original draft ordinance that the Commission had seen? Jamie Isaly commented that he wasn't sure if the Task Force had totally settled the issue of building mounted wind generators (page 59). The maximum height for such devices is 15 ft., however, Mr. Isaly stated technology might soon make it possible to mount small turbines on the side of houses that are less than 4 stories high. This may create a need for the Commission to modify the ordinance as technology changes. Mr. Shannon Holmes, Task Force member, stated that there is a clause in the ordinance regarding technology obsolescence/advance.

Bill Edwards, from the task force, stated that Section 1 and 11 would accommodate the fast moving technology and would allow the Commission to make a decision on each case.

Caldwell stated that he likes the flexibility of the ordinance.

Beebe feels that this is an overall protective ordinance and there seems to be a process for variances. Meece stated that the ordinance creates a special exception permit review process.

Blakeman stated that she was not comfortable with the hodge-podge nature of the ordinance. Blakeman feels that the Commission should identify an overlay district that would lend itself to better regulation of the 'view shed'. Blakeman would like to look at specific areas in the City where this technology could be used, and then create an overlay.

Blakeman feels that a more comprehensive look should be taken, at the City as a whole, rather than someone doing wind projects here and there. Owners in the City need this type of perspective, in order to protect their view shed.

Meece pointed out the Task Force's notes with regard to the need for a public process that determines which view shed needs to be protected. Would the Commission like to hold a workshop on this, take a web survey, or use other means to gauge public opinion? For example, Linea Pritchard, Historic Preservation Commission, stated that she hoped Wind Energy Generators could co-exist with historic districts at the last meeting.

Caldwell asked the Commission if they would like a Public workshop, prior to passing the ordinance?

Jones asked what the reason is for wind generators not being mounted on buildings? Isaly stated that the language in the ordinance covers the view shed by not allowing wind generators to be mounted on the sides of buildings.

Jones stated that view shed may not be a problem now but when larger lots are annexed into the City, individuals will be able to put up larger turbines and the view shed may be lost.

Mark Rehder, Planning Board, and with the task force, feels that the Commission should first get the ordinance in place and then develop policy statements on the 'view shed'. Blakeman stated that the City needs a method to identify the view-shed corridors.

Beebe is interested how the design overlay would work? Meece stated that the design overlay would state certain things that can occur and items that could not occur in the overlay area.

Blakeman stated that a view shed overlay needs to be identified for her to approve this ordinance. Meece stated that the corridors could be marked

physically on the ground, and these corridors would be stated in the Growth Policy as protected areas.

Jones asked if the view shed would entail only the areas where we do not want wind generators? Meece stated that yes this would be drawn off on a map showing where the Commission does not want wind power generators.

Caldwell asked how Meece would like the Commission to move forward? Meece stated that was up to the Commission. Blakeman stated that she doesn't feel that a workshop is the answer.

Beebe asked how the ordinance was drafted and how did other cities deal with view shed? Beebe asked if the task force had any guidance for the Commission on this? Mr. Edwards stated that in many communities there isn't view shed problems, because no one is installing wind generators. Meece stated that Great Falls had a lot of interest in passing the ordinance, but none have gone up since.

VanAken stated that this ordinance is a work-in-progress and that the Commission has to start somewhere. VanAken stated that the ordinance could always be revisited as with other ordinances. VanAken would like to know who would enforce the ordinance, and has the City thought about the owners on the edge of town? VanAken would like to encourage green energy in anyway possible and feels the ordinance should be put in place to get something going. Meece stated that the ordinance would be enforced through the Building Department, and then through the City Attorney. Meece stated that there is an obsolescence section, Section 12, of the ordinance, which states the authority that the city has for non-compliance.

Caldwell stated that the ordinance would facilitate good projects. VanAken would like to see the ordinance put in place. Beebe stated that she would like to see the ordinance go forward, and that the public would let them know their opinions at the Public Hearing. Jones stated that she would like to see the ordinance move forward, and that the task force has done a good job with it.

Becker pointed out that, if the next ordinance on the agenda were to pass, regarding Boards of Adjustment, and then the BOA would be making the decision regarding new Wind Power Generators. To clarify, Mr. Becker also pointed out that, with the passage of Ordinance 2004, if the Board of Adjustments does not approve a variance, any appeal would be to District Court.

Blakeman asked the City Attorney if the City Commission could hang on to this power (wind generators), and relinquish the decision making on the other variances and special exceptions. Becker stated that that would make two Boards of Adjustments. Instead, the Commission needs to decide which group makes the decisions on variances and wind generators and leave it with that one board.

At this time Blakeman made a motion to postpone the vote on Ordinance No. 2002 until Ordinance 2004 was voted on, Jones seconded.

All in favor motion passed.

**Ordinance No. 2003 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE MEETING TIME FOR REGULAR MEETINGS FOR THE CITY COMMISSION, AND AMENDING ORDINANCE NO. 1962, AS CODIFIED BY CHAPTER 2 OF THE LIVINGSTON MUNICIPAL CODE.**

Blakeman made a motion to accept Ordinance No. 2003, Beebe seconded.

All in favor, first reading of Ordinance No. 2003 passed.

**Ordinance No. 2004 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1479 AS CODIFIED IN ARTICLE VII OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING COMMISSION AND BOARD OF ADJUSTMENTS BY EMPOWERING THE BOARD OF ADJUSTMENTS TO MAKE SPECIAL EXEPTIONS TO THE TERMS OF THE ZONING CODE OF THE CITY OF LIVINGSTON AND DELETING REQUIREMENT THAT ANNEXED LAND RETAIN COUNTY ZONING DESIGNATION.**

Meece referred the explanation to Becker. Becker stated that the City of Livingston is the only city in Montana that created a Board of Adjustments and, yet, does not give them the final authority on variances and special exceptions. If the City Commission wants to act independently of the BOA, then they really need a court-reporter style of transcript (for proper legal and substantive review. Otherwise, they should let the Board of Adjustments make the final decision regarding a variance or special exception.

Blakeman made a motion to accept Ordinance No. 2004, VanAken seconded.

Discussion:

Caldwell asked Becker if the appeal process would come before the Commission? Becker stated an appeal of the BOA would go to the District Court.

Blakeman asked if there is greater exposure on ex parte issues? Becker stated that the record would only come from the Board of Adjustments.

Blakeman asked if the Commission could just ask why the Board voted the way they did? This way the Commission could keep control of the vote on variances. Becker stated that he would have to research that.

Blakeman stated that in other words the City Commission has to give up the authority, or take over the entire process? Meece stated that was correct.

Jones stated that the Commission could set policy for variances and then give the authority to the Board of Adjustments. Blakeman stated that that would take the politics out of the decision process. Beebe stated that it is hard for the Commission to let go but sees no reason to second-guess the process.

Caldwell stated that the Commission's role is to set public policy, not really act as a quasi-judicial body. Blakeman said that she would want a wind power generator policy statement in place so the City Commission would have some input on BOA decisions.

VanAken agrees that the authority needs to be delegated to the Board of Adjustments.

Caldwell asked if the preamble on page 89 of the packet should have the donut area defined? Becker will clarify that for the second reading.

All in favor, first reading of Ordinance No. 2004 passed.

At this time **Commissioner Blakeman, seconded by Beebe, brought Ordinance No. 2002 off of the table.** All in favor, Ordinance No. 2002 was un-tabled for possible further action.

Blakeman made a motion to accept Ordinance No. 2002, Beebe seconded.

Discussion:

Blakeman would like to have a policy statement that clarifies which view sheds are to be protected.

All in favor, first reading of Ordinance No. 2002 passed.

Meece said he will organize a public meeting, and press release regarding public input on the view shed corridor(s).

### Resolutions

**Resolution No. 3956 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH CTA ENGINEERING FOR ENGINEERING SERVICES FOR THE CAROL LANE SEWER MAIN PROJECT IN THE AMOUNT OF \$12,440.00 PLUS REIMBURSABLE EXPENSES.**

Blakeman made a motion to accept Resolution No. 3956, Beebe seconded.

Discussion:

Caldwell asked when the project would start? Meece stated that it would start in late summer.

Being no further discussion voting commenced.

All in favor, Resolution No. 3956 passed.

**Resolution No. 3958 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING AN EMERGENCY DUE TO THE HIGH-WATER CONDITIONS OF THE YELLOWSTONE RIVER SYSTEM IN 2008.**

Meece stated that this resolution is due to the high water conditions, which resulted in damage to the Pool and 9<sup>th</sup> Bridge. The State Department of Emergency Services (DES) requires a declaration, prior to receiving any state/federal assistance. Meece stated that the FEMA would be meeting, with the City and County, tomorrow morning to view and determine which costs would be eligible for assistance. Meece mentioned that he thinks the word 'flooding' should be replaced with "high-water".

Blakeman made a motion to change the Resolution to read high water in place of the word flooding, VanAken seconded.



All in favor, motion passed.

Motion was made by Blakeman to accept Resolution No. 3958 as amended, seconded by Beebe.

Discussion:

Caldwell inquired as to the times the wading pool would be open, as the memo states that it will close at 8:00 p.m. and will be drained at 7:00 p.m. Meece stated that this means a City employee has to be at the site while the water is draining.

Meece went on to explain the problems with the City pool. The pool cannot be repaired until the water is drained. Due to the high water table, the pool cannot be drained at this time. It is likely the pool will not be opened this summer.

Beebe asked if the City had received any estimates on the PVC liner? Meece stated that the City has not received any estimates as of tonight's meeting.

Meece stated that an alternative is to open the G Street park wading pool every day. However, state regulation requires lifeguards, and that this water be drained every day. Meece stated that the amount of water that will be used daily is 20,000 gallons; which doesn't seem like the best use of water resources.

At this time Nancy Adkins, from the audience, addressed the Commission inquiring as to why the standing water in the park was not being drained, as it is a breeding ground for mosquitoes? Blakeman asked if she meant in the pool? Ms Adkins answered stating that she was more concerned about the standing water directly in Sacajawea Park, as mosquitoes carry West Nile Virus. Caldwell stated that the County does the mosquito control spraying. Meece also stated that the standing water in the Park couldn't be drained, as it is seepage from the high water table.

VanAken asked if the water table goes down would it alleviate the problems in the pool? Meece stated that if the water is drained then the City could possibly install a liner. At present, the cracks cannot be repaired unless the water is drained. It is likely that September or October will be the earliest the repairs can be made.

All in favor, Resolution No. 3958 passed as amended.

**Action Item A:**

Discuss petition to City Commission of Livingston in regards to street conditions.

Meece explained to the Commission that they had approved the Bid Award for the streets on June 30, 2008, and that the project would begin immediately. Meece advised the City Commission that future utility projects will require that streets be at least hot-patched, if not completely replaced, prior to completion. In this situation, the City took advantage of very beneficial bid prices, which pushed street replacement into the spring. This was a lesson learned for the City, and internal procedures will be re-worked to prevent it from happening again.

Blakeman stated that the petition was dated February 25<sup>th</sup>, 2008 and we just received it. Becker stated that the petition was started due a trip-and-fall accident in front of Sterling Bank, due to an uneven spot in the asphalt.

Jones asked if the City would contact these people?

Meece stated that he would draft a letter and forward on to the individuals on the petition.

Beebe asked if the letter could be included with the next public works bulletin? Caldwell would also like to see it appear in the bulletin. Beebe would like the letter to address where the City is going with street projects, specifically, and where they have been in recent history. Beebe would like to see it on the website. Meece stated that he would make a statement addressing these items in the next bulletin. VanAken would also like to see the City infrastructure replacement plan placed in there.

No action was required of the Commission on Item A.

**Action Item B:**

Discuss/approve/deny agreement with Nittany Grantworks.

Caldwell asked if this contract was a City/County contract? Meece stated that it is only City.

Blakeman stated that the contract is for 45 hours per month, and Ms Benner has certainly showed that she is worth the contract.

Jones made a motion to approve the contract with Nittany Grantworks, and to direct staff to return with a Resolution to Authorize Signature of the contract at the next meeting, VanAken seconded.

All in favor, motion passed.

**Action Item C:**

Update on School Safe Route and Traffic Revision Project.

Meece explained that he recently met with Mr. Wester, SGMS and Mr. Voller, Montana Department of Transportation, to discuss the Safe Route project. The first phase of the project will begin this fall. The project will involve students doing a traffic count, and assisting with sidewalk construction. Page 133 of the packet shows a map that demonstrates how the traffic will be re-routed around East Side Elementary and Sleeping Giant Middle School. Currently students are crossing 2 lanes of traffic from both directions. The plan is to now have parents drop their children off at the curb.

Caldwell inquired as to whether this project would be using any C-TEP money? Meece stated that it would not, the money was coming from a Safe Routes Grant and \$4,500 is allocated from the City's CDBG funds. Per Meece it might use C-TEP money if the project expands to the trails system.

No action was required of the Commission.

**Action Item D.**

Discuss/approve/deny Invoice 126-04 from Clear Creek Hydrology.

Meece explained that the City Commission has previously authorized \$85,000 in contract authority for Clear Creek Hydrology to perform the 1<sup>st</sup> and 2<sup>nd</sup> phases of the flood mapping studies. This reflected on the summary sheet in the packet. However, the actual costs of these projects were \$29,000 higher than expected at that time. Meece stated that he pushed Clear Creek to get a lot of work done in a short amount of time, and Clear Creek came through. They were able to get the entire project done within the 60-day time limit imposed by FEMA.

Meece stated that due to the fast track of the project, he had not realized that costs were exceeding contract authority, and that the error should be placed on his shoulders.

Meece stated that this amount would reduce the cash reserves in 08-09 by this amount if the Commission approved this claim.

Blakeman asked if there were going to be any other costs? Stephen Mitchell of Clear Creek Hydrology stated that no there would not be as the company has written off \$10,000 from the 2<sup>nd</sup> Phase of the contract, and has donated the June time that was spent on the project.

Beebe asked where the money would come from to pay Clear Creek? Meece stated that it would come out of the Legislative Budget - Professional Services - in the FY 07-08 budget.

Beebe asked if the money from DNRC has been recovered, and would this mitigate the cost of Clear Creek? Meece stated that at this time the money that was allocated to the Corps of Engineers has been reassigned to cover the costs Clear Creek.

Meece stated he has budgeted \$25,000 for Section 205 expenses in the FY 08-09 draft budget.

VanAken made a motion to increase the amount of the Clear Creek Hydrology contract by \$29,731.41, and to pay the invoice as stated on page 135 of the packet, Jones seconded.

All in favor, motion passed.

**Action Item E.**

Discuss/approve/deny Relay for Life 2008 request for waiver of noise ordinance on July 25<sup>th</sup> and 26<sup>th</sup>, 2008.

Meece stated that the noise ordinance has been lifted for this event in the past, and the group is requesting it again this year.

Motion was made by Blakeman, seconded by Beebe to waive the noise ordinance for the Relay for Life's event.

All in favor, motion passed.

**Action Item F.**

Discuss/approve/deny stop sign at 9<sup>th</sup> and River Drive (9<sup>th</sup> Street Bridge).

Meece stated that the municipal code allows the Public Works Director and Police Chief to place stop signs where determined necessary.

However, Mr. Becker would prefer that the City Commission act in a legislative manner as well.

Beebe asked if pedestrians could go over the bridge? Meece stated that there would probably be a temporary security gate installed to regulate the bridge usage. He also stated enforcement of the bridge usage is going to be difficult.

Motion was made by Blakeman, seconded by Beebe to approve the stop signs at 9<sup>th</sup> and River Drive.

All in favor, motion passed.

**City Manager's Comments**

Jones wanted to know if the educational outreach forums were only for the RR crossing. Meece stated is correct.

VanAken responded to the City Manager's comment regarding Fleshman Creek flow agreements stating that this progress is a good thing. Beebe added that Fleshman Creek is important to all residents in the City.

Blakeman inquired about the Public Hearing for the transfer station and how was it advertised? Meece stated that DEQ (Department of Environmental Quality) was in charge of the hearing, and that they had advertised it.

**City Commission Comments**

Blakeman inquired as to the details of the Ravalli County decision in regards to the local Growth Policy, and the City voting on the County ballot? Meece stated that a recent Attorney General's opinion stated that City residents are part of the County, and they have a right to vote on County Growth Policy issues. The City of Hamilton had requested an Attorney General's Opinion, in response to the exclusion of their residents from a County ballot issue establishing emergency zoning provisions.

Beebe stated that she would not be at the next City Commission meeting.

Beebe also inquired as to how the Jesson issue was going. Meece stated that he expected to receive a Petition for Annexation in the near future. Beebe is wondering if a workshop would be in order to address the public's concerns? She would also like to see the County Planner at that workshop. Meece questioned whether a public hearing would be of more value than a workshop?

Beebe would also like to know if the public is going to be denied access to the 9<sup>th</sup> Street Bridge for the next 7 years. Beebe feels that if the taxpayers are being asked to fund private access to what is essentially a gated community, there needs to be discussion and agreements about future public access to the island. There needs to be a benefit to the public, not just a few individual property owners.

VanAken stated that the Japanese Sister-City students would be arriving in Montana on August 4<sup>th</sup>, 2008. They will have their welcoming event on August 5<sup>th</sup>, 2008 in the basement of the Masonic Lodge at 7:00 p.m. VanAken also stated that August 5<sup>th</sup>, 2008 has been slated as the City tour. August 14<sup>th</sup>, 2008 will be the Sianara party and he would like to use the Japanese flag located in the Community Room. VanAken would also like to know if the City has a spare City flag to present to the group as their gift between cities.

Jones would like to know if the City has checked into creating a "Quiet Zone" in the City limits for train whistles. Meece stated that the City has checked into this matter, and the cost estimate was pretty high for enacting a quiet zone. Caldwell would like to know what the cost would be, specifically. VanAken would also like this matter investigated, and let the Commission know what the cost would be. Meece stated that he would have HKM Engineering give him an estimate to do a scoping project on the costs, responsibilities, and process of establishing a 'Quiet Zone'.

Caldwell would like to see on the Action Items for July 21, 2008, an item to rename View Vista Drive to Linnea Larson Drive, in memory of the death of a local citizen that contributed so much to the City.

Meece introduced Stephen Reid to the City Commission, and stated that he was a Fire Chief candidate.

### **Public Comment**

No Public Comments were heard.

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

The time was 10:24 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission Chair

LIVINGSTON  
CITY COMMISSION MEETING  
July 21, 2008

The Livingston City Commission met in regular session on Monday, July 21, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Juliann Jones and Vicki Blakeman. Mary Beebe was absent.

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

Motion was made Blakeman, seconded by VanAken to approve the consent items.

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Variance Requests:**

No variance requests were heard.

**Public Hearings:**

**Ordinance No. 2002 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "ZONE CODE" BY ENACTING THE CITY OF LIVINGSTON WIND POWERED GENERATORS ORDINANCE.**

Caldwell opened the Ordinance to Public comment.

No Public comment was made.

Blakeman made a motion to approve Ordinance No. 2002, Jones seconded.

Discussion:



Meece stated that Section 1, Subsection 2a of the ordinance concerning special exceptions is redundant as the same subject is covered under the preceding paragraph and Subsection 2a. Meece stated that the staff had agreed upon an amount of \$100 per permit for the Wind Power Generators. Blakeman asked if \$100 would cover the City's costs? Caldwell stated that the first use of the word "fee" should be struck.

Meece stated that in section 2a ii the term "site plan" was intended to mean a "site map".

Blakeman stated that where there is not a B on a section there isn't any need to have a section A.

Meece stated that subsection 9a & 9b on page 102 of the packet are also redundant, as it is covered in the previous paragraph. The manufacture's label is not advertisement.

Meece stated that Section 3, Page 101 of the packet, 3b 1V, he would like to see "on structures" struck.

Caldwell would like to know what "bi-annual" means to the Commission; is it twice a year or every 2 years? He would like to see the wording changed to "once every 2 years".

Blakeman would like to see 4)a. incorporated into the paragraph as there is no 4)b.

VanAken wondered if there needs to be a further definition of "dwellings" and "occupied dwellings"? Caldwell stated that it would be better to change - "dwellings" to "occupied buildings".

VanAken would like to know, with reference to section 5b, if the term "non-participating landowner's" should be defined? Caldwell suggested a change in the language from "building o a non-participating landowner's property" to "building not on a facility owner's property".

Meece stated that the Board of Adjustments would need training on wind power generators.

Caldwell stated that on page 102, Section 6, that the word "climabable" should be corrected, and that in section 7 the word "generator"s should be plural.

Blakeman made a motion to amend the Ordinance to reflect the changes by the Commissioners, seconded by VanAken.

All in favor, motion passed.

Being no further discussion vote was taken on the Ordinance as amended.

All in favor, Ordinance No. 2002 passed.

**Ordinance No. 2003 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE MEETING TIME FOR REGULAR MEETINGS FOR THE CITY COMMISSION, AND AMENDING ORDINANCE NO. 1962, AS CODIFIED BY CHAPTER 2 OF THE LIVINGSTON MUNICIPAL CODE.**

Caldwell opened the ordinance to Public comment.

Nancy Adkins mentioned that "regular" was spelled wrong on the agenda.

No further public comment was heard.

Blakeman made a motion to approve Ordinance No. 2003, VanAken seconded.

No Commission discussion was heard

All in favor, Ordinance No. 2003 passed.

**Ordinance No. 2004 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1479 AS CODIFIED IN ARTICLE VII OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING COMMISSION AND BOARD OF ADJUSTMENTS BY EMPOWERING THE BOARD OF ADJUSTMENTS TO MAKE SPECIAL EXEPTIONS TO THE TERMS OF THE ZONING CODE OF THE CITY OF LIVINGSTON AND DELETING REQUIREMENT THAT ANNEXED LAND RETAIN COUNTY ZONING DESIGNATION.**

Caldwell opened the Ordinance to Public comment.

No public comments were heard.

Blakeman made a motion to approve Ordinance No. 2004, Jones seconded.

No Commission discussion was heard.

All in favor, Ordinance No. 2004 passed.

**Ordinances:**

**Ordinance No. 2005 - 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 LOT 3 OF SUBDIVISION PLAT NO. 253 LESS AND EXCEPTING TRACT A OF SUBDIVISION PLAT NO. 438 LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AS MEDIUM DENSITY RESIDENTIAL (RII).**

Blakeman made a motion to accept Ordinance No. 2005, seconded by Jones.

Discussion:

Caldwell asked if the zoning was consistent with the area. Woodhull stated that everything around the subdivision was also zoned RII.

Being no further discussion voting commenced.

All in favor, first reading of Ordinance No. 2005 passed.

**Resolutions**

**Resolution No. 3959 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH NITTANY GRANTWORKS NOT TO EXCEED \$27,000 WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY.**

Blakeman made a motion to approve Resolution No. 3959, Jones seconded.

Discussion:

Meece stated that this is an annual agreement with Nittany and has been the standard agreement for several years. Meece feels that Lori Benner has been a great asset to the City, as not only has she applied for several approved grants for the City but has managed several task groups for administration.

Being no further discussion voting commenced.

All in favor, Resolution No. 3959 passed.

**Resolution No. 3960 - 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 2008-2009 AND OF ITS INTENT TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT AND CALLING FOR A PUBLIC HEARING.**

Blakeman made a motion to approve Resolution No. 3960, VanAken seconded.

Discussion:

Meece explained that is the annual street maintenance request and that this is only the first reading and that protests and abatements will be discussed during the public hearing on August 4<sup>th</sup>, 2008. Presently, Meece has had several protests from the Fleshman Creek Acres Subdivision. Staff will come back to the Commission at the public hearing with their recommendations.

Caldwell asked whether requests for abatements would need to be considered before passage of the resolution? Becker stated that the Commission would approve the resolution first and then do the actual abatements.

Becker stated that the street maintenance resolution needs to be passed by the second meeting in August and the light district resolution has to be approved by the second meeting in October in order to get the assessments on the tax rolls.

Blakeman asked if the amount of the assessment has changed this year? Meece stated that it is the same amount as last year.

VanAken asked if this could be done prior to having clarification from the State on the mill value? Meece stated that this does not have any bearing on the mill value, as these are assessments not mills. These amounts will be placed on the tax bill as assessments.

Being no further discussion, voting commenced.

All in favor, Resolution No. 3960 passed.

**Resolution No. 3961 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTIMATING THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$57,000.00 FOR FISCAL YEAR 2008-2009 AND OF ITS INTENT TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COSTS WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT AND CALLING FOR A PUBLIC HEARING.**

Blakeman made a motion to approve Resolution No. 3961, seconded by VanAken.

Discussion:

Meece stated that this resolution is also an annual order of business. This amount will cover the energy and maintenance costs for the streetlights.

Caldwell asked if this was the same amount as last year and was it an adequate amount, given recent increases in power costs? Ewan stated that yes it was.

Blakeman asked if this would take care of the lights that the City owns and would Northwestern Energy still take care of the lights that they own. Meece stated that this resolution would cover the power for both sets of lights and that Northwestern Energy still maintains their lights.

Being no further discussion voting commenced.

All in favor, Resolution No. 3961 passed.

**Resolution No. 3962 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS OF \$77,214.00 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT AND CALLING FOR A PUBLIC HEARING.**

Blakeman made a motion to approve Resolution No. 3962, Jones seconded.

Discussion:

Meece stated that this is the capital replacement of streetlights throughout the town.

Blakeman stated that this is the 5<sup>th</sup> year of the replacement plan. Tinsley mentioned that the City is caught up with the plan. Tinsley said that the next area to change the lights would be B Street and the downtown area. He will bring a recommendation to the Commission in the next month for the next 6-8 blocks that will be replaced.

Blakeman asked if the City was buying the lights a year ahead of putting them in? Tinsley stated that yes we are.

VanAken inquired as to what was meant in the Resolution by "appurtenances". Tinsley stated that this includes wire, globes, shades, and a contractor's installation of bases for the lights.

Blakeman asked as to what the downtown lights would look like? Would they have banner hangers, flower hangers etc.? Meece stated that Karyle Frazier, Director of Vision Livingston, and Tinsley would be working on the type to place downtown. Tinsley stated that they would probably look like the lights at the intersection of 3<sup>rd</sup> and Callender Streets.

Being no further discussion voting commenced.

All in favor, Resolution No. 3962 passed.

**Resolution No. 3963 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, REQUIRING VEHICULAR TRAFFICE TO STOP ON 9<sup>TH</sup> STREET BEFORE CROSSING RIVER DRIVE.**

Blakeman made a motion to approve Resolution No. 3963, Jones seconded.

Discussion:

Meece stated that this codifies the action the Commission took in approving the stop signs at the last meeting. The County is considering installing some form of warning lights on either side of 9<sup>th</sup> Street at the bridge due to limited visibility in crossing the bridge.

Being no further discussion, voting commenced.

All in favor, Resolution No. 3963 passed.

**Action Item A:**

Discuss/approve/deny application for Yellowstone Ballet Montana Cultural Trust Grant.

Meece explained to the Commission that this was a grant that the Yellowstone Ballet applied for periodically and since the grant is from the State it has to be sponsored by a governmental agency.

Blakeman inquired as to if this was an inconvenience to the City? Ewan stated that it was not an inconvenience. The City just wrote a check to Yellowstone Ballet when the money was received from the State.

Caldwell inquired as to if there were any liability issues with this flow through grant? Meece stated that no there were not.

Motion was made by Blakeman to bring the application back to the Commission in resolution form at the next Commission meeting, VanAken seconded.

All in favor, motion passed.

**Action Item B:**

Discuss/approve/deny request for waiver of Civic Center Rental Fees for Spay/Neuter Task Force on Sunday, August 10, 2008.

Meece explained to the Commission that this was one way the Task Force helped keep their costs down at the Clinic.

Blakeman stated that there are other non-profit groups that are also awarded this waiver. Meece said that yes there are several groups that have the fees waived throughout the year.

Motion was made by Blakeman to waive the Civic Center Rental Fee to the Spay/Neuter Clinic on Sunday, August 10, 2008, Jones seconded.

All in favor, motion passed.

**Action Item C:**

Discuss/approve/deny street vacation; 200 Block South "O" street.

Meece referred the explanation to Woodhull. Woodhull then showed the Commission where the vacation would be on their maps. Woodhull stated that it was on the last street south of Lewis Street.

Meece clarified that this was only a street vacation, and that the alley would be kept by the City. Woodhull stated that the alley would be kept by the City for a potential trail to the stream.

VanAken asked if there was anything in the street at this time? Woodhull stated that it is covered with trees and brush.

Blakeman asked if the alley had been marked? Per Woodhull it has not been marked.

Blakeman made a motion to approve the vacation of the street on the 200 Block of South "O" Street, VanAken seconded.

All in favor, motion passed.

**Action Item D. - from Addendum.**

Discuss/approve/deny changing the name of view Vista Drive to Linnea Larson Drive.

Becker stated that if the Commission were to approve this action item the next step would be to bring back a Resolution of Intent to change the street name.

Meece asked if the Commission planned on changing the name all the way through the current River Drive? Blakeman stated that she felt it should be changed from Main Street to Mayor's Landing.

Blakeman stated that she felt there should be a letter sent to the people on the current View Vista Drive letting them know of the Commission's intention.

VanAken asked how quickly the street name would be changed. Becker stated that being it would change through resolution that the name change would be effective immediately unless the Commission stated in the resolution as to a specific date in which the name would be changed.



Blakeman stated that the Commission could determine at the public hearing during the intent step, how long the residents and post office would need to get their stationary, etc changed.

Blakeman made motion to direct the City Attorney to write a Resolution of Intent to change the name on the current River Drive to Linnea Larson Drive from Main Street to Mayor's Landing.

All in favor, motion passed.

### **City Manager's Comments**

VanAken questioned item number 3 on the City Manager's comments in regards to the leadership team meeting. Meece stated that it has been planned for a while and the retreat would be for department heads and assistant department heads. VanAken asked what the topics would be at the meeting. Meece stated that there would be a speaker coming in and the group would be doing quarterly reviews and setting up a formatting plan for these reviews. VanAken asked how long it would be going on. Meece stated that 1-1/2 days have been set up for the meeting.

Blakeman stated that she had read the commendation for Officer Leonard and wondered if he would be attending the Commission meeting for recognition. Meece stated that he would be at the next Commission meeting.

### **City Commission Comments**

Blakeman was interested in what the Department of Environmental Quality had learned at the public meeting and had they approved the transfer station? Caldwell asked what kind of comments the public had provided? Tinsley stated that none of the comments concerned the transfer station; attendees were more interested in the potential for a new incinerator. Blakeman asked if Tinsley had received anything back from the State? Tinsley stated that he had not. Tinsley also stated that the transfer station should be completed by September 17<sup>th</sup>, 2008. Caldwell inquired as to whether the glass pulverizer would be purchased by then also? Tinsley stated that the bids had come in and he would be bringing the recommendation to the Commission at the next meeting. After the bid was approved it will be 45-60 days before the pulverizer will be delivered to the City.

Blakeman asked what was being done in regards to the swimming pool? Meece stated that the City has had another vendor come in and do a

preliminary assessment. Ewan stated that the pool has been submitted to the City's insurance provider, MMIA.

Blakeman requested that not everything from the Library monthly meeting be put in the Commission's packet each month. Blakeman would like Meece to request that the Library Director cut the information back. The consensus of the Commission was that this was a good idea. VanAken stated that with that much information that if there was something important that the Commission should know it would be hard to find in the amount of paper that comes in the report. Meece will speak to the Director in regards to shortening her report.

VanAken apologized to the Commission for his late comments on Ordinance No. 2002 and for not yet submitting his list of budget priorities, given that the City Manager had requested such lists by today. Meece responded that budget workshops needed to be discussed.

Caldwell would like to know if the Staff was ready to meet with the Commission in regards to the budget. Caldwell would like to schedule a workshop for July 28<sup>th</sup>, 2008 at 6:30 p.m. to begin the process. Becker will advertise the meeting.

VanAken would like to borrow all of the flags for the Sister City events not just the Japanese flag. He also thanked the City for the spare City flag to give to the Japanese at the event.

Caldwell would like to arrange a field trip with Lori Ryker from the Artemis Group to go over a couple of points of interest for their project. Meece stated that the City could determine the legal description and cost estimate if the field trip were to take place. Blakeman asked if the project had been incorporated into the budget? Meece stated that he had allocated \$25,000 for trails but that the money could be used for the Artemis project. Meece stated that he would get a tour organized for early August. Blakeman stated that she would like to see it later in August, as Ms Ryker will be gone in early August.

VanAken would like to see a public information bulletin placed in the paper or over the radio to let people know how they can get into the City/County Complex during the reconstruction of streets surrounding the complex.

### **Public Comment**

Nancy Adkins addressed the Commission in regards to Callender Street and H Street. She is curious as to why they are already tearing up the

sidewalks on H Street, as they were just placed there last year. Tinsley stated that there is an area on Callender and H Street where the storm water does not drain correctly and that the sidewalk has been torn out but it will be replaced.

Linda Mahr, with the Community Garden group addressed the Commission at this time asking whether everything had been resolved with the neighbors in the Community Garden area as the Community Closet has donated \$1,000 to the project and they would like install the water lines and start preparing the ground for next year. Meece stated that a letter has been sent to all of the residents in the area and the City staff has determined that the group may not begin until the bridge is complete. Meece also stated that the fence will be staying and when everything else is solved they may begin to put up sheds and prepare the soil.

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

The time was 8:48 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission Chair

LIVINGSTON  
CITY COMMISSION MEETING  
August 4, 2008

The Livingston City Commission met in regular session on Monday, August 4, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Juliann Jones and Mary Beebe. Vicki Blakeman was absent.

Staff members present were Bruce Becker, Shirley Ewan, Darren Raney, Clint Tinsley & Jim Woodhull.

Motion was made Beebe, seconded by Jones to approve the consent items, including the Addendum item, approval of Bark in the Park special event.

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Variance Requests:**

No variance requests were heard.

**Public Hearings:**

**Ordinance No. 2002 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "ZONE CODE" BY ENACTING THE CITY OF LIVINGSTON WIND POWERED GENERATORS ORDINANCE.**

Caldwell opened the Ordinance to Public comment.

No Public comment was made.

Beebe made a motion to approve Ordinance No. 2002, VanAken seconded.

Discussion:

VanAken is glad to see the ordinance back as he would like to revisit page 32, section 2. It should be A & B. VanAken also noticed that

paragraph A still says fee it should read "non refundable permit application". Becker stated that he missed those two and he will make sure they are fixed prior to signing.

Being no further discussion voting commenced.

All in favor, Ordinance 2002 passed.

**Ordinance No. 2004 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1479 AS CODIFIED IN ARTICLE VII OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING COMMISSION AND BOARD OF ADJUSTMENTS BY EMPOWERING THE BOARD OF ADJUSTMENTS TO MAKE SPECIAL EXEPTIONS TO THE TERMS OF THE ZONING CODE OF THE CITY OF LIVINGSTON AND DELETING REQUIREMENT THAT ANNEXED LAND RETAIN COUNTY ZONING DESIGNATION.**

Caldwell opened the Ordinance to Public comment.

No public comments were heard.

VanAken made a motion to approve Ordinance No. 2004, Beebe seconded.

Discussion:

Beebe requested review of the reasons for this ordinance. Beebe asked if it was an efficiency issue or if it was to make Livingston consistent with other local governments in Montana?

Caldwell stated that the City Commission would be delegating the authority to make case decisions for the City to the Board of Adjustments.

Jones stated that she felt the reason for this ordinance was because of legal issues, as the Commission doesn't participate in the review process so they don't have the information needed to make a determination as to whether or not the Board of Adjustments has made the correct decision.

Caldwell stated that this ordinance leaves the authority to those that have heard the review process and have the facts of the case.

VanAken stated that the appeal process from the Board of Adjustments decision would then go to the District Court not the City Commission.

Caldwell stated that wind power issues would also go to the Board of Adjustments as well as variance issues.

VanAken has some issues with the wording on Page 42, Section E, 2<sup>nd</sup> paragraph but will take those up with the City Manager when he returns.

Being no further discussion voting commenced.

All in favor, Ordinance No. 2004 passed.

**Ordinance No. 2005 - 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 LOT 3 OF SUBDIVISION PLAT NO. 253 LESS AND EXCEPTING TRACT A OF SUBDIVISION PLAT NO. 438 LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AS MEDIUM DENSITY RESIDENTIAL (RII).**

The public hearing on Ordinance 2005 was postponed until the August 18<sup>th</sup>, 2008 meeting, as it needs to be noticed longer.

**Resolution No. 3970 - 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 2008-2009 AND OF ITS INTENT TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.**

In reference to abatement requests in the packet, Becker stated that abatements should be heard prior to any action on Resolutions No. 3970, 3971 and 3972.

Caldwell opened the Resolution No. 3970 to Public comment.

Stephen Woodruff addressed the Commission in regards to changing the street and light assessment system. Woodruff explained to the Commission that due to the covenants on the Fleshman Creek area that only 1 home could be built on 1-2 acre lots. Woodruff is requesting that the Commission consider the abatement on the 3 resolutions concerning streets and lights. Woodruff is speaking for all but 2 of the property owners in this subdivision. The group feels that this is a reasonable request due to the size of their lots.

#### Abatement Discussion:

VanAken inquired to whether precedence was already set on abatements due to Tostovernik and Miller's abatements? Woodhull stated that Tostovernik was abated 3/4ths of a block after he protested and this doesn't necessarily set precedent, as each case needs to be assessed individually.

VanAken asked if Tostovernik's request involved streetlights also? Woodhull stated that it did not. VanAken asked if everyone pays on the streetlights? Becker stated no. There have been some exceptions, for instance, a case mentioned in the abatement requests is property on a cliff that is not buildable, so it has been exempted.

Beebe asked if Mr. Tostovernik's property was a farm prior to being annexed into the City, as it is such a large tract? Woodhull stated that it was.

VanAken asked if Tostovernik's property had been based on street frontage and the nominal 140-foot depth would he have to pay more? Woodhull stated that he would. The Tower Terrace case is different than the Tostovernik's case. What was the way it was abated? The way it was abated gave the Tower Terrace a substantive reduction. It cut their bill in half.

Caldwell stated that if the Commission agrees to the Fleshman Creek abatement based on a nominal lot depth of 140 feet, it would cause a \$6,600 reduction in their streetlight assessments. The alternative would be to cut their assessment by 50% and the aggregate amount would be approximately the same.

Beebe asked if there was another way to assess the Fleshman Creek properties using the street frontage method? Woodhull stated that there was not another way as some of the properties have 80% of their property on the street and others have very little. The only other method would be to use a base rate, as this is a unique situation.

Caldwell asked what the standard distance was between streetlights for new subdivisions? Tinsley stated that there are no lights in the Fleshman District at this time but the standard now is every 150 feet. The old method of street light spacing was 1 per block at the intersections.

Caldwell asked if the streetlight frontage would be more of a factor in calculations rather than acreage, given the correlations of streetlight and street maintenance costs to street distance? Woodhull stated that the rest of the City is, at this time, done on a base lot with 140-foot depth or square footage.

Caldwell stated that the aggregate method would be a more consistent rate than going parcel to parcel on the Fleshman Creek properties. VanAken agreed with Caldwell stating that if we used the 140 ft depth method some of the owners would be getting a 91% cut and some would only be getting a 1% cut in their assessments. If the aggregate method was used everyone would be getting a 50% cut and everyone would be receiving an equal percentage abatement.

VanAken inquired as to whether this abatement would run the risk of creating a precedent that would later turn around to bite the City? Becker stated that he was not concerned about a precedent, since if someone feels a law is unfair the person has the constitutional right to protest the law or in this case the assessment.

At this time VanAken made a motion requesting staff to come back with a resolution using the 50% amount that is included on the chart on page 70 of the packet to abate the assessments on lots B through H and J through M, omitting lot I whose owner did not request the protest. Jones seconded.

Discussion:

Beebe asked if Lot "I" would be included if they protested? Becker stated that they could protest next year.

Being no further discussion voting commenced.

All in favor, motion to bring back a resolution of abatement for next meeting was approved.

At this time the public hearings continued. There being no public comment, Beebe made a motion to accept Resolution No. 3970, VanAken seconded.

No Commission discussion was heard.

All in favor, Resolution No. 3970 passed.

At this time Beebe made a motion requesting staff to come back with a resolution using the 50% amount that is included on the chart on page



70 of the packet to abate the protests on lots B through H and J through M, omitting lot I as they did not request the protest. Beebe's motion included the abatement for Resolution No. 3970 as well as Resolution 3971, seconded by VanAken.

Discussion:

VanAken asked if the reduction on page 70 of the packet would include 50% abatement to both districts in Resolution No. 3970 and 50% abatement in Resolution No. 3971? Woodhull stated that it would.

Being no further discussion voting commenced.

All I favor, a resolution will be brought before the Commission on August 18, 2008 for abatements to include Resolution No. 3970 and Resolution No. 3971 in the amount of 50%.

**Resolution No. 3971 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTIMATING THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$57,000.00 FOR FISCAL YEAR 2008-2009 AND OF ITS INTENT TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COSTS WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.**

Caldwell opened Resolution No. 3971 to Public comments.

No comments were heard.

VanAken made a motion to accept Resolution No. 3971, Beebe seconded.

No Commission discussion was heard.

All in favor, Resolution No. 3971 passed.

**Resolution No. 3972 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS OF \$77,214.00 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.**

Caldwell opened Resolution No. 3972 to Public comment.

No public comment was heard.

VanAken made a motion to approve Resolution No. 3972, Beebe seconded.

Discussion:

VanAken wondered about abatements on this resolution. Woodhull stated that it was not necessary as the abatement covered the entire light assessment amount.

Being no further discussion voting commenced.

All in favor, Resolution No. 3972 passed.

**Ordinances:**

**Ordinance No. 2006 - 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 CERTAIN LAND DESCRIBED AS BEING PORTIONS OF SECTION 21 AND 22 OF TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AS HIGHWAY COMMERCIAL (HC).**

Becker explained to the Commission that this Ordinance would annex and zone the property at one Public Hearing. Becker has enclosed a memo in the Commission's packet to further explain the procedure.

Caldwell asked Becker if he was confident in this Ordinance and process? Becker stated that this is the first time he has done the hearings this way but he is confident in the process. Becker stated that through the research that he has done he has found that the County granted a special exception to this property in 1979 to make it highway commercial. The special exception was granted so the Jessons could place a trailer park on the property. Becker stated that the commercial designation is already there and that he is confident in considering both the zoning and annexation at the same time.

Beebe asked what the advantage was to combining the two other than speed? Becker stated that it was the biggest advantage.

VanAken, referring to Becker's memo, stated that in the first paragraph it states that it "allows" the process to be combined but that it does not require it.

Caldwell stated that this means one public hearing and 2 topics. Becker said yes that's what it means.

VanAken asked if the Resolution No. 3964 and Ordinance No. 2006 public hearing would be at the same time while applying 2 different zone classifications to the property, highway commercial and light industrial? VanAken would also like to know which classification is more restrictive? Becker stated that they would be both heard at the same meeting and Woodhull stated that light industrial is probably more restrictive.

VanAken asked what would be acceptable under the light industrial, i.e. Wal-Mart? Woodhull stated that box stores would be acceptable under both classifications.

Beebe stated that this scenario is completely different from the previous process when the property was annexed and then zoned. The property owners brought their plans to the City or the City helped them develop a plan and the Commission could change the zoning and not be locked into anything until they knew what the plan was. Woodhull stated that that all would still happen in the review process. Beebe wonders if this way of doing this is more efficient or violation of due process. Beebe has been reassuring her constituents that there were two processes to go through and that they could speak up at either or both processes. Beebe would like to follow through with what she has told folks.

Beebe stated that this ordinance would only benefit the property owners and not the City. Becker agreed, stating that if Beebe read the offered opinion, it states, just that. He noted that legislatures often have to make statutes to provide relief to individuals who have to deal with the rules and regulations of these local governments.

Becker stated the Commission could pass the Ordinance or not but there would still be a public hearing if they chose this way. Residents could give their opinions on both processes at once. The only difference if they are done separately is that there would be notice on the annexation and a separate notice on zoning.

Beebe stated that the public perception would be seeing it differently, as they have been told right along that there were two chances for them to state their concerns and with this ordinance they only have the one chance.

Caldwell stated that this might be a way to reduce duplicate expression of concerns by the public, as they would be able to bundle all of their concerns in one public hearing. Caldwell stated that the Jesson's

property has been before the Commission on and off for 8 months and Caldwell has no problem with combining the 2 hearings together.

Jones is more inclined to have it split back in to two separate issues.

Caldwell stated that if there is no motion there is no action.

At this time Vuko Voyich, the Jesson's attorney addressed the Commission. Mr. Voyich stated that earlier on the records did not state that this was commercial property but it was discovered later that the County had indeed granted an exception on the property and it is zoned commercial in the County at this time. That said, it doesn't matter to the Jessons if the property is commercial City or County, as they have a well established septic and water system there now. If the City does not agree to the annexation and zoning, the Jessons are willing to leave it commercial with the County and proceed with their plans.

Beebe stated that she just wanted to let the Jessons know of her concerns in combining the two processes.

Caldwell stated that he is not as concerned with the choice of process as he is the substance of the issues.

Mr. Voyich stated that Missoula has the same combined process and the public is still able to voice their opinions.

Caldwell feels that the property owners should have some rights also as well as some certainty as to what is going to happen with their property.

Jones asked Woodhull what would be the difference in leaving the property in the County or annexing it into the City? Woodhull stated that he's not sure about the County other than that every 1/2 acre has to have a central septic system. If they were to be annexed into the City they would hook up to the City system.

Becker stated that the County records are not real clear, but in 1977, 31 years ago, a public meeting was held to hear protests regarding a special exception being provided to John Jesson to make his property highway commercial. The County minutes reflect that the special exception to Mr. Jesson was awarded on November 21, 1977. Two acres of the property are currently being taxed as commercial. Woodhull stated that pre-existing rulings will remain the same.

VanAken stated that due to the fact that the 1977 exception had been granted by a City/County Planning Board/Board of Adjustments a case could be made that the City had previously made the commercial

designation on this property. VanAken stated that he also appreciates Mr. Voyich's comments and he is presently inclined to support the ordinance.

At this time VanAken made a motion to accept Ordinance No. 2005, Jones seconded.

Discussion:

Beebe restated that she is concerned about the perception that the community will have in regards to passing this ordinance. It is the community that is affected by these decisions, not the city government itself.

Being no further discussion, voting commenced.

All in favor, Ordinance No. 2005 passed.

### **Resolutions**

**Resolution No. 3964 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX BY PETITION OF MARGIE JESSON CERTAIN LAND WHICH IS CONTIGUOUS TO THE CITY OF LIVINGSTON AND DESCRIBED AS BEING PORTIONS OF SECTIONS 21 AND 22 OF T2S,R9E, PARK COUNTY, MONTANA.**

VanAken made a motion to accept Resolution No. 3964, Beebe seconded.

Discussion:

No discussion was heard

All in favor, Resolution No 3964 passed.

Beebe asked if this would be combined with Ordinance No. 2005? Becker stated that yes it would along with the guidelines of annexation.

**Resolution No. 3965 - A RESOLUTION OF THE CITY COMMISSION 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.**

Motion was made by VanAken to approve Resolution No. 3965, seconded by Beebe.

No discussion was heard

All in favor, Resolution No. 3965 passed.

**Resolution No. 3966 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO CHANGE THE NAME OF VIEW VISTA DRIVE TO LINNEA LARSON DRIVE AND CALLING FOR A PUBLIC HEARING.**

Motion was made by Beebe to approve Resolution no. 3966, seconded by Jones.

Discussion:

VanAken stated that he has been getting some feedback from the residents living on View Vista Drive and he is not personally ready to change the name. VanAken is not sure this is the correct thing to do and Ms Larson would probably agree with him were she here. VanAken asked if anything had been heard from the School District?

Caldwell stated that he has not heard any opposition from the School District but they have not encouraged the change either. Caldwell proposed the change to honor her work with the School District but he now feels that an initiative to honor Ms Larson should probably come from the School District or from the community.

Gary Barnhart addressed the Commission at this time. He is at the meeting to speak for him and his mother stating that he has nothing against naming something after Ms Larson but the Commission has not considered the ramifications of changing a street name after people have lived on it for years. All their personal checks, ID's, driver licenses, credit cards, etc. would have to be changed. Mr. Barnhart feels that if the Commission wishes to name a street after Ms Larson that they should consider doing it with a new street not one that has been established.

Mike Fleming addressed the Commission stating that he, in prior years, has worked for the civil defense and rural addressing and View Vista Drive was named many years ago and was done through the assistance of the folks that lived on that drive. He would not like to see it changed now. Mr. Fleming feels that the School District should name something after Ms Larson or set up a scholarship fund in her honor.

Being no further discussion, Beebe made a motion to withdraw her motion to approve Resolution No. 3966, Jones withdrew her second.

**Resolution No. 3967 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF UNDEVELOPED "O" STREET LOCATED SOUTHERLY OF LEWIS STREET RIGHT OF WAY AND BETWEEN BLOCK "R" AND BLOCK 4 OF THE RIVERSIDE ADDITION TO THE CITY OF LIVINGSTON, MONTANA, AND CALLING FOR A PUBLIC HEARING.**

Jones made a motion to approve Resolution No. 3967, VanAken seconded.

No Commission discussion was heard.

All in favor, Resolution No. 3967 passed.

**Resolution No. 3969 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ETS DEVELOPMENT GROUP, LLC, BUSINESS HOURS SUPPORT FOR SLEUTH SOFTWARE IN THE AMOUNT OF \$2,903.65.**

Motion was made by Beebe to approve Resolution, seconded by Jones.

Discussion:

Caldwell asked Raney if this was part of the budgeted portion that Raney explained at the budget workshop? Raney stated that this was needed regardless of whether the software was updated or not.

Beebe asked why the 24-7 support was not needed? Raney stated that the police and dispatch could work around the 24-hour/day contract. The Departments will operate until the company repairs the problem.

VanAken asked what the term of the contract was? Raney stated that it's September 2008 until September 2009.

Being no further discussion voting commenced.

All in favor, Resolution No. 3969 passed.

**Resolution No. 3973 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH ANDELA PRODUCTS FOR**

**THE PURCHASE OF A GLASS PULVERIZER IN THE AMOUNT OF \$77,476.00.**

Jones made a motion to approve Resolution No. 3973, Beebe seconded.

**Discussion:**

Caldwell asked if the amount of money from the DNRC grant was adequate to cover all of the costs? Tinsley stated that they would make it work.

Being no further discussion, voting commenced.

All in favor, Resolution No. 3973 passed.

**Action Item A:**

Discuss/approve/deny request from Grand Luxe Rail Journeys for permission to block Mount Baldy Drive crossing on August 7, 2008, August 21, 2008, September 4, 2008 and September 18, 2008.

Caldwell inquired as to if they had blocked the crossing last week? Raney stated that yes they had, it was the first time.

Raney has checked with the Rural Fire Department and the City's emergency services and neither have any problem with the closing of the crossing. If there is a problem they will cut the train between cars.

VanAken asked if they could cut the train cars at the crossing and separate the group? Raney stated that yes they can but if the cars are separated they lose the power to the separated cars.

VanAken inquired as to whether the crossing was in the City or County? Raney stated that the crossing is in the City, but most of the affected property is in the County.

Mike Fleming, from the audience stated that it would only be 4 or 5 nights.

VanAken mentioned that Montana Rail Link would not be able to service RY Lumber Mill during those days.

At this time Beebe made a motion to allow Grande Luxe Rail Journeys permission to block Mount Baldy Drive crossing on August 7, 21, 2008 and September 4, 18, 2008, VanAken seconded.



All in favor motion passed.

**Action Item B:**

Discuss/approve/deny request to reduce or dismiss the charge for the past or present closures of Callender Street for the Farmers Market.

Caldwell recused himself from the discussion and voting as he is on the Board of the Corporation for the Northern Rockies, the organization that sponsors the Farmers Market. The Vice Chair was absent. Jones made a motion to appoint Beebe as Pro Temp chair, VanAken seconded.

All in favor, Beebe will fill as Chair during Farmers Market discussion and vote.

VanAken is troubled by the Farmers Market having to do the barricades by themselves and he appreciates Ms Wulf's memo regarding the previous Friday morning street closures and stating that the proper barricades will now be used.

VanAken made a motion to dismiss the closure charges for the Farmers Market for all Friday mornings in the past and future of this season, Jones seconded.

Discussion:

Tinsley stated that it is quite expensive for the City to set up those barricades correctly and he apologizes that they were not set up correctly in the past. He has no problem dismissing the charges for the past set ups but the future ones he feels that the City should charge for. During the summer the workload of the men that set up these barricades is quite high and if they are doing the barricades they are letting something else go.

Jones asked if forgoing these fees would set precedent and is there any other group that gets the setup for free? Tinsley stated that a few groups have not paid for the closure but that most have paid for the closing of the street. He doesn't have a problem with not charging on an off-season but now is the busiest time of the year for all of his men. Tinsley stated that the City does not charge for the July 2<sup>nd</sup> parade.

Beebe asked Tinsley what the issues were for letting the groups set up the barricades? Tinsley stated that there is a liability issue as it is the City's responsibility to close streets.

At this time VanAken amended his motion to dismiss the past charges to the Farmers Market and bill them for the future closures, Jones amended her second.

Three in favor, Caldwell abstained.

Gavel was returned to Caldwell for the balance of the meeting.

**Action Item C:**

Discuss/approve/deny Nancy Kessler's re-appointment for the City position on the City/County Library Board.

Jones made a motion to reappoint Nancy Kessler to the Library Board as the City's representative, VanAken seconded.

All in favor, motion passed.

**City Manager's Comments**

No City Manager comments were on the agenda.

**City Commission Comments**

VanAken, as a point of reference, stated that he was astounded at the amount of claims this time, over ½ a million dollars worth.

VanAken mentioned that the Sister City visitors were here today and that the welcoming of the guests will be August 5, 2008 at 7:00 p.m. at the Masonic Temple and VanAken will be giving the welcoming address. The Sister City Board picnic will be at 6:00 p.m. on August 7, 2008. The sayonara party for the Japanese will be on August 14, 2008 at 3:00 p.m. at Park High School cafeteria. The Japanese students will be leaving at 6:05 a.m. August 15, 2008.

VanAken stated that the Rotary Club would be having a fund raising car wash for the Water Park on August 5, 2008 from 11:00 a.m. to 7:00 p.m. and August 7, 2008 from 11:00 a.m. to 7:00 p.m.

VanAken thanked Ewan for getting the packet out early as he was going to be gone for the weekend.

Beebe asked if the swimming pool repairs would be done before the summer was over? Tinsley said no, there are only 3 weeks left for it to be open and there aren't any lifeguards hired.

Beebe would like to know what is going on at Mayor's Landing, then clarified by inquiring if the people on Q Street have building permits as they are cutting down many of the trees in the riparian area and scraping off what look to be building plots. Her understanding was that no new building permits would be issued until the rehabilitation of the damaged riverbank—which was excavated and filled without a 310 permit was completed. Jim Woodhull replied that there are no new permits issued but he knows the landowners intend to build a garage on one of the lots.

Beebe also inquired as to whether the trail easement through the Q Street development is marked so that there could be no building over it?

Tinsley asked if Beebe was referring to the area of Q Street where the trees are being removed? Tinsley state that the Fleshman Creek corridor easement was near the Q Street well where there will be a 10-foot easement for the trail bridge on M Street. Tinsley will make sure the City watches their progress so they don't build on the easement.

Beebe would also like to let the Commission know that she attended the Yellowstone River Conservation District Council conference. Among the presentations, one of the most useful new tools for planning around the Yellowstone River is a "meander-map" that anticipates where the river will move over time. Council coordinator Nicole McClain is preparing a report of the conference presentations.

Caldwell has been in touch with a member of the Community Swimming Pool Group and she had asked if the repairs to the swimming pool could include a longer more durable solution by putting a liner in the pool. They have found a pool in Montana that has a solar heating system that is much more efficient. Jones asked if it would extend the season? Caldwell stated that he was not sure about extending the season but it could cut the costs of running the pool. Tinsley stated that he would look into the liner and solar heating system.

Caldwell stated that he has read the report from Vision Livingston on page 142 of the packet and wonders if they are on a time line that would lead to creation of a BID ahead of the downtown infrastructure replacement project?

Tinsley stated that his department will be hiring an engineer to design the water main on B Street and after the project is done they will be hot

patching the street, temporarily, and then reconstructing the street in 2010. After 4-5 studies they should be able to deliver the plan for downtown by November. Tinsley stated that they would not be ready by November as it will be 1 year before the final design is determined. Tinsley stated that the bid for the water main would be going out in January 2009 to begin work in July 2009. Tinsley would like to say in Karyl Frazier's defense that she has been struggling with sidewalks, streetlights and getting the downtown group to help and decide what they want downtown to look like. Caldwell asked at what point will Vision Livingston make a decision? Bob Ebinger, from the audience, stated that they are having a meeting at Luccock Park on August 12, 2008 to go over these items.

Tinsley stated that the street projects as well as water & sewer mains need to be replaced on B through Third Streets as well as the T alleys between Park and Callender as they have not been replaced since 1914 and are in critical shape.

#### **Public Comment**

Bob Ebinger made a comment to the Commission that he is glad the Commission agreed to the Cultural Trust Grant for the Yellowstone Ballet as while he was in Helena he was amazed at all of the applications for such grants and he was glad that Livingston received one of them. These folks need someone in Helena during the next Legislative session to support their group.

VanAken mentioned that the Vision Livingston Board Retreat would be on August 12, 2008. Ebinger mentioned that the City Commission should try to attend.

VanAken also mentioned that the Vision Livingston Business meeting would be on August 21, 2008 from 8-9:30 a.m. and the Commission should try to attend that also.

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

The time was 9:41 p.m.

ATTEST:

APPROVED:

LIVINGSTON  
CITY COMMISSION MEETING  
August 18, 2008

The Livingston City Commission met in regular session on Monday, August 18, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Juliann Jones, Mary Beebe and Vicki Blakeman.

Staff members present were Ed Meece, Bruce Becker, Shirley Ewan, Darren Raney, Clint Tinsley, Jim Mastin, Brad Haefs, Jim Woodhull, Peggy Glass and John Leonard.

Special recognition and thanks were given to John Leonard, police officer, for his heroic resuscitation of an individual who had quit breathing on July 16, 2008 in Albertson's parking lot. Chief Raney, City Manager Meece and the Commission thanked Officer Leonard for his efforts in responding to this crisis.

Motion was made by Blakeman, seconded by Beebe to approve the consent items.

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Variance Requests:**

Haefs introduced the variance request from Tom and Lisa Kitts. They would like to place a shed on their property at 318 South 7<sup>th</sup> Street. The Kitts are requesting a variance on the side setback for R-II zoning districts. The shed would have a 2-foot side setback; R-II zoning requires a 5-foot setback. Haefs stated that there was not a quorum at the Board of Adjustments hearing. City staff recommends approval of the variance.

Blakeman made a motion to approve the findings of fact, Beebe seconded.

Discussion:

Beebe asked Haefs what the concerns were from those who opposed the variance? Haefs stated that the largest concern was that more out buildings overcrowd the neighborhood.

VanAken asked Haefs if the sketch on page 56 was the back yard in which the shed would be placed. Haefs replied that it was.

VanAken asked where the building of the shed was at this time? Haefs stated that the City had required the Kitts to stop construction until a variance was granted.

Being no further discussion voting commenced.

All in favor, findings of fact on the Kitts variance was passed.

Blakeman made a motion to approve the Kitts variance, Beebe seconded the motion.

All in favor, Kitts variance passed.

**Public Hearings:**

**Ordinance No. 2005 - 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 LOT 3 OF SUBDIVISION PLAT NO. 253 LESS AND EXCEPTING TRACT A OF SUBDIVISION PLAT NO. 438 LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AS MEDIUM DENSITY RESIDENTIAL (RII).**

Caldwell opened the public hearing for public comment.

No public comments were heard.

Blakeman made a motion to approve Ordinance No. 2005, VanAken seconded.

Discussion:

Caldwell asked if this was consistent with the City growth policy and the zoning of contiguous parcels? Woodhull stated that it was.

Being no further discussion voting commenced.

All in favor, Ordinance No. 2005 passed.

Resolution No. 3977 was out of order but a public hearing was also heard.

**Resolution no. 3977 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING A PORTION OF UNDEVELOPED "O" STREET LOCATED SOUTHERLY OF THE LEWIS STREET RIGHT OF WAY AND BETWEEN BLOCK "R" AND BLOCK 4 OF THE RIVERSIDE ADDITION TO THE CITY OF LIVINGSTON, MONTANA.**

Caldwell opened the Resolution to public comment.

No public comment was heard.

Blakeman made a motion to approve Resolution No. 3977, Beebe seconded.

Discussion:

Beebe stated that she has had a message from the "Trails and Greenway" folks and wondered if anyone else had heard from them in regards to the resolution? No one else had.

Blakeman asked if the "R" Street alley would be vacated as well as the street as she was not at last meeting? Blakeman asked if the "P" Street access would still be available? Woodhull answered yes to both of her questions. Blakeman asked if this would still give the easement of a block and a half for the trail easement? Woodhull stated that it would.

Being no further discussion voting commenced.

All in favor, Resolution No. 3977 passed.

**Ordinances:**

No new ordinances were introduced.

**Resolutions**

**Resolution No. 3968 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN COLLECTIVE BARGAINING AGREEMENT WITH AFSCME LOCAL 2711A FOR PERIOD JULY 1, 2008 THROUGH JUNE 30, 2011.**

Meece introduced the Resolution by stating that City's Union Contracts were re-negotiated every three years. Meece and the AFSCME Union representatives met in several sessions, and the contract in the packet was agreed upon by both parties.

Blakeman made a motion to approve Resolution No. 3968, Beebe seconded.

Discussion:

Blakeman asked about the three positions that were getting up to a 24% increase, as she did not see them on wage sheet on page 94 of the packet. Meece stated that the reason they did not show up is the new employee wage rates were abolished and everyone would now be paid on the same scale as the grandfathered employees. Meece stated that prior to this negotiation, there were two pay scales - one for new employees and one for grandfathered employees.

Being no further discussion voting commenced.

All in favor, Resolution No. 3968 passed.

**Resolution No. 3974 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, MODIFYING ASSESSMENTS IN STREET MAINTENANCE DISTRICT NO. 1 FOR CERTAIN LOTS IN RESPONSE TO OBJECTIONS BY GRANTING A 50% REDUCTION IN THE SQUARE FOOTAGE USED TO DETERMINE THE ASSESSMENT FOR SAID LOTS.**

Blakeman made a motion to approve Resolution No. 3974, VanAken seconded.

Discussion:

Blakeman apologized for not being at the last meeting and is a little confused by this resolution. She would like some more time to look at it. Blakeman would like to revisit the resolution in a year's time, thus setting a "Sunset Clause" on this action. Blakeman would like to know if any other Commissioners feel the same way as she does? Blakeman stated that she isn't certain of the ramifications that will be caused by these abatements.

Beebe stated that if a "Sunset Clause" were placed on these abatements the City would have to remember to bring back the protests next year.



Meece stated that he continues to have concerns about a 50% cut, and feels that approving these resolutions will weaken the Administration's ability to assess these districts in a consistent basis with other developments. He wonders if the Commission has thought about other large lots that may be developed in the Watson and Yellowstone Preserve subdivisions. Meece stated that if a cap is put on the front end rather than the back end through abatements the City will not lose the revenue from the districts.

Caldwell stated that with the current method the City is assessing through a patchwork of abatements. He would like to see a one-year clause placed on these also while, in the meantime, developing a policy-level solution that would address large lot developments.

Blakeman made a motion to amend Resolution No. 3974 by setting a 1-year "Sunset Clause" on the abatements, Beebe seconded.

All in favor, amendment to Resolution No. 3974 passed.

#### Further Discussion on Resolution:

VanAken asked if these abatements would have to come before the Commission every year now? Becker stated they would.

VanAken stated that he would support the abatement for one year but that the City needs to set a policy and set a different method other than street frontage method to assess these districts.

LeRoy Matthews addressed the Commission at this time stating that his developed subdivision receives no more benefit from light and street districts than any other resident, and they still have to pay four times more than most lot owners in town. That is 4 times more even after the 50% abatement. Mr. Matthews would like the City to look at another method of assessing these districts also. Mr. Matthews would like to see every property owner pay the same amount as other property owners no matter how big their lots are.

Beebe stated that developers were not aware of all of the costs the City expends to annex these subdivisions into the City and the City expects nothing in return other than the owners to pay their share of taxes and assessments. Beebe feels that developers need to realize that the other residents have been paying all along for the services that the larger lots now expect to receive at a 50% cut on.

Beebe stated that the reason that the Mr. Tostovernik receives an abatement was due to the fact that the City built around the farm and

the Miller's property was undevelopable. Beebe would also like to see a policy set, and feels that larger lots should be charged more.

Mr. Matthews stated that Bozeman puts 6 different caps on their districts, all the way from \$7,500 to \$15,000 and that the City of Livingston should be able to set a similar policy.

Caldwell stated that caps could possibly be used in a future policy.

Meece stated that taxes work the same way as assessments; if you have a larger lot you pay more. Meece also stated that the analogy with Bozeman was unfair as the Matthews property did not pay any impact fees, and Meece is sure Bozeman charged for these.

Being no further discussion, voting commenced.

All in favor, Resolution No. 3974 passed as amended.

**Resolution No. 3975 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, MODIFYING ASSESSMENTS IN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 FOR CERTAIN LOTS IN RESPONSE TO OBJECTIONS BY GRANTING A 50% REDUCTION IN SQUARE FOOTAGE USED TO DETERMINE THE ASSESSMENT FOR SAID LOTS.**

Blakeman made a motion to amend Resolution No. 3975 to set a 1-year "Sunset Clause" on the abatements, VanAken seconded.

All in favor amendment passed.

Blakeman made a motion to approve Resolution No. 3975 as amended, Beebe seconded.

No discussion was heard.

All in favor, Resolution No. 3975 passed as amended.

**Resolution no. 3976 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CONSENTING TO THE NOMINATION OF AND AUTHORIZING CITY MANAGER TO MAKE CONDITIONAL OFFER OF EMPLOYMENT TO ALAN DAVIS FOR THE POSITION OF FIRE CHIEF OF THE LIVINGSTON FIRE DEPARMTENT.**

Meece stated that Mastin will be retiring in September and he and the nominating committee have done an exhaustive job search for a new fire chief. Twenty-seven applications were received. Prior to the interview process Meece met with the Captains and Reserves to see what they

wanted to see in a new fire chief. The nominating committee, which consisted of Ed Meece, Jim Mastin, Bruce Becker and Robyn Keyes, narrowed the list down to nine candidates and then further reduced that number to three candidates. Three candidates were flown to Livingston for interviews, at which time they met with the leadership team. Meece is confident and excited to recommend Mr. Davis as Livingston's next Fire Chief.

Blakeman made a motion to approve Resolution No. 3976, Beebe seconded.

Discussion:

Blakeman stated that she is hesitant to vote on this resolution. Blakeman is not comfortable in moving forward with this decision, as it is the only position in City staff, other than the City Manager, where the Commission has the ability to decide on the candidate and this didn't happen.

Jones stated that she was surprised that no resumes were offered to the Commission for their opinions.

Caldwell has concerns that the Commission follows up on interviews of applicants to different city advisory boards, but didn't have that opportunity with the nomination of a new fire chief.

Blakeman asked if it was possible to have a phone interview with the candidate, being they were not introduced to him while he was in Livingston? Blakeman stated that this shouldn't be an added expense for the City.

Meece stated that he thought a phone interview was possible but he is surprised at the Commission's concerns, as he didn't try to disguise the process. In the last two and one-half years, the Commission has not wanted input into personnel issues, and he had no feedback from the Commission prior to tonight. Meece will set up a phone interview, and knows the Commission will be impressed with Mr. Davis. Meece would like to know when they would like the interview, so the City doesn't lose him as a candidate.

Blakeman said she would like it soon also, and she would like to interview, prior to signing off on hiring Mr. Davis. In the future she would like to be more knowledgeable about who is being hired when it's the Commission's decision.

Meece stated that he had provided notice to the City Commission in regards to the interviews. This being said, he's surprised in the Commission's lack of confidence in his ability to hire.

Caldwell stated that the Commission is not questioning his ability, but this is a unique position and the Commission wants to make sure the right individual is being hired. Caldwell would also like more information on the candidate.

Meece stated that this is the Commission's prerogative but he would like a set of pre-written questions, from the Commission, to make sure the questions are all legal.

Blakeman rescinded her motion to approve Resolution No. 3976 and made a motion to postpone approval of the resolution until the Commission had the opportunity to interview Mr. Davis, by phone, on August 25, 2008 at 6:00 p.m., Beebe seconded.

Discussion:

Becker asked if they wanted a work session or a special meeting. Both require 2 notices of 6 days apart.

Beebe stated that she would like to interview and then have an opportunity to digest Mr. Davis' answers. Beebe realizes that the City would like to expedite the process though.

Becker stated that he would notice the meeting tomorrow and notice it as a special meeting.

Caldwell asked if that was OK with the Commissioners. Everyone was in agreement.

Meece stated that he would need the questions to be asked by the close of business on Wednesday, August 20, 2008.

Being no further discussion voting commenced.

All in favor of a phone interview with Mr. Davis on August 25, 2008.

**Action Item A:**

Discuss/approve/deny Preserve America Grant opportunity.

Meece introduced the action item by explaining that the Historic Preservation Board would like to apply for a \$25,000 "Preserve America" grant, with a \$25,000 match, to do a professional survey of historic structures in Livingston. Meece stated that the Commission is aware of the budget issues, and that there is no additional budget authority to use for the match.

Caldwell asked how much the project would cost? Woodhull stated that without the completion of the survey that was started in the late 70's there is a large number of historic structures that haven't been recorded. Woodhull stated that it would probably take the entire \$50,000. Caldwell asked if the City could accept ½ of the grant instead of the entire amount. Woodhull stated that certainly could be a possibility, or the City could match with in-kind service.

Linnea Pritchard from the Historic Preservation board addressed the Commission stating that the Historic Preservation Board would like to write a draft grant application to clarify what the Board is requesting. The Board would like to go with a theme survey vs. a geographic area survey. Ms Pritchard stated that the grant application needed to be submitted by September 12, 2008 in order to meet the deadline, and that all the Board is requesting permission to apply for the grant.

Becker stated that he could have a resolution by the next meeting. Caldwell stated that the weight of a resolution along with the application might have a more weight in receiving the grant.

Blakeman made a motion to have the City Attorney draft a resolution authorizing the Historic Preservation Board permission to apply for a Preserve American Grant.

Discussion:

VanAken asked what the time frame was for using the grant money? Woodhull stated that it was for 12-18 months.

Blakeman stated that before accepting the grant, should they be chosen, the Board would have to come up with the matching funds first.

Sissy Hampton from the Historic Preservation Board stated that they would first try to find in-kind help to meet the match. Vision Livingston has agreed to help as well as the Depot. By using a theme, rather than a geographic area, the Board will be able to pull a lot more into the group for support.

Meece stated that the Board needed to understand that the cash flow is not available from the City.

Ms Pritchard stated that the National Trust would be providing technical professional assistance in the survey. What the Board would like to do is get a bid if the grant is approved and then start. SHIPO is eager for them to doing the survey and will facilitate the Board in the beginning.

Meece asked Ms Pritchard if SHIPO would provide the startup money?

Ms Pritchard will talk to SHIPO to find out how to launch the project but doubts if they will offer the startup money.

Blakeman stated that she is supportive of the project but that the Board would have to address the cash flow problem.

Ms Pritchard agrees that this is the first concern but would like to see if the City would be willing to come up with the first ½ of the money.

Blakeman clarified that the money is not available from the City, and that the Board needs to look into other avenues to procure the startup money.

Caldwell stated that the Board could possibly do some of the in-kind service as the match.

Ms Pritchard stated that she feels that the City should step up also.

Meece again stated that there is no money available for anything, not the start up, middle or wrap up of the project. Meece stated that the City has already committed \$30,000 to Vision Livingston and has been required to cut \$84,000 from the budget due to a decline in property tax revenues.

Caldwell stated that he also supports the project but that the money is the problem.

Nancy Adkins, from the audience, asked what the difference between this survey and the one that was done in 1978 would be? Ms Pritchard stated that the one done in 1978 was a survey of the quality of the districts and this project would be the next step in that survey as it was never finished.

Ms Adkins asked if this would duplicate or eliminate her home from the district?

Ms Pritchard stated that it would not.

Being no further discussion voting commenced.

All in favor of staff preparing a resolution approving the submission of a grant application to the Preserve America organization and bringing it back to the Commission on September 2, 2008 for their approval.

**Action Item B:**

**Discuss/approve/deny delay of Ordinance 2004.**

Meece stated that the last Board of Adjustments needs a little more training on the conduct of meetings and public hearings from City staff.

Becker stated that in order to extend the passage of the Ordinance it would have to be brought back before the Commission and amended.

Caldwell stated that this was a good observation on staff's part, and that vacancies need to be filled, and the Board informed as to how important it is to have a quorum present. Woodhull stated that they would be making more important decisions for the City so they need to be present at the meetings. Woodhull stated that they needed to be reminded that if they miss 2 meetings they are off the Board. In regards to the vacancies, Woodhull stated that the position has been advertised 11 times and is still not filled.

Meece stated that like the Historic Preservation Board the City would have to find people that are interested in variances, and decision making on how the City will be developed.

Woodhull stated that he feels the Board needs to have an alternate Board member that could be available at all meetings in case there wasn't a quorum present.

VanAken stated that his experience is that if there is nothing to do on a board the interest dwindles fast. The City needs to let the public know that the Board will be making decisions that will make a difference in what the town will look like in the future, and that this is the time to accomplish such a goal.

Jones stated that the City needs to let applicants know that they will be making important decisions that will not be overturned by the Commission.

Caldwell asked the Commission for direction in this item.

Blakeman made a motion to bring back Ordinance #2004 for an amendment, at the September 2, 2008 meeting, to extend the time frame of the ordinance going into effect, seconded by VanAken.

All in favor, motion passed.

### **City Manager's Comments**

No City Manager comments were on the agenda.

### **City Commission Comments**

VanAken mentioned that he was unable to attend the Sister City picnic but attended the Sayonara party and that everyone seemed to be having a good time.

Beebe inquired about using the Emergency/Disaster Fund money for the repair of the swimming pool or possibly extending the life of the pool by adding a liner to the pool? Meece stated that yes the money in the Emergency/Disaster Fund could be used to repair the pool, but a liner would cost between \$85,000 and \$90,000 so there would not be enough cash for a liner. Meece stated that in order to insure that the pool is open next year the repair needs to be done this fall.

Blakeman asked if MMIA, the City's insurance company, had made a decision yet? Ewan stated that they have not.

Beebe stated that maybe the money in the Emergency/Disaster Fund could be used for a short term fix, and the balance of the money used to fund the study for the Community Center.

Caldwell asked if the \$37,000 in the Emergency/Disaster Fund had been allocated in the budget for the swimming pool repairs. Ewan stated that it had.

Beebe asked if the Commission would be having another budget meeting? Meece stated that he and Ewan had cut the costs, had the budget in balance, and he saw no reason for another meeting. The budget is now close to being back where it was prior to the mill levy being lowered. Meece has reduced the budget by cutting overtime, office supplies and shifting reserves from funds that don't need to carry as high reserve balances as the General Fund.



Meece stated that a preliminary budget would be before the Commission on September 2, 2008 and ready for final adoption by the September 15<sup>th</sup> meeting.

Blakeman asked if the Girl Scouts were amicable to the trail easement? Becker stated that he has forwarded a new easement agreement to them within the last 2 weeks and is waiting for their review. Becker stated that the easement includes M Street to View Vista Drive. Caldwell stated that that is the conceptual plan anyway. Becker stated that GIS has replatted the area and the road was taken off.

Blakeman asked if the Civic Center would be painted this budget year? Meece stated that the estimate came in at \$90,000 and that there was not enough money this year. Meece stated that there would be some changes made at the Civic Center by the group that worked on the skate park, The Cornerstone Community Fellowship Church will be flipping the bathrooms in the Civic Center. The women's restroom will now be the men's and vice versa. Three additional stalls will be added to the women's bathroom. The City will pay for the materials and the group will provide the labor. The materials cost to the City should be around \$4,000.

Blakeman asked when the Montana League of Cities and Towns meetings would be held this year. Meece stated that they would be October 8-10, 2008 in Missoula.

**Public Comment**

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 9:12 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
Shirley Ewan  
Finance Officer

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

LIVINGSTON  
CITY COMMISSION SPECIAL MEETING  
August 25, 2008

The Livingston City Commission met in a special meeting session on Monday, August 25, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Juliann Jones and Vicki Blakeman. Mary Beebe was absent.

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

**Action Item A:**

City Manager's explanation on choice of Fire Chief Alan Davis.

Meece started the discussion stating that the format has been changed a bit from the original agenda, as Mr. Davis is presently in Livingston and if the Commission has any further questions of him he will be contacted as necessary. There will be no phone interview unless Meece is unable to answer the Commission's questions.

The consensus of the Commission was that this format was agreeable.

Meece started with explaining the selection process of looking for a new fire chief to replace Jim Mastin who will be retiring in September 2008.

Meece's first step was to meet with the Fire Captains and the Fire Reserves to find out what qualities, values and experiences were important to them in a new Fire Chief. Meece stated that he had a good conversation with both groups on this matter.

The second step in the selection process was to advertise the position in trade magazines, fire department websites, and newspapers.

The City received 27 applications and the selection committee narrowed that down to 9 prospective applicants. After the 9 were chosen, phone interviews were set up with these individuals. From those 9 phone interviews the candidate list was narrowed down to three applicants. The 3 individuals were then flown to Livingston for formal interviews. On the day of the interview, for each candidate, they were taken to breakfast, given a tour of the community, a lunch with Police Chief Raney and Dispatch Coordinator, Peggy Glass. The formal interviews were held in the afternoon and were quite intensive. During the interview process, each individual was given hypothetical scenarios plus they were submitted 2 writing samples. These were used to establish the candidates writing styles and skill.

The balance of their visit to Livingston was for them to size up the community.

Upon thorough consideration, the City Manager made a tentative phone offer to Mr. Davis.

VanAken wanted to know of the 27, then 9, how many actually came for interviews? Meece stated that 3 candidates came to Livingston.

Blakeman asked Meece if Mr. Davis was the first choice? Meece stated that Mr. Davis was the Administration's recommended finalist to the City Commission.

Meece apologized for 'freezing out' the Commission on this process, as he felt that the Commission wanted to be kept out of daily business of the City operations. Blakeman stated that she felt this went beyond the City's day-to-day business.

Meece stated that the selection process had been a rigorous one.

Jones asked if the current event process that the candidates wrote on was in regards to current fires? Meece stated "yes", except that Davis wrote his on the 9<sup>th</sup> Street Bridge as the link to the paper had been changed unexpectedly. Meece stated that there was no right or wrong answer on the questions, it was meant to identify their writing skills and perception of the issue.

Meece then introduced the qualifications of Mr. Davis. Mr. Davis is from Columbus, Georgia, which covers a 225 square mile radius. He comes from a City/County combined government. There are 378 sworn personnel working for the fire department. In 2001 the fire department was combined with the EMS personnel. Mr. Davis received a promotion in 1994 to Captain of Station No. 6, which is one of the 50 busiest fire stations in the United States. From 1994 - 2005 Mr. Davis was the lead staff for securing departmental international accreditation. This accreditation needs to be kept current every 5 years of which he has done in 2007.

In 2005 Mr. Davis was promoted to Battalion Chief and was assigned a district of operations. During this position he has had control over incident command, and supervised the operations management positions under his jurisdiction.

During his career in Columbus, he also helped form the 1<sup>st</sup> hazardous materials team. Meece stated that the City of Livingston is ripe for a HAZMAT issue with the railroad, etc.

Mr. Davis has also managed special operations in high angle and water rescue.

Mr. Davis has a bachelor of science degree in business administration from Troy University and a masters degree public administration.

Mr. Davis is familiar with the City of Livingston, as he has vacationed in Livingston several times and he has friends in the area.

Blakeman asked how big the districts were? Meece stated that he thought there were 4 districts in the City of Columbus.

Caldwell asked what level his Battalion chief position was in comparison to the City's levels? Meece stated that it would be the same as a captain to start out with but that a Battalion Chief would have similar responsibilities to a Fire Chief.

VanAken stated that leaving Georgia, and coming to Montana, would not leave Mr. Davis even close to the pay scale that he is used to. Meece stated that being in Montana makes the recruiting easier as it is the quality of life that draws people to Montana.

Meece stated that, for the purpose of tonight, he has summarized his comments into 5 major areas of concern. Mr. Davis stated that the most important duty of a fire chief would be putting out fires, providing EMS and keeping people safe. Mr. Davis emphasized the need to develop staff for advancements, and promotions, to even include the next fire chief position.

Caldwell asked what he meant by 'staff development'? Meece stated that would include technical training and leadership capabilities, as presently most of the captains in the City's fire department have less than 1 year's experience as Captains. After the Captains, the newer personnel have even less experience.

Meece stated that Mr. Davis' stated a need for the Fire Chief to be highly visible to the community and to be accessible to the community.

Mr. Davis's management, leadership and decision making styles includes the following:

1. Approaches decision making by evaluating the problem first.
2. He then frames his approach to the problem.  
He determines who's involved, does he need more data, and what the implications would be on his decision? Who would it affect and how?
3. After he outlines and makes a decision, he follows through with his decision to make sure it was the correct decision.

Mr. Davis feels that a Fire Chief needs to know his people well, their strengths and limitations.

Mr. Davis is diligent in delegating responsibilities to individuals, and then follows up on their actions and responses. Mr. Davis sees the need for a mentor relationship with the staff, which requires a high level of trust and credibility with his staff.

At one point in Mr. Davis' career he turned down a Deputy Chief position, as he felt he was not professionally prepared to take on the responsibility of the job. Doing so slowed his progress to the Battalion Chief position, but the trust and credibility he received from his peers was worth the wait.

Mr. Davis comes from a Right-To-Work state so he does not have much experience with union negotiations. He is willing to work with the staff, and will be big on the relationship side of negotiations. If he is chosen he will make it a point to get up to speed on Montana Labor Law. Mr. Davis feels that a chief needs to know his people and witness what they are capable of doing.

Mr. Davis emphasizes diversity within the department, and would not single out or exclude any segment of the population. Everyone in the department will be treated as equal, whether female or male or any ethnic orientation.

VanAken inquired as to the negotiations that took place in 2007 in the Fire Department. Per Meece, this was the most successful negotiation in the Fire Department in years. Mastin interjected that Georgia has unions, but that employees are not required to join the union to work for the Fire Department.

Blakeman would like more clarification on the Right-To-Work law. Meece stated that individuals have the right to join a union, but they don't have to. If they do not join the union their grievance process is the same as it would be with the union. They do not negotiate a contract. The union does that.

Caldwell asked if while interviewing the Fire Chief candidates did they align in much the same fashion? Meece stated that he took extensive notes during the interview process, and then put those notes on a spreadsheet to compare issues and values of each candidate. Meece stated that no candidate had all of the things that he was looking for, but Mr. Davis met most all of the requirements. Meece feels that the Captains of our Fire Department will be pleased with the choice.

Meece stated that while Mr. Davis is stronger on the fire side, he embraced the EMS department when they were added to his current fire department. Mr. Davis realizes that there has to be a balance of technical standards to make an effective department.

Mr. Davis observed, while visiting with the Livingston Fire Department, that the City of Livingston is already strong on the EMS side - currently have 12

paramedics – and he would like to see the same strong approach on the fire side.

Blakeman asked what level of EMS did Mr. Davis have currently? Meece stated that he is an EMT.

Caldwell asked if there was potential safety or performance risk on both the Fire and EMS sides given our limited resources. Caldwell stated that it would be a challenge to be proficient on both sides, and would Mr. Davis be able to work within the current environment? Meece stated that during his conversation with the Captains they were not concerned with over stretching their challenges. This was the answer given by the majority of the captains. A small minority, of one, disagrees.

Blakeman stated that the City is already at the Paramedic level now, would there be an opportunity to keep them as proficient as they are? Mastin stated that the reason the staff is so proficient on the EMS level is that the emergency room and hospital staff is small enough for all of the Paramedics to get practice with EMS services; but the Fire Department gets very little exposure to live fire training as there is no place to practice.

VanAken asked if Mr. Davis' will have challenges moving from a large department to a smaller one? Meece stated that was an excellent question. Mr. Davis works a lot on safety issues and takes nothing for granted. Mr. Davis feels that it is critical to know what your folks can do, and how can they respond. He is aware of the assistant agencies, and needs to find out what their capabilities are. He realizes that there are equipment resource limitations and feels he can hold the gap until additional resources are available.

VanAken feels that Mr. Davis, should he be chosen, needs to work on relationship building with the ancillary fire departments so they that they may assist each other. Mastin stated that he has spent the bulk of the day with Davis and feels that he is capable of adjusting to the lack of resources and will cultivate the relationships between the ancillary departments.

Jones asked how Mr. Davis plans on quickly knowing each firefighter intimately to find out how they do with their positions? Meece stated that he would hold meetings with the key people, and watch how individuals work and train in their everyday duties.

Blakeman asked when he would be able to start? Meece stated that he could start by October 1, 2008 and Meece would choose an Interim Fire Chief until that date.

## **RESOLUTIONS**

**Resolution No. 3976 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CONSENTING TO THE NOMINATION OF AND AUTHORIZING THE CITY MANAGER TO MAKE CONDITIONAL OFFER OF EMPLOYMENT TO ALAN DAVIS FOR THE POSITION OF FIRE CHIEF OF THE LIVINGSTON FIRE DEPARTMENT.**

Blakeman made a motion to approve Resolution No. 3976, Jones seconded.

Discussion:

No discussion was heard.

All in favor, Resolution No. 3976 passed.

**CITY COMMISSION COMMENTS**

No City Commission Comments were heard.

**Public Comment**

No public comment was heard.

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

The time was 7:23 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission Chair

LIVINGSTON  
CITY COMMISSION MEETING  
September 2, 2008

The Livingston City Commission met in regular session on Tuesday, September 2, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Juliann Jones, Mary Beebe and Vicki Blakeman.

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

Introduction of new police officer Jessika Kynett was made to the Commission and recording secretary Ewan administered the oath of office.

Motion was made by Blakeman, seconded by Beebe to approve item C of the consent items. Items A & B (Commission minutes) have not been reviewed by the City Manager.

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Variance Requests:**

None.

**Public Hearings:**

**Ordinance No. 2006 -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 CERTAIN LAND DESCRIBED AS BEING PORTIONS OF SECTION 21 AND 22 OF TOWNSHIP 2 SOUTH, RANGE 9 EAST, P.M.M., AS HIGHWAY COMMERCIAL (HC)**

**Resolution No. 3978 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING BY PETITION OF MARGIE JESSON CERTAIN LAND WHICH IS CONTIGUOUS TO THE CITY OF LIVINGSTON AND DESCRIBED AS BEING PORTIONS**



**OF SECTION 21 AND 22 OF TOWNSHIP 2 SOUTH, RANGE 9 EAST,  
P.M.M., PARK COUNTY, MONTANA.**

Becker explained to the Commission and audience that these 2 public hearings were to be heard simultaneously.

Caldwell opened the public hearing for public comment.

Vuko Voyich, the Jesson's attorney, addressed the Commission quoting from the City's Growth Policy. Mr. Voyich stated that he, with the guidance of the City, has used as references the City's regulations, the Montana State Code Annotated and the City's Growth Policy and has found that everything the Jessons are doing is consistent with the City's definition of Highway Commercial property. Therefore Mr. Voyich sees no reason the Commission would not approve the Resolution annexing the property and designating it as Highway Commercial. Mr. Voyich realizes that the Commission is not accustomed to annexing and zoning property at the same time but has researched the process with Mr. Becker and verified it is legal; he would appreciate an approval of the annexation and commercial zoning of the Jesson property.

John Mueller addressed the Commission asking them to make serious consideration of what they were about to approve and to take the public comments seriously before they allowed this property to do something to Livingston that was not what the residents wanted the City to look like. Mr. Mueller feels that the combined process is pulling the wool over the resident's eyes. The Commission should consider that setting the zoning prior to a development plan could alter the business owners' livelihood in the rest of Livingston.

Jeff Mount addressed the Commission stating that he was for the annexation and zoning. With the increase in gas prices he feels that Livingston needs some more commercial businesses. Mr. Mount stated that the Commission still has a lot of control as to what goes out in this area, and hopefully the Commission will approve something that's a better idea than the West End Trailer Court. This could be an opportunity for residents to shop here instead of in Bozeman.

Being no further public comment on Resolution No. 3978 or Ordinance No. 2006 the hearing was closed.

Becker stated that the Resolution should be addressed prior to the Ordinance.

Blakeman made a motion to approve Resolution No. 3978, VanAken seconded.

## Discussion:

Blakeman stated that she had missed the previous meeting where this was discussed, but that she had listened to the transcript and is getting up to speed on the issue. Blakeman's biggest concern is not knowing what will happen in this area if the Ordinance and Resolution are passed. Annexing and zoning at the same time also gives Blakeman pause. Policy change on something as potentially controversial as this subject without further public comment and feedback concerns her. The feedback that she has had thus far is mixed, and she does acknowledge the fact that many people feel the same way as Mr. Mount.

VanAken has given this issue a lot of thought and feels that there are lots of alternatives to box stores being developed in the area. VanAken feels that this is not such a controversial issue to the general public or more folks would have turned up for the public comment period. VanAken stated that the reason people drive to Bozeman to shop is that the businesses here are failing to provide people with what they want at the price desired. He feels that businesses cannot have their cake and eat it too. VanAken stated that the City is compelled to grow or die and this may be what the City needs.

Jones stated that residents couldn't base their views on a box store coming to Livingston. Jones feels that there won't be a box store problem as Livingston is too close to Bozeman that already has the box stores. What the Commission should be concerned about is other things appearing out there. She would like to know what would not be allowed out there? Blakeman stated that things like stand alone casinos and heavy manufacturing would not be allowed out in this area. Blakeman has not set her fear only on box stores and realizes that the Commission will still have some say because of the design overlay that regulates design, sign regulations, etc. Blakeman stated that the Commission has some tools to regulate what goes in the West End.

Beebe stated that she has the same concerns as Jones as what may go out there other than box stores. Without a the development plan of the annexed property. This is unlike past major annexations like Printingforless, Yellowstone Preserve and the Watson properties in which detailed plans were presented for review to the Commission before annexation and zoning. Beebe continues to have serious concerns about changing the process from two to one public hearing on the request of one petitioner. While she has empathy for the Jessons need for resolution, Beebe feels that this change should be made as a policy decision, not as a one-time basis to benefit one petitioner. Beebe said she would be willing to "bite the bullet" and come to some resolution

about annexation and zoning of this property if the process was separated into two public hearings - one for annexation and one for zoning. Caldwell said that the Watson property was pretty sketchy as well, and the Commission could use their discretion in the sub-division review and platting process.

Blakeman stated that she has been on the Commission for nine years and she has gotten the procedure down pretty well, with two public hearings instead of one, which gave the public two shots at the review process to voice their opinions. Blakeman is having trouble disconnecting with the old process and being comfortable with the new process, and wonders if this could come back to the Commission in the old process of two hearings.

Becker stated that the packaged process came from the petitioners, and the old process cannot be used after their petition has been accepted. Becker knows of no case law to separate the process at this time. Becker stated that it could have been reviewed with the Jessons and their attorney but doesn't think it would be appropriate at this time.

Meece stated that this provision of state law has not been tested and if the Commission is uncomfortable with this process they have the right to deny the petition and request that the Jessons re-apply with a double hearing petition.

Caldwell stated that he is not as much concerned with the process as he is with the substance of the process, and that he feels that the public has not been short changed on this issue, since it has been discussed for over eight months. Caldwell feels that the annexation decision is one of a fiscal nature for the Commission as to whether they desire the revenues from this annexation to be the City's or the County's. Through the design overlay district the Commission has a lot of control as to what the businesses will look like on the west end. Caldwell stated that presently box stores could be built on other parcels of land in the City, so this is also not a concern of his.

Being no further discussion voting commenced.

Four in favor of Resolution No. 3978, Beebe opposed, Resolution No. 3978 passed.

Blakeman made a motion to approve Ordinance No. 2006, Jones seconded.

Discussion:

Caldwell mentioned that the Commission would have more discretion during the sub-review and platting process of this property. Blakeman stated that there would be no discretion unless the property was subdivided. Woodhull stated that there would be a subdivision process during development of the streets and right of ways.

VanAken commented on Blakeman's remark in regards to decisions made out of fear. He doesn't feel that there should be any fear as long as the Commission and community are armed with as much knowledge in regards to the zoning as they can be. The Commission can go forward with the idea that they have done as much as they could and still use the design overlay, which will give the Commission leverage on what the commercial property will look like when developed.

Blakeman stated that she doesn't want complete control over someone's property, but this is a major gateway to Livingston and the impact of the commercial property developed out there will be the way people passing through perceive the community. Blakeman feels that the Commission has a responsibility to be true to the community's historic roots. She doesn't want this Commission to look like it had collaboration with a developer. Blakeman stated that the reason she is concerned is that the Commission has a duty to maintain and preserve the look and feel of the community.

Beebe stated that while she respects the validity of each Commissioner's position, she will vote the same as she did on Resolution No. 3978, based on the same concerns she stated regarding that resolution.

Being no further discussion voting commenced.

Three in favor, Beebe and Blakeman opposed, Ordinance No. 2006 passed.

**Ordinances:**

**Ordinance No. 2007 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2004 AS CODIFIED IN ARTICLE VII OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING COMMISSION AND BOARD OF ADJUSTMENTS BY CHANGING THE EFFECTIVE DATE.**

Meece filled the Commission in as to why this ordinance is before them again. The Board of Adjustments has not had enough training or organization to fully assume the responsibility at this time. If the effective date were postponed, there would be enough time to fill the

vacant position and get the board trained and ready for public hearings, review, and variances that they will be making decisions on for the City.

Blakeman made a motion to approve Ordinance No. 2007, VanAken seconded.

Discussion:

Caldwell asked whether the only change to the original ordinance was in Section 5 with respect to the effective date. Meece stated yes, and that the Ordinance would go into effect 60 days after the public hearing. Becker stated that the public hearing would be at the 1<sup>st</sup> meeting in October. Blakeman asked if it would go into effect the 1<sup>st</sup> part of December then. Becker stated it would. Caldwell stated that maybe that would give the Board time to get a 5<sup>th</sup> member.

Being no further discussion voting commenced.

All in favor, Ordinance no. 2007 passed.

### **Resolutions**

**Resolution No. 3979 – A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AGREEMENT WITH STATE OF MONTANA HISTORICAL SOCIETY FOR A \$25,000 PRESERVE AMERICA GRANT.**

Becker stated that the resolution in the packet was not the correct resolution; the one that he handed out was the correct resolution.

Blakeman made a motion to approve Resolution No. 3979, Beebe seconded.

Discussion:

Linnea Pritchard for the Historical Preservation Board addressed the Commission stating that there was potential financial support through the Tax Increment District, and that the Historic Board would be requesting such support at the Urban Renewal Agency's next board meeting.

Blakeman stated that if the Commission passed the resolution it would not obligate the City to accept the grant if matching funds were not found.

Pritchard then asked the Commission for permission to use the City's grant writer, Lori Benner, to review the application and help the Historic Board approach the Urban Renewal Agency for matching funding.

Meece stated that he has no problem with the Commission authorizing the Historic Preservation Board applying for the grant, however he would like to make it clear that the City does not have the funds to match the grant. Becker stated that it is within the legal right of the Urban Renewal Agency to use the money from the tax increment district to support this project.

Ms Pritchard stated that unless the Historic Preservation Board had some means of matching the grant she did not want to apply on a false pretense, as presently her group has excellent relationship with SHIPO and the State.

Karyl Frazier for the Vision Livingston Program stated that she has been visiting with the Urban Renewal Agency and they are willing to listen to the Historic Preservation Board's request. They will meet Wednesday, September 10, 2008 at 6:30 p.m.

Blakeman stated that if the Urban Renewal Agency did not approve the request the Historic Preservation Board could withdraw their application.

At this time Caldwell felt that everyone had had a chance to speak and called for "Question".

Being no further discussion voting commenced.

All in favor, Resolution No. 3979 passed.

**Resolution No. 3980 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CTA FOR THE SEWER LINE REPLACEMENT PROJECT ON MONTANA STREET BETWEEN 7<sup>TH</sup> AND 8<sup>TH</sup> STREETS AND IN THE ALLEY BETWEEN 7<sup>TH</sup> AND 8<sup>TH</sup> STREETS FROM MONTANA STREETS TO THE T-ALLEY SOUTH OF CHINOOK STREET IN THE AMOUNT OF \$35,950, PLUS REIMBURSABLE EXPENSES.**

Meece introduced the Resolution by stating that the next three resolutions were for water and sewer projects that will be done with the revenues from recent rate increases. The first step in this process is to hire the engineer, and then go out to bid so the City would be prepared

with cost estimates. Tinsley stated that some of the projects would be done this year and the balance would be done in the next fiscal year (FY2009-2010).

Blakeman made a motion to approve Resolution No 3980, Beebe seconded.

Discussion;

Caldwell asked if there would be cost advantages by going out to bid all at the same time. Tinsley stated that he hoped so.

VanAken asked which project was budgeted for this year. Tinsley stated that the T-Alley between B & C off Callender and the railroad crossing projects were the ones that the City was looking at this year.

VanAken asked if any of the projects were connected? Tinsley stated that the projects were mostly sewer lines that were problems and that they were not connected but were some of the cause of the Sewer Fund's increase in liability insurance premiums.

Being no further discussion voting commenced.

All in favor Resolution No. 3980 passed.

**Resolution No. 3981 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CTA FOR THE SEWER LINE REPLACEMENT PROJECT IN THE T-ALLEY SOUTH OF PARK STREET BETWEEN B STREET AND C STREET IN THE AMOUNT OF \$22,8000.00, PLUS REIMBURSABLE EXPENSES.**

Blakeman made a motion to approve Resolution No. 3981, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, Resolution No. 3981 passed.

**Resolution No. 3982 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANGER TO ENTER INTO PROFESSIONAL ENGINEERING SERVICES**

**AGREEMENT WITH CTA FOR THE WATER MAIN REPLACEMENT PROJECT ON B STREET FROM PARK STREET TO CLARK STREET IN THE AMOUNT OF \$23,800, PLUS REIMBURSABLE EXPENSES.**

Blakeman made a motion to approve Resolution No. 3982, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, Resolution No. 3982 passed.

**Resolution No. 3983 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CTA FOR THE WATER MAIN REPLACEMENT PROJECT IN FRONT STREET FROM YELLOWSTONE STREET TO MAIN STREET IN THE AMOUNT OF \$14,500.00, PLUS REIMBURSABLE EXPENSES.**

Blakeman made a motion to approve Resolution No. 3983, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, Resolution No. 3983 passed.

**Action Item A:**

Discuss/approve/deny agreement and directing staff to prepare a resolution for the September 15<sup>th</sup>, 2008 Commission meeting with Tri-County Network Against Domestic & Sexual Violence.

Meece introduced the action item by explaining that the Tri-County Network assists the City of Livingston with domestic violence issues. In prior years, the Commission has not had the funds to help support their costs. Meece has worked out an agreement, with Ms Scalise, where the City will be charged the rates listed on page 98 of the packet. The Network will not charge the City more than \$5,000 per year, regardless of the usage. Meece is requesting that the Commission, if they are comfortable with the agreement, authorize the staff to prepare a resolution to proceed with the contract.



Blakeman asked if the costs would be brought back formatted as daily costs. Meece stated they would be reformatted when the Commission saw this as a resolution.

Caldwell stated that this should show a reduction in police officer's time. Raney stated that it is a good resource for the officers.

At this time Blakeman made a motion to have City Staff return on the September 15<sup>th</sup>, 2008 meeting with a resolution for the Tri-County Network Against Domestic & Sexual Violence agreement, VanAken seconded.

Discussion:

VanAken, while he is not opposed to this agreement, wonders how the City will verify the money is being used for just City individuals? Will the City rely on just the group's word or could the officers verify the use of the facility? Meece stated that this is an excellent question. Meece and Becker will resolve the issue with Ms Scalise and advise the Commission prior to adopting the resolution. Blakeman asked if it could be established through the police court hearings? Raney replied that not all domestic violence issues go through the court system.

Blakeman asked if the same agreement would be going before the County Commissioners, as they have even less options than City residents? Meece stated this was a possibility, and he would contact Park County.

Beebe stated that she likes this process of paying for identified billable units rather than donating a lump-sum as the money can be linked to specific measurable services. If the County would use the same method payment, both sets of Commissioners, the Tri-County Network and the taxpayers could track where the money is going.

Caldwell asked if there would be a cap on the amount the City paid? Meece stated that the cap is \$5,000 per fiscal year.

Being no further discussion voting commenced.

All in favor, motion passed to direct City Staff to return with an agreement resolution on September 15, 2008.

**Action Item B:**

Discuss/approve/deny request for waiver of Civic Center fees for the Spay/Neuter Clinic on September 21, 2008.

Meece stated that the Spay/Neuter Clinic is requesting waiver of fees for their September clinic.

Caldwell asked if this has been waived in the past, and does the clinic keep track of where the animals come from? Beebe stated that they do keep track of where the animals are from and the City only reimburses the Task Force for animals who reside in the City. In the past two years, the county has donated a lump sum of \$2,000 per year and has not been billed per animal, although the Task Force keeps records to track residence of animals. She commented that she would prefer that the County pay per animal in the future. Meece stated that the clinic has had the fees waived in the past.

Beebe recused herself from voting, as she is part of the spay/neuter clinic task force.

Blakeman made a motion to waive the fees for the Spay/Neuter Clinic on September 21, 2008, VanAken seconded.

Discussion:

No discussion was heard.

Four in favor of waiving the Civic Center Fees for the Spay/Neuter clinic, Beebe abstained.

**Action Item C:**

Discuss openings on the Urban Renewal Agency.

Meece stated that there are two vacancies on the Urban Renewal Agency Board and the City has received three applications. One opening is for four years and the other vacancy is for two years. He would like the Commission to designate which vacancy they are filling when they nominate the applicants.

**Action Item D, E & F:**

Discuss/approve/deny applications from Dana Taylor, Karla Pettit and Nancy Adkins for a position on the Urban Renewal Agency.

Caldwell combined Items D, E & F so it would be easier to nominate one of the three from the list.

Meece stated that he had lobbied Ms Pettit to apply, after which the third application came in.

Blakeman asked if the one that was not chosen could stay in the running to be called upon later when there became another vacancy? Meece stated that he would let the third applicant know what the Commission desired.

At this time Blakeman nominated Karla Pettit to fill in the 4-year term on the Urban Renewal Agency Board, Beebe seconded.

All in favor, Karla Pettit is appointed to the Urban Renewal Agency board for a 4-year term.

VanAken nominated Nancy Adkins to fill the 2-year term, stating that Ms Adkins has without fail attended the Commission meetings for some time and that is the type of dedication that is needed on boards, Beebe seconded his nomination.

All in favor, Nancy Adkins is appointed to the Urban Renewal Agency board for a 2-year term.

Caldwell asked that Meece ask Mr. Taylor if he would consider staying in the process in case another vacancy opens. Meece stated that he would.

**Action Item G:**

**Schedule a budget workshop with the Commission.**

Meece stated that after several revisions, from the Department of Revenue, the mill value for Newly Taxable value has gone from \$479,000 (last year) to \$19,000 this year and then been further revised to \$101,000 this year. According to the Department of Revenue, the City received more than it should have last year on newly taxable property as it was calculated wrong by their department. The Department of Revenue has since corrected the problem. Meece also stated that this is the 6<sup>th</sup> year in the tax cycle, and each year the relief increment (taxable value of property) is raised and the tax rate is lowered. Due to these changes the City has been required to cut \$79,000 from the fiscal year 09 budget. Either way these are major cuts for the City. Staff has made the cuts thus far, but needs the Commission to consider alternatives in the next fiscal year like the creation of a Park & Recreation District, asking for a Local Option Tax or reducing staff within the Recreation Department and/or others.

Meece would like to have the first reading of the budget on September 15, 2008 but would like to have a workshop with the Commission prior to that date.

Caldwell asked when the budget was due to the State? Meece stated that the budget has to be passed 45 days after August 25<sup>th</sup>, 2008 when the City received the final mill value. Meece will have the draft out to the Commission by the end of the week for their review.

VanAken stated that he would be gone Sunday, Monday and Tuesday of next week but that he was available on Wednesday the 10<sup>th</sup> of September.

Beebe stated that she recently traveled to Kalispell and Missoula and their papers contained news and editorials about the same Department of Revenue cuts facing these towns. It appears that this is a state-wide phenomenon, not just one affecting Livingston. Meece stated that the Department of Revenue cut Bozeman's newly taxable values from 5.2 million last year to 1.2 million this year.

The consensus of the Commission was to meet on September 10<sup>th</sup>, 2008 at 7:00 p.m. for a workshop on the budget.

#### **City Manager's Comments**

Beebe stated that she would like to go to the Local Option Tax Summit meeting on September 11<sup>th</sup>, in Helena. VanAken stated that he would also like to attend.

Beebe stated that she has seen the new transfer station and is quite impressed with it. The Food Co-Op in Bozeman did an article about the glass crusher, and noted the potential to recycle glass in Bozeman again.

Blakeman would like to know what happened to the expenditure authority that was for the swimming pool last year? Caldwell mentioned that the revenues did not come in either and that may have been an offset. Meece stated that this would be discussed at the Budget Workshop.

#### **City Commission Comments**

Beebe asked about the gas station on Chinook and if the DEQ had cleaned up the cars yet? Becker stated that the DEQ removed the cars that they felt were in violation. Mr. Schaeffer has been tried once on the cleanup matter, as a public nuisance, and was acquitted, and could not be retried unless new evidence shows up. Presently Mr. Schaeffer is delinquent in his taxes but Becker stated that it probably has fuel storage tanks under the property creating a liability if the City accepted

the property in lieu of taxes. Blakeman asked if the property was a public health nuisance? Becker stated that the structure has been found to be stable and in order for it to be considered a public health nuisance he would need more evidence. Meece stated that the City is just as frustrated with the situation as the neighbors, but presently the City's hands are tied.

Beebe asked if the Junk Car Ordinance would apply? Caldwell stated that it would not apply if the cars were all off of the street. Meece stated that Haefs has dealt with the issue several times. Beebe stated that if vehicles are not drivable and probably not registered; the City should at least make Schaeffer screen them from public view.

Blakeman stated that the budget meeting is on the same day as canvassing. Meece stated that he would reassign his position to someone else.

VanAken asked if the people that live next door and across the street from Schaeffer's property and live with the mess every day would be able to pursue the cleanup? Becker stated that they could file a private civil nuisance action.

### **Public Comment**

Nancy Adkins suggested that if Schaeffer has five cars and two of them are on the street that the City should watch and see if they are being moved and if not code enforcement could deal with them.

Ms Adkins would also like to know what the Local Option Tax is? Meece stated that it is an effort of Montana municipalities to expand their tax base revenue by taxing part of the costs of running a City to the tourists that visit the City. It is similar in nature to a Local Sales Tax. Meece stated that currently the only source of revenue to the General Fund is property taxes and the Local Option Tax would be a means to make the tourist responsible for some of these costs. Meece stated that the tax could only be initiated through a ballot issue to the citizens. Ms Adkins stated that Whitefish has a 5% tax. Meece stated that White fish has a Resort Tax.

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

The time was 8:59 p.m.

ATTEST:

APPROVED:

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Shirley Ewan  
Finance Officer

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Steve Caldwell  
City Commission Chair

CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
September 15<sup>th</sup>, 2008

The Livingston City Commission met in a regular session on Monday, September 15<sup>th</sup>, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Mary Beebe, Rick VanAken, and Juliann Jones.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Jim Woodhull, Clint Tinsley, and Robyn Keyes.

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

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

None.

**Variance Requests:**

Jim Woodhull came forward to describe and discuss a variance request from Joe and Mary Minto. They are requesting a variance from the front property line setback to allow them to build a sloped retaining wall and entrance from the existing basement house. Woodhull stated there was a staff recommendation to approve the variance.

Motion was made by Blakeman to accept finding of fact, seconded by Beebe.

All were in favor, motion passed.

Discussion:

VanAken questioned whether or not this variance would create changes in the house footprint. Woodhull explained that it would, only in the addition of a doorway.

Blakeman motioned to approve the variance request, Beebe seconded.

No further discussion.

All in favor, motion passed.

**Public Hearings:**

None.

**Ordinances:**

None.

**Resolutions:**

Resolution No. 3984- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ACKNOWLEDGING RECEIPT OF THE PRELIMINARY BUDGET FOR FISCAL YEAR 2008-2009, GIVING NOTICE OF A PUBLIC HEARING THEREON TO BE HELD ON OCTOBER 6, 2008, AND OF ITS INTENT TO APPROVE THE FINAL BUDGET THEREAFTER, AND TO MAKE APPROPRIATIONS AND TO FIX THE TAX LEVY ACCORDINGLY.

Blakeman questioned whether or not this was a resolution with intent to approve the budget. Bruce Becker answered yes, and that it was a two-stage process.

Caldwell asked if the budget had been changed since the last workshop, and Ed Meece said no, at this point it is set.

Blakeman questioned if the Artemis project discussion should take place now, or at a later date. Meece responded that there are two agreements that would be available on the October 6<sup>th</sup> meeting for discussion, including the Artemis project. The Artemis project, and Tri-County Domestic Violence Network, is included in the budget at this time. Caldwell wondered whether or not they needed to be discussed before budget approval took place, and Meece said that could be done at the next meeting, placing the approval of these agreements in front of the budget approval (on the agenda).

Motion was made by Blakeman to approve Resolution No 3984, VanAken seconded.

Discussion:

No discussion was heard.

All in favor, Resolution 3984 passed.



**Resolution No. 3985- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING EXPENDITURE OF EMERGENCY FUNDS TO REPAIR SWIMMING POOL DUE TO DAMAGES CAUSED BY THE HIGH WATER CONDITIONS OF THE YELLOWSTONE RIVER SYSTEM IN 2008.**

Beebe opened discussion of the resolution by questioning if there would be insurance money coming to help cover the repair costs of the pool, to which Meece answered no and that using the emergency funds would be the most efficient money source to use, rather than General Fund; since the damages occurred during a declared emergency (high water).

Beebe then asked what other funding options were available for the repairs. Meece stated that money could come from the general fund, but that would be quite complicated, and that since adequate funds exist in the emergency fund, it is the best place to find the money.

Blakeman motioned to approve Resolution No. 3985, Beebe seconded.

No further discussion was heard.

All in favor, Resolution 3985 passed.

**Resolution No. 3986- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH PETER VANDERGRIFT FOR PROFESSIONAL SERVICES TO EDIT AND MANAGE CONTENT FOR THE INITIAL LAUNCH OF THE CITY'S NEW WEBSITE.**

Meece introduced the resolution by adding that the City has completed the content design phase of the project, and began initial training of staff members on the content revision software. They are ready to start fine tuning the content, but it had become apparent that the time required to get the site up and running would be considerable for anyone on the current staff. He suggests hiring Vandergrift, as a contractor, who has training and experience in work of this nature, to help the City get the website up and running by late October, and that Vandergrift has already been helping staff with editing, etc. and it has been a big help.

Blakeman questioned what the City's investment in the website was at this point, and Meece said it was around \$11,000 so far between the software and design costs.

Chairman Caldwell recognized Nancy Atkins, 810 E. Callender, who stated that there are some things that cannot be accomplished by citizens with the current

website, and that she hoped the new website would be more user-friendly. Caldwell suggested putting all linked documents in PDF.

Motion to approve Resolution No. 3986 was made by Blakeman, and seconded by Beebe.

No further discussion was heard.

All in favor, Resolution 3986 passed.

**Resolution No. 3987- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH BLEVINS EXCAVATION AND CONSTRUCTION FOR THE CAROL LANE SEWER MAIN EXTENSION PROJECT IN THE AMOUNT OF \$70,485.60.**

Meece began by clarifying that the City had set up the Carol Lane special improvement district for \$62,000 over a period of 15 years; the Administration has decided to assume the difference in cost, after receiving the actual bids, so the project can be completed this year.

Caldwell agreed that this made sense because the people in the designated area had already committed to this project under the original cost and assessment figures and had probably begun preparing for it financially.

Blakeman motioned to approve Resolution No 3987, and VanAken seconded.

No further discussion was heard.

All in favor, Resolution 3987 passed.

**Action Item A:**

Discuss increase for licensing fees for dogs and cats that are not spayed or neutered.

Meece introduced the action item by requesting to defer its presentation to Beebe, as she (and Blakeman) had requested it be put on the agenda.

Beebe explained that this was an idea that had arisen from a conversation with Judy Roy, the animal control officer (ACO) for the City. The ACO had said that citizens in the community always say they will fix their dogs or cats but do not, and end up with nuisance animals. Beebe further explained that it made no sense to not change the price for licensing those pets that are altered vs. unaltered, so at least those who have unaltered pets would have to pay more of the costs to the

City when those pets cost the community and the city taxpayers through uncontrolled breeding and other behavior problems such as running at large and aggression. She noted that a leading cause of injury and death to young children is mauling by dogs and the majority of these attacks are by unaltered male dogs that are tethered. She has researched other municipal ordinances relating to spay/neuter and the majority of these ordinances require all pets over the age of 4 months to be altered. She is proposing this increased licensing fee for unaltered animals as an alternative to such mandates as it would at least compensate the City for the costs of dealing with irresponsible breeding without dictating individual pet owners' choices. This would make spaying or neutering an economic decision.

Beebe said that she felt \$150 to license an unaltered pet is a small price to pay, in comparison to the \$300 per animal that it costs the Stafford Animal Shelter to house and care for homeless animals. There are many free or low-cost opportunities to get pets altered, such as the Spay and Neuter Clinics. People in the community need to take altering animals seriously, she felt, and this would help create economic justice for the rest of the community. She also mentioned the idea of a 90-day grace period between getting cited for having an unlicensed, unaltered pet and getting them altered and licensed. A veterinarian for those pet owners whose pet's health could suffer from being altered could also sign a waiver.

Caldwell called for discussion on the action item.

Blakeman stated that she sees people in the community with pets who don't have the money to license them at the current fees, or to take care of puppies. She felt concerned that this might open a can of worms, it is not a bad idea, but the part about people being able to afford it has her concerned.

Caldwell asked if the percentage of unlicensed animals in the city was known, and Beebe responded that the ACO had estimated that about 30% of the dogs in the city are licensed and registered.

Blakeman added that she believes the national percentage was between twenty and forty percent of pets are licensed and registered, unless places have very punitive controls and a lot of animal control officers.

Caldwell stated that he was skeptical of the degree to which the Commission should address this issue, and the level of effectiveness it would have.

VanAken said that he finds this to be an interesting financial issue because tax payers within the city are subsidizing these people, through means such as the Spay and Neuter Clinic, and he felt that guilty parties should have to help support the costs they are causing to the City. He also stated that he has reservations, however, because if approximately 70% of pets are unlicensed now, he does not

feel that will go down with the implementation of a measure such as this, and suggested researching some kind of trade-off that could be developed.

VanAken also felt that the biggest issue to be addressed with this is the enforceability of such a measure, because there is no point in doing something that cannot be enforced. He referenced the stop signs at the 9<sup>th</sup> St. Bridge as a similar example, where correct use of them is encouraged but cannot be enforced due to lack of resources. However, he felt that it was important to encourage people to do the right thing.

Caldwell pointed out that passing something of this nature would send out a strong message, which has value in showing the costs the City incurs.

Blakeman mentioned that at the animal shelter there was a sliding cost scale for reclaiming at-large animals so that the cost for the owner goes up each time the animal ends up at the shelter. She added that the majority of the repeat offenders are unaltered animals. The increasing reclaim fees correlate directly to the costs incurred by the City, and how it influences those who violate the laws.

Caldwell suggested perhaps having to license pets to get them out of the shelters.

Beebe agreed with Caldwell and also said it would be a good idea to have licensing tables set up at the Spay and Neuter Clinic, too.

Jones questioned how the ACO tracked down repetitive offenders without making sure they got licensed. Beebe answered that they tend to eventually get registered, but that she would need to speak to the ACO to find out more on the issue.

Beebe stated that she felt people could have a 90-day window to get the animal altered, which is aided by the ACO's encouragement to people who need to get their pets altered. She also said this was suggested by the ACO.

Meece said that the City Administration would enforce whatever decision the Commission decides to make; however, the current City Code sets the maximum fine at \$300 for those who violate registration regulations. So instead of punishing the whole class because of those people who choose to break the law, perhaps the Administration could set a policy to request at least a \$150 fine – in addition to licensing--when people are issued a citation, and Judge Bailey could then issue a penalty to make up the costs that the City incurs.

Becker commented that there might be an inherent issue of separation of powers.

Meece then suggested setting up different levels of penalties for repeat violators.

Beebe commented that she is not proposing a higher license fee for unaltered animals as a punishment. The point is to provide an incentive to people to get

their animals altered, and to recover some of the costs created by those who choose not to alter their pets. She said that she knows there are people who breed their pets in order to make money. She overheard a man telling someone that he had made \$2000 this year from his pit bull's puppies. Beebe feels it would not be too much to ask of the breeders to pay a higher license fee as a "cost to do business". This would create clear incentive, and provide pet owners in the community an opportunity to make a decision.

Caldwell stated that there would need to be both a first reading of an amended ordinance and a public hearing on the subject so further discussion might be better suited for those meetings.

Blakeman motioned to bring Action Item A back, in the form of an Ordinance, and Beebe seconded.

Discussion:

Becker questioned the idea of the 90-day grace period and how it would coincide with the licensing period that already exists as part of the licensing laws that also has a grace period built into it.

Beebe said that she thought the ACO was already giving them this opportunity, so she suggested to just deal with the licensing and let the ACO take care of the rest.

Meece asked for a point of clarification as to what the cost would be for owners to license cats who are unaltered, and Beebe stated it would be \$100. Meece mentioned that the existing ordinance would have to be changed to do this.

Blakeman suggested keeping it as simple as possible.

Beebe also discussed the idea previously mentioned of owners being able to have a certified note from a veterinarian that states an animal could not be altered due to health reasons, etc. would allow some people to be exempt and license their pet at the normal cost. Becker questioned whether or not this would work.

No further discussion.

All voted in favor of the motion.

**Action Item B:**

**CONSIDER/DISCUSS/APPROVE/DENY SALE OF THE OLD WATER WORKS BUILDING.**

Meece opened up by saying that there had been a request from Karl Knuchel to relist the old water works building for sale, and so he placed it before the City Commission for action.

Blakeman suggested hearing from Knuchel, who was in the audience.

Chairman Caldwell recognized Karl Knuchel, PO Box 953, who said that he has a client who is very interested in purchasing and renovating the building into a single-family residence.

Blakeman said another area realtor who has a potential client, too, had also approached her.

Meece stated that an RFP could be issued, if the Commission decided to relist the building.

Becker questioned whether there would be a new appraisal of the building. All agreed this should be done.

Caldwell questioned if there is any other reasonable use for the building from the City, and Meece said that the City cannot pay for the rehabilitation needed, and only minimal cost for upkeep is paid. Meece also said that it would be sold "as is."

Becker commented on the unknown conditions of the cisterns attached to the building, but that Knuchel was aware of this.

Blakeman made the suggestion that they go back to the footprint of the building developed previously, and Caldwell agreed.

Blakeman asked if there had been a lot of vandalism to the building, and Chief Raney responded that there had been a little, but not an abnormal amount. Meece mentioned a previous incident where a child had climbed up the building to retrieve a ball, and had been hurt.

Meece stated that the Commission would need to authorize a new appraisal and that a draft RFP be created.

Blakeman motioned to approve Action Item B, and VanAken seconded the motion.

Discussion:

Blakeman questioned if a timeline would be created for the project. Becker suggested going back to talk to the original appraiser, who had done the footprint, because he has recently moved back to town.

No further discussion was heard.

All were in favor of bringing a draft RFP for the sale of the old water works building back to the Commission, and to obtain an updated appraisal based on the footprint of the property as previously offered.

**Action Item C:**

**DISCUSS/APPROVE/DENY AMY TITGEMEIER-STEVENS APPLICATION TO THE LIBRARY BOARD AS CITY REPRESENTATIVE.**

Caldwell began by stating that he had not known there was a vacancy, and Meece responded that evidently there was because the item was supposed to have been brought up at the last meeting. Caldwell stated that he had thought they had appointed someone to the Library Board recently, but evidently they had not.

Blakeman motioned to approve Titgemeier-Stevens' application, Jones seconded.

Discussion:

No further discussion.

All in favor, motion to approve Titgemeier-Stevens' application passed.

**City Manager's Comments:**

Jones stated that the 'State of the City' event looks excellent. Meece explained that it was being done to keep the citizens better informed, and would be done through a joint partnership with the School Board and the Enterprise. Jones asked if it would be an actual event. Meece said yes, it would be, and it would occur in early 2009. Jones thought this was a great idea.

Jones questioned what was going on with Clear Creek and FEMA. Meece responded that several conference calls had taken place, and a letter of clarification/correction had been drawn up by FEMA. Clear Creek had given the City a cost estimate of \$13,000 on late Friday, to finish phase I. Meece also said that Phase II of the project would encompass the 89 Bridge upstream and would redo the study piece contained in that section. He has met with Mr. Watson and the hospital, to ask them to split the cost on phase II. He said they seemed agreeable, and the answer should be known within the next week.

Caldwell felt that both of those parties should be willing to help with the cost of Phase II, and Meece stated that it was the goal to wrap up both phases by the end of the year.

VanAken stated that Meece had already answered his question on FEMA. He also wanted to piggyback on Meece's written comments on the Mill Levy, and said that he appreciates everyone's work. He was glad to see the results, because it was good to see that the town saw the importance of the project.

Beebe wanted to know what the next step with the Mill Levy would be. Meece answered that the state money has already been secured, so activity towards the federal delegation would be increased in meetings with Montana's Senators and Representative. He also said that whatever needed to be done to procure federal funding would be done.

Meece said that he had begun the conversation with HKM Engineering to outline the next design steps, and keep the project on track and that the first piece of the payment from the Mill Levy would go towards these costs.

Beebe wanted to know if there was a back-up plan in case the federal funding did not come through, due to the stigma around earmarks at this point in time. Meece responded that next spring Congress will take up the reauthorization of the Transportation Bill, and that earmarks are not necessarily a stigmatized word in Montana because that is how most federal monies come here.

Caldwell stated he was curious if there would also be the potential for another economic stimulus package to come through in the future.

Blakeman questioned when the funds that passed on the Levy would become available for use. Meece stated that the November tax bill would begin to collect these funds, and again, that this money would probably go towards furthering design plans with HKM.

Blakeman wanted to know that if all plans for the Levy fell through, would the City have to return the money to the citizens. Meece said that would be the case.

#### **City Commission Comments:**

Beebe said that she had found out that the Livingston Weekly is not distributed on Friday so that it would work to start putting the City Commission agendas in the publication to get the word out to more citizens. Meece said that he would check again, but he believed it had been looked into before and there was a cost for doing so.

VanAken stated that the Enterprise needed to be informed, again, that the meeting time had gotten changed from 7:30pm to 7:00 pm. He also mentioned that he had been spreading the word to concerned community members that the 9<sup>th</sup> St. Bridge was not a City issue. However, an informed citizen told him that it could become a problem if the County does not deal with it by next spring, because a dam could easily form around the bridge and cause high water in the



City. He sees a need to urge the County to start being prepared for next year's possible high waters.

**Public Comment:**

None.

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

The time was 8:05 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
Chairman, City Commission

CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
October 6, 2008

The Livingston City Commission met in a regular session on Monday, October 6, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Mary Beebe, Rick VanAken, and Juliann Jones.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Shirley Ewan, Clint Tinsley, Jim Woodhull, Brad Haefs, Alan Davis, Kevin Harrington, and Robyn Keyes.

Motion was made by Blakeman to approve consent items, and seconded by VanAken.

No discussion was heard.

All in favor, motion passed.

**Scheduled Public Comments:**

Lori Ryker, from the Artemis Institute, stated that she would like her students to present the information for their public comment on the Watson Trails Project.

The Student Design/Build team introduced themselves as Ian Burgess, Mitch Leneve, James Stodgel, and Kelly Fulton. They described the location of the site, which is located along the Yellowstone River on the Watson land (essentially across from Mayor's Landing). The four main goals for the project were defined as:

- 1) Have a strong connection between the project and the landscape.
- 2) Amplify the natural riverfront phenomena.
- 3) Promote community interaction.
- 4) Use sustainable materials.

The group went on to explain the details of the project, including the use of transplanted willows, recycled irrigation pipes, reclaimed timber, a cement mixture made up of ash, and heavy use of natural vegetation. Two separate areas would be created; one would be a walking path that could accommodate multiple people, and the other would be a more intimate setting designed for use of two to three people at most that would have a strong tie between the landscape and the viewer. Materials would be moved to the site by hand as much as possible.

Bruce Becker questioned if they had found a use for the existing outhouse on the proposed segment of land, and the group responded that they had not.

Caldwell questioned if they had looked into access issues, both in terms of approval by Watson, and also physical access. Seasonal flooding is known to take place in that area.

The group responded that they had discussed the project with Watson, and they would look into putting some kind of bridge or other access point over areas where the Yellowstone has been known to flood. There is also the possibility of using large rocks to create points of crossing if a flood were to occur.

There were no other questions.

**Variance/Special Exception Request:**

Haefs introduces the special exception request from Park High School to build a 50-ft tall wind tower and generator on school property for educational purposes. Livingston School Districts 1 and 4 request the special exception to build the wind tower. A quorum was not present at the Board of Adjustment meeting where the exception was presented, but the Board's findings of fact led to a recommendation that the City Commission approve the request.

Blakeman motioned to approve the findings of fact, and Beebe seconded.

Discussion:

Caldwell asked for clarification that the Board of Adjustments had received all the materials that the Commission had been given; Haefs said that was correct.

No further discussion.

All in favor, motion to approve findings of fact passed.

Blakeman motioned to approve the special exception request, VanAken seconded.

Discussion:

Blakeman questioned if there had been any changes to this project, since the Commission had seen this proposal before. Haefs answered that there had not been any major alterations, other than improving the tower's anchorage system to be able to withstand 150 mph winds.

Meece commented that this request meets all wind ordinance requirements for the City developed by the Wind Power Task Force.

Blakeman stated that she had noticed in the proposal that the project had an estimated completion date of October 1<sup>st</sup>, 2008, which has already passed. Haefs

said that it had initially been set for that date, but due to the need for legal advertisements to be run and a delay in the shipping date of the materials, the group is looking more towards October 20<sup>th</sup>, 2008 for completion, but that the base is already set up at the proposed site.

VanAken questioned why the group had decided to go for a 50-ft tower, instead of 40 or 45. Haefs responded that he believed it was for better efficiency.

Meece stated that this was correct; the margin for efficiency would be increased with the additional height due to the placement in the wind current.

Caldwell questioned what the height restriction was for that piece of property, and Jim Woodhull answered that it was 100-ft, as long as there is adequate fall zone.

Caldwell then questioned why this would need to be a special exception then, to which Woodhull responded that they all have to be.

VanAken commented that he was curious to know how the maintenance on the tower would be performed. Haefs stated that they would lower it to fix it, and Meece agreed, stating that part of the project is the students learning to maintain the wind tower.

No further discussion.

All in favor of approving the special exception request, motion passed.

**Public Hearings:**

**Ordinance No. 2007- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2004 AS CODIFIED IN ARTICLE VII OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING COMMISSION AND BOARD OF ADJUSTMENTS BY CHANGING THE EFFECTIVE DATE.**

Caldwell opened the public hearing for public comment.

No public comment was heard.

Blakeman made a motion to approve Ordinance No. 2007, Beebe seconded.

Discussion:

No discussion.

All in favor, motion to approve Ordinance No. 2007 passed.

**Resolution No. 3988- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2008-2009, ESTABLISHING THE TAX LEVY, MAKING APPROPRIATIONS AND AUTHORIZING THE CITY MANAGER TO AMEND THE BUDGET.**

Caldwell opened the public hearing to public comment.

Nancy Atkins approached the Commission and voiced her concern over her observation that the fire and police departments seem to have the lowest salaries while they are some of the most important positions within the City in her eyes.

Caldwell questioned if there was a specific line item to look at.

Atkins said that pages 21 and 22 held the information. She simply is concerned that the highest salaries in both departments are \$39,000 but sees higher ones in categories like supervision.

Meece agreed that those positions are extremely important to the City, but that there are many factors that go into determining salaries, such as grades, experience levels, and certifications. Factors different between fire and police, but essentially pay can be increased by attaining higher grades or additional certifications. He stated that he would like to be able to compensate them more, but that with the current funds the City has, it is not possible.

Caldwell questioned if these figures on the budget included longevity and overtime, and Meece stated that they did not, so that salaries could actually be higher than those figures represent.

Beebe commented that supervisory salaries, whether union or non-union, needed to be higher because of the nature of the work.

No further public comment was heard.

Blakeman moved to approve Resolution No. 3988, Beebe seconded.

Discussion:

VanAken asked if it was known how the City's pay rates compare to elsewhere.

Meece responded that the City had done a pay equity study 4-5 years back and made some changes based off of those findings, but that one had not been done since. He also said that when labor contracts are renegotiated, this is something that has to be looked at.

Caldwell also stated that those comparisons were made during labor negotiations.

Meece then stated that the areas chosen were a set of communities that were then used for comparison.

No further discussion.

All in favor, motion to approve Resolution No. 3988 passed.

**Ordinances:**

No new ordinances were introduced.

**Resolutions:**

**Resolution No. 3989- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING INCREASE SALARY FOR CITY MANAGER.**

Caldwell questioned if this increase in salary was for cost of living, which he was informed it was.

Blakeman motioned to approve Resolution No. 3989, VanAken seconded.

No further discussion was heard.

All in favor, Resolution No. 3989 passed.

**Resolution No. 3990- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH BILLINGS CLINIC PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) TO PROVIDE TRANSPORTATION SERVICES THROUGH ANGEL LINE.**

Meece opened discussion on this resolution by explaining that the information in the packet should read \$12.35 per transportation per trip within 59047 and break it down to a per hour cost.

Julie Jardine was then called forward to answer any questions on the program.

Blakeman questioned what had brought the idea of this program up.

Jardine answered that it is a new program to the community. There are fourteen sites in the United States in rural communities that were chosen for this project. Essentially the idea is to transport participants to an "adult daycare" with the Angel Line van, which would be contracted out to them.

Caldwell questioned if this would influence the City's insurance for Angel Line, to which Meece answered it would not.

VanAken asked since it was the Billings Clinic that this would be through, what the nearest rural community would be that is also participating in the program, and Jardine answered that the nearest is in North Dakota.

Jardine also stated that the existing Angel Line services help this program, and that there is a 30 person limit on participants.

Caldwell questioned what the contract terms would be. Jardine stated that it would be a three-year contract that is renewed annually, to which Meece agreed.

Beebe stated she was curious if Angel Line had the capacity to add this program on. Jardine said that the program would be willing to provide additional funding to Angel Line for their services if it was needed.

Blakeman motioned to approve Resolution No. 3990, Beebe seconded.

No discussion was heard.

All in favor, motion to approve Resolution No. 3990 passed.

**Resolution No. 3991- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH ARTEMIS INSTITUTE FOR CONSTRUCTION OF A TRAIL SIDE RELAXATION AREA ON PROPERTY DONATED TO THE CITY BY TED AND GEORGANN WATSON.**

VanAken opened discussion by pointing out that recent Letters to the Editor discussing the costs of the project is actually \$4,000-7,000, not \$40,000-70,000. This is much cheaper than what a contractor would ask he stated, and that it is a benefit to have the opportunity to use the Artemis group and make use of the donated land to benefit the community.

Caldwell asked if the money for this project would come out of the trails budget, to which Meece answered it would, and that there is about \$25,000 set aside for that budget.

Beebe questioned if the money for the project (the \$4,000-7,000) was in kind or cash. Meece answered that it would be an up to amount of cash expenditure.

Caldwell added that the amount is for cost and materials.

Blakeman motioned to approve Resolution No. 3991, VanAken seconded.

No discussion was heard.

All in favor, motion to approve Resolution No. 3991 passed.

**Resolution No. 3992- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISH LICENSE FEES FOR UNALTERED DOGS IN THE AMOUNT OF \$150.00 AND CATS IN THE AMOUNT OF \$100.00 PER YEAR PURSUANT TO THE ANIMAL CONTROL ORDINANCE.**

Beebe requested that this resolution be tabled at this time. She felt that it would be better to have more time to gather more information on the subject in order to take more proper action.

Caldwell questioned if a specific date is necessary to table it to. Becker answered that it would be effective upon passage, and that there needs to be a resolution of intent, two weeks notice, then a public hearing, in order for it to be effective by January 1<sup>st</sup>.

Beebe explained that she has done considerable research on the topic but that she would like more time to consult with staff and more fully develop the resolution for the ordinance so that it accomplishes what it really is intended to do. She would like to separate it from the law enforcement model into a better plan that involves a liability insurance aspect, too.

Caldwell asked Becker if the resolution of intent would need to be done by the first meeting in November, and Becker answered that as long as it is done by the first meeting in December that it should be on track to be in effect by January 1<sup>st</sup>. Becker then continued on to explain that it is a resolution, not an ordinance, so it would only need two meetings to go into effect.

Beebe motioned to table Resolution No. 3992 until the first meeting in November, VanAken seconded.

No further discussion.

All in favor, Resolution No. 3992 was tabled.



**Resolution No. 3993- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING AGREEMENT WITH BILLINGS CLINIC PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) TO PROVIDE TRANSPORTATION SERVICES THROUGH LIVINGSTON FIRE AND EMERGENCY SERVICES.**

Meece began discussion by asking for attention to the drawn to page 147 of the agenda, which sets out the fee schedule between the Fire Department and PACE. He went on to explain that there would be a \$250.00 response fee when a participant in the program was not transferred, but otherwise it was all very similar to the other PACE agreement.

Kevin Harrington explained that the response fee is the same as the response fees that exist now.

Jardine stated that through Medicare, a response fee could not be collected if no transportation took place, but that PACE would cover the cost if this occurred.

Blakeman asked if this was for actual emergency care, and Jardine answered that it was.

VanAken asked Jardine to clarify how this would work in terms of the agreement between PACE and the Fire Department as to who makes the calls for transport and services.

Jardine explained that PACE makes the calls for transport because the participants are enrolled in the program and are named clients. The only way that PACE can be bypassed in calls for transport is if the call is an emergency.

Caldwell questioned what would determine if it were an emergency, and Jardine responded that it was individual to the patient.

Blakeman motioned to approve Resolution No. 3993, and Beebe seconded it.

Meece thanked Jardine and her staff for all of their work on this project, and their cooperation with the City.

No further discussion.

All in favor, motion to approve Resolution No. 3993 passed.

**Resolution No. 3994- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN MEMORANDUM OF UNDERSTANDING WITH TRI-COUNTY NETWORK AGAINST DOMESTIC AND SEXUAL VIOLENCE (NETWORK) TO PROVIDE \$5,000.00 IN FINANCIAL SUPPORT.**

Becker began by stating that he had been asked by the Tri-County Network to amend the resolution and memo of understanding to read "Tri-County Network" instead of simply "Network" in order to avoid confusion with a neighboring program in Bozeman, MT.

Blakeman motioned to amend Resolution No. 3994, VanAken seconded.

No discussion was heard.

All in favor, motion to amend Resolution No. 3994 passed.

Meece stated that it is the administrative opinion to define what a city "resident" is in order to ensure appropriate members are part of the program, and that having Tri-County represent this definition and present it to the City due to the high expenditure would make the administration most comfortable. He also stated that there would be time to amend or fix the agreement at a later date if necessary because it is important to have a high level of sensitivity in this case.

VanAken said that it had occurred to him that the \$5,000.00 cap would only support a limited number of people who need help.

Lori Scalise answered that the amount would help somewhere around a dozen people, but that she had exact facts and figures that she could get if the Commission so desired.

VanAken continued that he felt due to the limited amount, it was even more crucial to verify residency in the city.

Jones agreed with VanAken that it was essential.

Blakeman questioned what the average length of stay tends to be. Scalise stated that it tends to be around 2-3 weeks, but that it can be for a period of up to 45 days. She again stated that all of this information is documented if the Commission would like to see it.

Blakeman stated that she was trying to get a grasp on how far \$5,000.00 could go. Scalise said that the money itself doesn't last long, but that any amount helps out, and that guaranteeing residency would not be an issue.

Blakeman motioned to approve Resolution No. 3994, Beebe seconded.

No further discussion.

All in favor, motion to approve Resolution No. 3994 passed.

**Action Item A:**

Discuss/approve/deny vacation of 75 feet of right-of-way in the 800 block of West Cambridge Street. Direct staff to come back with resolution if approved by Commission.

Meece requested that Jim Woodhull come up to explain the action item.

Woodhull explained that the 800 block of West Cambridge St. already has one property on it that has had vacation, and the property requesting this vacation is directly behind the first property.

Caldwell asked if there was a retaining easement for trails, to which Woodhull responded that not only would there be a need for that, but that also there is potential for flood issues in that area, too.

Blakeman questioned what the process would be. Becker explained that there would need to be a resolution of intent to vacate the property, then a public hearing, and then a resolution.

Becker also explained that the City can only vacate the public right-of-way, and that anything else would have to be done through the property owner. The City has no authority to do anything involving utilities (i.e. Qwest).

Beebe motioned to bring Action Item A back, Blakeman seconded.

Discussion:

VanAken asked Woodhull what the sense of reason for this action would be.

Woodhull stated that the house on the land is currently only 1 ft from the property line and that the residents wish to remodel and build a porch in the area where there is no set-back.

Caldwell stated that if the item did not pass, then it would be brought back as a variance request. He also asked if they would be looking at vacating the first 17 of the 37 feet of the area.

Woodhull explained that the action item would have to be done by approaching the entire right-of-way and then reserving that portion that is to be retained as an easement.

Blakeman questioned if that reservation would be right along the creek. Becker asked how many feet they would want to reserve from the bank, and Woodhull answered that it would be 20 ft. from the bank of the creek.

Becker commented that he felt this was creating a new survey situation unless it would just be an easement. Woodhull said that it would be, and Becker stated that the City would make them vacate the entire thing and make them give the City an easement back.

Caldwell questioned if there would be the need for a survey if that was the course of action taken, and Becker said there would not be the need for one.

Becker explained that upon vacation, half would go to Genevieve Morrison, and then questioned if there would be a need for easements on both sides of the creek.

Woodhull answered that most of the right-of-way is on the south side of the creek, to which Becker responded he could go look at it and report back.

Caldwell said that he thought it made sense to tie this into any trail connections that might exist in the area, or to potential trail connections. Woodhull stated that trails would tie back to the 7<sup>th</sup> St. Bridge area.

No further discussion.

All voted in favor of the motion, motion passed.

**Action Item B:**

Discuss/approve/deny waiver of Civic Center fees for the Park County Spay/Neuter Clinic on October 26<sup>th</sup>, 2008.

Meece opened discussion by stating that a request had been issued to waive the fees at the Civic Center for the October 26<sup>th</sup> Spay/Neuter Clinic, which is similar to other actions the City Commission has taken in regards to this task force and other non-profit entities, such as the Job Fair.

Blakeman motioned to approve Action Item B, VanAken seconded.

No further discussion.

Four voted in favor of the motion, one abstained, motion passed.

Beebe chose to abstain from voting on the motion due to involvement with Montana Spay/Neuter Task Force.

### **City Manager's Comments:**

Jones commented that she was unsure of who the Leadership Team consisted of that had been mentioned.

Meece responded that it was essentially made up of the senior staff members. He went on to explain that the first Quarterly Review session would take place later this month, and that he had invited the union presidents to attend. Also, he said that follow-up reports on the success of the Review would be provided for the Commission.

Blakeman commented that she wished to clarify the Calendar of Events; the Planning Board meeting on the 15<sup>th</sup> would be cancelled.

Caldwell stated that he had several questions. First, he wished to know what the status was on the appraisal for the Water Works Building.

Meece answered that he would bring it, and the RFP, to the next meeting.

Caldwell mentioned that he was slightly concerned with the slow pace the project was moving at, and that he had thought the appraisal would come before the RFP.

Meece responded that having the appraisal done, along with the RFP could increase the comfort level with the project.

### **City Commission Comments:**

Blakeman wished to commend those involved with the fixing up of the Civic Center, especially the bathroom area.

Meece explained that the Cornerstone Community Church and a group out of North Carolina had done the alterations. Ranger Plumbing, Tech Electric, and Kenyon Noble also provided assistance.

VanAken remarked that he appreciated the recent attentiveness to the minutes because he has not had enough time lately to get to make changes before the ones he would suggest have already been made. He also reminded the Commission that he would be absent for the next meeting.

Caldwell asked for attention to be given to page 54 of the packet, where he noticed a quorum was again not present at the Board of Adjustments meeting, and stated that he really wished there was a way to get the members of it to attend.

Meece explained that he had discussed this issue with Woodhull and that they felt comfortable in the changes that had so far been made to the group, but that the key is in screening applicants in the process of approving people to the group and ensuring that they understand they are accountable to be at those meetings. He also stated that there are currently two positions open on the board.

Caldwell questioned if there had been an alternate put in place, to which Woodhull responded there had not.

Jones questioned who was on the board currently. Woodhull stated that Tom Arrandale, Russ Himmelspach, and Chris Danzer currently made up the board.

Woodhull also stated that it was difficult to get a quorum at the meetings.

**Public Comment:**

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 8:15 p.m.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair

CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
October 20, 2008

The Livingston City Commission met in a regular session on Monday, October 20<sup>th</sup>, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Mary Beebe, and Juliann Jones. Rick VanAken was absent.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Clint Tinsley, Shirley Ewan, Alan Davis, Jim Woodhull, Brad Haefs, and Robyn Keyes.

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

No discussion was heard.

All in favor, motion passed.

**PROCLAMATIONS:**

There were none.

**SCHEDULED PUBLIC COMMENT:**

There was none.

**VARIANCE REQUESTS:**

Haefs introduced a request by Ernest and Susan Meador, of 1208 W. Montana St, to place a moveable storage shed on the property, which would have a two (2) foot side property line setback and a four (4) foot rear property line setback. He explained that code requires a five (5) foot rear and side property line setbacks.

Haefs continued by explaining that the request had been presented at the most recent Board of Adjustments meeting, where a quorum had been present. A public hearing was also held. The Board recommended approving the request.

Blakeman motioned to approve the findings of fact, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, motion to approve findings of fact passed.

Blakeman motioned to approve the variance request, Beebe seconded.

Discussion:

No discussion was heard.

All in favor, motion to approve the variance request passed.

**PUBLIC HEARINGS:**

There were none.

**ORDINANCES:**

There were none.

**RESOLUTIONS:**

**Resolution No. 3995- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE UNDEVELOPED CAMBRIDGE STREET COMMENCING FROM THE EASTERLY BOUNDARY OF THE ALLEY RIGHT OF WAYS IN BLOCKS 24 AND 36 OF THE PARK ADDITION TO A POINT 75 FEET EAST OF SAID ALLEYS, RETAINING A 20 FOOT EASEMENT FOR A WALKING TRAIL ADJACENT TO THE SOUTHERLY BANK OF FLESHMAN CREEK, AND CALLING FOR A PUBLIC HEARING.**

Discussion:

Blakeman questioned if this was a public hearing; Caldwell stated that it was not.

Blakeman motioned to approve Resolution No. 3995, Beebe seconded.

Discussion:

Meece explained some more background on the situation. He stated that both Becker and Woodhull have concerns about the existing home on Parcel 1 (from an action taken by a past City Commission) because it has a deck off of it that extends out near Fleshman Creek. They both feel that more research needs to be done before the Public Hearing is held, because the full 20 feet that is being requested to be reserved for a trail may not be available due to the deck.

Woodhull further stated that there is quite possibly no permit for the deck as it is.



Caldwell stated that the Public Hearing would take place at the next meeting.

Blakeman questioned whether or not the Commission should take action on the resolution tonight, or if it should be tabled.

Meece answered that it was the consensus recommendation of staff that action should be taken tonight, and then more information can be provided at the next meeting on any possible news about the land.

Caldwell agreed that it was best to move the process along.

Blakeman stated that she was okay with that decision.

No further discussion.

All in favor, Resolution No. 3995 passed.

**Resolution No. 3996- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO RECLASSIFY THE OLD WATER WORKS BUILDING AS PROPERTY WHICH MAY BE SOLD AND OF TIS INTENT TO SELL THE OLD WATER WORKS BUILDING UNDER CERTAIN TERMS AND CONDITIONS AND CALLING FOR A PUBLIC HEARING.**

Blakeman opened up discussion by questioning what step of the process this would be, and how many steps there would be total.

Becker answered that yes, this is the first step. The building must be reclassified first as property that can be sold, leading to a public hearing on the reclassification, then a public hearing on whether or not the building should be sold would take place after reclassification happens.

Caldwell questioned if the reason the building had not been reclassified before was because it had only been offered for lease. Becker said yes, and that the sale of the building also must be advertised as a sale of any other City property would have to be.

Blakeman asked if the appraisal of the building was available at the meeting tonight. Meece explained that it was not quite ready but planned to obtain it from Mr. Holmes.

Blakeman continued that she would rather wait for the appraisal before making any decisions.

Meece said that they could have the appraisal available hopefully by the middle of the week.

Caldwell voiced his worry that the lengthiness of the process could lead to a loss of interest among potential buyers.

Meece responded that regardless of the appraisal, there are still a lot of steps that must be taken with this process so there will need to be time allotted for those steps as it is.

Jones motioned to approve Resolution No. 3996, Beebe seconded.

Discussion:

Beebe asked if there had been two inquiries in buying the building. She recalled there had been one several months ago, and one about a month ago.

Caldwell stated that was true.

Blakeman agreed, and stated that one was still very interested in buying the building.

Beebe stated that she thought the appraisal never happened with the last one because the appraiser was absent, and that she wants to make sure that the second interested party is still available.

Meece said that he remembered people asking that the building not be sold and that now Karl Knuchel is the second interested party who came to the City right after the Commission meeting one month ago.

Caldwell asked if Knuchel had previously been interested in the building before.

Becker answered no, that it had been Paoli and Brown who had expressed interest in leasing it before.

Beebe recalled that the item had not been tabled, but they had been waiting on the appraisal previously. She questioned if the discussion was now about the letter that had been received where the needed appraisal and appraiser had not been available, or if both interested parties were waiting on an appraisal and an RFP.

Jones stated that she agreed; both parties are still interested to her knowledge.

Caldwell said he felt it was relevant to see if this had been tabled before.

Blakeman asked if Fred Paoli was no longer a player, to which Becker answered he was not, that he had moved to Denver.

Meece stated that anyone could place a bid once the RFP is put out.

Beebe stated that she wanted to make sure that all interested parties would be contacted who have shown interest when (or if) the building does go up for sale.

Meece said he could not remember who the two parties were; Jones assured him that she had recently had contact with one of the realtors who has an interested party in the past 2-3 weeks, and that the interest was still there.

Caldwell reminded the Commission that this resolution is about reclassifying the building, not about selling it yet.

No further discussion.

All in favor, motion to approve Resolution No. 3996 passed.

**Resolution No. 3997- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO SIGN AGREEMENT WITH GREEN ACRES OWNERS ASSOCIATION ALLOWING TAPPING AND LOOPING OF WATERLINE.**

Blakeman motioned to approve Resolution No. 3997, Beebe seconded.

Discussion:

Meece explained that an existing agreement with Kilwine had already been created, but putting utilities into that area never happened because there was a halt in building in the subdivision. He also explained that Mantzey has tapped the existing waterline owned by the Green Acres Homeowners Association, which was done with agreement by both parties. Documents exist that explain what has happened up to this point between Green Acres and Mantzey to complete the development.

Roberta Pugliano, a resident of Green Acres, came forward to discuss the matter. She began by explaining that she felt Meece's statements were inaccurate because the first time that the Green Acres waterline was tied into, she claimed no one knew about it until it was already done, and she was not sure that anyone in Green Acres was contacted about it. She also wanted to know what the City was responsible for in the agreement and why the City was involved in it when she felt it should be up to the developer.

Pugliano continued on by stating that she felt the tapping had been done without approval, and she was concerned that no looping had taken place yet, and wondered if it was up to the City to loop since Brookstone had tapped into the Green Acres waterline. She continued that she thought no fees had been paid to tap into the waterline, and that a good solution could be to trade the tapping fees for looping. However, she felt that there was no bargaining power and

questioned what could keep the City from letting anyone tap into the waterline. She also mentioned an instance where the pressure built up in the waterline and exploded a toilet in a residence in Green Acres, and she was unsure of why the City had been the one to pay to fix it.

Meece responded that the City has worked closely with the Green Acres Homeowners Association on this agreement, and that it had come to the City at the request of the Association. A discussion took place with the Association prior to the tap, and the City currently is the provider of water to the waterline. Also the State holds the City accountable for the water quality and pressure in the waterline.

Caldwell added that the service requirement for the waterline belongs to the City.

Meece continued that the negotiated contract had first been proposed to the City approximately one and a half months prior to this meeting.

Clint Tinsley, Public Works Director, addressed why the City is accepting responsibility for this project. He stated that the City annexed Brookstone so once the project is complete, it becomes the responsibility of the City. He explained that the looping does not need to be done until any building permits are sold, which has not yet occurred. Nothing can be done with the loop at this point. Tinsley also explained that the developer has enough money to put the project on hold until more buyers are interested in the lots, etc.

Caldwell asked if the agreement between Brookstone and Green Acres is separate from the City.

Tinsley said that yes, it is between the two parties, but that it still involves the City. The value to Green Acres was the provision of another tap and loop.

Pugliano stated that she still felt concerned that there was no guarantee for Green Acres to receive the loop, due to the times.

Caldwell clarified that there would be no benefit from the tap that was placed until a loop occurs.

Pugliano questioned what would prevent the City from placing other taps, due to past instances where Kilwine agreed to connect and loop, but then the project never got off the ground. She also stated that she felt Brookstone was using Kilwine not going in as an excuse.

Woodhull stated that there are two different Kilwine projects- one is to the west of Green Acres, which is the one that had the permission, and the other one is near the Montague subdivision.

Caldwell said that the agreement is with the Green Acres Homeowners Association, not individual homeowners, and that he felt the Commission needed to move on with the meeting.

Pugliano also stated that The Enterprise had listed the meeting time wrong, and that she had seen ads in the paper for the lots in the Brookstone subdivision.

Woodhull responded that they can advertise, and the money is put into escrow if someone does desire to purchase a lot, so that the money can be returned if the development is not finalized.

No further discussion.

All in favor of approval of Resolution No. 3997, motion passed.

**Action Item A:**

Discuss/approve/deny contract with HKM for Phase 1 of a Railroad Quiet Zone implementation.

Meece began by explaining that he had received a proposal that he had requested from HKM for the discovery process for creation of a Quiet Zone within the City. He said he had talked to other cities that have implemented the zones, and that HKM could determine the costs and regulations of putting a zone in Livingston. The proposed cost estimate for the feasibility study is \$21,310, and he explained that it is more of a proposal than an actual contract at this point.

Caldwell questioned if this would be a feasibility study. Meece answered that it would be, and that it would provide the necessary information to make a decision about implementing a zone. The proposed cost is for the study, not for the next step after.

Blakeman asked if the study would provide the Commission with what would need to be done to price the actual project. Meece answered that it would.

Beebe questioned where funding for the study would come from.

Meece stated that there is no source yet, and that he had been asked to bring the proposal for the study. He said that the funding could possibly come from the General Fund or from C-TEP.

Blakeman stated that she wondered if money for the project could be rolled up into the money for the underpass project.

Meece answered that it could, but that it would add a huge cost to the underpass project, and that it had not been advertised as part of the levy when he proposed the levy to the community.

Caldwell said that he knew there had been resistance from some north side residents to applying money for the underpass against more studies.

Blakeman then stated that since there seems to be no money for the study that it could be wrapped up into some other phase of the underpass, such as the Federal or State monies.

Meece said that the State funds were already secured, but that the Federal funds were not yet. He also said that he could see if money for phase one of the study could come from the Federal Railroad Safety Act, under which it could possibly qualify.

Caldwell asked if Meece was looking to bring this item back as a resolution. Meece answered that he would like to move forward with finding a funding source.

Jones stated that she had done some research on her own about the project, and that she had found a lot of new railroad crossings are safer and communities of similar size to Livingston seem to have paid around \$200,000 for Quiet Zone projects.

Caldwell recalled that Forsyth had an opportunity to fund a Quiet Zone and that the proposal had failed.

Jones also stated that there could be resistance due to people resisting a tax to the whole community when only those who live near the railroad would benefit.

Meece said that he would look for sources and bring more information back to the Commission.

No further action was taken.

**Action Item B:**

Discuss/approve/deny draft RFP for sale of Old Waterworks Building and review appraisal (appraisal will be available Monday night).

Blakeman asked if the RFP in the packet was just a draft. Becker answered yes, that it was just some ideas.

Meece stated that the RFP would be quite similar to the East Side one.

Caldwell asked if Meece was looking for direction and what needs to be done with this item.

Meece answered that it is all just an idea of what the staff would do, and that the previously established footprint of the building would be kept. He also stated that there would be no change in the outline of what would be sold.

Caldwell questioned if the setback numbers were the same as what had been seen before. Becker said yes, they were.

Caldwell also asked what would determine what is defined as the "front yard" etc. on the footprint. Woodhull stated that the building's address determines this.

Caldwell asked what action is necessary for the Commission to take.

Meece answered that he would like to see what, if any, changes the Commission would like to have made to the RFP, were it to go out if the project goes forward.

No further action was taken at this point.

**Action Item C:**

Discuss/approve/deny request from Montana Waste Systems.

Caldwell questioned if the request was just for photos.

Meece said yes, that MWS wanted pictures of their vehicles in and around the transfer station, and that his only concern was to make sure that the City was not endorsing the use of one company.

Blakeman asked if there would be signage of the City of Livingston in the pictures. Tinsley said that there would be somewhere.

Caldwell commented that he felt this could create some positive press around the station.

Blakeman motioned to approve Action Item C, Beebe seconded.

No further discussion.

All in favor, motion to approve Action Item C passed.

**CITY MANAGER COMMENTS:**

There were none.

**CITY COMMISSION COMMENTS:**

Blakeman wanted to commend the Public Works Department for a job well done with the new streets, and also with the letter that was provided in the packet. She said the pothole patcher seemed like a great idea.

Caldwell asked if the letter was an annual publication. Meece said that Sandy Wulf did it at Public Works bi-annually.

Beebe stated that she was pleased to see an inventory of publicly owned trees mentioned in the letter. She also said that she was curious about the Girl Scouts easement.

Meece said that he had met with two representatives from the Girl Scouts last Thursday, and that they had some reaction to the proposal and a few additional concerns and changes to the language. He continued that they had stated they would like to implement a gate at the M Street access for security purposes for when a large gathering was taking place at the site. They also had a few signage concerns in regard to keeping people on the trails (similar to Federal trail signs).

Becker suggested closing off the trails that branch off from the Girl Scout trail.

Meece continued that the negotiation process would move forward and that he feels very positive about it. He also stated that the Commission would have to sign off on the final document before any of it would become a done deal, and that the document should be available soon.

Beebe stated that she had thought that the Girl Scouts had cleared a lot out from the trail area.

Meece said that the Girl Scouts had told him they planned to do a lot in there in the next 10 years. They had asked him for a 10-year trail renewal unless either party provided written notice for a new development on either party's behalf. He also stated that he was essentially trying to see what he could get the Girl Scouts to agree to, and that the Commission could always say no to the proposal.

Beebe stated that this discouraged her.

Jones stated that she had noticed some excavation in the area behind P Street that had requested to be annexed but had not been. Haefs responded that it was legal to do so because it was in the County and the owner has the right to do so.



Jones also said that it had occurred to her that if people do the right thing in town and recycle, there will be less garbage for the City to pick up.

Caldwell said that he had seen articles in area newspapers about using warm patches to improve temperature consistency in the mix and permit an extended repair season. Meece said he had also noticed those.

**PUBLIC COMMENT:**

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 to adjourn passed.

The time was 7:58 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair

CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
November 3, 2008

The Livingston City Commission met in a regular session on Monday, November 3<sup>rd</sup>, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Mary Beebe, Rick VanAken, and Juliann Jones.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Jim Woodhull, Clint Tinsley, Alan Davis, Peggy Glass, and Robyn Keyes.

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

No discussion was heard.

All in favor, motion to approve consent items passed.

**SCHEDULED PUBLIC COMMENT:**

There was none.

**VARIANCE REQUESTS:**

There were none.

**PUBLIC HEARINGS:**

**Resolution No. 3998- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING A PORTION OF THE UNDEVELOPED CAMBRIDGE STREET COMMENCING FROM THE EASTERLY BOUNDARY OF THE ALLEY RIGHT OF WAYS IN BLOCKS 24 AND 36 OF THE PARK ADDITION TO A POINT 75 FEET EAST OF SAID ALLEYS, RETAINING A 20 FOOT EASEMENT FOR A WALKING TRAIL ADJACENT TO THE SOUTHERLY BANK OF FLESHMAN CREEK.**

Caldwell stated that he believed new information had been received on the resolution's topic.

Meece addressed this by explaining that a letter had been received from Jerry Morrison regarding the walking trail aspect of the resolution. Additional issues with the walking trail had been brought about, Meece explained, including the

discovery that the 20-foot width necessary to reserve the trail might not be feasible.

Woodhull further explained that to extend the trail beyond 8<sup>th</sup> St. would find it ending at the lagoon, essentially going nowhere.

Blakeman questioned if the bank was steep at that location.

Woodhull answered that it was difficult to know that because of the dense, overgrown vegetation that exists there currently

Meece stated that the staff recommends removing the 20-foot easement from the resolution.

There was no public comment.

Blakeman moved to approve Resolution No. 3998. Beebe seconded.

Blakeman asked if the staff recommendation was that there is no purpose for the easement. Meece said yes, that the staff sees no value in the easement that cannot be solved by other means, and also due to the physical challenges that would exist to use of the easement.

Beebe questioned if the build-out permit issue that had been brought up at the previous meeting had been resolved. Woodhull answered that at this point, it had not been cleared up.

Caldwell asked if the resolution could be amended to remove the easement provision without requiring a further public hearing.

Becker answered that amending it would be adequate under the circumstances and he recommended such action.

Blakeman moved to amend Resolution No. 3998 to remove the 20-foot walking trail easement from the resolution, and Jones seconded.

Discussion:

No further discussion on the amendment.

All in favor, motion to amend Resolution No. 3998 passed.

No further discussion took place on the resolution.

All in favor, motion to approve Resolution No. 3998 passed.

**Resolution No. 3999- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECLASSIFYING THE OLD WATER WORKS BUILDING AS PROPERTY WHICH MAY BE SOLD AND TO ADVERTISE THE OLD WATER WORKS BUILDING FOR SALE UNDER CERTAIN TERMS AND CONDITIONS.**

Public comment opened with Mary Murphy presenting a copy of a petition that had been signed and circulated the last time the issue of selling the old water works building had come up. She stated that she understood the building had been appraised for \$123,000.00, but she does not feel that this amount is enough considering the loss of the building and property that would result in the sale. She voiced concerns about parking lots and other structures being built if the building were to be sold.

Murphy also explained that through the petition, she had discovered that 94% of people who were talked to about the building's sale would rather see it removed and torn down instead of being sold. She said she feels it is inappropriate to put a business on parkland.

Caldwell clarified that no parkland will be sold aside from that which is contained within the setbacks.

Tara Eddy, another Livingston resident, questioned how much land, building included, would be sold.

Caldwell stated that the setbacks are 5 feet to the north and south, 15 feet towards 9<sup>th</sup> St., and 25 feet towards 10<sup>th</sup> St.

Eddy then asked if the underground storage tanks were included in the proposed sale.

Becker answered that it is required of the purchaser to fill in the tanks, but they are not being included as part of the sale. He also stated that the map shows the land that would be included with the building in the sale.

Eddy said that the map confused her as to what is land and what is building.

Blakeman asked to clarify the front of the building, which Meece answered is 10<sup>th</sup> St.

Eddy asked if the tanks were outside of the setback land amount, and if they would be filled in at the expense of the purchaser.

Caldwell answered yes to both questions.

Eddy questioned if the building could be added on to once purchased.

Caldwell said that it would be almost impossible to do so with the setbacks.

Eddy stated that she felt it would be unwise of the City to sell anything within parkland. It would be a conflict to sell the building with the usage of the park by kids, etc. for such a small price. She would hate to see it be "given away" and said that she felt it would be better to demolish the building rather than selling it to create more parkland.

There was no further public comment.

Blakeman moved to approve Resolution No. 3999, Beebe seconded.

Discussion:

Blakeman questioned if the next step in the process would be to issue the RFP.

Meece responded that yes, the RFP would be issued in the format that had been previously discussed, and that the resolution reclassifies the building, which authorizes putting the building out to bid for sale. He explained that the City Commission can reject or accept any of the bids that are received, and the Commission does not have to accept any of them if they so desire.

Becker added that the Commission could include more conditions in the RFP if they would like to.

Blakeman asked that since the conditions are on the purchaser and preclude things from happening, would the City be held to those conditions if they do not sell the building.

Becker responded that the conditions only bind the purchaser.

Blakeman stated that she is still uncomfortable selling the building at this point in time. She said that she would rather move forward by taking a breath from the boom that had occurred in the real estate market. Selling the building would create a big hole in the middle of the park; so using the parkland by demolishing the building might be the better option she felt, because cutting out a hole in parkland is unwise.

Jones commented that she feels that with such a tight budget for the City right now, that \$123K could go quite a few ways to help maintain parks.

Caldwell asked if there was an estimate on tax revenues the City would attain if the building was sold and developed.

Meece stated that off the top of his head, he approximated it would be near \$1200.00 at most in property tax, not including the incremental revenues associated with redevelopment and upgrade of the building.

Caldwell asked if the City would get only a percentage of that.

Jones said that given there are people interested in buying the building, the Commission would not have to accept any of the offers if they did not want to. She also stated that the offer she knew of would create an area that would essentially be kid-oriented.

Caldwell stated that not all interested in buying the building were necessarily interested in it for commercial purposes, and that he thought one interested buyer had expressed intentions of turning the building into a residence.

Meece said that was correct.

Beebe commented that she felt the current market was not much of a seller's market, and that she aligned more along Blakeman's position, even if the money gained from the sale of the building would help revenue.

Blakeman stated that she goes back to the Girl Scout property and how she is sad now that they let go of that land, so she hates to see the same thing happen to this property and then 25 years down the road be responsible for such action.

Caldwell questioned if there were concerns with public safety by leaving the building vacant.

Meece stated that there were, and that they were similar to ones that exist with the old East Side School. The building cannot be properly maintained, and kids have already been injured at the water works building. The longer the building sets vacant, unused, and unmaintained, the more it falls apart and the more it gets damaged. He also said that it is a fair question to consider tearing it down and filling in the cisterns.

Blakeman said that she was curious about the opportunity to recycle the bricks from the building if it were to be torn down, and also the ability to recycle the old materials, too. Perhaps someone would tear it down for the materials because old bricks do have a value and there is a market for recycled building materials.

Caldwell commented that a lot of this boils down to the question of whether this building is to be viewed as being historic or just old. If it is historic, then there are reasons to promote its restoration, but if it is just old, then perhaps, like Blakeman discussed, the best option might be to tear it down and fill in the cisterns.

VanAken said that after hearing the comments of his fellow commissioners, that as much as he feels like the money from the sale of the building would be good, there is the possibility of not being able to sell the building for as much as it is appraised at. He questioned what \$123K would gain the City, and said that the

issue with the funds is not enough to turn minds. Also, he said that the dichotomy of philosophies needs to be recognized, in so far as why is the government still sitting on this land, to which the answer is to sell it, as opposed to keeping the land for future purposes or uses.

VanAken continued that it needs to be determined what is the value to each side of the dichotomy, he feels is the challenge in this issue. He said that the location of the land is beautiful, so if it is not sold, something needs to be done with it, even if it is tearing it down like Blakeman discussed. The point is, he emphasized, that he does not want to see it sit there vacant like it has for so long.

Caldwell commented that by putting the building up for sale, the Commission is given the option to see what the market offers, but that the City should also look into the salvage value achieved in getting rid of it, too. Then there would be a full range of options available for discussion.

Jones asked if they would have to give the public a say in the building being torn down.

Caldwell asked if there would need to be a resolution to tear it down. Meece answered that it would just be a cost consideration.

Becker said that for there to be a resolution, there would have to be significant public interest.

Caldwell said that public comment on tearing it down would occur one way or another, either through a formal public hearing or through informal feedback.

Meece stated that there is nothing preventing the Commission from having a resolution or public hearing, but they do not need either.

Blakeman said that last time they had decided to not sell the building, the decision had been made to utilize it as a City building, but because it became not feasible to do so due to the halt of planned growth in the building department, it never happened.

Jones commented that she likes Caldwell's idea of creating alternatives for the Commission to choose from.

VanAken stated that they also need to think beyond the idea of tearing it down, but also that the cost of renovating the building is prohibitive in itself, so perhaps since it is beyond renovation, bids can be acquired, and if that option does not seem to work, Plan B can be gone to.

Caldwell agreed with VanAken.

Beebe reminded the Commission that this issue is coming up because of a change in the market, which led to the City not using the building, as previously intended. That plan had changed due to the decrease in need for expanding the building department, but she said it needs to be kept in mind that the circumstances could always change again, since they are always unforeseen. Therefore she hates the idea of "giving" the building away at a low price, since the market could always go the other way again. She also said that the talk of tearing it down does not sit well with her, but she agreed that there are other options that need to be explored.

Caldwell agreed, and added that they will never know how much the market thinks the building is worth until the market is asked.

Beebe said that was true, and that the information on how much the market values it at is needed since there have been several inquiries into purchasing the building. She also asked if there was a motion on the table, and if directing the staff to research other options would take an amendment.

Meece said it would not need to be an amendment, and that the staff would try to gather the information on the alternatives by the time the RFP was due.

VanAken asked what the time frame would be once the building was put out to bid.

Meece stated that the RFP would be open for 30 days.

Caldwell added that they could change it to make it open for as long as the Commission desired. He then questioned what the time frame was to accept or reject the offers received.

Becker answered that the RFP had not designated a time frame, but that could be added to it before it was sent out in the form of either asking what the bidder felt an appropriate amount of time was, or simply by stating it in the conditions.

Meece commented that it was usually a 60-day period.

No further discussion.

Four in favor of the motion to approve Resolution No. 3999, one against (Blakeman).

Motion passed.

**ORDINANCES:**



There were none.

**RESOLUTIONS:**

**Resolution No. 4000- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AGREEMENT WITH FOUR CORNERS RECYCLING.**

Meece began by explaining that this was an agreement that had been previously discussed in concept and meetings have begun to take place with solid waste customers. He said it would allow the City to enhance and expand recycling for the community and reduce the cost to the City for condensing products like cardboard by creating a more central collection location, compared to the multiple bins located around town. He suggested perhaps the transfer station for a possible central location.

Caldwell asked how many collection sites exist at this time. Tinsley said that 45 exist.

Caldwell asked if they would be somewhat similar to the County green box set-up. Meece said that they would, and it would take about a year to phase the project in to consolidate the sites.

Tinsley added that it now costs the City \$65/month to pick the cardboard up twice a week using Four Corners Recycling.

Meece added that they do not necessarily have to use Four Corners.

Caldwell asked what value the City received from these recycled items.

Tinsley answered that it is around \$5,000-6,000, and that it would cost around \$2000/month if Four Corners were to be hired, which is cheaper than what it costs the City to do it.

Meece said that a main value to doing this is getting the City out of the commodity business. It would leave the City to focus on solid waste, which is what the City does best. He explained that it is similar to the purchase of the glass pulverizer, which also got the City out of the commodity business in that area.

Blakeman moved to approve Resolution No. 4000, Beebe seconded.

Discussion:

Blakeman questioned if this resolution got approved, would it begin in the next few days.

Meece answered that the equipment would be ready so it would begin sometime in the next month.

Blakeman also asked where the cardboard would go for now, such as putting it at the City shops.

Tinsley said that putting it at the City shops would be fine because there is already the electrical set-up to run the compactor. Other locations do not necessarily have the power set-up to run the compactor, or the cost to get the power, so it's better to use the City shop area for the time being.

Blakeman asked if the bin that is used to collect steel could have aluminum put in it, too.

Tinsley said that it is used for both, and that there will be three bins with this project. One will be for aluminum and steel, one will be for plastic, and the third will be for paper. Then the second roll-off will be for cardboard.

VanAken questioned if it mattered if the materials put in the bins got mixed up or put into the wrong bin.

Tinsley said it did not matter, and that Four Corners understands that there can be misuse, but also that the Transfer Station Supervisor could keep an eye on the bins, too, to limit misuse. He also stated that it does not matter if the material comes from City or County residents, because the more that gets collected, the more money Four Corners can make, without any additional cost to the City, and that it is a great option for the entire Livingston area, not just for City residents.

Caldwell questioned if it would help the downtown businesses, too.

Tinsley stated that it would help both the business and residential areas.

Blakeman asked if the hours would be the same as the transfer station.

Tinsley said that they would be the same as the composting area, which is from 8am-4pm Monday through Saturday.

Blakeman also asked what the status is of the glass pulverizer.

Tinsley said that he had called earlier in the day and that they had previously been told it would arrive on November 6<sup>th</sup> and that he had not heard any additional information but that he would try to find out its status.

VanAken asked if he was accurate in seeing that the second paragraph of the resolution stated that the contract would expire on October 1, 2009. Tinsley said that was correct.

Becker questioned if the downtown recycling would continue until October 1, 2009. Tinsley said yes, it would until that date, on which the contract would separate.

Blakeman asked if the downtown area's recycling would continue to be picked up and then phased out into fewer locations.

Tinsley stated that it would go back to Belgrade in separate trucks until October 1, 2009, and by that time the downtown could make a decision on what they wish to do.

Caldwell commented that he likes the idea of doing it all at one time in an all or nothing kind of fashion, instead of phasing it out downtown.

Meece said that all 45 containers are not located just in the downtown area, so the phasing out will occur all over. He also said that it might not be the best idea to consolidate in the downtown area, and that would be a decision that would have to be made based on availability of manpower and determining if there are reasons that make sense for downtown consolidation.

Caldwell stated that he felt the Commission was getting too much into the management side of the issue at this point.

Tinsley said that if the resolution was passed, that letters could be sent out to the downtown area, and other areas, which would give them all time to work out the details.

Caldwell also stated with reference to page 50 that he has previously mentioned the desire to not have City staff liaisons named in the wording of the resolution, and prefers the use of the position title.

No further discussion.

All in favor, motion to approve Resolution No. 4000 passed.

**Resolution No. 4001- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, INCREASING THE FEE FOR REGISTRATION OF VIOLENT AND SEXUAL OFFENDERS.**

Meece stated that the resolution is at the request of Chief Raney, and that by increasing the fees, the City can better pay for the costs of the program.

Raney said that the idea is to essentially recover the cost incurred by the City for registering these people. He said that \$100 would cover the \$75 it takes to run the ad in the local newspaper, and the \$25 it costs for the administration to do the work related to registration. He added that it is a huge burden to do this work, so the state law allows cities to request fees from the people who have to register.

Caldwell asked that since offenders are charged directly, what happens if they do not pay the fee.

Raney stated that some do pay, and some simply do not.

Blakeman moved to approve Resolution No. 4001, VanAken seconded.

Discussion:

Blakeman asked if all levels of offenders are charged the \$100 fee.

Raney said that it is \$30 for all offenders, except for those who are level II or level III, and those who are level I if the case involves a minor.

Blakeman further questioned if the level I and violent offenders are required to have notices put in the paper, and Raney said they are not.

Jones asked if the paper had ever been asked to perhaps run the ads for free or a decreased charge. Raney said that they had asked, and been told no.

No further discussion.

All in favor, Resolution No. 4001 passed.

### **ACTION ITEMS:**

#### **Action Item A:**

Discuss/deny/approve application for appointment to Board of Adjustments from Kevin Wiley.

Meece introduced the item by saying that there have been several spots on several City boards that have been open for some time now. This application had come in recently and he had forwarded it to the Commission for their action.

Caldwell asked if this would make four members on the board. Woodhull said that was correct.

VanAken asked if anyone knew Mr. Wiley, because he does not know him, but would like to meet and interview him before his application is approved.

Meece said that interviews had been scheduled in the past with applicants prior to a Commission meeting at the Commission's request.

Blakeman stated that she feels like the Commission should meet Mr. Wiley because after that, they might not see him often.

Caldwell questioned if there was a consensus to interview and meet, to which the response by all was yes.

Meece stated that the meeting/interview could be held at 6:45 pm before the next Commission meeting on November 17<sup>th</sup>, and that he would post the approval back to the next agenda for that meeting and advertise the interview would be taking place.

**Action Item B:**

Discuss/deny/approve Urban Renewal Authority grant to Vision Livingston Downtown Partnership for \$25,000 for final streetscape design from CTA Civil Engineers.

Meece pointed out page 61, stating it is the application the Urban Renewal Authority uses for grants. He said that the application had been submitted to the URA, and that they had taken action on it at their last meeting. The URA approved a recommendation of use of funds for the streetscape design project to the Commission.

Blakeman asked if the next step would be going out for bids if the grant is approved.

Meece stated that Vision Livingston had been in contact with CTA for that exact purpose, and that he and Becker had conversed today about the fact that the cost estimate is more than the \$20,000 statutory bidding requirement. He stated that it was therefore felt that it would be good to approve the grant, on the condition that Vision Livingston complies with any state bidding requirements.

Blakeman asked that if once the work was done, could bids be attained for the actual work downtown.

Meece stated that he would like to defer to Karyle Frazier to explain.

Frazier explained that they are building on work that is already done by a previous design team that had been assembled in 2005. All members of that team are currently involved. The group would like to get information so they can

get it back to the community in the form of real, 3-D models to present the options developed. She stated that this would be a big piece of the puzzle in terms of moving the downtown area forward.

Caldwell questioned if every step was a step towards increasing the level of specificity.

Frazier answered that was absolutely correct, and that they had been able to drill down from several recurring themes, instead of starting from ground zero.

Meece added that one of the other big pieces of the puzzle is the engineering study for the downtown to fill in the vaults, etc. He also said that this project would continue the march to completing the downtown even more by not surprising the downtown at all because all the information the businesses would need would be presented to them.

Caldwell commented that the timing would allow the overall design to remain on the timeline to keep moving forward.

Meece added that another additional piece of the puzzle is the SID/Bid for downtown.

Nancy Atkins, community member and Urban Renewal member, came forward and stated that she was confused about how the voting by the URA had occurred for this recommendation, because it had not gotten a majority vote. She had not been at the past URA meeting and had not been contacted about the meeting she said, so she had not voted on the project. She therefore questioned if there needed to be a quorum.

Meece asked if the recent URA meeting had only two members present at it.

Atkins stated that was correct, and that both had voted to approve the project's recommendation.

Caldwell stated that the URA did need a quorum for formal decisions but that any recommendation made is not binding to the Commission decision.

Atkins asked what the purpose of the URA is then.

Becker stated that he is unsure of what the bylaws state for the URA but that they do not have budget authority since the Commission authorizes expenditures.

Atkins further questioned what the purpose of the URA is, then, if there is no need for a quorum, just for her own clarification.

Meece stated that in the past, since there had only been two members on the URA, that the instruction had been to go ahead and create recommendations for

the City since they have no budget authority, leaving the final decision with the Commission.

Caldwell added that the URA does not have budgetary authority, but that he does not want an absence of a quorum to keep recommendations from coming to the City.

Meece commented on the URA's habit of not sticking to a defined schedule for meetings, and suggested picking a regular schedule that would allow both the community and members of the URA to know when meetings will be held each month.

Atkins said it is difficult to advertise the meetings when the changes are made without all being aware of them.

Becker stated that the URA has certain powers in statues that would require a quorum.

VanAken asked for clarification from Atkins in terms of the item on hand; he asked if he was correct in understanding that she was not objecting to the action item.

Atkins said she was unsure because she was not at the meeting where the recommendation was created.

VanAken also said that it looks as if the URA needs to create a steady meeting plan and stick to it, and also that the group needed to make sure of their own bylaws.

VanAken moved to approve Action Item B, Beebe seconded.

No further discussion.

All in favor, Action Item B approved with the condition that all City and State bid requirements are made.

### **Action Item C:**

Discuss/deny/approve Urban Renewal Authority grant to "Martin's sign restoration for the Northern Pacific Beanery" not to exceed \$4,500.00.

Meece explained that the action item is the same type of grant program as the previous item. The grant request is for roughly half of the project costs, with the balance to be covered by the Beanery. The URA currently has \$93,000 in cash, so they have enough to cover the multiple projects/grants. He further stated that

the action is recommended by the Beanery and the URA approves the recommendation.

Blakeman moved to approve Action Item C, Beebe seconded.

No further discussion.

All in favor, Action Item C passed.

**Action Item D:**

Discuss/deny/approve Urban Renewal Authority grant to Showcase Writer's Guild not to exceed \$5,000.00.

Meece explained that this item is another request for grant funding and the letters of recommendation are included in the packet. The URA has approved the recommendation, but he stated that some additional concern by the administration had been added to the packet because there is some concern with the purposes of the URA plan matching up with the purpose of the Writer's Guild. He further explained that the funds are not intended for uses such as this, and the item might be better funded by grants from elsewhere because it is not a good use of TIFF funds.

Blakeman moved to approve Action Item D, Beebe seconded.

Discussion:

Pat Miller, member of the community and of the Showcase Writer's Guild, came forward to discuss the item. She stated that she understands where Meece is coming from, and that she had spoken with Becker about the use of the grant funds. She went on to explain the nature of the DVD that the group is looking to distribute, and how it contains footage from this year's rodeo and parade, among other local events. The Chamber has even been contacted by CBS to use the footage for an online piece, and the DVD provides a good piece of advertisement for the City.

Miller continued to explain that various individuals have approached her about the use of the footage/DVD, and stated that she feels it is a very legitimate project, even though she knows it does not fit into the specific standards of the use of the grant funds. She stated that she needs money from some source to keep this project going, and that she would like help with the DVD. She also mentioned that she would like to say thank you for the Civic Center renovation.

VanAken noted that while he is a signer on a letter of support for this item from the Yellowstone Gateway Museum, he understands that the request might not fit into the URA standards. However, he stated that the letter of support would



stand no matter what agency the money was being requested from, and suggested attempting to find another method of funds to support the project because the requested amount is not that much in actuality.

Blakeman stated that she worries about approving something so out of scope of the agency because there are many other worthy projects out there requesting funds as well. She suggested perhaps going to the Livingston Trust.

Miller requested that a letter from the City be sent out to those who do support the project to explain why the funds were not granted to the Guild.

Caldwell agreed that it is a great project, but they cannot set a precedent for one group when they are not helping out other worthy projects requesting money, too.

VanAken asked if there was already a motion on the floor. Caldwell said that there was.

No further discussion.

None in favor, motion to approve Action Item D failed.

**Action Item E:**

Authorize Jim Woodhull to send letter to FEMA for the Yellowstone Preserve.

Meece stated that this letter is part of the development process of Yellowstone Preserve; certain things must be submitted to FEMA and the letter is part of that.

Woodhull said he would verify the accuracy of the letter with Clear Creek Consulting.

Meece also said that if the Commission is so inclined, he is asking for the authorization to have Woodhull send the letter.

Blakeman asked if there was a cost to send the letter, to which Woodhull said there would not be.

Blakeman moved to approve Action Item E, VanAken seconded.

No further discussion.

All in favor, Action Item E passed.

**CITY MANAGER COMMENTS:**

VanAken wanted to point out that he had participated in a discussion with Ed Meece about an item regarding the Angel Line Board of Directors and a conversation he'd had with Barb Williams, long-term Angel Line board member. He said while all Angel Line funding comes from the County, Williams had asked that we continue the service as a joint City/County project, where the continues to perform the bookkeeping for the line. However, given the funding stream, Williams had acknowledged the rational for the County do the accounting and to consider it a County program.

VanAken also questioned several missing items on the Calendar of Events, including the Board of Adjustments meeting for the 10<sup>th</sup>. Woodhull told him it had been cancelled. He also mentioned the misplacement of the Calendar on the agenda.

**CITY COMMISSION COMMENTS:**

Blakeman asked if the City/County meeting would be cancelled on Tuesday due to the offices being closed for Election Day. Meece said that was correct.

Blakeman also questioned if the sidewalk by the Pickle Barrel had been completed.

Tinsley said that it had been completed, and that the City had been asked to contract it out and take care of it.

Caldwell commented that it had been similar to what was done in front of The Wok, as well.

Blakeman added that she has been asked to be on the committee for a Community Food Assessment.

Beebe said that she had not gotten the sample ordinance together for the altered animal ordinance but that she would email it out. She also mentioned that she had a great sample from Sacramento County in California and that she would send that out, too. Through her research she discovered that there are many mandatory spay/neuter ordinances, and that while she hates the idea of mandates, she loves the incentives that come along with it.

Beebe then asked what the procedure would be and if the ordinance was still on the schedule for the first meeting in December.

Becker stated that it still would not make it by the proposed January 1 start date because there needs to be 30 days from when it is presented, but he suggested

that the City could refuse to license until the ordinance comes into effect, if passed.

Caldwell also mentioned that they could have a special meeting if necessary.

Blakeman said she notices that the December meeting falls on the 1<sup>st</sup>, so it could go into effect on January 1<sup>st</sup> if gotten done.

Caldwell said that one step might be missed, but that modifying the draft ordinance essentially was being done.

Beebe stated that she felt it really was a similar form of a resolution to the increase in fees for sexual offenders resolution.

VanAken noted that the 1<sup>st</sup> of January is on a Thursday, and questioned if the offices would be opened on Friday the 2<sup>nd</sup>. Meece stated that they would be open.

Blakeman added that the ordinance would go into effect on the 1<sup>st</sup>, regardless of what day of the week the 1<sup>st</sup> falls on.

Meece questioned if the ordinance had really changed from what had been seen and proposed before.

Beebe said that nothing major had changed but that she had wanted to more fully develop the ordinance and the reasons behind pushing for an ordinance of this nature, but that the specifics would remain the same.

Meece stated he still did not understand what was changing. Beebe said it essentially is the "whereases" that are changing.

Meece asked if the fees were the only changes being made to how licensing is currently done.

Beebe said that the fees would change, and that she would like to change the age requirement for alteration to 4 months from 6 months.

Caldwell requested more information on that aspect of the ordinance.

Becker added that it would take an ordinance change to involve the ages because the ordinance currently states 6 months.

Caldwell suggested working on the fees now and addressing the age requirement at a later date.

Meece questioned if it was just the reasons why that were changing from the previously proposed ordinance, and not the fees. Beebe said yes, that was correct, and that the application from Sacramento County was worth looking at.

VanAken said that he was pleased with the letter Sandy Wulf had put out on behalf of the Public Works Department, and suggested that upon editing, Meece have it put in the water bills so that the community could read about the accomplishments, too.

VanAken also wanted to mention that on the new City website, he had been asked to put together additional information on the Yellowstone Gateway Museum and Senior Center so if anyone has additional information or suggestions for links, etc. they should come to him. He also mentioned that while in Oregon, he had seen that there had been 21 annexations on the ballot for the citizens to determine, and wondered how any citizen could be expected to have enough knowledge to make a choice of that nature.

Jones said that she would be flying back in from Chicago on the 17<sup>th</sup>, but that she should make it back in time for the meeting, and if plans changed, she would let someone know. She also questioned if the website would be at the old web address.

Meece answered that the web address had changes to [www.livingstonmontana.org](http://www.livingstonmontana.org), and that is where it would be located from now on.

Blakeman commended Meece on the new website, and said that it was very, very nice.

Caldwell said that he appreciated the City picking up his 64 bags of leaves from his house this year.

Beebe added that several people have commented to her on how nice the new streets look, and that she thinks they look nice, too.

**PUBLIC COMMENT:**

Tara Eddy commented that she did not think that the old water works building specs had not sounded right, so she had run home during the meeting and gotten actual pictures of the lot. She stated that it appeared that there could be room for an additional building to be put in. She also mentioned that the March 2006 deed restrictions that had been drafted had mentioned this, but that she could not find it in the new ones.

Meece said that the draft RFP states "building footprints and setbacks."

Becker said that the document Eddy was referring to had contained the cisterns, while the current one does not.

Meece added that one condition for a purchaser is to do a survey, which has the four setbacks, included.

Becker stated that Eddy's diagram might be correct. Meece said that they would currently be operating with the idea of the building plus the four setbacks in the RFP.

Eddy stated that before it had been different.

Blakeman mentioned that several iterations had been gone through previously.

Caldwell stated that it was also different previously because they were looking to lease the building, not sell it.

Meece stated that this was correct, and that there were differences because of now looking to sell it.

Eddy questioned if Lot W off of her map existed because it is very large.

Becker said yes it exists.

Blakeman asked if Lot W would not be part of the sale.

Caldwell stated they need to be sure of what they are selling and that Lot W needs to be defined.

Meece said that a new survey was to be done by the purchaser if the building was sold.

Becker commented that the previous advertisement had been for the leasing option, and Caldwell added that many options had been considered in 2006.

Meece said that it could be brought back to the next meeting as to what it is.

Eddy asked if the old deed restrictions would be addressed.

Meece stated that if the Commission wanted to add those into the new one that they could, or that they could also leave the RFP as it is and change the restrictions during the negotiation process if a buyer is found.

Becker added that the diagram does show what Lot W is.

Eddy asked to clarify what the setbacks for the building are, and if she is correct in that they are two 5-foot on the sides, 15-feet, and 20-feet, which she was.

Blakeman asked if the RFP could be rewritten to remove Lot W, and Meece said he would look into it.

No further public comment.

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

All in favor, motion to adjourn passed.

The time was 9:13 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair

CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
November 17, 2008

The Livingston City Commission met in a regular session on Monday, November 17<sup>th</sup>, 2008. Commissioners present were Steve Caldwell, Rick VanAken, Vicki Blakeman, and Mary Beebe. Juliann Jones was absent.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Alan Davis, Jim Woodhull, Clint Tinsley, Judy Roy, and Robyn Keyes.

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

No discussion was heard.

All in favor, motion to approve consent items passed.

**SCHEDULED PUBLIC COMMENT:**

There was none.

**VARIANCE REQUESTS:**

There were none.

**PUBLIC HEARINGS:**

There were none.

**ORDINANCES:**

There were none.

**RESOLUTIONS:**

**Resolution No. 3992-A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISH LICENSE FEES FOR UNALTERED DOGS IN THE AMOUNT OF \$75.00 PER YEAR AND CATS IN THE AMOUNT OF \$75.00 PER YEAR PERSUANT TO THE ANIMAL CONTROL ORDINANCE, AND CALLING FOR A PUBLIC HEARING.**

Blakeman moved to approve Resolution No. 3992, Beebe seconded.

Discussion:

Beebe began discussion by explaining that the desire to change the ordinance came from a discussion with the Animal Control Officer (ACO) regarding the need to find tools to encourage citizens to spay/neuter their pets and to reimburse the City for the costs unaltered animals create. She stated that she had talked to many staff members about the subject and that she had come up with two key points. One, she said, was that through spay/neuter assistance from the City in the form of the free clinics, financial barriers to altering animals has been removed. Secondly, the desire to keep an animal unaltered is a matter of personal choice, and the increase in license fee is intended to reflect the increased cost to the city created by unaltered animals as well as to encourage people to spay and neuter their pets if they do not intend to breed them.

Caldwell asked what the cost was to participate in the spay/neuter clinic.

Beebe said that the cost varies because it is based on donation; the task force requests a \$10 donation or whatever people can afford but no one is turned down if they do not make a donation. Donations vary from a lot, to a little, or even nothing. She explained the services are intended for those who cannot afford to alter their animals.

Caldwell commented that there seems to be no financial barrier to alteration.

Blakeman stated that the perspective of the Stafford Animal Shelter is that many people who do not spay/neuter do not fail to alter their pets because of personal choice, but simply because they lack the interest in taking the time to have the procedure performed. She added that purebreds often seem to come from those who are financially able people.

Caldwell stated that someone had asked him recently if the fees for altered animals could be lowered from \$15.00 to \$5.00 to encourage an increase in compliance.

Blakeman responded that a cut of that nature would take away a considerable amount of money from the City that goes towards covering the costs associated with unaltered animals.

Caldwell said he feels that \$15.00 is already a fair amount, and that a \$10.00 difference would not increase compliance.

Beebe questioned whether a low fee is linked to compliance. It could be that people don't put enough value on altering their animals because the cost of licensing is so minimal. A situation occurred where everything possible had been done by the ACO and others to get a dog in the community to the free clinic and the people still would not let the animal be spayed because they did not want to be bothered. The ACO had already spent a lot of time and energy getting these people to license their dog. Beebe suggested that \$35 was not enough to convince them that spaying the animal was worth the effort. Perhaps if the license fee had



been higher they would have bothered. This dog was finally surrendered to the shelter, very pregnant, and is now up for adoption along with one of her littermates.

Caldwell questioned what the cost to the City is to deal with unaltered animals.

Meece answered that he did not know.

Blakeman stated that she believed it to be about 25% or more of the City's cost to the shelter.

VanAken commented that he is struggling with this because he has concerns if these changes will really accomplish what the Commission is trying to get at. He stated that he feels it could encourage some people with unaltered pets to put off licensing them even more. He also said that he has considered that this is out of line with what other area cities have done, but that perhaps it is time for the City of Livingston to take the lead on this issue and set a precedent. However, he said that he will vote in favor this time, but he is not married to the resolution, and does not feel that all sides have been adequately heard.

Caldwell reminded the Commission that there would be a public hearing if the resolution passes tonight.

Blakeman said that this resolution should be looked at as one leg of a multi-legged stool.

Caldwell agreed with Blakeman's point, and added that he had recently had a conversation with the City judge, who is in favor of the change in licensing fees, but feels that other amounts, such as penalties for non-compliance, must be raised in order to be effective.

Beebe clarified that her motivation for this resolution was not to get more unaltered animals licensed, but to get more animals altered by providing both a carrot and a stick. She said that she feels a more significant differential in licensing fees between unaltered and altered animals would help accomplish what other local governments have tried to accomplish with mandatory spay/neuter ordinances. She had reviewed the history of these ordinances and felt that most people resist the idea of "mandates" to the point where such ordinances created unnecessary resentment and resistance. They also attracted the ire of organized interest groups. A community of Livingston's size would benefit much more from using a clear differential licensing fee as one tool to achieve the goal of decreasing the number of unaltered animals. She also noted there was a recent editorial in the Bozeman Daily Chronicle about the need for the Bozeman City Commission to get its act together by sitting down with the animal control officer and other concerned parties to create an animal ordinance that was consistent, enforceable and fair and that it might be the time for the City of Livingston to set the path for others to follow.

Blakeman asked when the issue of the amounts of fines would be addressed.

Caldwell stated that a discussion on fines was one of the action items on the agenda.

Meece commented that while he is not taking opposition to this resolution, he is hesitant because he is concerned with the impact it might have on compliance and enforcement. The issue of unaltered animals at large is an enforcement issue, he stated, and he continued that the proposed action would result in people who are already paying the fees in having a \$30.00 license increase, while those who are not already purchasing licenses will have no additional incentive to do so. He said that it seems to be penalizing the citizens who are already buying the licenses, not those who are not currently doing so.

Meece added that considering that a business license costs \$75.00, it is hard to justify a business license being equivalent to a licensing fee for an unaltered animal. He added that he is simply trying to view the issue from the standpoint of the City and the administration.

Caldwell commented that those were good points, and reflects his first thoughts on the issue, but now he sees the issue as one of pets being bred unnecessarily and excessively, which in his eyes is similar to having a business that would require a license. He noted that an unaltered animal is potentially an income-generating asset.

Blakeman said that she feels that the \$75.00 charged for the fire inspection of a business license is comparable to a fee for unaltered animals.

Meece stated that he understands Blakeman's point, but he would have to give it all some thought. He added that he knows he has pushed for the City to take the leadership role on many issues, but he feels that the community already does more than most other communities in terms of spay/neuter for animals. An increase in the licensing fee of over 50% causes him lots of concerns, and while he is not necessarily in opposition, he stated that he is unsure if this is an ordinance that the administration would have brought forward on their own.

Caldwell agreed, but also wanted to reiterate what the City judge had said in regard to increasing the fees as not enough to change behavior.

Meece said that he is not convinced that a community like Livingston is one that should try to solve a social ill when the issue is more of enforcement and compliance.

Caldwell stated that he would agree, if the cost of unaltered animals were not such a high cost to the City.

Meece stated that he feels there are other areas where high costs need to be cut.

Caldwell said he knows this resolution will not solve the problem, but it will at least make a dent in the costs.

Beebe stated that this idea is more of a tool than a weapon because the idea is not to punish people, but to have a group who chooses to be "higher risk" by keeping their animals unaltered pay for that risk. She added that even those who think they are being responsible with their unspayed or unneutered animals, especially dog owners, have "accidental" litters and many of these puppies come to the shelter as juveniles after the cute puppy affect has worn off. The reality of the situation, she stated, is that this is a form of risk management more than anything.

Beebe also added that she had some questions regarding the details in the resolution. She asked if the cost of boarding fees at the shelter still is \$10.00 per day for dogs and \$7.00 per day for cats.

Blakeman said that was correct, and that it was for five days.

Beebe then asked if the recommended age for alteration was four months for dogs and six months for cats. Blakeman stated that it was four for both. Beebe then added that she had talked to veterinarian, Dr. Duane Colmey who confirmed that both cats and dogs are eligible for rabies vaccination at three months. She also noted that the vouchers accepted by Dr. Colmey and Dr. Jeff Dickerson stated that the animals could be altered at four months.

Caldwell stated that another observation he had on the issue is that it is hard for the Commission to do something that they cannot undo in a few years, so it is worth giving it a shot.

Blakeman agreed, and stated that things can always be changed.

No further discussion.

All in favor, motion to approve Resolution No. 3992 passed.

**Resolution No. 4002- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, APPROVING MEMORANDUM OF UNDERSTANDING WITH THE LIVINGSTON POLICE DEPARTMENT EMPLOYEES ASSOCIATION TO INCLUDE SERGEANTS IN THE COLLECTIVE BARGAINING AGREEMENT.**

Meece opened discussion by stating that in June 2007, the police force had been restructured, creating an assistant chief, and changing those with the title of "shift captain" to "sergeant." He explained that the resolution is essentially a memo of understanding between the union and the City to agree to include sergeants in the union until the collective bargaining agreement is renegotiated in

2009, because when the reorganization of the force took place, the issue of their inclusion in the contract had not been addressed.

Caldwell questioned if the union was supportive of this. Meece stated that they were in support and had signed off on it already, and that passing this resolution would authorize his signature on the document.

Blakeman moved to approve Resolution No. 4002, Beebe seconded.

Discussion:

There was no further discussion.

All in favor, motion to approve Resolution No. 4002 passed.

### **ACTION ITEMS:**

#### **Action Item A:**

Brief presentation from City Manager/MMIA regarding City's Health Insurance Programs (materials will be provided).

Meece began by stating that he would like to recognize Alan Hulse and Helen Gonsowski, from Montana Municipal Insurance Authority (MMIA). He explained that he had asked them to come make a brief presentation to the Commission about the new health insurance wellness benefits. Meece has been serving on the MMIA Advisory Board for the benefits committee, which he said had recently put out an RFP for ability to select the best vendor possible for insurance. Now that the process is essentially complete, he explained that he had asked Helen and Alan to come give a short presentation and answer any questions the Commission might have.

Hulse and Gonsowski gave a presentation on what MMIA is, what the organization does, and how their employee benefits program has evolved.

Gonsowski went over a handout given to the Commission pertaining to MMIA and how since 1988, MMIA has provided affordable and flexible insurance coverage that Montana cities and towns could depend on. At the end of the presentation, they asked for questions from the Commission.

VanAken asked if it was known why the larger cities in Montana are averse to coming to MMIA.

Hulse stated that he believes the larger cities are hesitant because they are self-funded municipalities, and like to maintain a large amount of control. He believes, however, with continued dialogue, that he can show them that it is wiser to spread the risk to increase stability over time.

Meece stated that the larger cities would still have the data problems with vendors like Blue Cross/Blue Shield, which eventually will catch up with them and cause issues.

There were no further questions.

**Action Item B:**

Discuss/deny/approve street vacation request from Mary Ann Burns for a triangular piece of right-of-way in the 400 Block of South "L" Street.

Meece stated that he would like to defer to Jim Woodhull on this matter.

Woodhull stated that the map before the Commission shows the portion of L St. that is the triangle. He added that beyond the line, the land was never platted or in City property, but that it instead is County property owned by the applicant.

Blakeman moved to approve the vacation request, VanAken seconded.

Discussion:

Blakeman asked if this land was boggy and on the river.

Woodhull said it was actually well manicured on one side, and pasture on the other.

Blakeman also asked if a street could ever be run through the land to River Drive.

Woodhull answered that going down L St. would get into a lot of questions of title with the State because of the stream access, so it could only be built up to that extent.

Caldwell commented that the street, if continued, would not go anywhere.

Blakeman said that it is a big piece of property, and wondered if the City would have to deal with it if the owners ever wanted to develop it.

Woodhull stated that the only thing that the City would have to deal with is the existing platted right-of-way, but that the easement is within private access.

Blakeman also questioned what would happen if someone wanted to develop the piece lying to the east. Woodhull stated that they could put in a private road because of the easement.

No further discussion.

All in favor, motion to approve Action Item B passed.

**Action Item C:**

Discuss/deny/approve of possible "Community Center" projects with the Schools.

Meece began the discussion by bringing up the issues that had occurred this past summer with the City pool, and how while some of them were a surprise, the infrastructure issues were not a surprise, and they will not go away. He further explained that Dr. Scott Coleman, a school board member, has been pushing for a conversation regarding a community center sponsored by all of the major organizations (City, County, Schools, etc.)

Meece continued that this item had been put on the agenda tonight because the new County Commissioners will take office in January, and getting them involved as soon as possible might make this idea a reality because there is potential for a park district with the County, and the project could possibly fit in with that. He added that he is simply putting the idea on the table that the administration is going to go ahead with conversations with the other organizations and encourages questions and conversations about the center so the feasibility of this can be determined.

Caldwell questioned what the cost of the project might be, and if there is the possibility of pooling City and School bonding capacities and supporting a joint issuance with revenues from a park district.

Meece said yes, and that this project could perhaps increase the appeal of a park district, and create somewhat of a buy-in for the three organizations.

Blakeman stated that she thinks the only way to really sell the park district is to include something similar to this project in it.

Beebe said that someone had recently brought up the City pool issue to her, and that there is still a lot of anger and frustration among the community regarding the pool and if these folks knew about this proposal they would be reassured that the city was taking the swimming pool issue to heart.

Meece commented that last week he had responded to his first complaint letter ever by a second grader, who was from Winan's Elementary regarding the pool.

Beebe said it would be a good project to turn attention to, and agreed with Blakeman that it would be a good incentive for a park district.

No further discussion.

**Action Item D:**

Discuss increasing the penalty for failure to license dogs and cats and failure to restrain dogs. Direct staff to bring back a Resolution with any revised fees the Commission wishes to implement.

Becker stated that, under the current ordinance, the first offense fine cannot exceed \$100.00, and can only increase by \$100.00 with each additional offense, regardless of what the offense is to the animal control ordinance, and that the maximum fine per offense is \$500.00.

Caldwell asked if the \$500.00 could be supplemented by court fees.

Becker stated that most court fees are required by the State, and that he has not seen legislation to allow additions to the fees at the municipal level. He also said that he would talk to Bob Ebinger about it.

Caldwell said that he agrees with the City judge that the penalties need to be increased for offenses.

Blakeman stated costs to offenders need to be increased to encourage people to do the right thing.

Beebe commented that the fines are so low now that people do not care if they have to pay them and that it is common that people will pay their fine and walk out without licensing their animals. Becker added that the fines could be up to \$100.00 the first time.

Blakeman asked if a licensing requirement could be tied to the fine, if an animal is unlicensed, because many people just keep paying the fines and not licensing their animals.

Becker stated that the court has the power to order that and it could also be included in the ordinance.

Caldwell suggested adding to the ordinance a provision that requires proof of license within ten days of receiving the fine.

Blakeman then questioned whether there could be a similar requirement to make people get their animals altered. Becker stated this could not be done if spay/neuter is not mandatory.

Beebe stated that she feels it would definitely help with compliance. Caldwell said that he would have a hard time voting for the penalties unless the fees are increased, too.

Blakeman suggested a minimum fee of \$150.00.

Caldwell agreed, and suggested a maximum of \$500.00 in order for there to be a stick for enforcement.

Meece stated that, according to discussion he has had with the ACO, that the first time an animal is caught or an offense occurs, a warning letter is sent out to the owner and there typically is not a citation given, therefore the second offense would be more like the first official offense.

Caldwell suggested including in the letter that the owner must license the animal within ten days.

Meece commented that it is customary to work with the people who accidentally have their pet escape.

Caldwell said that he would not mind if the issue of failure to restrain were dealt with separately from failure to license.

Blakeman questioned if there really is a need to escalate the fine if a high minimum is set, because no matter what, it would be a ding to the owner each time.

Beebe added that since the procedural norm is to send a letter of warning for the first time, that the letter could warn the citizen of what their fee could be if it happens again.

Caldwell stated that he likes the idea of \$150.00.

Becker questioned if the Commission was looking to just set a minimum (\$150.00) and a maximum (\$500.00).

Blakeman said that would be accurate, if there has to be a maximum set.

Caldwell said that a maximum is a good idea in case there are chronic offenders.

VanAken questioned whether a letter given out for the true first offense should be built into the ordinance to clarify what instance a fine would be imposed.

Blakeman said that she feels by not including that, that the ACO is given some leverage.

Meece agreed, and said that while the point is well taken, he would prefer it is kept as it is so that there is the option to work with people, and that it really is not any different than any other code enforcement measures to give out the letter the first time at discretion.



VanAken stated that he is driving at the point that the ACO needs to have options. Meece responded that he wants to give the ACO discretion, and not have the officer be forced to let someone off.

Beebe agreed that it was better to leave it out of the ordinance and leave it up to the ACO's discretion.

Caldwell asked if the same procedure and amounts would be used for failure to restrain.

Meece said that he sees the minimum and maximum for both issues to be the same, with language to make the owner license the animal within ten days. Caldwell agreed with this.

Becker stated that currently, the same penalty section applies to both offenses.

Caldwell questioned if there would be different penalties because one would require licensing the animal. Meece responded that both offenses would require licensing within ten days.

No further discussion.

**Action Item E:**

Discuss revising Chapter 4 of Livingston Municipal Code to define "breeders," require a fee for breeding dogs or cats and reducing the age required to license dogs from six (6) months to four (4) months old. Direct staff to bring back an Ordinance with any revisions the Commission so desires.

Caldwell questioned whether the Commission should discuss this item or put the discussion off to a later date.

Beebe stated that her first impulse is to put the discussion on hold because she would like to talk to some area breeders to get more firm ground to stand on regarding this item.

Caldwell said that he would prefer this, and asked what date the Commission would like to bring this item back.

Beebe suggested addressing the item in two meetings.

Meece questioned whether it was required to license animals at age six months as of January 1<sup>st</sup>, and if the age would be decreased to four months in the ordinance.

Blakeman said that was correct.

Caldwell added that by four months, the animal could have their rabies inoculation.

No further discussion.

**Action Item F:**

Ted and Georgann Watson have inquired if City would accept a donation of a 46.8% undivided interest (86 acres more or less) of a tenancy in common of a tract of land. Action will City accept gift. This would give City access to gravel with a restriction that the City cannot enter into commercial gravel business.

Becker opened discussion by explaining that the area is the green parcel on the map in front of the Commission, and Meece clarified that on the map, "North" is the "L" in legend.

Caldwell asked if the area is just portion B on the map.

Becker explained that it is both portions A and B on the map that are being deeded to the City, but that the percentage differs.

Blakeman asked who gets the other percentage then.

Becker said that either Watson or Fischer would get the remaining percentage, and that the City would just be "tenants in common."

Meece stated that a credit relationship would be worked out where Fischer gives the City gravel because the City is not going to dig up its own.

Beebe questioned if the land was undeveloped.

Becker responded that the parcel being offered to the City has no gravel on it, and that it won't for some time.

Blakeman commented that it is essentially "buying in futures."

Meece said that it is unknown how much money from the gravel the City will save.

Tinsley stated that it should be around \$8-10 million worth of gravel, and that there is not any foreseeable way that the City would ever use that much up.

Blakeman questioned what kind of action was being asked from the Commission.

Becker said there needs to be an action to either accept or not accept the land donation.

Blakeman moved to approve Action Item F by accepting the land donation, Beebe seconded.

Discussion:

Caldwell commented that the land is an asset to pay for the City's use of gravel with.

VanAken questioned if there would be any hidden costs with accepting the donation, i.e. if there was swamp land on the parcel or pollution.

Tinsley stated that the parcel is flat, dry land that has never been touched.

Beebe asked how close the land is to the windmills, and Caldwell answered that they were on the opposite side of Swingley Road.

No further discussion.

All in favor, motion to approve Action Item F passed.

**CITY MANAGER COMMENTS:**

VanAken stated that he would like to commend Meece on the Adult Community Education class that will be offered this winter, and he hopes the class will better help the community understand local government. He also asked if the Commission would be allowed to attend the classes.

Meece said that the Commission is welcome, and that he will probably be asking them to attend and provide commentary at some point. He added that the fee for the class will be nominal, and that he told the Adult Ed administration that they only needed to charge whatever their own operating costs would be for the class.

Beebe also stated that she likes the idea of the ACE class and that she has always thought something of this nature would be a good idea. She asked if Meece wanted her to put up fliers somewhere.

Meece answered that the class will be advertised on the City website, in the utility bills, and in the ACE flier, but that he would appreciate the Commission talking it up. He explained that he expected the class to be four nights, with the last week's meeting being a field trip to the Court House, and that he also plans to invite those who participate in the class to attend the following Commission meeting after the class wraps up. He added that he feels it would be a great opportunity to attract potential Commission or board members and provide a good training ground for interested citizens.

Caldwell agreed that it could provide potential applicants to any of the City groups/boards.

Beebe added that she feels people are always confused about the role of a city commissioner, so this would be a great opportunity to educate citizens on the

differences between city commissioners and county commissioners, as well as other City and County positions.

Blakeman asked if it was nearing time to re-propose a charter for the City.

Becker stated that this was not necessary yet, as there are no municipal elections in the odd years.

Blakeman asked if it still could be researched to see when it needed to be done. Meece stated that he believed the last one had been done right after he got here in March 2006.

Blakeman stated that it still might be close to when it needs to get on the agenda so that it can make it onto the ballot, and that she would like to get the information out there, which Meece stated he would do in the ACE course.

**CITY COMMISSION COMMENT:**

Blakeman mentioned she has had many citizens asking her about the recycling, and what kind of cardboard would be accepted.

Tinsley said that all kinds are welcome, but that certain things like cereal boxes might be considered more of a paper product. He also said that there are three people in public works working on putting out a flier with information on the recycling.

Blakeman asked when the recycling could begin.

Tinsley answered that the roll-offs will arrive on Monday, November 24<sup>th</sup> for everything but the cardboard, and that the cardboard roll-off would arrive on December 14<sup>th</sup>. He also said that the electricity is out for bid, and that he would notify the Commission when all the parts had arrived.

Caldwell asked when the glass pulverizer would start up.

Tinsley stated that it would arrive on November 26<sup>th</sup>, and that there would be a week of training for it after that.

Beebe stated a reminder that there needs to be a copy of the agenda for each meeting given to the Public Library.

Caldwell said that the Downtown Association survey grant had not been approved, and also asked if the RFP for the Old Water Works Building had been issued.

Meece said that it had, and that he had a meeting earlier that day with two potential buyers who toured the building.

Caldwell also stated that he had noticed the new dog bag disposal by the Band Shell, and that it was much appreciated, as are the new signs in the area reminded citizens their dogs need to be on leashes between there and 9<sup>th</sup> Street.

Caldwell asked if anything had been heard back from FEMA on the flood maps.

Meece stated that Phase II would be complete the following week, so nothing had been heard yet, and that reimbursement from Clear Creek was being taken care of as well.

Beebe announced that the next spay/neuter clinic would take place at either Park High School or the McLeod Building on December 7<sup>th</sup>.

Meece stated that he had noticed in the ads that the location was being advertised as at the Civic Center.

Beebe said she had told them that the location was TBA, so she would look into it.

**PUBLIC COMMENT:**

There was none.

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

All in favor, motion to adjourn passed.

The time was 8:45 p.m.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair

**CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
December 1, 2008**

The Livingston City Commission met in a regular session on Monday, December 1<sup>st</sup>, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Rick VanAken, Mary Beebe, and Juliann Jones.

Staff members present were Ed Meece, Jim Woodhull, Darren Raney, Alan Davis, Judy Roy, and Robyn Keyes.

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

No discussion was heard.

All in favor, motion to approve consent items passed.

**SCHEDULED PUBLIC COMMENT:**

There was none.

**VARIANCE REQUESTS:**

There were none.

**PUBLIC HEARINGS:**

**Resolution No. 4003- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ESTABLISHING LICENSE FEES FOR UNALTERED DOGS AND CATS 4 MONTHS OF AGE OR OLDER IN THE AMOUNT OF \$75.00 PER YEAR PURSUANT TO THE ANIMAL CONTROL ORDINANCE.**

Public Comment:

Paul Bergsing came forward and questioned where the idea for the fee increase originated, and what is wrong with the fees in place currently. He also said that he feels the elderly population, some of whom have pets as their only companions like himself, will not be able to afford these fees, and many will not be able to drive down to pay the license fee, too. Additionally, he stated that he does not agree with the increase, and that after living in Livingston for 60 years, he feels collections could be eased up on.

Cara Greger presented the Commission with copies of the resolution with her comments attached. She said that she did not agree with the resolution for many reasons, all of which she stated in writing in the handout she provided, and which can be found in City record.

Cat Moody stated that she is a volunteer on the Spay/Neuter Task Force, and that she is in favor of the resolution. She said that there are only two real reasons to keep an animal unaltered: one being for breeding reasons, and the other due to contractual obligation, and that otherwise there is no need to keep an animal unaltered. She added that she does not feel that cost is a factor in altering pets due to the free clinics, and that she wants to see pet overpopulation decrease, along with institutions such as puppy mills and pet shops.

Tiffani Zimmerman, who stated she has worked at the Stafford Animal Shelter and at vet hospitals, came forward to speak in favor of the resolution and the license fee increase. She said she feels it will help deal with the problem of pet overpopulation, and that it will encourage people to alter their pets, which benefits everyone in the community, regardless of whether they are a pet owner or not. She also added that it would help with control of the spread of disease and with animal aggression issues.

Zimmerman continued that she feels it is a privilege for a citizen to be able to breed their pets, so the increased fee is justified, and that the Animal Control Officer (ACO) would thereby be given more leverage to help encourage citizens to get their animals altered and to educate them on the matter. She concluded by stating that she feels the benefits outweigh any negative consequences this resolution might have if passed.

Eric Kaelin came forward in opposition to the resolution. He stated that while he agrees that breeding animals is a privilege, there are few people who truly make money from breeding their animals. Many people do it because they love to do it, and they love to work on improving breeds through proper breeding. He believes that it is therefore unnecessary to change the licensing fee when the issue is really one of enforcement of laws for those owners who are responsible for many of the animal problems in the community.

Kaelin also addressed the issue of canine aggressiveness, and stated again that the issue is enforcement. He added that this resolution has brought national attention to Livingston, and that it is not right to charge responsible owners \$75 to license their pets. Even if there are some bad apples out there, he said, everyone should not have to pay for those people and their choices, and that it is better to avoid extremes and instead of focusing on incomplete information (he stated that there was no specific information on animal disease in the area), it is better to focus on measures that can help such as mandatory hip checks and genetic screening.

Blakeman questioned if Mr. Kaelin was a City resident, to which he said he is not, but that he is still a concerned citizen due to his belief that this resolution has brought negative national attention to Livingston.

Pat Miller stated that she is a pet owner in the City of Livingston, and that she feels this resolution is overkill. She said she does not see a big enough problem existing to necessitate such extreme measures, and that she feels the animal control situation in the City has gotten better. She also asked whether the City would hire more people to ensure compliance with the animal control laws, since this would create the need for more enforcement, and also stated that there are many elderly residents in the community who cannot afford this increased fee but have unaltered pets. She concluded that she feels the resolution is not a good solution because this is not a "one size fits all" issue and thinks that the measures currently in place are adequate when there are bigger issues, such as the recession and rising unemployment, to worry about.

David Powers stated that he is opposed to the increase in licensing fees because he thinks the problem is in enforcement, as well. He said that he had worked as a seasonal ACO for Livingston in 2000 and 2001, and that he feels more problems will be created for the current ACO if this resolution is passed. He suggested increasing the fines for unaltered pets who are caught at large as an alternative, and that the people who are laughing at the laws and making no efforts to keep their animals under control are the ones who need to be penalized. He added that he is not against altering animals, but that the increased fee will create outlaws within the community because people cannot afford the increase. Powers concluded with stating that he feels this resolution is a waste of time in the wrong areas and that the fines need to be increased for the people who are caught breaking the law, not the people who are willingly licensing their pets.

Todd Brinefield, a resident of Whitehall, Montana, came forward to speak as president of the Montana Brittany Club, and as a sport dog owner himself. He presented the Commission with how Whitehall deals with the issue, which is where the citizens themselves act as the ACO and that fines double with each offense. This resolution and proposed fees caught the attention of the organization he represents, and he said that he hates to see the license fee increase when it really should be an increase in fines involved with enforcement because good, quality hobby breeders should not be discouraged.

Jeff Tong stated that while he is a pet owner and has all of his animals altered, he feels the City is making a mistake by penalizing those who are stepping up and licensing their animals in the first place. He also said that he feels the fines need to be increased, not the license fees, because if the resolution passes, many people may be reluctant to license their pets. He concluded that he feels that honesty should be rewarded and law-breakers should be punished, neither of which is accomplished by this resolution.



Gregor came forward again to ensure that the Commission had received copies of a letter from the American Kennel Club, and she also said that she feels this resolution punishes those who already obey the law. She added that there are as many health concerns with altering an animal as there are with leaving it unaltered, and that intact animals are not always used for breeding purposes.

Zimmerman came forward again to reiterate that there are opportunities for those who cannot afford to alter their animals to do so at the free clinics, which overall would help pet owners because \$15 is cheaper than the other fee option, even the \$35 that currently exists.

Kaelin stated that as a responsible breeder, it is important to keep animals intact, and that there are often provisions in purebred animal sales contracts committing people for life to the dogs that they choose to buy. He also questioned where the statistic of 40% of animals in the community are purebred came from, because without a paper trail, it is nearly impossible to determine purebred status. He added that he is willing to donate his time and energy to taking care of any gun dog that is brought in to the shelter.

Moody stated that as a responsible breeder herself, she knows that a paper trail can still follow an animal to a shelter, and that the 40% is a common national statistic.

Public comment was closed.

Blakeman moved to approve Resolution No. 4003, Beebe seconded.

Discussion:

Blakeman stated that the increased fee is geared towards being the same cost as a business license, and that there is no cost-related reason that people cannot alter pets due to the free clinics that are available. She said that many dogs come into the shelter that are not altered, and then it costs the shelter to alter them before the animal can be adopted. This is just a leg to a multi-legged stool, she explained, and that the owners of all at-large animals must be fined the same, so that whether an animal is altered or unaltered makes no difference, and these proposed fees are a way to deal with that issue.

VanAken said that he had given this resolution a lot of thought and heard from many community members, and concluded that there are many people who cannot afford to pay this increased fee and who are out of the loop. He stated that he will vote against the resolution because he does not believe it will get the City where it intends to go, and that people will instead choose not to license their pets. He also added that he feels this issue is beyond City Commission control because of animals that come in from the outside, and while he recognizes the arguments on behalf of the shelter and all sides, he is not convinced that this will help with overpopulation because compliance is the issue at hand.

Beebe stated that this resolution was her idea in the first place, and that the idea for it came from the fact that people still will not alter their animals even though there are many cost-free options to do so, and from conversations with the ACO regarding how to give people a good reason to alter their pets. She also said that it seems to her that the percentage of those who violate enforcement laws never seems to change, and responsible breeders are few and far between. The idea of a mandatory neutering law did not seem like the answer, she stated, but she wanted to somehow create an incentive for citizens to stop being careless because, in her eyes, it is not out of Commission control to fix this issue when it is viewed as an issue of liability and running a business.

Beebe continued by stating that by making an exemption for pets with health issues or for service dogs less than one year of age, she feels that there is no reason not to have the increased fees. Overpopulation is exactly the issue that needs to be dealt with, she said, especially since the cost issue has been overcome. She said that a lot of businesses do not turn a profit, so that is not the issue, and that people who are on the outside of the issue might not realize the impacts of overpopulation, but those who work at the shelters are 100% involved, and see it is an issue that needs to be addressed. Therefore, Beebe said she still supports this resolution at this point in time.

Meece said that he would like to clarify the administration's stance on the resolution. From the beginning, he said that the administration has viewed the issue as one of enforcement, which is why he feels that Ordinance 2008 (to be considered next) could work positively towards addressing that issue by giving the City new tools to work with. He re-stated that the administration is concerned with licensing compliance if the fees are increased because he hates to see any kind of setbacks in that area when lessons are still being learned from the last change to licensing. Ordinance 2008 would strengthen what already exists, he stated, and the administration's preference is to deal with the issue in terms of enforcement.

Caldwell said that he understands and agrees with the administration's stance on the enforcement issue, but that he has been persuaded that there is a cost to the community associated with unaltered animals, and while he is not expecting to solve the problem, he hopes this can mitigate it.

#### Additional Public Comment:

Greger came forward and said that every example provided in favor of the resolution is using licensing as punishment and it should not be this way. Penalizing the people before they even have a chance to impact the community is not the right way to go, and she stated that it is fascinating to her that in the statistics, no licensed cats are unaltered, and she fears this resolution will impact the City financially. She suggested perhaps looking to micro chipping as an alternative.

Zimmerman stated that she feels this is an issue that only affects the people within the city limits, not those outside of them.

Kaelin stated that he thinks of the issue in terms of an analogy with guns; the people who are going to use guns for unlawful purposes are still not going to register their guns, and the good gun owners are penalized for that. He feels that this resolution does the same by creating a blanket rule that penalizes everyone, even those looking to do the right thing in the community.

No further comment.

Four in favor of motion to approve Resolution No. 4003, one against (VanAken).

Motion passed.

**ORDINANCES:**

**Ordinance No. 2008- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1984 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY REQUIRING DOGS AND CATS 4 MONTHS OR OLDER TO BE LICENSED AND INCREASING PENALTY FOR VIOLATIONS.**

Blakeman moved to approve Ordinance No. 2008, Beebe seconded.

Meece stated that he had several points to make, due to a discussion with VanAken that brought up some issues with the ordinance, but he was unsure if the changes could be made without having to bring it back at a later date. They are mostly changes of a technical nature, he said.

Beebe added an exception would need to be included for medical conditions and for service dogs less than one year of age.

Meece stated that this would need to be changed by amendment.

Caldwell questioned if the penalties section should cover provisions of the ordinance, and if section 4.74 would be unnecessary.

Meece stated that section 4.74 deals with vicious animals.

Caldwell asked what section 8 applied to then, to which Meece responded it is for the \$150-500 to be applied anywhere that a direct payment is not called out.

No further discussion.

All in favor, motion to approve Ordinance No. 2008 passed.

**RESOLUTIONS:**

**Resolution No. 4004- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE UNDEVELOPED "L" STREET RIGHT-OF-WAY AND LOCATED BETWEEN BLOCK 129 OF THE RIVERSIDE ADDITION TO THE CITY OF LIVINGSTON, MONTANA, AND REVISED TRACT "C" OF AMENDED CERTIFICATE OF SURVEY NO. 2055, AND CALLING FOR A PUBLIC HEARING.**

Blakeman moved to approve Resolution No. 4004, Jones seconded.

Discussion:

Meece stated that he had some concerns with pg. 68 because the advertisement listed the public hearing date as November 3<sup>rd</sup>. He said he had consulted with Jim Woodhull and that the administration would like to table the resolution until the next meeting to ensure that the public notice dates are accurate.

Blakeman moved to table Resolution No. 4004, VanAken seconded.

All in favor of tabling Resolution No. 4004, motion passed.

**ACTION ITEMS:**

**Action Item A:**

Discuss/approve/deny appointment of Kevin Wiley to the Board of Adjustments.

No discussion.

Blakeman moved to approve Action Item A, Jones seconded.

All in favor, motion to approve Action Item A passed.

**Action Item B:**

Discuss/approve/deny re-appointment of Doug Lobaugh to the Airport Board.

Meece explained that there was no application of Lobaugh's included in the packet because it was a reappointment from the previous year. He stated the he

feels it is beneficial for the City to have Lobaugh on the Airport Board, and his preference is to reappoint Mr. Lobaugh for at least another year.

Blakeman moved to approve Action Item B, VanAken seconded.

No discussion.

All in favor, motion to approve Action Item B passed.

### **Action Item C:**

Consider RFP's for the Old Water Works Building—No bids received.

Meece stated that the RFP had been advertised and that while there were several inquiries, no qualifying bids were received before the deadline, and therefore the process is complete. He also stated that the City is working on obtaining ballpark estimates for demolition and salvage, and is open to other options as well.

### **Action Item D:**

Discuss/approve/deny revisions to Parking Ordinance—Section 9, dealing with extended parking permits and reserving parking spaces, and removing a portion of the 300 block of South Main Street from the 2-hour parking district.

Meece stated that Chief Raney had brought this to his attention because the Chief had been working on the revisions to the City policy of giving out short-term parking permits to park beyond the 2-hour limit in certain areas, most specifically in regard to construction projects. The process was established in the 1990s as an administrative process, and the Chief would like to see it become an ordinance so it could be part of the City Code, and then place the permits within the jurisdiction of the Building Department to tie them to the actual building projects, he said. He also added that the current cost is \$2.00/day, which could later be changed by resolution.

Caldwell commented that he would like to see the fee increased to cover the actual cost to the City for doing such, and also suggested having the contractor provide their own barriers.

Meece said that if that were the case, the barriers would need to be City approved, and Blakeman made the point that if the City provides the barriers, there is less chance of someone falsely taking spaces.

Blakeman asked for further clarification as to what spaces on the 300 block of South Main would be exempt.

Raney explained that it would be essentially the spaces adjacent to the Sherwood Apartment homes and across the street where businesses once had existed, but have since moved, and that if businesses come to the area again, an amendment could be made at a later date.

Blakeman moved to bring Action Item D back as an ordinance, VanAken seconded.

No further discussion.

All in favor, motion to bring back Action Item D as an ordinance passed.

**Action Item E:**

Discuss/approve/deny the recommended revisions to the City Tree Ordinance No. 1966 from the City Tree Board and direct staff to bring back the Ordinance with the Commission's revisions if so desired.

Meece again stated he would like to thank Chief Raney for his assistance on this issue, and that it had originated in working with Jones, Clint Tinsley, and the Tree Board. He said that the goal is to take the Board away from an enforcement orientation and make it into a source of education/outreach/fundraising that can advise the administration, and to have the Arborist handle enforcement and administrative duties. The terminology of "Certified Arborist" would be changed, at the agreement of the Board, to "Qualified Arborist."

Caldwell stated that it would make sense to give any property owner prior notice if the trees on their area of the boulevard were to be somehow changed, and Blakeman added the question of whether, if the citizens get the notice beforehand, they could make the changes themselves.

Blakeman moved to bring Action Item E back as an ordinance, Jones seconded.

No further discussion.

All in favor, motion to bring Action Item E back as an ordinance passed.

**Action Item F:**

Discuss/approve/deny waiving the downtown 2-hour parking restriction for the holidays from December 15<sup>th</sup> through December 31<sup>st</sup>. This has been approved annually to accommodate Christmas season shoppers.

Meece explained that this item has somewhat become a tradition in the community.

Blakeman moved to approve Action Item F, Beebe seconded.

VanAken asked if this is annually requested from someone, and Meece answered that it can be best described as tradition and that no one specifically requests it yearly.

Raney stated that it had been done as long as he has been on the force and that a poll taken by the Chamber of Commerce found a narrow majority to be in favor of the action. He also said that it helps the Parking Officer have time to accomplish some end of year office duties.

All in favor, motion to approve Action Item F passed.

**CITY MANAGER COMMENTS:**

There were none.

**CITY COMMISSION COMMENTS:**

Blakeman questioned if the drilling she noticed on the KPRK Bridge would be done this week. Meece said it was a few days of core sampling and that it would be complete by the end of the week.

Beebe said that the Spay/Neuter Clinic on December 7<sup>th</sup> would be held at the McLeod Building. She also said that a citizen had discussed with her the need for some kind of barrier to be put up around the oval in the middle of Mayor's Landing to keep it from continuing to shrink in size.

Jones stated she noticed the website URL on the front of the meeting packets needed to be updated She also asked if any information had been received from FEMA on the 300+ houses in the flood plain. Meece said nothing had been heard yet.

Caldwell asked if FEMA had all the information it needs for said project; Meece said that they have all they need, but that the Corps of Engineering had lost funding and that was creating a delay.

**PUBLIC COMMENTS:**

There were none.

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

All in favor, motion to adjourn passed.

The time was 9:15 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair



**CITY OF LIVINGSTON  
CITY COMMISSION MEETING  
December 15, 2008**

The Livingston City Commission met in a regular session on Monday, December 15<sup>th</sup>, 2008. Commissioners present were Steve Caldwell, Vicki Blakeman, Rick VanAken, and Mary Beebe. Juliann Jones was absent.

Staff members present were Ed Meece, Bruce Becker, Darren Raney, Alan Davis, Jim Woodhull, Clint Tinsley, Peggy Glass, Judy Roy, and Robyn Keyes.

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

No discussion.

All in favor, motion to approve consent items passed.

**SCHEDULED PUBLIC COMMENT:**

There was none.

**VARIANCE REQUESTS:**

There were none.

**PUBLIC HEARINGS:**

**Ordinance No. 2008- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 1984 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY REQUIRING DOGS AND CATS 4 MONTHS OR OLDER TO BE LICENSED AND INCREASING PENALTY FOR VIOLATIONS.**

Public Comment:

Paul Bergsing came forward and questioned what the need for this ordinance is if the leash law that was adopted in 1978 is being upheld.

Caldwell clarified that this ordinance is about licensing.

No further public comment.

Discussion:

Blakeman moved to approve Ordinance No. 2008, VanAken seconded.

Blakeman clarified that it was the fine cost that was actually increasing.

VanAken stated that he had a few items he would like to discuss regarding the ordinance. First, he said that the definition of "shelter" should be added to the document. He also questioned if "running at large" needed to include cats.

Meece said that it did not. Beebe added that cats were intentionally left out.

Caldwell said that, under the existing ordinance, cats at large are not considered to be a problem in the community unless the cat is classified as a nuisance.

Meece stated that the administration had intended to add the definition for "shelter" but had missed it.

Caldwell questioned if they could pass the ordinance with a provision that a definition for "shelter" be added. Meece advised tabling it for the night and re-addressing it at the next meeting in January since there is not critical timing on the issue being addressed.

Blakeman withdrew her previous motion to approve Ordinance No. 2008. She then moved to table Ordinance No. 2008 to the January 5<sup>th</sup>, 2009 meeting, VanAken seconded.

Blakeman questioned if they could roll the service dog addition into the changes being made for the next meeting. Meece stated it would not be able to be done because the service dog issue is regarding changing fees, which requires passage of a resolution.

No further discussion.

All in favor, motion to table Ordinance No. 2008 passed.

**ORDINANCES:**

**Ordinance No. 2009- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE 1999 AND CHAPTER 9, ARTICLE IV OF THE LIVINGSTON MUNICIPAL CODE ENTITLED PARKING, STOPPING, AND STANDING BY REMOVING THE 2 HOUR PARKING RESTRICTION FROM A PORTION OF SOUTH MAIN STREET AND ESTABLISHING A PERMIT SYSTEM FOR EXTENDED PARKING IN**

**THE 2 HOUR PARKING ZONE UNDER CERTAIN CONDITIONS AND PROVIDING A PENALTY FOR VIOLATION.**

Blakeman moved to approve Ordinance No. 2009, VanAken seconded.

Discussion:

Caldwell asked the amount of the current construction permit fee.

Meece said that the fee right now is \$2.00/day per space, and if the Commission wanted that changed, it would have to be through a separate resolution. However, he added that if the Commission has a direction for changing the fee, the administration could bring back a resolution to enable the change.

Blakeman said that from the perspective of a downtown business, it might encourage people to finish up their construction projects more quickly if the fee was increased.

Blakeman also questioned how often construction permits are issued for space reservation.

Raney said that it is used more in the summer than in the winter. Meece added that he believed there are about 3-4 projects a year on average.

Caldwell said that parking restrictions could have a significant impact during proposed downtown renovations.

VanAken commented that eventually the Senior Center will soon be in its renovation, and he could see the project taking up to 18 months, which would make permits for that very expensive, so he suggested creating a provision for places, such as the Senior Center, with tighter budgets.

Caldwell asked whether a change in the permit fee was something the Commission would like to have brought back, and the Commission agreed by consensus.

No further discussion.

All in favor, motion to approve Ordinance No. 2009 passed.

**Ordinance No. 2010- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED TREES BY REQUIRING A NON-MONETARY PERMIT AND COMPLIANCE WITH ANSI A300 STANDARDS FOR TRIMMING AND PRUNING TREES LOCATED ON PUBLIC PROPERTY.**

Blakeman moved to approve Ordinance No. 2010, Beebe seconded.

Discussion:

Caldwell stated that this item would come back for a public hearing at the January 5<sup>th</sup> meeting.

Blakeman asked if a definition of a "qualified arborist" had been identified yet.

Meece said that it had, and Becker stated that it could be added to the ordinance for the second reading.

Blakeman also asked that the ANSI standards be clarified, and Meece said that could be done, too.

No further discussion.

All in favor, motion to approve Ordinance No. 2010 passed.

**RESOLUTIONS:**

**Resolution No. 4004- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE UNDEVELOPED "L" STREET RIGHT-OF-WAY LYING SOUTHERLY OF GEYSER STREET RIGHT-OF-WAY AND LOCATED BETWEEN BLOCK 129 OF THE RIVERSIDE ADDITION TO THE CITY OF LIVINGSTON, MONTANA, AND REVISED TRACT "C" OF AMENDED CERTIFICATE OF SURVEY NO. 2055, AND CALLING FOR A PUBLIC HEARING.**

Blakeman moved to approve Resolution No. 4004, Beebe seconded.

There was no discussion.

All in favor, motion to approve Resolution No. 4004 passed.

**Resolution No. 4005- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MONTANA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE PROJECT ON PORTIONS OF CHINOOK, "C" AND GALLATIN STREETS.**

Blakeman moved to approve Resolution No. 4005, VanAken seconded.

Discussion:

Caldwell asked if there would be costs associated with the project that the City would have to incur.

Meece said that there would not be, that the funding for the project is from State funds (STIP Funds).

Blakeman asked if the project would take place in the coming summer.

Meece said that the DOT had told him that it would be in the summer of 2010.

Beebe questioned if it would be just one piece where the three streets come together, or if it would be all three streets separately.

Tinsley stated that it would be from Chinook from North Main to North "C," then the 400 block of North "C" to Gallatin, and from Gallatin to Garnier.

VanAken said he saw several places in the agreement where the City would agree to pay maintenance costs, and questioned if that would influence the City budget in some way or another.

Meece said it would not because it is a State-funded project, and that the contract in the packet is the State's contract that usually results in some kind of trade-off for services where the State maintains the streets in exchange for minimal help from the City.

Tinsley said that Geyser Street was a project of a similar nature in the past, and that while the City might have to make some minor repairs here and there to get through until the State comes in to do an overall maintenance, the cost of what the State does covers the major maintenance charges and is essentially a reward to the City for maintaining the streets in the meantime. He said it comes out at nearly \$58,000.00 worth of maintenance that the State pays for.

VanAken said that he was not looking for a reason to not approve the contract, but that he wanted to be careful to keep an eye out for any costs that the City might incur due to it in the future, and to ensure it is not an "unfunded mandate" of some sort.

Meece stated that the "mandate" would be part of the maintenance program, and that the only thing that could happen would be state funding could be cut if the City did not hold up their end of the deal, which is unlikely.

No further discussion.

All in favor, motion to approve Resolution No. 4005 passed.

**Resolution No. 4006- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTABLISH LICENSE FEE FOR SERVICE DOGS ONE YEAR OF AGE OR YOUNGER AND CALLING FOR A PUBLIC HEARING.**

Blakeman moved to approve Resolution No. 2006, Beebe seconded.

Discussion:

Becker asked for clarification for a definition for a service dog.

Beebe stated that she had one, and that she would get it to him this week. She also clarified that she wants the service dog exemption because she has known of circumstances where there have been service dogs within the City that have had to remain unaltered until the dog was one year of age due to contractual constraints. She said that sometimes service dogs are provided by agencies and are, in effect, "leased" out to the people in need, leaving the citizen with no say in alteration of the animal. She also said that most service dogs are with their owners at all times.

No further discussion.

All in favor, motion to approve Resolution No. 4006 passed.

**ACTION ITEMS:**

**Action Item A:**

Discuss/approve/deny public easement grant with the Girl Scouts of Montana and Wyoming.

Meece stated that the packet contained a copy of the proposed easement agreement with the Girl Scouts, and that the process had began several months ago. He said that Becker and he had met with representatives from the Girl Scouts to discuss the easement, and that the proposal in the packet is what has been re-worked as a counterproposal by the Girl Scouts.

Caldwell questioned if the idea had been brought up to the Girl Scouts of a 99-year lease subject to meeting certain conditions.

Meece said that the idea had been proposed to the group to have a 10-year renewal, but that the Girl Scouts had changed the proposal to one-year renewals and that the Girl Scouts did not seem to be inclined to go longer term at this time.

Caldwell asked if the trail is located in the flood plain, to which Meece answered that it is. Caldwell also asked if the floodplain designation would limit the ability of the Girl Scouts to make changes to the trail area. Meece said that their ability to put up structures would be limited but that the Girl Scouts would not specify their future plans, if any, for the area.

Blakeman asked whether and when the Girl Scouts would require the installment of locking gates and fences.

Meece said that the gates and fences would need to go up immediately if the Commission agreed with the easement because one of the primary issues for the Girl Scouts is to restrict access. He also said that one of their other main concerns is that the trail does not "grow" from public use, so it was suggested that signs and gates be put up, but this was when the administration had thought the agreements would be in ten-year increments.

Beebe commented that she is still trying to figure out where a locked gate would be put up with the location of the Girl Scout camp. She also asked which trail is their primary trail.

Meece said the primary trail is the one off of M Street so the gate would be located there, not at the other access points, and signs would be all along the trail.

Becker said that a bridge and gate would be installed off of M Street and then there would be a gate at the Mayor's Landing access point, too.

Caldwell questioned what would happen if the Commission did not agree to the proposal.

Meece said that there is no responsibility for the Commission to accept the proposal, but that the agreement is an attempt to help the Girl Scouts with land use and access.

Caldwell commented that he feels the time length of the agreements could give someone free gates and an under-valued bridge if the Girl Scouts chose not to keep the agreement for more than a few years.

Blakeman said that she does not see how this agreement would do much but put ownership and management responsibility on the City. Meece agreed, but pointed out that the City has no permission for that land right now as it is.

Caldwell asked if the administration recommends not accepting the proposal. Meece said yes.

Blakeman suggested telling the Girl Scouts that the Commission is only interested in a 99-year lease. Becker said the initial proposal could be re-offered to the organization.

Meece also added that he had brought the proposal forth to the Commission again to document the attempts to negotiate the easement with the Girl Scouts.

VanAken stated that he understands the desires of the Girl Scouts to keep their options open, but he does not see how this agreement would benefit the City. He asked if it was only the state council being dealt with. Meece said it was a council of representatives from Wyoming and Montana.

VanAken asked if the local troops have anything to do with this proposal. Meece said that he was not sure, but that a local resident, Nancy McCracken, is on the state board.

There was no further discussion and no action taken on Action Item A.

**Action Item B:**

Discuss/approve/deny application for appointment to Board of Adjustments from Shannon Holmes.

Meece said that a copy of Mr. Holmes' application was in the packet, and that he is also present at the meeting. He further explained that Holmes had been a member of the Wind Energy Task Force and that he has shown great interest in being a member of the Board of Adjustments and being more involved in the community.

Caldwell suggested asking Holmes any questions the Commission might have tonight since he was present, instead of setting up an interview at a later date. He also asked whether Holmes understood the conflict of interest issue, and what the appropriate action would be if a conflict were to develop.

Holmes said that he sees no potential for a conflict of interest arising for himself, but if one did, he would recuse himself as Caldwell suggested if the situation did occur.

Holmes explained his interest in being on the Board, and that he was honored to be asked by Meece to think about applying for the position because he wants to be more involved and feels that his engineering background would be a great asset.

Caldwell agreed that his background looked like it would be quite useful.

Blakeman asked if Woodhull had explained to Holmes the responsibilities of a Board of Adjustments member, and Holmes said that he had.



Caldwell asked if the Board would be filled with this appointment, and Meece said that was correct.

Blakeman moved to appoint Mr. Holmes to the Board of Adjustments, VanAken seconded.

Blakeman asked if it would be a 3-year term, and Woodhull said that it is actually a 4-year term.

No further discussion.

All in favor, motion to appoint Mr. Holmes to the Board of Adjustments passed.

**CITY MANAGER COMMENTS:**

VanAken stated that he is hopeful that the Angel Line transition from the City to the County goes smoothly. He also said that he would like the City/County meeting on January 6<sup>th</sup> added to the Calendar of Events.

Meece said that the meeting would be held in the Community Room on that date, at the request of the County Commissioners.

Beebe asked if the Clear Creek agreement had been finished yet.

Meece said that the second phase was being finished up, and that Yellowstone Preserve had submitted their most current information so hopefully the second phase could be completed by the end of the week so then the information could be passed on to FEMA to make a decision. He looks for the decision from FEMA to arrive by the middle of January.

Beebe asked if the funding for the project was keeping up.

Meece said that it was and also was not, due to the need to redo the information from the Corps of Engineers, which had increased the costs of the second phase.

Blakeman asked Woodhull if there was no Planning Board meeting this week, which he said was correct.

Caldwell asked about the vacancy with the Urban Renewal Board.

Meece said that he had contacted Mr. Taylor to schedule an interview for the 5<sup>th</sup> of January, and that this appointment would keep the board full.

**CITY COMMISSION COMMENTS:**

Blakeman said that she had been down to look at the Artemis Project and if there were access or boundary issues with it in terms of it being currently open to the public.

Meece said that while Artemis had substantially finished construction of the project, there would not be public access to it until Spring 2009, when the project is scheduled to be fully completed. He also said that since it is not officially open to the public, some signage would have to be put up.

Beebe asked what the recycling schedule was looking like, and when cardboard could be taken to the transfer station.

Meece said that the cardboard compactor had not been delivered yet due to some economic issues with the Four Corners facility.

Tinsley said that the station is not currently taking glass but will advertise next week that glass recycling has begun, and also that the containers for other recyclables are available for use. He also stated that it would probably be fall before the cardboard compactor would be delivered, and that there would be a grand opening for the recycling when the weather improved.

Beebe also asked whether there had been any movement in getting dog and cat licensing available at other venues besides the Court House.

Meece said that the new software was available to make this happen, and that he had been discussing this with Blakeman to have it at the Shelter, as well as the Court House.

Beebe said that it would be a good idea to have it available at several locations so not to lose revenue from licensing.

Blakeman said that the program could continue to expand to various locations with the new software.

Caldwell said that he had read the finance report and that he missed the narrative that usually is included.

Meece said the narrative would be included again once a full-time Finance Officer is hired. He also said that some tax revenues have started coming in for the City, and that there also will be a budget amendment made because of some errors discovered in the process of the audit. He added that the department heads have done an excellent job of managing their budgets.

Caldwell asked whether there was still a positive outlook for the downtown projects for the coming summer.

Meece said that there are still full intentions to move forward and that work is being made on establishing a Business Improvement District.

Tinsley added that the water part of B Street is scheduled for July.

**PUBLIC COMMENTS:**

There were none.

Being no further business, motion was made by Blakeman to adjourn the meeting, and seconded by VanAken.

All in favor, motion to adjourn passed.

The time was 8:12 pm.

ATTEST:

APPROVE:

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Robyn Keyes  
Recording Secretary

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Steve Caldwell  
City Commission Chair