

Regular Meeting – August 9, 2023

***The council meeting was held at the Fairview Senior Center.

Mayor Brian Bieber called the meeting to order. Kevin Dahl was absent. Attorney Kaitlin DeCrescente and Planner Rachel Laqua attended via Google Meeting.

Minutes: Brian Renville moved to accept the minutes from the regular council meeting that was held on July 12, 2023. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Brian Renville moved to accept the minutes from the continuation of the Gordon Jones Zoning Change Hearing. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Guests: Greg Hitchcock-Sidney Herald – Kenny and Graycie Sharbono, Jacquelyn Free, Houston Scarborough and David Finn.

Jacquelyn Free: Park Improvements

Jacq requested permission to do some fundraising for park improvements for the basketball and tennis courts. She would like to change the tennis court so it can be used as a full basketball court, pickle ball court and volley ball court. She would like the court resurfaced and new hoops and lights installed. Jacq will do the fundraising and grant research/writing for the improvements.

The council gave her permission to move forward with her ideas.

Resolution 563 – Ellery Ave Lighting Special Improvement District 1-2024 Assessments

Betty Cherrey moved to read Resolution 563 – Ellery Ave Lighting Special Improvement District 1-2024 Assessments by title only. Brian Renville seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Mayor Bieber read Resolution 563 by title only. Resolution 563 is to levy and assess on all of the property within the district \$35.00 per lot for proposed costs of lighting and maintenance in the Ellery Avenue Lighting District in fiscal year 2024.

Brian Renville moved to adopt Resolution 563 – Ellery Ave Lighting Special Improvement District 1-2024 Assessments. Jerrold Baxter seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Resolution 564 – Residential Lighting Special Improvement District No. 15-2024 Assessments

Brian Renville moved Resolution 564 – Residential Lighting Special Improvement District No. 15-2024 Assessments by title only. Betty Cherry seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Mayor Bieber read Resolution 564 by title only. Resolution 564 is to levy and assess on all of the property within the Residential Lighting District the costs of \$0.00251 per square foot per lot for proposed costs of lighting and maintenance in the Residential Lighting District in fiscal year 2024.

Betty Cherrey moved to adopt Resolution 564 – Residential Lighting Special Improvement District No. 15-2024 Assessments. Mike Sannon seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Street Sweeping Assessments:

Clerk Faye Carlson reported that the Town Auditor had informed her that there was too large of an overage in cash reserve for the Sweeping Fund 2500. Due to this, there was no need to assess the residents for street sweeping this year. This will give the fund a chance to use some of the overage bringing the Town back into compliance.

Delinquent Utility Billing Assessments:

Clerk Faye Carlson reported that she had assessed six (6) delinquent utility billing accounts to property taxes for a total of \$4,577.37

Resolution 565 – Water Rate Change:

Mike Sannon moved to read Resolution 565 – Increasing Water Base Rates by title only. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Mayor Bieber read Resolution 565 by title only. Resolution 565 raising the rates and charges for services provided by the Water System in order to collect sufficient revenues to pay bonds issued for System improvements and meet bond covenants on coverage, establish reserves and pay cost associated with the operation and maintenance of the System. The following new rates will be effective September 1, 2023.

Resolution 565 – Water Rate Change: CONT:

Size of Water Meter	EDU Multiplier	Monthly Base Rate	Water in Base Rate
3/4 inch	1	\$64.00	1,000
1 inch	1.7	\$108.80	1,700
1.5 inch	4	\$256.00	4,000
2 inch	7.1	\$454.40	7,100
2.5 inch	11.1	\$710.40	11,100
3 inch	16	\$1,024.00	16,000

Jerrold Baxter moved to adopt Resolution 565 - Raising the rates and charges for services provided by the Water System. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Ordinance 355 – Golf Cart Operation: (Second Reading)

Betty Cherrey moved to do the second reading of Ordinance 355 by title only. Jerrold Baxter seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Mayor Bieber read Ordinance 355- Amending Section 10.18.010 of the Fairview Code by title only.

Mike Sannon moved to adopt Ordinance 355 – Amending Section 10.18.010 of the Fairview Code allowing for limited and restricted use of golf carts on public roads within the boundaries of the Town of Fairview. Brian Renville seconded.

Discussion:

Graycie Sharbono asked that the ordinance be explained. Mayor Bieber stated that the ordinance would require that golf cart drivers are required to a valid driver license and will also require the carts to have child safety restraints for children under six (6) years of age or under sixty (60) pounds.

Attorney Kaitlin DeCrescente commented that the ordinance is bringing things in line with Montana State Code. Mayor Bieber asked if this included those that already had the older permits from the chief. Kaitlin replied that it did as Montana Code overrides Fairview Code on this one.

No further discussion. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Ordinance 356: ConEx Storage Containers: (Second Reading)

Brian Renville moved to do the second reading of Ordinance 356 by title only. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Mayor Bieber read Ordinance 356 – Amending Section 11.02.410 and adding Section 11.02.410(2)(G) to the Fairview Code by title only.

Lloyd Fugate moved to adopt Ordinance 356 – Amending Section 11.02.410 and adding Section 11.02.410(2)(G) to the Fairview Code regulating the use of storage containers in order to preserve the aesthetic qualities of the Town of Fairview and preserve property values. Brian Renville seconded. Motion carried.

(5 Ayes– 0 Noes– 1 Absent)

Local Option Marijuana Excise Tax Agreement:

Attorney Kaitlin DeCrescente reported that Richland County is requiring an agreement between Sidney and Fairview before it will release any of the local-option marijuana excise tax revenue that is to be apportioned to the municipalities in Richland County. A proposed agreement negotiated between attorneys for Fairview and Sidney was presented for council review.

Section 16-12-310, M.C.A. (as amended by House Bill 128, passed May 22, 2023, and effective October 1, 2023), reads that the 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of each city or town to the population of municipalities within the county. For Richland County, that is Fairview and Sidney. Fairview feels this is unfair as Sidney does not have any dispensaries.

Kaitlin stated that she had contacted the Montana League of Cities and Towns about the possibility of getting support to lobby for a change of the statute to only allow for distribution of tax revenue to municipalities that have marijuana businesses. The League unfortunately felt there would be little to no support for this effort and that this structure “is as good as it is likely to get” for local-level tax.

Kaitlin recommends its approval and requested a motion for the mayor to sign the Agreement as to Distribution of Excise Tax which will allow Richland County to start making distributions of the tax revenue immediately based on the calculation set forth in the revised statute.

Mike Sannon moved to have Mayor Bieber sign the agreement. Betty Cherrey seconded.

Discussion:

Brian Renville asked what would happen if Fairview refused to sign the agreement. Kaitlin explained that Fairview’s hands were pretty much tied.

No further discussion. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

2023-2025 Audit Contract:

Clerk Faye Carlson presented the contract for audit services for 2023-2025 with Strom & Associates P.C. accounting firm. The contract would be set at a cost of \$15,000 per year.

Betty Cherrey moved to sign the contract with Strom & Associates P.C. accounting firm for audit services for fiscal years 2023 - 2025. Jerold Baxter seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

Gary Ereth – Blade Operator:

Mayor Bieber stated that he had been contacted Gary Ereth who is a retired blade operator. Mr. Ereth would like to work part time for public works and blade the gravel streets to try and get them back into proper grade. Mr. Ereth is asking \$25.00 per hour with no benefits as he would be classified as Short Term.

Betty Cherrey Moved to hire Frances Gary Ereth as a short term blade operator at \$25.00 per hour. Jerrold Baxter seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

UNFINISHED BUSINESS:

Gordon Jones – Zoning Change:

Community members have expressed concern about Mr. Jones’s application for a zone change from R-A: Residential “A” to GCI: general commercial industrial and his intended use of the property to house an industrial business which includes multiple commercial vehicles and, at a later point, a residence. Neighbors expressed concern over noise, dust, and property values.

Attorney Kaitlin DeCrescente informed the council of the different options available:

Option 1: Approval of a zone change from R-A: Residential “A” to GCI: General Commercial Industrial

If approved, the property would be subject to the requirements of Section 11.02.370, which includes without limitation, parking, grading, drainage, snow storage, ADA compliance, landscaping, and screening. Section 11.02.370(c) requires all outdoor parking areas which provide 5 or more parking spaces to be hard surfaced to minimize dust. Further, the property would be subject to Section 11.02.240(5), which requires the property owner to submit a landscaping plan to effectively screen all property lines.

The potential negative effects of this option are:

- a. The zone change runs with the land, not the owner allowing any future owners to make use of the property in any manner that complies with the zoning provisions of the General Commercial Industrial District (GCID).
- b. The “conditions” regarding parking area surfaces and landscaping are permitted because they are built into the Code.
- c. Neighbors expressed concerns about this use of the property affecting their quality of life and property values. If the property zone change is approved, the neighbors would be able to appeal the decision to the Board of Adjustments (based on MCA 76-2-326).

Option 2: Denial.

The Council could choose to deny the zone change application completely. Kaitlin also stated that Mr. Jones could do a sub-division if the Town denied his application.

Brian Renville commented that there were other businesses in Fairview that were not in compliance to the zoning regulations. Comment was made that those were grandfathered as they were in place prior to the zoning regulations being put into place in 2016.

Brian Renville stated that the neighbors have already expressed concerns with this and that he felt some of their concerns were legitimate ones.

Graycie Sharbono asked what the timelines were for the buffers and other requirements that had to be done. Planner Rachel Laqua stated that the paving would need to be done first. Rachel then stated that all of the regulations would need to be met prior to Mr. Jones moving his equipment onto the property. If not, he would be in non-compliance and the Zoning Administrator would need to enforce the codes.

Graycie then asked how much of the property had to be paved. Rachel and Kaitlin both replied that all of the parking area along with the access road adjacent to Dawson Ave would need to be paved.

Brian Renville stated that if the application was approved, Mr. Jones would need to get a plan to the Zoning Administrator for approval. Mr. Jones would also need to show Montana Stated Department of Transportation approval for an approach to the property off Highway 201.

Brian Renville asked Planner Rachel Laqua how long it would take if Mr. Jones were denied and decided to go through the minor sub-division review. Rachel responded that it would be the same as this process and could run Mr. Jones close to \$20,000.

Brian Renville stated that the Council did encourage him to move forward. Mayor Bieber responded that Mr. Jones had put some action before knowing if this could be done.

Betty Cherrey commented that Fairview does want business and growth. Mayor Bieber responded that it does, but not when one-hundred percent (100%) of the neighbors are against it.

Brian Renville moved to deny the Gordon Jones Application for Zoning Change of his property located along North Dawson and Highway 201. Lloyd Fugate seconded. Motion Carried. (5 Ayes– 0 Noes– 1 Absent)
Betty Cherrey-Aye Lloyd Fugate-Aye Brian Renville-Aye Jerrold Baxter-Aye Mike Sannon-Aye
Kevin Dahl-Absent

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Spencer VanWichen – Interstate Engineering:

***Water System Improvement Projects:** Spencer reported that the project should start tomorrow August 10, 2023.

***Sewer Investigation and Replacement Project:** Spencer would like to have a Sewer Committee meeting on August 22, 2023 to discuss priorities.

***Asphalt Patching Options:** Spencer stated that Top Gun Asphalt has completed the work and that they did a very good job. Spencer would like to see them put on a schedule with Fairview.

Clerk Faye Carlson stated that on the Top Gun invoice were the non-town related patching areas for Fairview Schools and Becky Wheeler. The invoice showed actual and recommended reimbursement amounts. Faye asked the Council if she should bill the school and Ms. Wheeler the actual or the recommended amounts.

Mike Sannon moved to bill the recommended amounts of \$10,000 for Fairview Schools and \$3,200 for Becky Wheeler. Betty Cherrey seconded. Motion carried. (5 Ayes– 0 Noes– 1 Absent)

***Questions/Feedback from Council:** None

DEPARTMENT REPORTS:

Dan Murphy-Public Works: (Unable to attend)

Questions/Feedback from Council: None

Police: Asst. Chief Whitney Hergert:

Activity Report: 77 incident/calls for service/traffic reports in July. 854-Incidents to date for 2023.

Police Cruisers:

*Interceptor 1: Still at The Wick Kid repair waiting on engine replacement.

*Tahoe: Currently at Heck Built in Williston having the K9 partition removed, and unused equipment uninstalled. McKenzie County donated a camera system and that is also being installed.

Misc:

*Administrative duties are being transferred over to Assistant Chief.

*Asst. Chief Hergert has scheduled a meeting with McKenzie County Sheriff's Office to update existing MOU and add radio communication permissions.

Personnel:

*Asst. Chief Hergert will be out of town for vacation August 10th – August 14th. She will also be out of town for training August 21st – August 28th.

*Both officers have been placed on administrative duty until further notice due to work related injuries

Misc:

*Eight (8) surveillance cameras were donated by the Fairview Community Foundation. Four (4) have been installed at Sharbono park and the monitor system installed within the pool house. The other four (4) were installed at the bulk water station to compensate for lack of security for seized and impounded vehicles.

Questions/Feedback from Council: Betty Cherrey asked how officer Braaten was doing. Asst. Chief Hergert replied that she has some neurological problems that they are trying to treat.

Clerk Faye Carlson:

*Faye informed the Council that CD #20498 in the amount of \$111,197.77 has been reinvested for a 19 month term at 4.0%.

*A simple tablet with keyboard has been purchased for the office counter to be used for online payments for Utility billing.

*Faye discussed the SMD1 map boundaries and stated that it will need to be updated by next fall due to RTC building going in. This will need to be included for future assessments.

Questions/Feedback from Council: None

Court Report: June fines collected were \$4,865. \$660 written prior to 2023, \$780 from 2023, converted bonds \$1,440 making a total of \$2,880 received from the court.

COUNCIL MEMBERS:

Lloyd Fugate: Nothing

Kevin Dahl: Absent

Mike Sannon: Nothing

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Brian Renville: Nothing

Jerrold Baxter: Nothing

Betty Cherrey: Betty reported that she has been working with Dan on getting the notices for overgrown trees and shrubs.

Attorney Kaitlin DeCrescente: Already covered above.

Mayor Brian Bieber: The Mayor brought up the use of Jake brakes in town and questioned signage. Clerk Faye Carlson replied that Fairview had put up “No Jake Brakes Within City Limits” at one time and MDT took them down. They informed Fairview that the signs could only state that they had to be muffled.

Mayor Bieber commented that there was no way for Fairview’s officers to inspect them for enforcement.

Bills:

Betty Cherrey moved to pay the bills. Jerrold Baxter seconded. Motion carried. (5 Ayes–0 Noes– 1 Absent)

Meeting was adjourned.

Bills Listed By Check Number:

34155	United Heritage	Reissue for Lost & Cancelled Check #34089	50.86
34155	Linde Gas & Equip.	3 Year Lease – Shop Acetylene Tanks	379.15
34156	John Hutter Towing	Moving 2 Impound Vehicles from Water Station to Lot	80.00
34157	Car Quest	Parts for Mower and Lube for Garbage Truck	172.03
34158	Herring Law Office	Prosecuting Attorney Fees (June)	222.31
-99378	WEX Bank	Fleet Fuel Cards	1615.05
34159	MDU	Power	4845.41
34114	Mid-Rivers	Phone & Internet	478.18
34116	Hawkins	Chemicals – Treatment Plant	5921.74
34117	Energy Lab	Water Testing	53.00
34118	Verizon	Internet-Police DataMaxx	160.04
34119	Rich. Co. Treas.	Court Surcharges & Prisoner Care – 1 st Half Dispatch	5173.00
34120	Utilities ULC	811 Line Locates	38.33
34122	Neff Eiken & Neff	Civil Attorney Fees – May	3220.63
34158	Herring Law Office	Prosecuting Attorney Fees (July)	266.66
34124	Horizon Resources	Supplies & Fuel – PW and Police	155.87
34127	Neu’s Super Valu	Shop Supplies	9.39
34170	United Heritage	Employee Group Life	18.00
34129	Expense Account	Pump for Sprayer, Tablet for Office, TP & Police Flash Drives	446.14
34128	Petty Cash	Water Testing and Police Mailings	62.58
34134	Northwest Pipe	Water Main Saddles, Adapters & Curb Stop Risers	302.03
34174	Red Hot Fire Ext.	Fire Extinguisher Annual Inspection	270.50
34175	LYREA	Power – Lagoon	70.00
34176	USA Blue Book	Schonstedt GA-52Cx Locators (2)	2055.82
34177	Recreation Supply	Benches – (Helm Donations)	1711.08
34178	City of Sidney	Cold Mix Asphalt (5.35 ton)	695.50
34179	Western Tire	Police Interceptor 2 – Oil Change	44.79
34180	Mon-Kota	Weed Spray & Garbage Truck Repairs	732.37
34181	Gem City Motors	Replace Door handle on White Pickup	1160.90
34182	Ace Hardware	Saw Blade	14.99
34183	MMIA	FY 23-24 Property Assessment Program	29575.00
34184	Joe Johnson Equip.	Sweeper Parts	175.00
34185	MT Supreme Court	Fall Conference – Judge	300.00
34186	The Roundup	Water Rate Increase & Water Quality Public Notices	897.00
34187	Liquid Engineering	Water Tank Inspection Dive and Epoxy Repairs	5175.00
34188	Top Gun Asphalt	Street Paving Repairs	47575.00
34189	Solid Waste	Garbage Truck Parts	12318.19
34190	Interstate Eng.	Water Phase II Project, Sewer Engineering & Planning	22744.13
34191	Interstate Eng.	Water Phase II Project, Streets & Planning	6705.00

PAYROLL LIABILITIES

-88883	MPERA	Employee Paid 457 Deferred Plan	49.16
-88882	MPERA	Employee Retirement	2687.42
-88881	US Treasury	Withholdings	4833.73
-88880	Dept. of Revenue	State Withholdings	1042.00

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-88879	Aflac	Employee Paid Short Term Disability & Other Ins.	425.04
-88878	Delta Dental	Employee Paid Dental & Vision Insurance	175.64
-88877	BCBS	Employee Health Insurance	4885.02
-88876	MPERA	Employee Paid 457 Deferred Plan	44.00
-88875	MPERA	Employee Retirement	2057.64
-88874	US Treasury	Withholdings	3794.64
-88873	Dept. of Revenue	State Withholdings	931.00
4261	Norma Faye Carlson	Wages	1463.23
4262	Mary Norgard	Wages	1249.54
4263	Aleacia Bratten	Wages	1521.05
4264	Whitney Hergert	Wages	2953.55
4265	Wyatt Uecker	Wages	45.52
4266	Daniel Murphy	Wages	1800.60
4267	Ole Ruud	Wages	1269.91
4268	Gorm Scarpholt	Wages	901.78
4269	Michael Shaffer	Wages	627.08
4270	Carly Buxbaum	Pool Wages	156.30
4271	Trish Buxbaum	Pool Wages	108.82
4272	Gavin Callender	Pool Wages	132.41
4273	Taylor Dietrich	Pool Wages	588.38
4274	Tia Hallock	Pool Wages	445.60
4275	Katherine Hurley	Pool Wages	1461.61
4276	Emily Johnson	Pool Wages	124.06
4277	Rebekah Keen	Pool Wages	252.55
4278	Morgan Mason	Pool Wages	1862.67
4279	Aaleah Paquin	Pool Wages	174.90
4280	Jordyn Rossi	Pool Wages	164.27
4281	Jordon Schriver	Pool Wages	137.60
4282	KennaDee Taylor	Pool Wages	206.91
4283	Teigan Taylor	Pool Wages	90.27
4284	Beth Thompson	Pool Wages	230.15
4285	Norma Faye Carlson	Wages	1310.17
4286	Mary Norgard	Wages	1249.54
4287	Whitney Hergert	Wages	1717.57
4288	Daniel Murphy	Wages	1631.81
4289	Ole Ruud	Wages	1078.57
4290	Gorm Scarpholt	Wages	816.84
4291	Michael Shaffer	Wages	119.91
4292	Carly Buxbaum	Pool Wages	596.85
4293	Gavin Callender	Pool Wages	60.07
4294	Taylor Dietrich	Pool Wages	464.57
4295	Tia Hallock	Pool Wages	334.24
4296	Katherine Hurley	Pool Wages	1308.91
4297	Emily Johnson	Pool Wages	185.09
4298	Rebekah Keen	Pool Wages	461.91
4299	Morgan Mason	Pool Wages	1179.52
4300	Aaleah Paquin	Pool Wages	216.37
4301	Jordyn Rossi	Pool Wages	184.51
4302	Jordon Schriver	Pool Wages	223.87
4303	KennaDee Taylor	Pool Wages	332.81
4304	Teigan Taylor	Pool Wages	260.19
4305	Beth Thompson	Pool Wages	176.39
4306	Jerrold Baxter	Council Fee	75.00
4307	Betty Cherrey	Council Fee	75.00
4308	Kevin Dahl	Council Fee	75.00
4309	Lloyd Fugate	Council Fee	5.00
4310	Brian Renville	Council Fee	75.00
4311	Michael Sannon	Council Fee	75.00
4312	Brian Bieber	Mayor Fee	216.74
4313	Ray Trumpower	Judge Wages	724.50