

A COMMISSION MEETING OF OCTOBER 6, 2014 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY AND STARTED AT 7:00 P.M.

CALL TO ORDER

Chairman Doney called the meeting to order.

PLEDGE OF ALLEGIANCE

Chairman Doney asked everyone to stand and say the Pledge to the Flag.

ROLL CALL

Present were Commissioners: Byerly, Doney, Gremaux, Hewitt, Poss, Putnam and Turk.

APPROVAL OF MINUTES

Commissioner Turk made the motion to approve the September 15, 2014 minutes and Commissioner Poss seconded the motion. The motion passed unanimously.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Hewitt apologized that she missed the most recent Airport Board meeting. Commissioner Hewitt reported on the following issues: pavement and maintenance is completed at the airport, the draining improvement project is still in the planning stage, hope to have the ARFF truck and snow removal equipment by the end of the month. Commissioner Hewitt reported that Langford Aviation has bought Bill Koss hangar.

Commissioner Putnam reported that she attended the Park and Recreation Board meeting last week. Commissioner Putnam reported that Symmes Park in front of the Chamber where the rocks were removed has been hydro seeded. There was some discussion and interest in the community about creating a dog park in the City of Lewistown. Commissioner Putnam reported that the Friends of the Pool have been advertising for the project and starting a capital fund campaign. Commissioner Putnam reported that Department of Natural Resources now has a forester in Lewistown. Commissioner Putnam further commented that the City has received a \$5,000 grant from Northwestern Energy to plant some trees in the parks. They will work with the new forester when it is time to plant the trees.

Commissioner Poss reported that he attended a Planning Board meeting and the item is on the agenda for approval by the Commission tonight.

Commissioner Hewitt reported that she attended the Machler project public hearing on the rerouting of Spring Creek.

Commissioner Doney reported that the Central Montana Health District hired an administrative assistant. The sanitarian interviews will be done on October 10th. Commissioner Doney stated that she must tender her resignation on the CMHD board due some friction with her personal job. Mr. Myhre explained that the Commission can add an item to the agenda if they feel that the item is important enough to add to the agenda immediately and there isn't a significant public need to wait until the next meeting. Mr. Myhre further stated that it is rare to add items to the agenda but it can be done.

CITY MANAGER REPORT

City Manager Kevin Myhre reported on the following issues:

The final assessed cost of the work on the 301 W Broadway sidewalk was \$72,607.92. The amount has been assessed as a tax lien on the property. Included in the costs were engineering, materials and worked performed by contractors. The City of Lewistown did not assess costs for the removal of concrete from the site, trucking or administration provided by City staff. The City's assistance would fall in line with the intent of the Commission's sidewalk assistance policy.

The paving contract with Century Construction for the 2014 season has been completed. New pavement was placed in several areas of town and utility patches were also completed. Mr. Myhre reported that he did a walk through on 7th Ave N which is the ADA sidewalk project that the City received a grant for. The project will be designed over the winter with Stahly Engineering. The plan is to tear out ADA corners from Broadway to Highland Park school on 7th Ave N and put in new ADA ramps on each corner.

Northwestern Energy has begun their work to install the gas line on Boulevard Street. They are boring much of the line to avoid issues with underlying concrete and Spring Creek.

COP Construction was the lowest responsible bidder for the fairgrounds water and sewer project and will be awarded the bid to construct the improvements. Their bid was \$1,515,771 which was approximately \$234,000 less than the engineer's estimate.

The City Manager has written a letter of support for the owner of the Bar 19 property to demolish the house that is located on the site. The property is located outside of the City but it was felt that a letter from the City may assist in the permitting process with the Montana Department of Environmental Quality.

The Montana League of Cities and Towns Legislative Committee met recently and approved a list of resolution to assist in their legislative process. The City Manager is a member of the committee but was unable to attend the last meeting. The resolutions will be voted on at the annual league conference in West Yellowstone on October 10th. The draft of the resolutions was included in the packets.

Commissioner Doney has requested guidance on public employees and officials restrictions on activities related to ballot issues. The City Attorney has provided his opinion from reviewing the applicable state laws and case law. The information was included in the packets.

Mr. Myhre reported that on October 28th the Montana Municipal Interlocal Authority and Montana Local Government Center will be offering free municipal training in Lewistown.

CONSENT AGENDA

Commissioner Gremaux made the motion to approve the consent agenda and Commissioner Putnam seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgement of the claims that had been paid from September 12, 2014 to September 30, 2014 for a total of \$559,554.33.

REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:

1. Discussion and action on entering into an agreement with Doug Flament to sign an amended utility service agreement and to allow time for him to disconnect from City water

City Attorney Monte Boettger explained that included in the packets was a water service agreement and earlier this year the City sent out letter to citizens that did not have the proper documentation for City services. Mr. Boettger further stated that a second letter was sent notifying the customers that if the agreements weren't signed they risked having their services terminated. Mr. Boettger explained that there was an option for those citizens outside the city limits if they did not want to continue to receive City services they could disconnect from the City system. If they chose the option to disconnect from City services then they would not need to sign a utility service agreement or a

waiver of annexation. Mr. Boettger explained that the only citizen interested in disconnecting from City services was Mr. and Mrs. Doug Flament. Mr. Boettger stated that this agreement allows them six months to find an alternate water source and at that time they disconnect from the City system. Mr. Boettger stated that he recommends the City Commission approve the agreement. Commissioner Turk made the motion to enter into an agreement with Doug Flament to sign an amended utility service agreement and to allow time for him to disconnect from City water and Commissioner Byerly seconded the motion. Further discussion followed. Commissioner Poss asked Mrs. Flament if they were okay with the agreement. Mrs. Flament answered yes, their only concern is that it is going to be winter and actively working to get this accomplished. Commissioner Doney asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

2. Discussion and action on approving an application for a Conditional Use Permit for a commercial fitness center proposed for an M-1 Zoning district

Planning Director Duane Ferdinand explained that the City of Lewistown has received an application for a Conditional Use Permit from Michael and Karen Weinheimer. They are requesting approval to establish and operate a combined fitness center and gym in an existing structure located at 117 Commercial Street. The intended use for the building is not listed as a permitted use within a Light Industrial (M-1) Zoning District. Mr. Ferdinand stated that the use may be authorized as a Conditional Use if recommended by the Lewistown Zoning Commission and approved by the Lewistown City Commission. Mr. Ferdinand explained that the applicants stated that the enterprise will be similar to many established neighborhood gyms throughout the country. They anticipate that the users of the facility will likely visit the facility have a “key card” to gain entrance when staff is not onsite. There were some concerns regarding the possibility of noise and it was pointed out that a user alone in the building would not have any assistance available if something adverse were to happen. Mr. Ferdinand stated that the zoning commission deterring that the use of the building for a fitness center would be a lot less objectionable to the residential neighbors than many other uses that are permitted in an M-1 district. The Zoning Commission voted to recommend to the Lewistown City Commission that a Conditional use permit be granted for a fitness center/commercial gym at 117 Commercial Street with the hours of operation to be from 5 am to 10 pm and that a proposed increase in the hours would be subject to special review. Further discussion followed regarding parking and it has been determined that there should be sufficient parking and with the possibility of using the spots in front of the garage doors. Commissioner Turk asked how many residents were concerned with late night noise. Mr. Ferdinand answered that there were five residential citizens attended the meeting. Commissioner Turk stated that she was a member of the zoning commission for two years and does not recall setting a time frame for others and does not feel that should be done in this case either. Commissioner Poss stated that was discussed in detail during the meeting. Commissioner Byerly stated that it is his understanding that the facility would start with the restricted hours and demonstrate that there is little concern and then ask for extended hours. Commissioner Turk made the motion to approve the application for a Conditional Use Permit for a commercial fitness center proposed for an M-1 Zoning District without any restrictions and Commissioner Hewitt seconded the motion. Commissioner Byerly stated that he is very sympathetic with the situation and with the idea you could put an industrial business in the district and run three shifts and feels that if he lived in the area he would prefer a fitness center compared to an industrial business. Commissioner Byerly stated that there is a zoning commission for a reason and is not completely comfortable with overruling a recommendation made by them. Commissioner Poss explained that the hours were discussed and was surprised that it was made into a motion and passed with the restrictions. Commissioner Poss stated that there were several individuals that did not feel restrictions were necessary. Further discussion followed. Commissioner Doney asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

3. Discussion and action on request by property owners of Stonewood Farms subdivision to approve amended and restated declaration of covenants, conditions and restriction for the Stonewood Farms Subdivision

Mr. Boettger explained that when a property owner creates a subdivision they are required to create covenants wholly apart from the City. Mr. Boettger stated that historically the City is not party to the covenants. Mr. Boettger stated that when the covenants for Stonewood Farms were created the City of Lewistown was a party to the covenants and may enforce the provision of the covenants. Due to the bankruptcy of the original “declarant,” the Stonewood Farms property has come under the control of the Bank of the Rockies. The bank has prepared amended

and restated declaration of covenants, conditions and restrictions pertaining to Stonewood Farms. However, since the City of Lewistown does not generally become involved in entering into or enforcing covenants, this requirement is being eliminated from the Restated Declaration. Any covenants must still comply with the City's zoning ordinance. Mr. Boettger stated that he recommends the Commission approve the request. Commissioner Putnam made the motion to approve the request by property owners of Stonewood Farms subdivision to approve the amended and restated declaration of covenants, conditions and restrictions for the Stonewood Farms Subdivision and Commissioner Gremaux seconded the motion. Commissioner Doney asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

4. Discussion and action on approving Resolution No. 3865 a resolution approving the land purchase offer from the Montana Department of Transportation, with such land to be used for highway right of way, for the Lewistown – west overpass project; and reaffirming that the funds received from the Montana Department of Transportation will be used exclusively for developing, improving, operating, or maintaining the Lewistown Municipal Airport

Mr. Myhre explained that the Airport is owned by both the City and the County and was essentially gifted by the department of transportation many years ago. As a result the City and County have to approve the purchase and the Airport Board has to want to move forward with the purchase. The Airport Board has approved it and has asked the City and County to approve the resolutions. There was an offer made a year ago and the offer was not satisfactory so a second appraisal was done. Further discussion followed. Mr. Myhre stated that he recommends the City approve the resolution. Commissioner Poss made the motion to approve Resolution No. 3865, a resolution approving the land purchase offer from the Montana Department of Transportation, with such land to be used for highway right of way, for the Lewistown – west overpass project; and reaffirming that the funds received from the Montana Department of Transportation will be used exclusively for developing, improving, operating, or maintaining the Lewistown Municipal Airport and Commissioner Hewitt seconded the motion. Commissioner Doney asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

5. Discussion and action on approving the purchase of windows for the Library

Mr. Myhre explained that Library Director KellyAnne Terry has been working with the Library Board to purchase windows for the library. Ms. Terry stated that the eleven windows on the original portion of the library are in poor shape. It was determined that when the Library was painted the contractor did not want to paint the windows. Ms. Terry explained that the Library is on the historical register and must go through a company that specializes in historic buildings. Ms. Terry explained that the Library Board has been working with Marvin Windows through Edgewood Builders here in Lewistown. Ms. Terry explained that these are double pain windows and look exactly the same as the current windows and they are \$2,350 each. The stone will not be disturbed. Mr. Myhre stated that the cost the Commission is being asked to approve tonight is only for the cost of the windows and the installation of the windows will be paid for by the Friends of the Library. Further discussion followed. Commissioner Putnam stated that she would like to know if the new windows would decrease the value of the building. Commissioner Byerly stated that he feels the new windows would increase the value of the building. Commissioner Gremaux made the motion to approve the purchase of the windows for the Library and Commissioner Byerly seconded the motion. Commissioner Doney asked for comments from the audience and Commission. There being none, the question was called for and those voting in favor were Commissioners: Byerly, Doney, Gremaux, Hewitt, Poss and Turk. Commissioner Putnam voted against.

6. Discussion and action on authorizing the City Manager to enter into an agreement between the City of Lewistown and Montana Fish Wildlife & Parks for the Land and Water Conservation fund grant for the Lewistown Swimming Pool

Mr. Myhre explained that in January of this year the City of Lewistown along with the Friends of the Pool submitted a grant to the Land and Water Conservation Fund and was successfully awarded the grant. The grant is \$75,000 and is to be used to upgrade the pool facility. The granted will be used to upgrade the heating building. Commissioner Poss made the motion to authorize the City Manager to enter into an agreement between the City of Lewistown and Montana Fish Wildlife & Parks for the Land and Water Conservation fund grant for the Lewistown Swimming Pool and Commissioner Turk seconded the motion.

Commissioner Turk made the motion to add the appointment of a City Commissioner to the Central Montana Health District (CMHD) due to the resignation of Commissioner Doney and Commissioner Hewitt seconded the motion. Commissioner Doney called for the question and the motion passed unanimously. Commissioner Doney explained that the CMHD board meets every other month and the meetings are four to five hours. Commissioner Doney stated that when the district is fully staff it should be better. Commissioner Doney explained that the board is made up of six counties and one City representative. The health district has their own budget and the City pays a portion of the budget. Commissioner Byerly stated that he would be interested on serving on the CMHD board. Commissioner Byerly explained that he has a conflict the first two meetings but going forward would be able to attend the meetings. Commissioner Poss made the motion to appoint Commissioner Byerly to the CMHD and Commissioner Putnam seconded the motion. Commissioner Doney called for the question

CITIZENS' REQUEST

There were none.

COMMISSIONER'S MINUTE

Commissioner Doney thanked Commissioner Byerly for stepping forward to serve on the CMHD Board and asked if a letter could be sent notifying them of the change in representation.

Commissioner Doney also stated that there will be a Zombie Run on October 10th to support the pool.

ADJOURNMENT

Chairman Doney adjourned the meeting.

Dated this 6th day of October, 2014.

Gayle Doney, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk