

**A COMMISSION MEETING OF APRIL 20, 2015 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.**

**CALL TO ORDER**

Chairman Poss called the meeting to order.

**PLEDGE OF ALLEGIANCE**

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

**ROLL CALL**

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

**APPROVAL OF MINUTES**

Commissioner Doney made the motion to approve the April 6, 2015 minutes with corrections and Commissioner Turk seconded the motion. The motion passed unanimously.

**COURTESIES**

The Commission recognized Police Officer Rolf Danzer for his twenty years of service to the City of Lewistown.

**PROCLAMATIONS**

Commissioner Poss read the following proclamation:

**A PROCLAMATION OF THE LEWISTOWN CITY COMMISSION DECLARING MAY, 2015 AS MEMORIAL POPPY MONTH IN RECOGNITION OF ALL CENTRAL MONTANA VETERANS**

Proclamation:

Whereas, the poppy is a memorial flower of sacred significance that has become a living symbol for American war dead. The immortalized red blossom gained its international acceptance by the memories of returning servicemen who remembered the wild poppies which covered the devastated battlefields of France and Flanders during WWI where their comrades had fought and died in defense of freedom.

Whereas, the poppy has become a symbol to perpetually remind us of, and to unflinchingly teach coming generations, the value of the light of liberty, and of our debt to those who helped save it for us by paying the supreme sacrifice.

Whereas, the wearing of the memorial poppy is a fitting and effective way of keeping bright the memory of our veterans who gave their lives in the service of America;

Whereas, in 1921 the American Legion Auxiliary adopted the poppy as its memorial flower and encourages the wearing of the poppy by all citizens, especially on memorial day, and,

Whereas, the American Legion Auxiliary distributes memorial poppies that are made by disabled veterans to help veterans;

It is hereby proclaimed by the Lewistown City Commission that May, 2015 is declared to be Memorial Poppy Month in Lewistown and Central Montana and all citizens are urged to observe the month by wearing the memorial poppy of the American Legion Auxiliary in honor of our veterans who gave the ultimate sacrifice.

Dated this 20<sup>th</sup> day of April, 2015.

## **BOARD AND COMMISSION REPORTS**

Commissioner Doney reported on the recent study commission meeting she was unable to attend, but the surveys were discussed. The newspaper did a nice article on the meeting. Commissioner Doney commented she is unsure if they have adopted a timeline or not, but statutorily it is to be adopted and published by April 12<sup>th</sup>. The next meeting is April 27<sup>th</sup> at 7 p.m. at the Council on Aging Building.

Commissioner Turk reported that the Library Board met to work on the performance evaluation for the Library Director and the regular board meeting is this Thursday.

Commissioner Putnam reported that the Park and Recreation Department met the first part of April and she reported on it at the last Commission meeting. The Central Montana Foundation meets tomorrow, Tuesday, April 21, 2015.

### **CITY MANAGER REPORT**

City Manager Kevin Myhre reported on the following issues:

The City Manager submitted a written comment to the County Planning Office supporting the rebuilding of the restaurant in the same location as the Bar 19 building on the property located at 191 N. The County recently held a public hearing to discuss the issue and its effect on the flood plain. The News Argus reported that the permit was approved by the County.

The Water Department has been working on some repairs to fix leaks in the twenty (20) inch water line which comes from the spring. Two repairs were made in the area of Brewery Flats. The 20 inch line is the oldest line still in use. We will evaluate the cause of the leaks for future planning and maintenance.

The City Manager has been discussing with Century Construction, the possibility of providing water to the new shop building that they are constructing west of H Street. Century Construction has already applied for and been approved to receive a tax abatement from Fergus County but did not submit a tax application to the City. The City Attorney and City Manager have provided Century with a draft annexation agreement detailing a planned annexation.

The City Planning office recently facilitated a feasibility study of the Power Mercantile building to look at the condition of the building structure and possibilities for the redevelopment of the building. A copy of the report was included in the packet. The project was funded by a grant from the State Historic Planning Office and private donations.

Montana Department of Transportation (MDOT) has contacted the City and has expanded funding for the project so that both sides of 7<sup>th</sup> Ave can be completed at the same time. The changes will most likely push the construction into 2016 but in

the end will provide a better improvement and will better prepare 7<sup>th</sup> Ave for an overlay in 2017 as planned by MDOT.

The fairgrounds final project walk through is scheduled for Monday, April 20<sup>th</sup> at 3:00 p.m. The final sewer tie in for the Trade Center will be completed at that time and a punch list will be put together for unfinished items.

There is still time to register to attend the elected officials training in Billings in May

### **CONSENT AGENDA**

Commissioner Putnam made the motion to approve the consent agenda and Commissioner Hewitt seconded the motion. The consent agenda was the acknowledgement of the claims that have been paid from April 1, 2015 to April 16, 2015 for a total of \$69,878.60.

### **REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:**

1. Discussion and action on authorizing staff to move forward with possible changes to the City ordinance to allow chickens in the City limits

Mr. Myhre explained that the City of Lewistown has had an ordinance in place that prohibits chickens in the City limits. The City does allow dogs, cats but rural type farm animals are not allowed with the City limits. Mr. Myhre commented that in the mid 90's the ordinance was amended to allow pot belly pigs. Mr. Myhre explained that at the end of last year a citizen came to the City Commission and requested that the City consider changing the ordinance to allow chickens in the City limits. City staff gathered information and ordinances from other cities and City Commission has been accepting public comment. There was a committee of the whole meeting in February to discuss the issue. At the end of the discussion City staff was asked to do some additional work prior to bringing the issue back to the Commission for a decision. The Police Chief sent out an email to several other cities to find out how things are going after the chicken ordinance was passed in their town and the affect. Mr. Myhre stated that he made contact with the Fergus County Health District and the Fergus County Health Officer. The Fergus County Health Officer essentially stated that he generally supports chickens, people raising chickens and it doesn't make a difference if they are outside the City or inside the City. He did not have a huge concern for salmonella or avian flu. The health officer stated that he encourages keeping clean coops and sanitary conditions if

they have chickens. The health district also did not have major concerns on the health side with regards to salmonella or avian flu. The health district did have concern with the types of animals that the chickens do draw in like feral cats and skunks. Mr. Myhre explained that all correspondence from citizens including articles were given to the Commission. Further discussion followed.

Commissioner Putnam read the following from an email that was received from a citizen. “We would like to see Billings join Bozeman Kalispell, Missoula, Whitefish, Helena, Livingston, Manhattan, Havre Anaconda, Miles City, New York City, Los Angeles, San Francisco, Chicago, Albuquerque, Seattle Portland, Washington DC, Phoenix, Tampa, Atlanta, Pittsburgh, El Paso, Nashville, Salem, Madison, Cleveland, Huntsville, Mobile, Little Rock, Anchorage, Juneau, Flagstaff, Mesa, Albany, Anaheim, Los Angeles, Long Beach, Sacramento, San Jose, San Diego, Santa Monica, Santa Rosa, Colorado Springs, Denver, New Haven, Stamford, Miami, St Petersburg, Gainesville, Atlanta, Cedar Rapids, Des Moines, Sioux City, Boise, Topeka, Wichita, Louisville, Baton Rouge, New Orleans, Baltimore, Ann Arbor, Minneapolis, Asheville, Chapel Hill, Charlotte, Raleigh, Durham, Lincoln, Omaha, Santa Fe, Cincinnati, Tulsa, San Antonio, Laredo, Austin, Round Rock, Dallas, Fort Worth, El Paso, Salt Lake City, Brigham, Ogden, Richmond, Casper, Laramie and many, many more across our nation, Canada and the UK that allow backyard hens.” Commissioner Putnam read the following about waste. “Dog manure cannot be composted because of the harmful bacteria and parasites (hookworms, roundworms and tapeworms) that can infect humans. This canine waste is considered a major source of bacterial pollution in urban watersheds. Additionally, dog waste contains higher concentrations of nitrogen and phosphorus than cow, chicken, or pig feces and is a major contributor of excessive nutrients that flow into ground and surface water through runoff from city sidewalks and lawns. Not only do chickens produce less waste than other backyard pets, many people who keep chickens in the city also have a garden and compost their chick manure. For those who do not compost the Billings Backyard Hen Initiative has started Compost Relocation Program, to remove compost materials to locations where they can be safely composted and turned into high quality fertilizer. If composted and added to the garden, the water quality impact is virtually nothing. Chickens also reduce the need for pesticides and herbicides as they eat bugs and weeds, further reducing the potential for water pollution. The volume of composted steer manure and poultry fertilizer applied to spring gardens in our city is far great than the volume of whatever run-off may potentially occur due to backyard hens, particularly as the proposed ordinances requires owners to keep their coops clean. Commissioner Hewitt commented that some of the concerns of chickens getting out could be addressed in the area of the ordinance regarding coops. Commissioner Turk commented that she thinks it is a

wonderful thing that children want to raise livestock it teaches you patience love and responsibility, however the other hand she does not feel that as a Commissioner we are here to make decisions based on feelings, but make decisions based on what is best for the majority of the citizens in Lewistown. Commissioner Turk feels that we will see an increase in violation calls, costs and where to draw the line in what type of animals should be allowed. Commissioner Turk stated that she does feel that we do have a problem with dogs at large but does not know how to enforce the issue. Commissioner Poss asked for public comment. Mr. Brandon Beriault stated that he does understand the concerns expressed but would ask that the Commission consider a temporary ordinance to see how things go for six months. Mr. Robert Snyder stated that he would be strongly in favor of allowing chickens in the City limits and appreciates all of the research. Mr. Snyder commented it appears this would be a hobby for some of the citizens. Ms. Linda Stiff commented that she has a friend in Seattle and has neighbors with chickens and you don't even know they are there. Mr. Adam Carr stated that he appreciates the Commissioner's comments and he and his family live in town but have chickens outside of town. Mr. Carr explained that he thinks it goes beyond the economics of the City and it could be a benefit compost, help with bugs and eggs for families. Mr. Carr commented that no matter what you have to buy feed for your chicken and you can buy small enough bags that can be kept in your garage. Mr. Carr stated that chickens are a little bit different to care for than dogs and cats. Chickens are not as hardy and you have those irresponsible owners either they will become lazy and not take care of the chickens properly and will most likely get out of the chicken raising business and end up with the responsible families raising chickens. Commissioner Doney thanked everyone for their comments and for attending the meeting. Ms. Suzanne Westhoff asked what supercedes the covenants in the subdivisions. Commissioner Poss answered covenants. Further discussion followed. Mr. Myhre explained the item on the agenda, which is there is an ordinance in place that does not allow chickens, if the Commission wants City staff to proceed writing up an ordinance to allow chickens, there needs to be a motion and a second. The Commission then could take comment and vote on the motion. Commissioner Putnam made the motion to authorize City staff move forward with possible changes to City ordinances to allow chickens and Commissioner Hewitt seconded the motion. Commissioner Hewitt asked if there would be a six month trial of allowing chickens. Mr. Myhre answered it would be a temporary ordinance and if that is the case he would recommend six months is too short of a time to determine if it works and maybe two years would give time to evaluate. Mr. Myhre explained that if someone is outside the City limits and is able to have chickens and then annexed into the City the ability to have chickens is grandfathered in, but once the citizen no longer has chickens it would not be

allowed. Mr. Snyder agreed with allowing the temporary ordinance for two years. Commissioner Poss asked for more public comment from the audience and Commission. There being none, the question was called for and those voting in favor were Putnam and Hewitt. Commissioners Doney, Poss and Turk voted against and Commissioners Byerly and Gremaux were absent. There was not a majority vote. Mr. Myhre explained that he does not think there are four votes on the Commission, but it can be brought again. Commissioner Doney appreciates everyone's comment and input.

## 2. Discussion and action on setting the water and sewer rates in accordance with City codes for the Fergus County fairgrounds

Mr. Myhre explained that the City has been working with the County for about eight years to try to get appropriate and manageable wastewater services and a sufficient water system to the fairgrounds. Mr. Myhre stated there was a preliminary engineering report (PER) completed in 2008 but the issue did not move forward, but in 2013 a committee was established and a new PER was completed and the project went to a vote of the Fergus County residents. The vote was for a 20 year levy to get water and wastewater to the fairgrounds. Fergus County is paying the contractor. There is an interlocal agreement between the City and County which states that the County will sign a waiver of annexation in order to receive the services and the City will be responsible for the operation of the mains and lift station. The fairgrounds are responsible for the individual water and sewer services that come off the mains. Mr. Myhre explained that just looking at fees there is approximately 20 water taps and 10 sewer taps and connection fees would be approximately \$30,000. The annual cost of the monthly base rates and usage rate for both water and sewer would be approximately \$58,000 if assessed as general commercial customer. Mr. Myhre further explained that for the most part the majority of the taps are not used throughout the year and used sporadically. Mr. Myhre commented that after discussing with the water and sewer department and reviewing the system, the Public Works Director put together the following recommendation. The fairgrounds would be assessed at a four inch water connection base rate instead of all the individual taps be assessed a base rate. The lift station has a sewer meter and so the sewer will be based on the meter usage. Mr. Myhre stated the recommended water base rate is \$812.46 per month and based on average usage, water usage would be \$201.16 and the sewer base rate is \$12.81, which is the current sewer base rate and then the usage average is \$477.52. The County Commissioners and Fair board were emailed the information last Friday. Further discussion followed. Commissioner Hewitt made the motion to approve setting the water and sewer rates in accordance with City codes for the

Fergus County Fairgrounds and Commissioner Doney seconded the motion. Commissioner Poss 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 approving the bid for the 2015 street paving and asphalt project

Public Works Director Holly Phelps explained that Century Construction was the only bid received in the amount of \$473,595. Ms. Phelps stated that it is her recommendation that the bid be awarded to Century Construction because they are the only bidder and do satisfactory work. The unit prices are the same as last year's prices. Mr. Myhre explained that we will bid chip seal work later in the season. Commissioner Turk made the motion to approve the bid for the 2015 street paving and asphalt project and Commissioner Doney seconded the motion. Commissioner Poss 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. 3876, a resolution authorizing the transfer of the Fergus County Council on Aging's building reserve account to the Central Montana Foundation

Mr. Myhre explained that the building we are sitting in which is the Fergus County Council on Aging Building is owned by the City of Lewistown. Prior to this building there was a building that was used to store sand for the City. Mr. Myhre stated that a local group got together and got grant funds to build the building and there were not enough funds for the roof to be done how they wanted. There is a lease agreement in place, the City does not charge anything for the building but does require a minimum of \$1,000 per year to put into a building roof fund. The Fergus Council on Aging Board has been buying a \$1,000 CD every year and letting it accrue interest and now they would like to move the funds to the Central Montana Foundation to earn a little more interest. Commissioner Putnam made the motion to approve Resolution No. 3876, a resolution authorizing the transfer of the Fergus County Council on Aging's building reserve account to the Central Montana Foundation and Commissioner Hewitt seconded the motion. Commissioner Poss 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 Westech quote of \$42,300 for the repair of a wastewater plant clarifier

Mr. Myhre explained that in the winter of 2013 and 2014 there was an extreme freeze and one of the wastewater treatment plant clarifiers froze up. Staff has got the clarifier working enough to get by, but did turn the claim into the insurance company. The insurance company has determined that it must be repaired and the clarifier was built by Westech and is considered a proprietary company. Since it is a proprietary product and the bid from Westech is \$42,300 and in order to move forward the Commission needs to approve the bid. Mr. Myhre commented that this expense is covered by the City's insurance coverage. Commissioner Putnam made the motion to approve the Westech quote of \$42,300 for the repair of a wastewater plant clarifier and Commissioner Doney seconded the motion. Commissioner Poss asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

**CITIZENS' REQUESTS**

There were none.

**COMMISSIONER'S MINUTE**

Commissioner Poss commented that the chicken issue was difficult.

**ADJOURNMENT**

Chairman Poss adjourned the meeting.

Dated this 20<sup>th</sup> day of April 2015.

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Rick Poss, Commission Chairman

ATTEST:

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Nikki Brummond, City Clerk