

COMMITTEE OF THE WHOLE

DECEMBER 2, 2024

6:00 PM

1. Discussion on bulk water, bulk sewer and planning fees.

NOTICE FOR, AND AGENDA FOR, A MEETING OF THE CITY COMMISSION, CITY OF LEWISTOWN, NOVEMBER 18, 2024 AT 7:00 P.M. AT THE CENTRAL MONTANA COMMUNITY CENTER LOCATED AT 307 W WATSON

To participate virtually the options are as follows:

To join by zoom:

<https://zoom.us/j/8486275925?pwd=dTVGbndDK253ZUJLMjRuZXU5QVpMdz09>

Meeting ID: 848 627 5925 Passcode: 59457

To participate by phone: dial (253) 215-8782 Meeting ID: 848 627 5925 Passcode: 59457

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES – November , 2024

COURTESIES

PROCLAMATIONS

BOARD AND COMMISSION REPORTS

CITY MANAGER REPORT

PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgement of the claims that have been paid from November 15, 2024 to November 30, 2024 for a total of \$96,913.50

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

1. Public hearing on an application for a Conditional Use Permit (24-06-CUP) to locate and operate a childcare business at 215 5th Avenue S (First Presbyterian Church)
2. Discussion and action on approving the Conditional Use Permit (24-06-CUP) to locate and operate a childcare business at 215 5th Avenue S (First Presbyterian Church) (**Action: approve, disapprove or amend the Conditional Use Permit (24-06-CUP) to locate and operate a childcare business at 215 5th Avenue S**) City Manager Holly Phelps
3. Discussion and action on approving Resolution No. 4181, a resolution changing angled parking on the 100 block of 3rd Avenue North to parallel parking (**Action: approve, disapprove or amend Resolution No. 4181**) City Manager Holly Phelps
4. Discussion and action on approving Resolution No. 4182, a resolution adopting fees and charges for the Lewistown City Cemetery (**Action: approve, disapprove or amend Resolution No. 4182**) City Manager Holly Phelps
5. Discussion and action on setting the regular Commission meetings for 2025 (**Action: approve, disapprove or amend setting the regular Commission meetings for 2025**) City Manager Holly Phelps

6. Discussion and action on Resolution No. 4183, a resolution adopting fees and charges for the Lewistown Planning Department (**Action: approve, disapprove or amend Resolution No. 4183**)
City Manager Holly Phelps

7. Discussion and action on approving Resolution No. 4184, a resolution increasing the assessment for Tourism Business Improvement District No. 1 (**Action: approve, disapprove or amend Resolution No. 4184**) City Manager Holly Phelps

CITIZENS' REQUESTS

COMMISSIONER'S MINUTE

ADJOURNMENT

* All citizens are invited to make comment on any agenda item prior to action being taken by the Commission

November 26, 2024

Item # _____. Discussion and action on an application for a Conditional Use Permit (24-06-CUP) to locate and operate a childcare business at 215 5th Avenue S (First Presbyterian Church).

Proposal:

The City of Lewistown is in receipt of the above-referenced application to locate and operate childcare at 215 5th Avenue S. The property is further described as Lewistown Original Townsite, Section 15, Township 15 N, Range 18 E, Block 0-17, lot 002-006.

Public hearings was held before the Zoning Commission on November 21, 2024, and before the City Commission on December 2, 2024. Both hearings are at the Council on Aging – Community Center at 307 W Watson Street.

Background:

As stated in a flyer distributed in Summer 2024, "Bright Beginnings Preschool is excited to offer licensed, high quality early education services out of the First Presbyterian Church in Lewistown, MT. Classes begin September 3, 2024 for children ages 3-6 years of age. We invite the community to join us for an Open House on Thursday, August 29, 2024, from 5:00-7:00 pm! 2 day a week – Mon/Wed or Tue/Thur options start at \$350 /mo. 4 day a week – Mon through Thur option for \$675/mo."

A City of Lewistown temporary Business License (1 1766) was issued on August 20, 2024 to: Bright Beginnings Preschool, Madeleine Hershberger, 215 5th Avenue North [sic] Lewistown MT 59457, Issued by the City of Lewistown to carry on the business or occupation of: Preschool.

To give the board a bit more history, on August 7, 2024, the Lewistown Planning Department received a Conditional Use Application to operate a preschool at 215 5th Avenue S. Written communication from Doug Osterman, Planning Director, to Angela Schenk, dated August 15, 2024, indicated, "Upon review of the Conditional Use Permit application submitted by Madeline Hershberger, 24-02-CUP, and obtaining more information from her and the administrators of the Presbyterian Church and Lewistown Fire Marshal, I have determined that the use is a Commercial School. Commercial Schools are authorized in the Commercial-2 Zoning District of the city in which First Presbyterian Church is within. A CUP, therefore, is not required. To be clear, the business is described as, "Bright Beginnings Preschool is excited to offer licensed, high-quality education services out of the First Presbyterian Church in Lewistown, MT. Classes begin September 3, 2024, for children ages 3-6 years of age."

Sometime after this communication and determination that a preschool need not obtain a conditional use permit, the business was restructured to include childcare (please see below under facts and recommendation).

On September 25, 2024, the Lewistown Planning Department received a second Conditional Use Application (CUP-24-6) to operate a childcare at 215 5th Avenue S.

Facts and Recommendation:

The Planning Department recommends conditionally approving the Conditional Use Permit (CUP-24-6). Childcare is critically needed in Lewistown. The need for childcare is confirmed by the 2024 Lewistown Plan adopted by the City Commission on October 7, 2024.

Currently, the only zones in which childcare is outright allowed are in Neighborhood Commercial and Public Institution. Special review is required for Childcare in all Residential zones, Manufactured Home, and Commercial zones, C1, C2 and C3.

The number of children to be allowed at the childcare facility is not included in the CUP application nor are the hours of childcare operation noted. On September 25, 2024, however, communication among City departments, "...Madeline Hershberger's Preschool (Bright Beginnings Preschool) located at 215 5th Ave S (First Presbyterian Church) is changing her structure from solely a "preschool" to adding "Childcare" into it. The ages and numbers of children will change, and I asked that they write a letter explaining the business hours, age groups, and the number of children per age group."

On Sunday, September 29, 2024, the following email correspondence was sent to Angela Schenk from Madeline Hershberger:

"Hello, my name is Madeline Hershberger, and I direct the Bright Beginnings Preschool. We have recently requested and applied for a zoning permit to add a daycare portion to the business. We currently run the preschool Monday-Thursday from 7:30 am to 4:30 pm. We have between 7-12 students in the facility of any given day. On Thursday's [sic] there are two staff working in the preschool. The Daycare [sic] would add another staff member to the program as well as between 4-6 kids on any day it's open. The daycare will run the same hours of 7:30am-4:30pm but will be open an additional day of [sic] Friday."

Communication from Luke Shevela, Fire Marshal, on September 26, 2024, states, "I went to Bright Beginnings on Tuesday, September 24 to see if they had corrected the items from my initial walk-through this summer. They had not completed any of the tasks as requested (exit and egress lighting, smoke alarms, mounting fire extinguishers). I initially spoke with the pastor Kimmy but this last time the conversation was with Madeline. I gave her the items that needed to be corrected and told her to call me

when she had completed her list. She did mention "down the road" she was looking to expand [sic] and I told her she would need to contact DPHHS to see what they are going to require of her adding more children before she started to make sure the current building she was in would work."

The expected traffic, parking, and noise due to both the preschool and the childcare are expected to increase above levels caused by operations of the church and preschool at 215 5th Avenue S. The Lewistown Fire Marshal has inspected the property

Childcare is consistent with the purpose and intent of uses in the Central Business Zone District, providing service outlets which serve the city or region. Childcare services are critically needed in Lewistown.

One written comment submitted by a property owner at 111 4th Avenue S indicates, "I have no problem with this." Two letters from the public were received (attached).

The Zoning Commission, at its November 21, 2024, meeting and public hearing, unanimously recommends approval of CUP 24-06, Bright Beginnings, as conditioned below:

Conditions of approval to Ensure the Conditional Use will not adversely affect the public health, safety, or general welfare:

All State of Montana requirements for childcare must be met to begin operating the childcare.

The building at 215 5th Ave S must be deemed qualified by the Montana Department of Public Health and Human Services for licensure.

The building shall be inspected for fire and other safety reasons by the Lewistown Fire Marshal and Building Inspector to confirm that all past and currently identified safety needs are implemented to continue operating the childcare.

Adhering to all Lewistown parking requirements on both sides of 5th Avenue S and W Watson Street near the church must be maintained.

City of Lewistown
Zoning Commission Public Hearing/Meeting Minutes
November 21, 2024

The Lewistown Zoning Commission met on Thursday, November 21, 2024, at the Fergus County Council on Aging, 307 West Watson Street, at 5:30 pm.

Members Present: Chair Ryan Dick, Mary Messina, Carol Woolsey, Jay Martin, Christy Mills, Sue Johnston, Jesse Hankins, City Commissioner Diana Hewitt

Members Absent: Brandon Cowen

Visitors: Representatives of Bright Beginnings Child Care

City Staff: Holly Phelps, City Manager, City of Lewistown, Doug Osterman, Planning Director

Call to Order: Chair Ryan Dick called the meeting to order at 5:30 p.m.

Old Business: None

Minutes: Jay Martin moved to approve the Draft Minutes of June 20, 2024, Zoning Commission meeting as presented. Christy Mills seconded the motion. Minutes approved unanimously.

Jesse Hankins moved to approve the Draft Minutes of the September 19, 2024, Zoning Commission and City-County Planning Board meeting as presented (by Doug Osterman). Jay Martin seconded the motion. Minutes approved unanimously.

New Business:

PUBLIC HEARING on Conditional Use Permit for Bright Beginnings Preschool/Child Care located at 215 5th Avenue South.

Chair Ryan Dick opened the public hearing on a Conditional Use application from Madeline Hershberger of Bright Beginnings to locate and operate childcare at the First Presbyterian Church.

Doug Osterman overviewed the staff report that provides background on Bright Beginnings Preschool and the evolution of the business to include childcare. Doug noted that the original application was for a preschool which would not have required a conditional use permit as commercial schools are allowed in the Commercial-2 zone. Subsequently, the business was restructured to include childcare, and the Conditional Use application was submitted in late September.

The Planning Department recommends approval of the Conditional Use Permit as childcare is critically needed in Lewistown.

Ryan Dick asked if there were any questions or comments by the Zoning Commissioners or others in attendance. Jay Martin asked why the preschool and childcare are open 4 days and not 5? Christy Mills noted that the days open has changed from 4 to 5 with the addition of childcare to preschool. Carol Woolsey asked if the playground would be expanded to which it was answered the playground would be expanded to include the entire grassy area.

Chair Ryan Dick closed the public hearing at 5:38 pm. Carol Woolsey moved to recommend the approval of the CUP-24-6 by the City Commission as conditioned by the staff report and recommendation. Jay Martin seconded the motion. The motion passed unanimously at 5:42 pm.

Doug Osterman provided an update of the process that the city is considering, as a step to continue planning under the new Montana Land Use Planning Act, creating a new Planning Commission from the existing Board of Adjustments and Zoning Commission, including members. He asked members of the Board of Adjustments at its last meeting about their interest and is asking the Zoning Commission tonight about theirs. Ryan Dick, Carol Woolsey, Mary Messina, and Sue Johnston indicated they would be interested. Jesse Hankins indicated he is a

“maybe” and will get back to Doug on a decision. It was noted during the conversation that Jay Martin, who represents the Fergus Conservation District on Zoning Commission, lives outside the Lewistown Planning Area and, therefore, does not qualify to be on the Planning Commission under the Montana Land Use Planning Act. Diana Hewitt, as a City Commissioner, also does not qualify under the new law to be on the Planning Commission. Christy Mills faces term limits at the end of this year as a County representative on the Zoning Commission and indicated she is not interested in serving on the Planning Commission.

Adjourn: Chair Dick adjourned the meeting at 6:05 pm.

RESOLUTION NO. 4181

**A RESOLUTION CHANGING ANGLED PARKING ON
THE 100 BLOCK OF 3RD AVENUE NORTH TO
PARALLEL PARKING**

WHEREAS on July 17, 2017, the Lewistown City Commission held discussion and voted on an action to approve angled parking on the 100 block of 3rd Avenue North, approving said action with a unanimous vote.

WHEREAS on November 18, 2024, a public hearing was held regarding angled parking on the 100 block of 3rd Avenue North and a proposal to return the angled parking to parallel parking.

WHEREAS on November 18, 2024, the Lewistown City Commission heard public comment regarding changing angled parking on the 100 block of 3rd Avenue North to parallel parking, including review of letters from the public and the Lewistown Police Department.

WHEREAS the Lewistown Public Works Department operates and provides maintenance of streets and alleys and follows the April 2006 Lewistown Standards for Design and Construction and requirements as set forth in the Lewistown City Code Title 9.

WHEREAS the Lewistown Public Works Department should adequately notice the public of the change contemplated herein, including but not limited to posting of signage indicating the change, and should withhold ticketing the public for violation of the new parking designation for two weeks from adoption of this resolution.

WHEREAS the Lewistown City Commission has duly considered the proposal to change the parking from angled to parallel parking on the 100 block of 3rd Avenue North and public comment regarding the change from angled parking to parallel parking and determined it is in the best interests of the City of Lewistown, effective immediately and to be implemented according to Lewistown Public Works Department; and

NOW, THEREFORE, BE IT RESOLVED, that the Lewistown City Commission hereby elects to change the angled parking on the 100 block of 3rd Avenue North to parallel parking upon approval of this resolution.

BE IT FURTHER RESOLVED, the Lewistown City Commission hereby

authorizes the City Manager to direct the Lewistown Public Works Department to change the angled parking to parallel parking on the 100 block of 3rd Avenue North.

BE IT FURTHER RESOLVED the Public Works Department shall notify the public of this change by posting signage in the impacted area and shall not ticket for violation of the parking amendment no earlier than two weeks from the first posting of signage in the impacted area.

PASSED AND APPROVED by the Lewistown City Commission on the ____ day of _____ 2024.

Loraine Day
Vice-Chairman of the Commission

ATTEST:

Nikki Brummond, City Clerk

RESOLUTION NO. 4182

A RESOLUTION ADOPTING FEES AND CHARGES FOR THE LEWISTOWN CITY CEMETERY

WHEREAS, Lewistown City Ordinance No. 1784 provides that fees for the purchase and assignment of cemetery lots, opening and closing of graves, perpetual care, and setting of headstones, shall be set by Resolution of the Lewistown City Commission.

WHEREAS, Lewistown City Resolution No. 4043, adopted the fees and charges for the Lewistown City Cemetery. That, unless otherwise modified by the City Commission, fees would be reviewed in or prior to, January each year and fees adjusted, by the amount of the consumer price index annual percent change for the previous year. The amount of increase for each fee category shall be rounded up to the nearest \$5.00 increment.

NOW THEREFORE BE IT RESOLVED, that the following City Cemetery fees and charges shall apply, **effective January 1, 2025**:

LEWISTOWN CITY CEMETERY LOTS	
Single, City Resident	\$730
Single, Nonresident	\$830
Infant lot (12 months of age or younger in Baby land)	\$165
Cremains Lot, Resident 4' X 3' (1 Vault per lot)	\$290
Cremains Lot, Nonresident 4' x 3' (1 Vault per lot)	\$395
Perpetual care fee per lot for Nonresident	\$125
OPENING AND CLOSING (PER LOT)	
Weekday Body Burial:	
City resident	\$675
Nonresident	\$780
Infant lots	\$260
Weekday Cremains:	
Maximum of (3 per regular lot)	
City Resident	\$415
Nonresident	\$520

WEEKENDS AND HOLIDAYS	
Body Burials	\$910
Infants Burial	\$245
Cremains	
City resident	\$520
Nonresident	\$625
SET UP AND TEAR DOWN FEE	
	\$165
SHEPARD HOOK INSTALLATION	
	\$30
CALVARY CEMTERY:	
Weekdays	\$745
Weekends and Holidays	\$905
SETTING OF GRAVESTONES	
Monuments (2' x 1' or smaller)	\$115
Monuments (2' x 1' or larger)	\$220

BE IT FURTHER RESOLVED, that, unless otherwise modified by the City Commission, the above fees shall be adjusted on December 31, 2025, by the amount of the consumer price index annual percent change for the previous year as certified at:

<http://www.usinflationcalculator.com/inflation/consumer-price-index-and-annual-percent-changes-from-1913-to-2008/>.

The amount of increase for each fee category shall be rounded up to the nearest \$5.00 increment.

BE IT FURTHER RESOLVED that a copy of each year's prospective fee adjustments shall be presented to the City Commission each year.

PASSED AND APPROVED this 2nd day of December, 2024.

Loraine Day, Vice-Chairman
Lewistown City Commission

Attest:

Nikki Brummond
City Financial Officer/Clerk

2025 Commissioner's Calendar

January

01

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
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February

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March

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April

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May

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June

06

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July

07

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August

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31						

September

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October

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November

11

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December

12

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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28	29	30	31			

Meeting Dates 1st & 3rd Monday – If a Holiday is on one of those days it will be the following day.  **Holiday**
Commissioners get paid at the first meeting of the month.

January 1st – New Years Day

January 20th – Martin Luther King Day

February 17th – Presidents / Washington's Birthday Holiday

May 26th – Memorial Day Holiday

July 4th – Independence Day Holiday

September 1st – Labor Day Holiday

October 13th – Columbus Day Holiday

November 11th – Veteran's Day Holiday

November 27th – Thanksgiving Day Holiday

December 25th – Christmas Day Holiday

RESOLUTION NO. 4183

A RESOLUTION ADOPTING FEES AND CHARGES FOR THE LEWISTOWN PLANNING DEPARTMENT

WHEREAS, City of Lewistown Planning Department has the desire to help offset some of the cost incurred while reviewing various Lewistown City Planning Department applications.

WHEREAS, the Lewistown Planning Department, last amended fees in June of 2018. The Planning Department has evaluated the time and cost incurred for the processing of specific applications and feel that the fee schedule should be updated.

NOW THEREFORE BE IT RESOLVED, that the following fees and charges shall apply, **effective January 1, 2025**:

City of Lewistown Planning Fees	
Zoning Amendment	\$300
Conditional Use Application	\$150
Conditional Use for Home Occupation	\$100
Variance Application	\$200
Subdivision Fees	
Certificate of Survey Review	\$400
Exempt Criteria Review	\$300
Plat Amendments/Review	\$250
Examining Land Surveyor (ELS)	Billed for Actual Cost
Municipal Facilities Exclusion	Billed for Actual Cost
Staff Research	\$50/hour
Pre-Application meeting	\$200

PASSED AND APPROVED this 2nd day of December, 2024.

Loraine Day, Vice-Chairman
Lewistown City Commission

Attest:

Nikki Brummond
City Financial Officer/Clerk

RESOLUTION NO. 4184

A RESOLUTION INCREASING THE ASSESSMENT FOR TOURISM BUSINESS IMPROVEMENT DISTRICT #1

WHEREAS Resolution 3806 adopted by the Lewistown City Commission created Tourism Business District #1 (TBID #1) effective February 1, 2013, in order to increase tourist trips and promote and benefit the tourism and lodging industry in Lewistown.

WHEREAS TBID #1 provides funding that will promote the health, safety, prosperity, security, and general welfare and will convey a special benefit to the properties within the boundaries of the Tourism Business Improvement District.

WHEREAS MCA Section 7-12-1132(3) requires the governing body to levy an assessment upon all of the property in the district using as a basis one of the methods prescribed in MCA Section 7-12-1133 and the City has previously selected the method to be used in Resolution 3806:

Assessments. All lodging facilities, as defined in Section 8, that are within the District will be assessed for their proportionate share of the costs of maintaining the activities of the Tourism Business Improvement District as prescribed in Section 7-12-1133(2)(c) M.C.A. The assessments to fund the work plan for the first fiscal year are to be collected from all lodging facilities with 6 or more rooms within the boundaries of the district and all such lodging facilities shall be subject to an assessment of one dollar (\$1.00) per occupied room night. Stays by persons who are otherwise exempt from paying a transient occupancy tax (a.k.a. lodging facility use tax), as provided in Sections 15-65-101 through 15-65-136 MCA, shall be exempt from the assessment. The assessments may be modified annually by adoption of a resolution or adoption of the City's budget.

WHEREAS the TBID Board has discussed increase of the assessment in the amount of \$1.00 and recommends that said assessment should be increased effective January 1, 2025.

WHEREAS the City finds that the method and amount of assessment as described in Resolution 3806 should be increased to two dollars (\$2.00) for the second half of fiscal year 2025 and moving forward unless amended by adoption of an amendment by resolution or adoption of the City's budget.

NOW, THEREFORE, BE IT RESOLVED, that all lodging facilities that are within TBID #1 will be assessed for their proportionate share of the costs of maintaining the activities of the Tourism Business Improvement District as prescribed in Section 7-12-1133(2)(c) M.C.A. The assessments to fund the work plan for the fiscal year 2025 shall be collected from all lodging facilities with 6 or more rooms within the boundaries of the district and all such lodging facilities shall be subject to an assessment of two dollar (\$2.00) per occupied room night. Stays by persons who are otherwise exempt from paying a transient occupancy tax (a.k.a. lodging facility use tax), as provided in Sections 15-65-101 through 15-65-136 MCA, shall be exempt from the assessment.

PASSED AND APPROVED by the Lewistown City Commission on the ____ day of _____ 2024.

Loraine Day
Vice Chairman of the Commission

ATTEST:

Nikki Brummond, City Clerk