**A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON APRIL 15, 2024 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.**

**CALL TO ORDER**

Vice Chairman Day called the meeting to order.

**PLEDGE OF ALLEGIANCE**

Vice Chairman Day asked everyone to stand and say the Pledge to the Flag.

**ROLL CALL**

Present were Commissioners: Buehler, Day, Hewitt, Hrubes, Scotten and Spika. Commissioner Terry attended virtually.

**APPROVAL OF MINUTES**

Vice Chairman Day stated that without objection and based on the corrections the April 1, 2024 minutes are approved.

**COURTESIES**

There were none.

**PROCLAMATIONS**

There were none.

**BOARD AND COMMISSION REPORTS**

Commissioner Terry reported that the Central Montana Foundation's next meeting will be April 23rd and the annual meeting is May 28th.

Commissioner Buehler reported that there has not been a library board meeting. Commissioner Buehler reminded everyone that the Library will be closing at noon on April 17th thru April 20th for staff to attend the annual Montana Library Association.

Commissioner Hewitt reported that the next Airport Board meeting is May 1st.

Commissioner Scotten reported that Snowy Mountain Development Corporation and Snowy Mountain Development Authority will meet this Thursday, April 18th.

Commissioner Day reported that the Park and Recreation Board met on April 3rd. A community citizen, Jason Foucher attended the meeting and brought forward concerns to have more youth opportunities in the community. The Pool had their 2nd job fair and there is a good amount of returning guards and interest in new pool staff. Commissioner Day reported there were no swim meets last season and there will be one July 6th in Lewistown. The recreation staff is preparing to open the pool by ordering supplies and prepping the facility. The snack shack status will need to be revisited with time lines of construction and location specifics. The snack shack does bring in quite a bit of revenue, so efforts will be made to ensure space is designed so it can run effectively. The warming shed at the ice rink is down. Trash cans have been placed out at parks and some vault toilets still need to be cleaned out. The new shelter at Frank Day Park is done. Cheyanne Anderson, a community member, requested a desire to have an expression swing installed at Frank Day Park and Symmes Park. The Park Board approved the request and Ms. Anderson will petition the Central Montana Foundation to fund it. The part time recreational specialist is leaving and we are advertising for a full-time replacement. There was continued discussion regarding the kiosk adoption opportunity on the trails.

**CITY MANAGER REPORT**

City Manager Holly Phelps reported on the following issues:

The Historic Resources Commission will be holding their annual awards ceremony on May 16th at 6 pm in the hospitality room at Fountain Terrace. This event is free and open to the public. These awards recognize individuals and groups for their efforts to preserve historic buildings or to promote and protect Lewistown's history.

The rain that occurred this weekend, did cause us to experience some high water in areas and some erosion. Public Works is busy cleaning up and preparing for the next weather event.

Spring is hopefully here. As the weather warms up you will see City staff sweeping streets and trimming trees. They will also begin spring clean up activities in our parks and cemetery. Public Works is busy working on projects that need to be completed prior to this summer's construction projects.

The City of Lewistown currently has seasonal and permanent job openings. There is more information available on the City's website or at Job Service. The open positions are in Public Works, Park and Recreation and the Fire Department.

The City is currently getting ready to bid the project for Water Improvements Phase 2 and Wastewater improvements. These projects both utilized ARPA and grant funding for these infrastructure projects.

**PUBLIC COMMENT -** non agenda items

There were none.

**CONSENT AGENDA**

Commissioner Hewitt made the motion to approve the consent agenda and Commissioner Scotten seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgment of the claims that have been paid from March 15, 2024 to March 31, 2024 for a total of $4,065.80 and the claims that have been paid from April 1, 2024 to April 11, 2024 for a total of $439,761.17.

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

1. Discussion and action on Resolution No. 4153, a resolution to appoint trustees to Lewistown Tourism Business Improvement District No. 1

City Manager Phelps explained the Calvert Hotel appointee Kate Cooler unfortunately had to move out of state. It is the desire of the Calvert Hotel to have Noah Rotz serve as their representative on the Tourism Business Improvement District (TBID) Board. Noah Rotz would full fill the remainder term vacated by Kate Cooler if approved by the Commission tonight. City Manager Phelps stated that this appointment was approved by the TBID Board for final approval by the City Commission. Commissioner Buehler made the motion to approve Resolution No. 4153, a resolution to appoint trustees to Lewistown Tourism Business Improvement District No. 1 and Commissioner Spika second the motion. Commissioner Day asked for comments from the audience and Commission. There being none, the question was called for and a roll call vote was taken and all voted in favor.

2. Discussion and action on confirming the City Manager's appointment to the Library Board of Trustees for a five-year term

City Manager Phelps explained that included in the Commissioners packet was the letter of interest from Mary Callahan Baumstark to serve on the Library Board of Trustees. City Manager Phelps explained that she is currently serving on the board finishing out a vacated position. This would not be her first term on the Library Board as she did serve a previous term. City Manager Phelps stated that the Library Board did approve the appointment. Commissioner Beuhler stated that the Library Board did approve this appointment and her letter of interest was the only one received. Commissioner Buehler made the motion to confirm the City Manager's appointment of Mary Callahan Baumstark to the Library Board of Trustees for a five year term and Commissioner Spika seconded the motion. Commissioner Day asked for comments from the audience and Commission. There being none, the question was called for and a roll call vote was taken with all being in favor.

3. Discussion and action on approving Prospect to purchase and install a Pressure Reducing Valve at the above ground water tank.

City Manager Phelps explained that included in the packet is the scope of work and pricing for a eight inch pressure reducing valve that would be located at the water tank located behind Subway. City Manager Phelps stated that this part is necessary for the current water project but also phase 2 that includes the painting of the tank. Commissioner Hewitt asked if they didn't know prior to this that the valve was needed as part of the bid. City Manager Phelps answered that the valve there was no longer functioning and it was determined after the project was bid. City Manager Phelps stated that the contractor is here and has the availability to do the work, however, it is outside the project. This was budgeted for and there are funds available. Commissioner Hrubes made the motion to approve Prospect to purchase and install a Pressure Reducing Valve at the above ground water tank and Commissioner Scotten seconded the motion. Commissioner Day asked for comments from the audience and Commission. There being none, the question was called for and a roll call vote was taken with all being in favor.

4. Discussion and action on allowing beer & wine license at the Makers on Broadway building

City Manager Phelps explained that the City Attorney received a request from a local attorney to have a conversation regarding allowing beer & wine license at the Makers on Broadway building. The Makers on Broadway is working with the State of Montana to acquire a license. In doing so, they have run into some challenges. City Attorney Tyler West explained that the Makers on Broadway (MOB) is an art gallery and are wanting a beer and wine license in hopes of making it more of a tasting room. City Attorney West explained the issue they are running into with the Department of Revenue is that they are trying to obtain a license that is within a 600-foot radius of a school and church. City Attorney West stated that the representative working with MOB has reached out asking the City to find a work around for this issue. City Attorney West explained that upon his review the only way to work around this is to create an ordinance to remove that restriction. It was discussed that the City codes currently does not have a variance process for this type of situation. City Attorney West stated that the way the City could work around this is to supplant that requirement. This would mean the Commission would pass an ordinance saying the City doesn't care about the 600 feet rule. City Attorney West commented that he thinks this is a very questionable course to go down, because it opens the door for anyone if we supplant the restriction from the State of Montana. City Attorney West further commented that by this would set precedent for any upcoming issues. Commissioner Buehler asked if this license is for the selling of alcohol. City Manager Phelps answered for both the selling and consumption of alcohol on premise. City Attorney West pointed out that on the application one of the items asked if the premises are the entrance doors of the premises proposed for licensing on the same street as, and within 600 feet of, the entrance doors of a building occupied exclusively as a church or school and the applicant answered no. City Attorney West stated that he doesn't feel the State of Montana is going to be okay with this application, and if the City gives permission to help this business accomplish their goals, that would set precedent and open the door for many things. Commissioner Terry wanted to confirm some information. Commissioner Terry commented that the State of Montana said no to this and then the City got a letter from their representative asking the City to work around the issue. City Attorney West answered that is correct. City Attorney West reviewed the result of supplanting the restriction. Commissioner Terry asked if there was something the City could do because she is assuming this is for the restaurant that will be put in the building. Commissioner Terry stated that one of the main topics in the growth policy is that the City needs to work with downtown businesses and doesn't want the City to hinder development when trying to develop the growth policy. Commissioner Terry is wondering if there is anyway to put some restriction on without opening the issue up to everything. City Manager Phelps explained that through the building code process the owners received a letter addressing some additional concerns. One of the concerns is the ability to serve alcohol and follow occupancy rules. Further discussion followed. Commissioner Spika commented that citizens are asking for things to do and culture and feels what MOB has done so far aligns with the development of downtown. Commissioner Spika stated that she understands the concern of opening a can of worms, but the State says we can do it and it would be worth looking into supplanting. Commissioner Terry commented that she is having a hard time saying no to this item even though it opens a can of worms because the community have voiced their opinion that this is what they want. Commissioner Buehler asked if the State has said no and the City is reviewing it. Mr. Doug Day commented that he would urge the Commission that as much as you want to help businesses to not supplant state law, because as a lawyer it would open the City up to liability. Supplanting State law says the City is doing something completely different than the entire state. Mr. Day further commented that the City is not telling the Makers on Broadway no, they chose that location, not the Commission. Commissioner Buehler made the motion to not allow a beer and wine license at the Makers on Broadway buildings due to the Montana Code that has been identified and Commissioner Scotten seconded the motion. Commissioner Day asked for comments from the audience and Commission. Commissioner Terry asked what type of communication would be had with the MOB. City Attorney West answered that he will write a letter to the MOB representative. There being none, the question was called for and the following Commissioners voted in favor: Day, Buehler, Scotten, Spika and Terry. Commissioner Hewitt and Hrubes voted against the motion. Commissioner Day asked why after the discussion two of the Commissioners voted no. Commissioner Hrubes stated that he is not a proponent of setting a precedence, because we have the power to do what we want to do.

5. Discussion and action on approving a proposal on the berg lumber development and allowing the City Manager to enter into an agreement and sign on behalf of the City

City Manager Phelps explained that the City did receive an updated buy sell from the Homestead Ventures group, the offer is at hand is $225,000 with an escalation addendum. City Manager Phelps further explained that the Planning Director evaluated a per acre cost and due to the complexity of this particular project there was a range of $5,500 to $12,086 fair property value per acre. This translates to $98,615 to $216,700. Commissioner Buehler asked if this documentation helps to clarify the low-income housing discussion. City Manager Phelps answered yes, this transfer would not be pursuant to the low income but at a fair price. It takes 2/3 affirmative vote of the Commission to move forward with the purchase. Commissioner Day asked if the original offer from Rentovator is still on the table. City Manager Phelps answered yes. Commissioner Day stated that there is now a new offer from Homestead Ventures. City Manager Phelps answered that is correct and then you have the new offer from the last meeting from 406 Rock, which is $200,000 and not to be annexed and not to be housing. City Clerk Nikki Brummond explained that what is on the table is the $200,000 offer from 406 Rock Inc not to be annexed and no housing, $105,000 offer from Renovator to be annexed and it would be housing and the final offer is $225,000 from Homestead Ventures to be annexed and housing. The offer from Homestead Ventures is a new offer and it does have an escalation addendum. Commissioner Terry stated that it was her understanding that the Commission decided at the last meeting that the proposal from 406 Rock Inc would be not be considered. Commissioner Spika made a motion to accept the $225,000 offer from Homestead Ventures which best aligns with the City's growth policy and it is the best offer and Commissioner Terry seconded the motion. Mr. John Gault with Renovator stated that he did not know this was a bidding item and wanted to know what would happen if he came in with an offer of $230,000. City Clerk Brummond answered that he could do that but there is an escalation addendum of $350,000. Commissioner Buehler asked if this is the time where the need for the development agreement should be added. Commissioner Buehler made the motion to amend the motion to add the need for a development agreement to be part of the offer and Commissioner Spika seconded the motion. Commissioner Spika stated that the proposal from Homestead Ventures best aligns with what the community wants, because people are moving here for workforce housing. Commissioner Hrubes commented that the single-family dwellings are right on the edge of the creek and he highly doubts that they will build right there. City Manager Phelps stated the area Commissioner Hrubes is referring to is above the irrigation ditch. Mr. Ken Shaver asked the Commission where the three entries are from that have submitted proposals. City Manager Phelps stated that all of them have a presence in the Great Falls area. Mr. Shaver asked if a local architect has looked over the plans. City Manager Phelps explained that the land has been analyzed through the feasibility study. Mr. Jeremy Farr stated that he didn't think the condo proposal was a fit for Lewistown, because if you asked the people in that neighborhood, they would say no. The people live in that neighborhood for a reason. Mr. Farr stated that this property should be sold to Montana residents. Commissioner Spika commented that this was open to anybody anywhere and no one local responded. City Manager Phelps answered that the feasibility study was done in 2016 and that was part of the housing needs as determined by the Recharge our Community efforts. A formal RFP process was done in 2020 and got no response and again in 2022 and got no formal responses at that point. City Manager Phelps stated there have been a few offers of the years. Mr. Gault stated that he didn't give any drawn-out plans because they were going to look at the land use and determine the best way to use the land. Commissioner Terry commented that the decision is being made by the proposal that was given to the Commission. The development agreement would be done as part of the buy sell, but the agreement will come to the Commission for approval prior to finalizing the deal. Commissioner Day asked for comments from the audience and Commission. It was clarified that this is going forward with a counteroffer accepting the purchase price and a development agreement needs to be in place prior to the closing of the property. There being none, the question was called for and the following Commissioners voted in favor: Day, Buehler, Hewitt, Scotten, Spika and Terry. Commissioner Hrubes voted against the motion.

**CITIZENS' REQUESTS**

Mr. Shane Klakken asked about the progress of the pan handling ordinance. Commissioner Spika answered that a sub committee was appointed but have not yet met.

## COMMISSIONER'S MINUTE

Commissioner Terry commented that she has seen a few development agreements done and this is the first time anything has gotten this far. Commissioner Terry stated that the City just needs to keep trying so far nothing has worked and it is the job of the Commission to look at all proposals and move forward. There has been a lot of money spent to clean up the property. Commissioner Terry stated that with the review of the growth policy, we see that housing going in there, responsible building and development is the best thing for Berg Lumber right now.

Commissioner Spika stated it was a very good meeting.

Commissioner Hrubes asked how the City is progressing on the zoning efforts and now looking at annexing more property. City Manager Phelps stated that the City will be using the new zoning process through the growth policy. There will no longer be a zoning process, it will either align with your policy or it doesn't.

Commissioner Day thanked the Commission for all the questions and comments that help everyone understand and help with the decisions.

## ADJOURNMENT

Vice Chairman Day adjourned the meeting.

Dated this 15th day of April, 2024.

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Loraine Day, Vice Chairman of the Commission

ATTEST:

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Nikki Brummond, City Clerk