

A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON JUNE 3, 2024 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.

CALL TO ORDER

Chairman Terry called the meeting to order.

PLEDGE OF ALLEGIANCE

Chairman Terry asked everyone to stand and say the Pledge of Allegiance.

ROLL CALL

Present were Commissioners: Buehler, Day, Hewitt, Hrubes, Spika and Terry. Commissioner Scotten was absent.

APPROVAL OF MINUTES

Chairman Terry stated that without objection and based on corrections the May 6, 2024 and May 21, 2024 minutes are approved.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Buehler reported that the Library Board will be meeting June 20th.

Commissioner Day reported that the Park and Recreation Board will meet at 7 pm at the Civic Center this Wednesday, June 5th.

Commissioner Hewitt reported that the Airport Board will meet at 3 pm this Wednesday, June 5th.

Commissioner Terry reported that the Central Montana Foundation held their annual meeting on May 28th. At this meeting grant requests over \$4,999 are awarded. Commissioner Terry commented that it was the 40th anniversary of the Central Montana Foundation and Mr. Don Pfau was in attendance. The board reviewed the financials and a grant was awarded to help cover swim passes for qualifying children in the community. Commissioner Terry reported that next CMF meeting will be June 25th at 2 pm.

CITY MANAGER REPORT

City Manager Holly Phelps reported on the following issues:

Summer is shaping up to be very busy. Lots of events scheduled around town and in the parks, Creekside and downtown. The swimming pool will be open June 8th and lifeguard training has already started.

The Municipal Summit has been moved to the Civic Center.

The new cemetery caretaker will be Rick Miller and he started today. The fire and police departments are fully staffed. The current job openings are a street worker, wastewater worker, recreation specialist and office clerk.

City Manager Phelps reported that she will be out of the office on vacation until June 12th.

PUBLIC COMMENT – non agenda items

Mr. Jason Foucher was in attendance and expressed his concern about activities for the kids in the community. Mr. Foucher was here two months ago and there still has not been any basketball nets put up. Mr. Foucher reported that the area around Garfield bridge needs to be kept. There is a lot of garbage. It is very frustrating that the Civic Center is closed on the weekends. Mr. Foucher's goal is to help to provide more activities for the kids. Commissioner Terry asked if Mr. Foucher had attended a Park and Recreation Board meeting. Mr. Foucher answered yes and he continues to watch the parks and other areas to see if things are getting done. City Manager Phelps explained that the Park and Recreation Board along with the Recreation Director are working on different projects. Currently, they are working with some adjacent property owners at Kiwanis Park to fix up the basketball courts. Mr. Foucher asked about the report that Commissioner Terry gave regarding the Central Montana Foundation. Commissioner Terry explained that he would need to contact Carrie Mantooth with the Central Montana Foundation. Mr. Foucher would like to see the Garfield bridge area fixed up similar to the improvements at Hanson Creek Dam. City Manager Phelps explained that work was done by an Eagle Scout and when working with that area you are dealing with different ownership and state water ways and regulations. Commissioner Terry explained that he should continue to go to the meetings and follow up on his concerns and unfortunately things don't happen very quickly. Commissioner Terry stated that she really appreciates his concerns and attendance at the different meetings. Commissioner Hrubes commented that some of the playground equipment doesn't work. City Manager Phelps answered that some of the playground equipment has been removed due to the liability of the equipment.

Ms. Sherry Johnson addressed the commission stating that she sympathizes with Mr. Foucher. Ms. Johnson explained that she is thankful for the ability to dump grass at the treatment plant. Ms. Johnson expressed her frustration about how people treat the grass dump area at the treatment plant. City Manager Phelps stated that she will put up signs and see if that will help.

CONSENT AGENDA

Commissioner Day made the motion to approve the consent agenda and Commissioner Hewitt seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgement of the claims that have been paid from May 16, 2024 to May 30, 2024 for a total of \$950,268.86

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

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

City Manager Phelps explained that this item was discussed in detail during the committee of the whole. City Manager Phelps stated that at the time the City does not have a downtown district defined and if the City chooses to do something different the downtown district should be defined. City Attorney Tyler West explained that we are talking about supplanting, which means replacing a Montana Code which is MCA 16-3-306 and is regarding all retail liquor licenses. The change being discussed is a liquor license through the Department of Revenue, and does not matter if you are a beer and wine purveyor, bar, tavern or restaurant. City Attorney West stated he wants to make it clear that this change must be applied to everyone and everyone must be treated the same. City Attorney West further stated that the issue being brought before the Commission is that the applicant has with the Department of Revenue. City Attorney West commented that the Commission needs to keep in mind that the Department of Revenue told the applicant to go to the City of Lewistown because the applicant has a problem with their application. The Department of Revenue is defining the issue, not the City. The applicant is asking the City Commission to make big changes to the City of Lewistown's ordinance. City Attorney West explained that when the City put the current ordinances in place it was determined that they were going to follow Montana Code and in order to change it must be done for everyone. Further discussion followed. Ms. Becky Williams addressed the Commission stating that in today's climate it is so easy to fall back on rhetoric of what if and none of us can predict the future. Ms. Becky Williams stated that cities throughout the State of Montana have supplanted this specific rule and have done so in various ways. Ms. Becky Williams did express the concern regarding the time line for the applicants. Ms. Becky Williams stated that the supplantation is allowed under Montana Code specifically to the laws regarding alcohol licenses. The number of alcohol licenses and how they are issued is controlled by the Department of Revenue. Ms. Becky Williams stated that Shaun Giffith and Rosanna Mecklenburg agree that this should be done in a well thought out manner. Ms. Becky Williams stated that they would respectfully request that you approve the use of the beer and wine license application at the 519 W Broadway location. Commissioner Terry explained that the goal of this item is to either deny or allow and the motion should include a plan. Commissioner Day commented that it is her understanding that this is no different than what the Commission discussed and took action on in April. Commissioner Spika stated that her understanding of the request has changed. Commissioner Terry explained that the main reason this is back on the agenda is because there was no representation or presentation for the request at the previous meeting. The decision made by the Commission was done so without any representation from the applicant. Commissioner Buehler explained that the understanding was that the Department of Revenue had already denied the application. Commissioner Spika made the motion to allow a beer and wine license at the Makers on Broadway by amending the City's ordinance to supplant MCA 16-3-306 and amending City Code 5-15- to create a district where that code is supplanted. City Clerk Nikki Brummond asked for some clarification with regards to making a motion. City Clerk Brummond asked that the Commission can move forward with the process without being specific on creating a district and just move forward with the process. City Clerk Brummond then stated it would be her understanding that the motion would be somewhat general and the next step in the process would begin to amend the ordinance and allow public comment. Commissioner Spika made the motion to allow a beer and wine license at the Makers on Broadway building by starting the process to amend City Code 5-16-6 and supplant MCA 16-3-306 regarding

600 foot restriction and Commissioner Buehler seconded the motion. Mr. Doug Day addressed the Commission stating it seems everyone wants to make this provision and thinks it is a good thing. Mr. Day stated he would like to caution the Commission to listen to their City Attorney's cautionary words as well because they are well spoken and it is the attorney's job is to warn of pitfalls that may come. Mr. Day commented that he thinks the motion would be better if it were worded to be vague and not specifically mention Makers on Broadway because that opens up a problem. Commissioner Day commented that her heart is full for the Makers on Broadway and she is a business owner on Broadway and would like to see everyone succeed. Commissioner Day further commented that she does have an issue with how the motion was worded and the advice of being vague and more open and looking at a business district would be wise. Commissioner Day stated that she took an oath as a Commissioner and she has a really hard time going against the advice of the City Attorney. Ms. Becky Williams stated that she would request specific language approving the 519 W Broadway because the applicants' issue is the need for a resolution to the request. City Attorney West stated that he does like the suggestion from Mr. Day that the motion be vague and not sure why to specifically stating the business in the motion. City Attorney West suggested that two motions be made and to start with the vague language and allowing the supplantation of the ordinance to amend away from the MCA 16-3-306 and the second motion can specify the location. Commissioner Spika amended the motion to start the process to amend City Code 5-15-6 and supplant MCA 16-3-306 regarding the 600-foot restriction and Commissioner Buehler seconded the motion. Commissioner Hrubes stated that he is not a fan of setting a precedent, but he guesses it's a reality. Commissioner Spika stated that she made this motion, and does hear and appreciate the concerns. Commissioner Spika further stated there are risks with this motion and undeniably things could go bad, but think the job of a Commission is to make changes that the Commission feels needs to be made. Commissioner Spika commented that this proposed change represents the desire of the community as defined in the growth plan research. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously. Commissioner Day made the motion to allow a beer & wine license at the Makers on Broadway building located at 519 W Broadway pursuant to the amended City Code 5-15-6 and Commissioner Hewitt seconded the motion. Commissioner Day commented that she is grateful for the time to discuss the issue and to work out a solution. Commissioner Day stated that she would like to see that the Commission not lose sight of the upcoming process to follow through with what the commission committed to tonight. Ms. Becky Williams thanked the Commission for their time and commitment to the community. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously.

2. Discussion and action on approving a business license for Nomad Electric LLC

Commissioner Terry reminded the Commission that as part of the City's code the Commission must approve business licenses for the following businesses: HVAC, electrical and plumbing. City Manager Phelps explained that Mr. Taylor Butcher has been working for a company outside of the area and chose to move back and start up his own business. All the required licensing and surety bonds are included with the application. Commissioner Spika made the motion to approve a business license for Nomad Electric LLC and Commissioner Hrubes seconded the motion. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously.

3. Discussion and action on entering into a Memorandum of Understanding between the City of Lewistown and Fergus County Health Department for the testing of municipal wastewater samples

City Manager Phelps explained that this Memorandum of Understanding (MOU) was prepared by the Health Department staff and the wastewater employees are on board with the testing. The MOU does allow the City to invoice for our employees time to do the sampling. City Manager Phelps commented that this is a great opportunity to be able to get more information on communicable diseases in the community. Commissioner Terry asked if this was something the state asked us to do. City Manager Phelps answered that the State has got some grant funds to be able to do the testing. All of the testing will be done at the State labs and provide some payment for the City employees time. Commissioner Buehler asked how many employees are at the Wastewater Treatment Plant. City Manager Phelps answered there are currently 3 employees and one position open. Commissioner Hewitt made the motion to enter into a Memorandum of Understanding between the City of Lewistown and Fergus County Health Department for the testing of municipal wastewater samples and Commissioner Spika seconded the motion. Commissioner Hrubes stated that by the time they find bacteria in the wastewater there will be people sick already and second there is a lot of chlorine in the water and no bacteria can live in there any way. Commissioner Buehler stated that this is the wastewater not the drinking water. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously.

4. Discussion and action on appointing a Commissioner to the Snowy Mountain Development Corporation

Commissioner Terry explained that Mr. Dave Scotten was the City representative on the Snowy Mountain Development Corporation (SMDC) board and now a new Commissioner needs to be appointed to finish the year. Commissioner Terry further explained that in prior years the City Manager has been the City representative if necessary. Commissioner Terry stated it is her understanding that both Commissioner Spika and Commissioner Hrubes are interested in serving. Commissioner Hrubes made the motion to appoint Commissioner Spika to serve as the City representative on the Snowy Mountain Development Corporation board and Commissioner Day seconded the motion. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously. City Manager Phelps stated she will let SMDC know of the appointment and the annual meeting is coming up soon.

5. Discussion and action on Resolution No. 4154, a resolution awarding TIF District Funds to 406 Café approved by the Lewistown Tax Increment Financing District Board

Commissioner Terry explained that this application from 406 Café was approved by the TIF/TEDD board in the amount of \$12,286. Commissioner Hrubes made the motion to approve Resolution No. 4154, a resolution awarding TIF District Funds to 406 Café approved by the Lewistown Tax Increment Financing District Board and Commissioner Buehler seconded the motion. Commissioner Terry asked for comments from the Commission and audience. There being none, the question was called and the clerk took a roll call vote and the motion passed unanimously.

CITIZENS' REQUESTS

There were none.

COMMISSIONER'S MINUTE

Commissioner Hewitt commented that when her kids were younger, they used to go down to the Garfield bridge and do some clean up. Commissioner Hewitt further commented that she had known Jason Foucher and he is very adamant about finding stuff for the kids in the community. City Manager Phelps explained that the Garfield bridge is a liability and it is monitored and things are enforced. Commissioner Day commented that the Civic Center hours aren't due to staffing and encouraging people to go outdoors. City Manager Phelps stated that the closing of the Civic Center on the weekends during the summer months has been done for many years.

Commissioner Hewitt reported that she talked with the Airport Manager and the Army National guard is pulling out of the area. City Manager Phelps stated there will be a joint press release.

Commissioner Terry asked James Aldrich about this internship with the News Argus. Mr. Aldrich stated that he is student at the University of Idaho and in his senior year. Mr. Aldrich commented that he begged and pleaded with Jacques Rutten at the newspaper to set up an internship so that he could graduate next year. This is his 3rd week on the job.

Commissioner Terry thanked everyone for all the work and the ability to bring the first item back on the agenda. Commissioner Terry asked if Commissioner Hrubes would like to serve on the ordinance committee with Commissioner Day and herself. Commissioner Hrubes agreed to serve.

ADJOURNMENT

Chairman Terry adjourned the meeting.

Dated this 3rd day of June 2024

KellyAnne Terry, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk