

**A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON
AUGUST 5, 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, Robertson, Spika and Terry.

APPROVAL OF MINUTES

Commissioner Terry commented that the Clerk has received a lot of corrections. Commissioner Hrubes stated that he made a lot of comments at the July 15th meeting and none of them were reported in the minutes and wondered why. City Clerk Nikki Brummond stated that she does not type minutes verbatim, but if there is something a Commission would like added to the minutes, she will do that. Commissioner Hrubes commented that his comments were in regard to the zoning change on Rosewood and he stated that he started out by saying we need more housing and he is in favor of more housing. Commissioner Hrubes further commented that there has to be a better place than there. Commissioner Hrubes commented that he read from the TDH engineering report regarding the main geo technical concern for this site, which described what had to be done to accommodate the area to be used for multi-family housing and was in favor of leaving it zoned for trailer houses. Commissioner Hrubes stated he did vote against the item and the reason he would like it noted that he started his comments with more housing is needed in Lewistown and does not believe that Rosewood where it should be done. Commissioner Hrubes stated he wanted it noted that he read from the TDH engineering report. Commissioner Hrubes explained his concern with another area of the minutes. On page 3 in the middle City Manager Phelps answered yes, the decision for the Commission is to change the zoning from RMO to R3 which is multifamily and allow 24 units to be built. Commissioner Hrubes asked if that statement is giving them the go ahead and he doesn't think so. City Manager Phelps answered they would still have to work through the building department. Commissioner Hrubes answered that it does not say anything about the building department. Commissioner Hrubes stated is says to allow 24 units to be built and he wants that changed. Commissioner Spika clarified it would allow 24 units to be built, it would allow anybody to build 24 units. City Clerk Brummond asked if the adding the words "would allow" satisfy his concern with that statement. Commissioner Hrubes answered that would be fine. City Clerk Brummond asked if the Commission would like the minutes corrected and brought back before the Commission for approval at the next meeting. Commissioner Hrubes stated he would like that to be done.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Buehler reported that the Library Board met on July 30th. It was a great meeting and a lot of fun to read and hear about the summer reading program, which was a huge success. Commissioner Buehler reported that there were 355 participants of that 237 were youth and 118 were adults. Commissioner Buehler reported there is adult programming titled Larger than Life, Leaders in Montana History, author Hal Stearns will be here August 28th. The next one will be in September 2024. Commissioner Buehler stated that the Library Board reviewed the budget and approved it for FY 2025 and it has been given to the City to implement in the full budget. The next Library meeting will be August 15th.

Commissioner Hrubes reported that on July 22nd the City County Health Board met. There was not a quorum of voting members, as a result no action was taken. Commissioner Hrubes reported we have lost the local sanitarian and now there are contract sanitarians coming in and inspecting the food trucks and restaurants. Commissioner Hrubes stated that the amount of animal bites is very interesting to him and 10 bites were reported, all were domestic animals no wild animals. Commissioner Day asked about the sanitation position, she was told that the new sanitations would be visiting establishments and introducing themselves. Commissioner Day asked if they are contracted. City Manager Phelps answered yes, they are contracted and there are two individuals with this firm.

Commissioner Day reported that the July Park and Recreation Board meeting was cancelled. There were not enough people around to do the annual clean up of East Fork Reservoir recreation area. City Manager Phelps commented that it has been cleaned up and it looks great out there. Commissioner Day reported there will be a meeting this Wednesday, August 7th at 7 pm.

Commissioner Hewitt reported that the Airport Board meets Wednesday, August 7th at 3 pm.

Commissioner Terry reported that the Central Montana Foundation cancelled their meeting in July. The next meeting is scheduled for August 27th at 2 pm.

Commissioner Terry reported that a couple of weeks ago the following people met: Commissioner Hrubes, Commissioner Day, Commissioner Terry, City Manager Phelps and City Attorney West to discuss the ordinances before the Commission. Commissioner Terry reported that supplanting of State law with regards to liquor license and school zones was discussed. Commissioner Terry stated that last Commission the first reading of the ordinance supplanting state law was approved. Commissioner Terry explained that it was discussed at the committee meeting just putting beer and wine in the ordinance and then the attorney found that if you labeled it beer and wine or liquor or alcohol. Alcohol is alcohol which is why the attorney wrote the ordinance the way it was presented. Commissioner Terry further commented that if you read state law it does go back in forth with liquor and beer and wine and she is not sure why it isn't consistent.

Commissioner Terry read the following analysis from the City Attorney:

At the February 20, 2024, Lewistown City Commission Committee of the Whole meeting, Community Minded Solution (hereafter "CMS") made a presentation. CMS proposed an amendment to § 10-10-10, LCC, that would impose a penalty against a driver that provided a donation to a person soliciting a ride, employment, or business on a street or roadway in addition to the restriction provided for a predestination soliciting the same from a driver.

The LCC defines a roadway as "[t]hat portion of a street or highway between the regularly established curb lines or that part devoted to vehicular traffic." SS 10-10-1, LCC. A street or highway is defined as "[e]very way set apart for public travel, except footpaths." *Id.*

CMS provided an example from § 19-39 (C) Kalispell City Code, that contains language that prohibits said activity from a driver.

On June 24, 2024, a committee meeting was held regarding the issue. Commissioners: KellyAnne Terry, Loraine Day and Ron Hrubes attended. City Manager Holly Phelps and City Attorney Tyler L West also attended the meeting.

During the meeting, the issue of amending the ordinance was discussed. The current code, § 10-10-10, LCC, was reviewed and the effect of the current ordinance was weighed against the proposed amendment.

Specifically, the Committee noted that the Lewistown Police Department has traditionally taken a piece meal approach to reduce the issue of solicitation of drivers on public roads that is supported by the current § 10-10-10, LCC. The behavior was also discussed at the Committee meeting.

Section 10-10-10, LCC, provides an avenue for the Lewistown Police Department to stop solicitation of drivers in roadways.

Conclusion:

The Committee determined that based on the needs of the community, an amendment to § 10-10-10, LCC, is not necessary based on the needs of the community. No action will be taken at this time.

CITY MANAGER REPORT

City Manager Phelps reported on the following issues:

Last weekend Centerfest was held at Creekside. Even with the extremely hot temperatures the event was well attended. There are several events planned for the downtown this next month.

The Fire Department has seen an uptick in calls for the month of July. They have also been extremely busy helping other agencies in responding to wildfires in our area.

The City received their certified values today at 2 pm from the Department of Revenue. Currently, we are planning to hold the necessary public hearing at the Commission meetings and passing a preliminary budget on August 19th. The final budget would then be passed on September 3rd.

The Civic Center is busy with their flag football program and will then quickly go into fall soccer. Also, the last day of the swimming pool will be opened this season will be August 15th. City Manager Phelps noted that they are still on track for demolish/construction on the new heated locker room/concession stand. It is hoped to start right after the pool closes.

The mowing of the cemetery is now being done as needed. The sprinklers are all repaired and working, but there are a few leaks that still need to be repaired. We have also installed most of the headstones that have supplies the necessary paperwork and paid the setting fee.

The City Manager has recently had several conversations with the Department of Environmental Quality and we have been working through the issues that were noted on the last inspections of the wastewater treatment plant and industrial storm systems. The City Manager will continue these discussion with the DEQ.

Construction has started on the water tank, the tank has been empty and the system is not using that tank at all. The booster pump station off Castle Ridge Road has been in service the last week or so. The tank painting and work is slated to last approximately 2 months. There have been several water leaks recently due to the change in flow and pressures in the system are showing some weak areas.

PUBLIC COMMENT – non agenda items

There were none.

CONSENT AGENDA

Commissioner Day made the motion to approve the consent agenda and Commissioner Buehler seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgement of the claims that have been paid from July 1, 2024 through July 31, 2024 for a total of \$173,272.94

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

1. Discussion and action on approving a business license for Green Source Electric

Commissioner Terry explained that application is in front of the Commission for approval and as a reminder per city code the Commission must approve business licenses for HVAC, plumbing and electrical. Commissioner Terry reported this applicant is from Townsend. City Manager Phelps stated that as a reminded plumbers, electricians and mechanical contractors are to provide a surety bond. All the necessary has been provided and reviewed. Commissioner Hewitt made the motion to approve a business license for Green Source Electric and Commissioner Day seconded the motion. Commissioner Terry asked for comments from the audience and Commission. There being none, the question was called for and the City Clerk took a roll call vote, with all being in favor of the motion.

2. Discussion and action on approving the general union bargaining agreement for 2024-2027

Commissioner Terry explained that this bargaining agreement covers all employees except police, fire and dispatch. City Manager Phelps reported the discussion started several months ago and it went very well. There were only some minor administrative changes. City Manager Phelps stated that this is a unique bargaining union it is a large group of people with different hours. The agreement went away from working days to calendar days due to the inconsistent schedules amongst the members. The negotiations were centered around wages many of those are in addendum A. The changes were training pay and certification pay for employees that have CDL. City Manager Phelps briefly explained the certified CDL expectations. City Manager Phelps explained that Addendum B outlines the wages for all positions and the increase was CPI which was 4.1%. There were a couple wage corrections with the lower end positions. City Manager Phelps explained that 2nd and 3rd year are based on CPI with a minimum of 1% and maximum of 6%. The CPI calculation used is the same for all bargaining agreements. Ms. Misty Aldrich, the union president, commented that the main thing change that was done with wages is employees were tired of being in different departments and getting different rates of pay so they are trying to get everyone equal and went with CPI so that everyone gets the same increase. Ms. Aldrich stated it is a union and need to all be level and it was good negotiations with the vote being unanimous. Commissioner Hrubes asked if health insurance is included in the agreement. City Manager Phelps answered yes, the City contributes 95% of the best plan and the employee must contribute 5%. This is standardized for all employees. Commissioner Hewitt asked about the accrual of vacation and sick leave. City Manager Phelps answered this is consistent with state law. Commissioner Day asked if the gym membership was a new item. City Manager Phelps answered no that was added during the last negotiation. Commissioner Buehler made the motion to approve the general union bargaining agreement for 2024-2027 and Commissioner Day seconded the motion. Commissioner Terry asked for comments from the audience and Commission. There being none, the question was called for and the City Clerk took a roll call vote, with all being in favor of the motion.

3. Discussion and action on approving 2nd reading of Ordinance No. 1772, an Ordinance amending City of Lewistown code 5-15-1 as it pertains to distances between churches and schools and establishments with a liquor license within the City Limits.

City Manager Phelps explained that this is the second reading of Ordinance No. 1772 to supplant state law that requires distances between liquor license holders and churches or schools. City Manager Phelps further explained that what is being proposed is to amend the law to not have any distances between churches,

synagogues or other places of worship but have a distance of 300 feet between these establishment and a school. This would be limited to the current commercial zones and could not be in residential areas.

Commissioner Terry stated that the two whereas that are most important are as follows: Whereas, the City of Lewistown Commissioners find that it is in the best interest of the City of Lewistown to allow establishments within commercial zones to have any level of liquor license without distance restrictions from any church, synagogue, or other places of worship; and Whereas, the City of Lewistown City Commissioners find that it is in the best interests of the City of Lewistown that at least 300 feet separate schools from establishments with any level of liquor license in commercial zones. Commissioner Buehler confirmed that the City still utilizes the State's definition of a school. City Manager Phelps answered that is all regulated by the State.

Commissioner Buehler commented that she is assuming the City Attorney is comfortable with this ordinance. City Manager Phelps commented that the City Attorney cautioned the Commission with supplanting state law and the Commission spoke and stated they were interested in supplanting certain areas of state law. City Manager Phelps stated the City Attorney is comfortable with this as presented and did express his concerns on supplanting. Commissioner Buehler commented that the City Attorney's concerns regarding supplanting were heard and wants to make sure this ordinance best represents our view going forward. Commissioner Hrubes commented that he was dead set against anything other than wine and beer, but he can support this.

Commissioner Spika made the motion to approve second reading of Ordinance No. 1772, an ordinance amending Ordinance No. 1484, codified as Lewistown City Code section 5-15-1, supplanting the provisions of §16-6-306, Mont. Code Ann., eliminating the distance between an establishment with any liquor license and a church, synagogue, or other place of worship in commercial zones, and requiring a distance of 300 feet between an establishment with any liquor license and a school in commercial zones, enacting a new section under Chapter 15, Title 5, of the Lewistown City Code, declaring an effective date, and authorizing the City Attorney to codify the same and Commissioner Hewitt seconded the motion. Commissioner Day agrees with Commissioner Hrubes this was more a give and take. Commissioner Terry asked for comments from the audience and Commission. There being none, the question was called for and the City Clerk took a roll call vote, with all being in favor of the motion.

4. Discussion and action on approving Resolution No. 4157, a resolution approving proposed improvements by State of Montana through its fish and game commission to fish hatchery property pursuant to lease agreement dated December 20, 1950, and approving proposed replacement and construction of building

Commissioner Terry commented that the next two items have to do with the Fish Hatchery regarding a right of way, because they are building a house at the location and forgot the City owned the property. City Manager Phelps explained that the City does own the property where the upper hatchery is located. There is a 99 year lease between the City of Lewistown and the Department of Fish Wildlife and Parks. City Manager Phelps explained that any future improvements would need to be approved by the lessor and done in written permission. Commissioner Day made the motion to approve Resolution No. 4157, a resolution approving proposed improvements by State of Montana through its fish and game commission to fish hatchery property pursuant to lease agreement dated December 20, 1950, and approving proposed replacement and construction of building and Commissioner Hrubes seconded the motion. Commissioner Hewitt commented that Fish Wildlife and Parks can't build a building up at the airport for their staff but can build a house. Commissioner Terry asked for comments from the audience and Commission. There being none, the question was called for and the City Clerk took a roll call vote, with the following Commissioners being in favor of the motion Buehler, Day, Hrubes, Robertson, Spika and Terry. Commissioner Hewitt voted against.

5. Discussion and action on approving Resolution No. 4158, a resolution approving proposed improvements by State of Montana through its fish and game commission to Fish Hatchery property pursuant to lease agreement dated December 20, 1950 and approving proposed right of way easement to Fergus Electric Cooperative, Inc., for utility services

City Manager Phelps explained that the existing power grid was low voltage and needed to be upgraded. Commissioner Day made the motion to approve Resolution No. 4158, a resolution approving proposed improvements by State of Montana through its fish and game commission to Fish Hatchery property pursuant to lease agreement dated December 20, 1950 and approving proposed right of way easement to Fergus Electric Cooperative, Inc., for utility services and Commissioner Spika seconded the motion. Commissioner Terry asked for comments from the audience and Commission. There being none, the question was called for and the City Clerk took a roll call vote, with all being in favor of the motion.

CITIZENS' REQUESTS

There were none.

COMMISSIONER'S MINUTE

Commissioner Day asked what is on the radar for Committee of the Whole. City Manager Phelps answered budget until the budget is approved, then it will be the finalization of the growth policy and long-range planning. The Big Spring Creek Watershed is on the list to invite to a future Committee of the Whole. Commissioner Day asked how the staffing is at the City. City Manager Phelps answered there are only two vacant positions.

Commissioner Hewitt asked the City Manager if she knew how the house at the Fish Hatchery was being funded. City Manager Phelps answered it should be the hatcheries division funded by the State.

Commissioner Robertson thanked the staff and City Manager about the work done at the Cemetery. Commissioner Robertson has had a lot of positive comments from constituents. Commissioner Robertson reported that he expressed concern to the chief engineer at the department of transportation as a planning commission member about traffic through Lewistown in the future and as a result was asked to sit on a planning commission. Commissioner Robertson explained that the Montana Department of Transportation is developing the Central Montana Transportation study to create a long-term plan in response to anticipated impacts from planned development and military activities in the region. This is a twenty-eight-month study and will be holding 9 advisory meetings with Lewistown being at the top of the list to get analyzed for traffic and will work hard to avoid traffic issues.

ADJOURNMENT

Chairman Terry adjourned the meeting.

Dated this 5th day of August, 2024.

KellyAnne Terry, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk