

A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON JUNE 5, 2023 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 to the Flag.

ROLL CALL

Present were Commissioners: Day, Doney, Hewitt, Hrubes, Scotten, Spika and Terry.

APPROVAL OF MINUTES

There were none.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Doney reported that the Library Board met on May 18, 2023 and the State Library Association was there to conduct board training. Commissioner Doney commented that it was very good training.

Commissioner Day reported that the East Fork Community Clean Up day will be rescheduled due to weather. The Park and Recreation Board will meet on June 7, 2023.

Commissioner Day reported on the Lewistown Downtown Association (LDA) meeting. Hot Summer Nights will be August 18th from 4 to 8 pm. The LDA is looking to create more opportunities for businesses on Main Street to be involved. There was an update on the Main Street trees with a huge thank you to Josh Stoychoff for the Arbor Day event and his work on installing the tree guards on Main Street. A tree flyer is being made to educate downtown businesses regarding the maintenance and history of the trees. The next LDA meeting will be June 28th at 12 pm at the Brooks Building.

Commissioner Hewitt reported that the Airport Board will meet on June 7th.

Commissioner Scotten reported that the Snowy Mountain Development Corporation annual meeting is June 21st and will be held in Winnett at the new Community Center.

Commissioner Scotten reported that he missed the June 1st Shelter Solutions meeting. Commissioner Scotten explained that he did receive the minutes. The group put together a document asking questions

for when they go visit shelters around the state. The group was very thankful to come and present to the City Commission.

Commissioner Terry reported that the Central Montana Foundation had their annual meeting on May 23, 2023. The awards ceremony for the students was May 15, 2023. Commissioner Terry commented that at the annual meeting the foundation gave out \$123,000. A grant in the amount of \$25,000 was given to the Pickleball Group, who are redoing the tennis courts in Symmes Park. The foundation gave \$4,500 to the pool for assistance under privileged families for pool passes. Commissioner KellyAnne explained that the foundation gave \$60,000 to the Central Montana Rodeo Club, which has the largest high school rodeo at the Fergus County Fairgrounds.

CITY MANAGER REPORT

City Manager Holly Phelps reported on the following issues:

The recent heavy rainfall caused the water levels to come up in all the dams. East Fork campground is currently flooded and will be closed until the water recedes. The creek also came out of its bank in the area of 6th and Ash and there were some areas of standing water in the area of Creekside and the Riverdale Subdivision.

The City of Lewistown was selected as a tour of honor stop for 2023. Each year participating motorcyclists will visit memorials around the country and pay their respects. There are no organized events but small groups will be stopping by our Vietnam Veterans Memorial at Symmes Park now through the end of October.

The swimming pool will be opening June 9th. We have just begun the 2nd session of lifeguard training and with the weather it has been a challenge to get people in the pool. Staff has been busy training and getting everything ready for opening day. You can still buy swim passes or sign up for lessons at the pool and during regular pool hours.

We have filled several positions: Rich Nearhoof is now the Cemetery Caretaker and Rick Vaughn is the new Trails Coordinator. We still have openings for a Police Officer, Firefighter, Water Workers and Recreation Specialist.

The recent hailstorm made a mess across town. Public Works is working on getting out and cleaning up the mess that was left. The heavy rain and high creek levels also make running the sewer plan a bit more challenging. Public Works will also be installing Main Street benches and begin blading streets.

On May 25th, the Board of Adjustments met to hear 3 different variances. There was a variance from the lot coverage requirement for property located at 702 W Boulevard St, it was approved with a one-year extension due to contractor shortage. A request to vary from the side yard setback requirement was approved for property located at 922 W Evelyn. The last variance request was a request to vary from the side yard setback requirement for property located at 1206 W Montana. The board of adjustments is the one board where requests do not come back to the City Commission for approval.

PUBLIC COMMENTS – non agenda items

There were none.

CONSENT AGENDA

Commissioner Doney made the motion to approve the consent agenda and Commissioner Hrubes seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgment of the claims that have been paid from May 12, 2023 to May 31, 2023 for a total of \$172,392.62

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

1. Discussion and action on City of Lewistown Event application requirements

City Manager Phelps explained that Montana Municipal Interlocal Authority (MMIA) our insurance carrier just put out this information in their quarterly newsletter. City Manager Phelps explained what MMIA considers a special event to be is anytime an Event Holder want so to use municipal property for their own event. Each of these events comes with its own list of hazards and risk that could result in the injury to the public, an event attendee or an innocent by-stander. It could also cause damage to municipal structures and property. MMIA has identified places where individuals can find event coverage, what should be included on a special event policy and naming the City as additional insured. There is an additional insurance for liquor at an event. City Manager Phelps commented that without coverage, the municipality could be retaining the cost of repairing the damaged property the municipality owns as well as the potential of having to address a claim for injury to someone who attended the event if the Event Holder did not secure the appropriate insurance coverage. City Manager Phelps reviewed the current event policy. Commissioner Terry asked what is the Commission being asked to do right now. City Manager Phelps answered that at the last commission meeting during the public comment a citizen asked if the Commission would remove the special event insurance coverage. Commissioner Doney asked if the Commission decided to do away with special event insurance, how would it affect the taxpayers in the City. City Attorney Theresa Diekans answered MMIA would not cover the City and if the City was found liable the money would come out of the general fund. If the City were found liable MMIA would not cover the City for damages incurred or provide legal representation. Commissioner Doney commented that it could bankrupt the general fund and City Attorney Diekans answered yes. Commissioner Hrubes asked for clarification on a special event and if a four-hour picnic at Frank Day Park by Jaycees, Kiwanis or the Moose would that require coverage. City Manager Phelps answered that would be considered an organized event and would require coverage. Mr. Robert Snyder, 1307 W Broadway, addressed the Commission with his concerns regarding organized activities and other events that would require coverage. Mr. Snyder commented please reverse course in burdening these and other “things to do” with liability insurance requirements and indemnity policies. Mr. Snyder further commented that if this committee allows this policy to stand, then his mentioning these other events has just jeopardized so many gatherings which provide immeasurable benefit to this city almost exclusively from civic minded volunteers and donors. Even the \$25 application fee can work in reverse and send police powers to end a recreational gathering that has unbeknownst failed to meet some vague policy. Just about every item on the park board agenda takes time and consideration, is this the reason for the \$25 to offset the cost of the park boards consideration? Mr. Snyder stated it is his hope that a commissioner would speak up and motion then second, discussion and approve waiving added insurance requirement for our five-day cookout/gospel concert along with waiving the \$25 application fee. Mr. Snyder further stated that with proper newspaper notice completely remove those two requirements for City Park usage for normal authorized activities. Perhaps inquire who will be responsible for litter and play equipment in lieu of an unnecessary cleaning deposit. Mr. Snyder finalized by stating thank you all for strongly considering this reversal and all the other thankless business you handle for the people of Lewistown and hope the Commission comes to the same conclusion as him. Commissioner Day confirmed that our parks are currently insured at this time. City Manager Phelps answered yes for normal use. City Clerk Nikki Brummond gave a little background as to why the event application and fee were put into place. City Clerk Brummond explained that when the City is asked to block off a street for a parade on a weekend,

that costs the City four hours of overtime for two employees, the City does not have the manpower to clean up after animals in the parade, there are requests for police and fire escorts and then other events use the City's barricades and cones and don't return them. So now the City has to purchase more barricades and cones. This is the reason for the event application and fee. City Clerk Brummond reported that the street jam on Wednesday, is providing documentation and the necessary deposit, the Chamber of Commerce is also providing the necessary documentation and deposit. There have been no issues with the application process or associated fees. Commissioner Spika stated she does not think the Commission can waive the insurance requirement because it would be irresponsible for the City and the taxpayers. Commissioner Spika would like more clarification on what is a special event. There was further discussion on special events. Mr. Snyder stated that he can afford the rider policy it is just less frisbees and ice cream for the kids. Mr. Snyder further asked what this park board wants to do, burden it, and understands there is liability, but does liability shut down and restrict activities and reduce budgets. Commissioner Terry answered that unfortunately liability does shut down functions and as Commissioners of a municipality the only thing they can do is say this is what we can do for you if you want to have an event in a park because we have to protect everyone. Mr. Snyder stated we could have had a shorter meeting if someone would have asked for a motion from a commissioner to waive event insurance this for Mr. Snyder and someone second. Mr. Snyder commented if there is nobody here interested in freeing up activities and usage of the park of normal activities in the park. Commissioner Terry stated that right now we are talking about Mr. Snyder's event and asking waiving the insurance. Commissioner Terry stated that the action tonight is to waive the special event insurance requirement for Mr. Snyder's event. This is what is being asked and would entertain a motion. Commissioner Terry asked for a motion from the Commission. No motion was made. Commissioner Terry thanked Mr. Snyder about bringing this to the Commission to discuss further. Commissioner Hrubes commented that we are slaves to a system and is not for large government, however to have a structure set up with chairs, someone trips and they will go to the City and does understand Mr. Snyder's position.

2. Discussion and action on the Commission's desire to proceed with allowing chickens in the City limits

City Manager Phelps explained briefly that the committee looked at making a change and what the process would look like. City Manager Phelps explained it would require a permit, potentially allow up to six female chickens in the City limits, there would be parameters on the coop, chicken enclosures, what happens if the chickens get out. There would be costs associated with obtaining a permit and penalties if the rules are not followed. City Manager Phelps stated the Commission is not ready to move forward with any ordinance change at this time, but have spent some time evaluating this topic and looking for direction on how to proceed. Commissioner Doney commented that a lot of this information came from the City of Belgrade and they put it before the voters as a referendum and that is how it passed and she feels it is a good democratic way to move forward. Commissioner Terry commented that the work that has been done and feels it does address what could happen. Commissioner Spika explained that what the Commission needs to decide is if the Commission will vote on this at a future date, put it on referendum for the citizens to vote, table it or do nothing. Commissioner Spika made the motion to put this on the next election as a referendum and Commissioner Hrubes seconded the motion. There was discussion on the referendum process and the necessary language needed. Ms. Angela Toller, 523 W Erie St, stated she is very much in support of having chickens. Ms. Toller stated that she homeschools her kids and a great opportunity to teach kids where food comes from. Ms. Toller commented that price of eggs is ridiculous and there does need to be requirements in place. Mr. Snyder stated he is excited and that it is a benefit. Commissioner Terry stated at this moment it is the Commissioners intent to let the citizens vote to allow chickens. City Attorney Diekhans explained that we are not sure on the time frame. City Clerk Brummond read the motion: to proceed with allowing chickens in the City limits by referendum. Commissioner Spika and Commissioner Hrubes are fine with this motion. Commissioner Spika explained that if the Commission was to vote today on an ordinance change it would not pass and doing a referendum is the better option. Commissioner Terry asked for comments from the audience and

Commission. There are being none, the question was called for and a roll call vote was taken with those Commissioners voting in favor: Day, Doney, Hrubes, Scotten Spika and Terry. Commissioner Hewitt voted against.

3. Discussion and action on authorizing the City Manager to sign on behalf of the City of Lewistown as the fiscal agent for the 2023 Urban and Community Forestry subaward agreement awarded to the Lewistown Downtown Association Program Development Project

City Manager Phelps explained that this is the grant that the Lewistown Downtown Association applied for to fund the purchase of the Main Street trees. City Manager Phelps further explained to make it as efficient as possible the City will be the responsible party for facilitating the grant with DNRC. City Manager Phelps reported the majority of the trees are in there are still some tree guards to be installed and a three year maintenance plan in place and this is one way the City can help out in the process. Commissioner Terry explained that basically the City Manager is going to sign the grant and LDA got the funding. Commissioner Terry further explained that as a municipality our insurance will allow us to help them with insurance coverage. Commissioner Spika made the motion to approve authorizing the City Manager to sign on behalf of the City of Lewistown as the fiscal agent for the 2023 Urban and Community Forestry subaward agreement awarded to the Lewistown Downtown Association Program Development Project 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 a roll call vote was taken with all being in favor of the motion.

4. Discussion and action on appointing Josh Stoychoff to the Park and Recreation Board

City Manager Phelps explained that a member of the Park and Recreation Board resigned and we advertised for applicants. The City received one application from Josh Stoychoff. City Manager Phelps explained that he is the local DNRC forester, has been very involved with trees in the City, has helped rewrite the City's tree ordinance and is a hockey enthusiast. City Manager Phelps finished by saying she feels he would be a great asset to the Park and Recreation Board. Commissioner Doney made the motion to appoint Josh Stoychoff to the Park and Recreation Board and Commissioner Hewitt seconded the motion. Commissioner Terry 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 of the motion.

5. Discussion and action on approving Resolution No. 4123, a resolution relating to \$5,150,000 water system revenue bonds (DNRC Drinking water state revolving loan program), consisting of \$750,000 subordinate lien taxable series 2023A bond and \$4,400,000 series 2023B bond; authorizing the issuance and fixing the terms and conditions thereof

City Manager Phelps explained is resolution is referred to the City's bond resolution. This resolution allows the sale of the bonds and will be a thirty-year loan and there is some forgiveness and the rates are at a level to be able to pay back the loan. Commissioner Doney made the motion to approve Resolution No. 4123, a resolution relating to \$5,150,000 water system revenue bonds (DNRC Drinking water state revolving loan program), consisting of \$750,000 subordinate lien taxable series 2023A bond and \$4,400,000 series 2023B bond; authorizing the issuance and fixing the terms and conditions thereof and Commissioner Day seconded the motion. Commissioner Hrubes commented that he has looked at this documentation and that the interest alone is \$100,000 and is concerned on how the City will afford it, because budgets are tight. City Clerk Brummond explained that this loan is strictly for water improvements and the rates currently set in the water fund are sufficient to cover the debt payments. Commissioner Doney clarified that the debt payments are coming out of the enterprise funds that are never comingled with general fund. This means the rates are already in place to make the payments, fix the water system and meet all the necessary criteria. Commissioner Terry asked for comments from the

audience and Commission. There are being none, the question was called for and a roll call vote was taken with those Commissioners voting in favor: Day, Doney, Hewitt, Scotten Spika and Terry. Commissioner Hrubes voted against.

6. Discussion and action on authorizing the City Manager to sign a memorandum of understanding between the Montana Department of Transportation and the City of Lewistown for the state funded City Park rest area maintenance program FY 2024 (Kiwanis Park public rest area)

City Manager Phelps explained that this is reimbursement grant the City facilitates for the Kiwanis Club every year. The Kiwanis Club helps the community out by maintaining the campground up at the airport. City Manager Phelps reported the not to exceed amount of the grant is \$6,965 and is all reimbursed. The Kiwanis Club submits receipts and a drawdown is done. Commissioner Terry stated that this is basically a pass-through grant. Commissioner Doney made the motion to approve authorizing the City Manager to sign a memorandum of understanding between the Montana Department of Transportation and the City of Lewistown for the state funded City Park rest area maintenance program FY 2024 (Kiwanis Park public rest area) and Commissioner Hewitt seconded the motion. Commissioner Terry 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 of the motion.

7. Discussion and action on approving the 2023 – 2026 Park Maintenance Contract

City Manager Phelps explained that this is the same agreement that has been in place for many years. The agreement is between the City and the contractor to move the City properties, garbage removal, watering and some bathroom cleaning. City Manager Phelps commented that this is approximately an 8% increase, which is pretty consistent with inflation and a very modest interest over the three years of the contract. Commissioner Terry commented that he has refused to do Creekside and what will be done to do this. City Manager Phelps answered that currently the Park and Recreation Department has been maintaining Creekside and we still have the means to do so. Commissioner Day commented that at the last Park and Recreation Board meeting this contract was discussed in depth and how fortunate we are to have him. Commissioner Spika made the motion to approve the 2023-2026 Park Maintenance Contract with Rick Sandor and Commissioner Doney seconded the motion. Commissioner Terry 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 of the motion.

CITIZENS' REQUESTS

There were none.

COMMISSIONER'S MINUTE

Commissioner Scotten asked if there has been any follow up to the information provided by Mr. Pearson. City Manager Phelps answered no, that was not any new information and Public Works will continue to monitor the situation.

Commissioner Hewitt commented that she has been asked by someone to find out what all properties the City owns. Commissioner Hewitt further commented that maybe something could be sold and put on the tax rolls.

Commissioner Day asked where to find out who owns the property that Burger King is located on. City Manager Phelps answered that all the contact information we have is with HR restaurants and sometimes there is information on the door. Police Chief Jenness referred her to Mr. Kris Birdwell.

Commissioner Day commented that she has received a letter from the Neudicks. City Manager Phelps commented that everyone did receive a letter and she did go ahead and send a lease and letter and if they wanted to visit about other options the Commission would welcome a meeting.

Commissioner Day stated that she has had some parking complaints regarding the parking at Symmes Park. City Manager Phelps commented that it can be reevaluated.

ADJOURNMENT

Chairman Terry adjourned the meeting.

Dated this 5th day of June, 2023.

KellyAnne Terry, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk