

A COMMISSION MEETING OF OCTOBER 7, 2013 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.

CALL TO ORDER

Chairman Gremaux called the meeting to order.

PLEDGE OF ALLEGIANCE

Chairman Gremaux asked everyone to stand and say the Pledge to the Flag.

ROLL CALL

Present were Commissioners Doney, Gremaux, Hewitt, Poss, Putnam and Turk. Commissioner Berry was absent.

APPROVAL OF MINUTES

Commissioner Turk made the motion to approve the minutes for August 19, 2013 as presented and Commissioner Doney seconded the motion. The motion passed unanimously.

COURTESIES

Chairman Gremaux paid a courtesy to Mr. Terry Phillips for his years of service on the City of Lewistown Fire Department. Mr. Phillips died recently of pancreatic cancer.

PROCLAMATIONS

There were none.

BOARD AND COMMISSIONER REPORTS

Commissioner Putnam reported that she attended a Park and Recreation meeting. There was an update from the Friends of the Pool. Mr. Bill Berg gave an update on the ice skating facility. Park and recreation Director Jim Daniels reported on the completion of Earl Street and that he recommends replacing the tree and plaque honoring Al Heckford, because it was washed away during the flooding.

Commissioner Hewitt reported that at the recent Airport Board meeting the bus barn lease has been renewed. The fire truck is purchased and FFA has agreed that the Danco fire truck was a better purchase and met all the necessary requirements. The Montana Department of Transportation is looking at the option of putting the retention pond underground that is located at the end of the runway.

Commissioner Turk reported that the Library Board will meet on Thursday.

Commissioner Doney reported that the Health District meeting will also meet on Thursday.

CITY MANAGER REPORT

City Manager Kevin Myhre reported on the following issues:

Public Works is working to build up a raised pad at the Wastewater Treatment Plant to allow for the collection of grass and leaves this fall. Mr. Myhre stated that he believes that we were able to reduce the odor problems during the warmer months by not taking the organic material and now the colder months should reduce the compost odors greatly.

City staff is putting together the waiver information and the water connection information to finalize the annexation map for the areas discussed on the south side of the City. We are still waiting for some of the preliminary survey work to be completed. The City is required by law to annex the entire public right of ways adjacent to any annexed lot during the process. If the right of way is part of a lot that is not going to be annexed, the City must be able to survey off the right of way property in order to annex it.

The Building Department has received the design documents for the proposed addition to relocate the hospital emergency room. Additional parking, sidewalks and storm water management facilities will be required with the project.

The Governor's Office has appointed the City Manager to serve as the Local Government Representative on the Public Service Commission. The Commission meets quarterly either by formal meeting or conference call.

City staff has been discussing the benefits and ramifications involved with the current parking restrictions along the designated snow routes. It has allowed the streets to be cleared more efficiently when it is followed but is also encouraging residents to park on the grass boulevards year round and spurs requests for curb cuts to access the boulevard areas. Often the City staff actually plows the streets during the day hours when vehicles are allowed to park on the streets.

The Save the Barns committee held a ribbon cutting ceremony on October 3, 2013 to recognize the completion of the structural rehabilitation of the Draft Horse barn at the fairgrounds. The City was recognized for providing \$10,000 in CTEP funds to assist with the project.

CONSENT AGENDA

Commissioner Doney made the motion to approve the consent agenda and Commissioner Putnam seconded the motion. The motion passed unanimously.

REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:

1. Discussion and action on appointing Mr. Ron Carpenter to the Lewistown Housing Advisory Committee

Planning Director Duane Ferdinand explained that the bylaws of Lewistown's Housing Advisory Committee (HAC) provides for eleven voting members appointed by the Lewistown City

Commission. The bylaws do not specify a residency requirement. One vacancy currently exists on the committee. The bylaws of the HAC have been in effect since a 1999 HOME Investment Partnership Program grant was received. The purpose of the committee is to assist the City with the implementation of any first time homebuyer and rehabilitation grants that the City may receive. Mr. Ferdinand stated that currently the City does not have a first time homebuyer program or a rehabilitation program. However the committee is also responsible for assisting and providing guidance relating to the implementation of the City's housing projects, preparing terms for financial assistance, reviewing applications for assistance, recommending actions on housing projects, recommend administrative policies to the City Commission and recommend distribution and use of program income. Mr. Ferdinand explained the Mr. Ron Carpenter has expressed an interest in being a member of the HAC, is a Lewistown resident, qualified and interested volunteer for the vacant position. Commissioner Poss made the motion to approve appointing Mr. Ron Carpenter to the Lewistown Housing Advisory Committee and Commissioner Doney seconded the motion. Commissioner Gremaux asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

2. Discussion and action on approving and authorizing the City Manager to sign the Community Transportation Enhancement Program (CTEP) agreement for the Trailhead Park improvements and an enhancement of the adjacent Veterans Park

Mr. Myhre stated that on June 20, 2011 and March 4, 2013 the City Commission held public hearings to establish CTEP funding priorities. The Trailhead Park located near the Yogo Inn was among the projects that deemed to have a high priority for project funding. The application project description includes the main Trailhead Park improvements and an enhancement of the adjacent Veterans Park that will be done in cooperation with the American Legion. The total anticipated project cost is \$93,085 which \$80,593 will be funded by CTEP funds and the remainder cost of \$12,492 is matching funds to be provided by the Friends of the Trails and the American Legion. Commissioner Turk made the motion to approve and authorize the City Manager to sign the Community Transportation Enhancement Program agreement for the Trailhead Park improvements and an enhancement of the adjacent Veterans Park and Commissioner Hewitt seconded the motion. Commissioner Gremaux asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

3. Discussion and action on preparing comment letters in support of the Fish Wildlife & Parks Department purchasing the property currently owned by the Bank of the Rockies and property located in the area of lower hatchery south of Lewistown

Mr. Myhre explained that Fish Wildlife and Parks (FWP) is working to purchase two pieces of property located close to Lewistown. One piece is located just north of the wastewater treatment plant between the City railroad corridor and the Machler restoration area and adjacent to Tresch fishing access. It is 21 acres that is predominately wetland area. The Bank of the Rockies obtained the property as part of a foreclosure and FWP is working to purchase the property from Bank of the Rockies. FWP would like to purchase the property and make it into a fishing access.

FWP will be acting on the purchase of the property and would like to know the opinion of the City since the City owns the wastewater treatment plant. The second piece of property FWP would like to purchase is located near the Big Spring Creek Hatchery. Further discussion followed. Commissioner Doney made the motion to instruct the City Manager to prepare comment letters in support of the Fish Wildlife & Parks purchasing the property owned by the Bank of the Rockies and property located in the area of lower hatchery south of Lewistown and would like them to listen to the adjacent landowners concerns on the property located in the area of the lower hatchery south of Lewistown and Commissioner Poss seconded the motion. Commissioner Gremaux asked for comments from the audience and Commission. There being none, the question was called for and those Commissioners voting in favor were: Doney, Gremaux, Poss and Turk. Commissioners Hewitt and Putnam voted against. Commissioner Berry was absent.

4. Discussion and action on approval of license plate designed and submitting it to the State of Montana for a Lewistown license plate.

Commissioner Gremaux explained that he started the process to have a City of Lewistown license plate when he started on the City Commission. Commissioner Gremaux further explained that he had a couple of reasons to do this and one was to help the Friends of the Pool get some funding to help with the replacement of the pool, bring recognition to the needs of the pool and to support the pool. Mr. Myhre stated that there is a process to apply for and sponsor a specialty plate an application must be complete and attached all requested supporting documentation and an electronic copy of the plate design in layered format, a color copy of the plate design and a check for \$4,000 made out to the Montana Correctional Enterprises. Further discussion followed. Mr. Myhre explained that if you cover the \$4,000 initial cost then you would have a ongoing revenue source. Commissioner Doney asked if it was mandated that you recover your costs. Commissioner Gremaux answered no. Commissioner Gremaux went on to explain that this is a budgeted item and recommends that the revenue be put back to the initial cost and then the revenue above that would go to the pool fund. Ms. Judy Taurman asked if private money or tax money would be used to fund the project. Commissioner Gremaux answered that it would be tax money. Ms. Judy Taurman asked how many plates the State of Montana currently has right now. Commissioner Gremaux made the motion to approve the license plate design and Commissioner Putnam seconded the motion. Commissioner Turk asked if we are stuck with that picture, because she would like to see green grass and blue sky. Mr. Steve Williams asked if the fee can be adjusted. Mr. Myhre stated that the most common fee is \$20. Further discussion followed. Mr. Steve Williams asked if there was a deadline to get this done. Commissioner Gremaux answered not really but would like to get it done this year. Mr. Myhre stated that there are two deadlines, if the application is submitted by March 1st then it will be submitted no later than the last business day in July and if it is submitted by November 1st it will be released no later than January. Mr. Myhre stated that the next deadline would be March 1st. Commissioner Doney amended the motion to have the ability to submit more designs prior to making a final decision and Commissioner Putnam seconded the motion. Commissioner Gremaux asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

CITIZENS' REQUESTS

Commissioner Gremaux stated that there are a lot of people in the audience tonight and anyone that would like to speak please talk into the microphone and state your name for the record. Ms. Joyce Taurman addressed the Commission and stated that she and her husband bought out of the City limits forty-five years ago and their desire to be outside the City limits was because of their budget. Ms. Joyce Taurman stated she is glad for those that are going to stay in the county. Ms. Joyce Taurman stated she knows the City does not care if they are annexed because they have twenty-two stores missing on Main Street and do not have a plane, train or bus coming or leaving the city. Ms. Joyce Taurman asked that if they put their house up for sale and they were to get water, sewer and streets and would the City be able to provide it for them in their hay land. Ms. Joyce Taurman commented that the following are the good places of Lewistown: the barns, swimming pool, skating rink, emergency room and the hospital, but are all because of donations. Ms. Joyce Taurman further commented that she heard on the radio the other day that the county is not doing their fair share and feels that they are because that is where the donations are coming from. Ms. Joyce Taurman asked if they would get water, sewer, and streets if they make condos in their hay land. Ms. Joyce Taurman stated she was told they will not get anything from being annexed into the City, but would have their streets maintained. Commissioner Turk stated that she has paid City taxes for about fifteen years since she bought her house and lives on a gravel road and pay taxes for the swimming pool, civic center and library. Ms. Joyce Taurman stated that when her children were growing up they had to pay more to use the pool or library. Commissioner Turk answered that is not the case anymore. Mr. Myhre stated that if you are annexed into the City you get the following services: law enforcement, street maintenance and any other City services provided by the City. Mr. Myhre explained that if you would want to develop your hay land into condominiums then streets would be costs borne by the developer. Mr. Myhre further explained that if a neighborhood wants street lights then they need to go together and form a district. Ms. Joyce Taurman stated the she lives outside the City limits in a communist country and they are going to be in the City limits against their wishes. Mr. Myhre explained that Montana has some of the strictest annexation requirements of the United States, which means it is harder to annex property in the State of Montana than any other state. Mr. Myhre stated that it is not easy to annex, however there are reasons to annex one being so that urban areas can develop properly and that there is a ethical cost of sharing those resources and providing those facilities. Mr. Myhre commented that it is not a communist country, it is Montana State Law and there are provisions that state what you can annex and only how it can be done. Therefore, Lewistown has to follow the law and grow the way the State of Montana says cities grow, which is what the City of Lewistown will do when looking to annexation. Ms. Joyce Taurman stated that this annexing two miles all around the City of Lewistown is not being selective. Mr. Myhre stated that annexing two miles around the City is not legal and there is a state law that outlines how and what you can annex. Ms. Angela Alaers asked if Mr. Myhre could explain how the area is becoming necessary to annex. Mr. Myhre explained annexation is either through first time development or through increasing urban demand for city services. Further discussion followed. Ms. Alaers explained that the reason they chose to live in the county was because of their budget and is concerned about what the tax increase will do to their budget. Mr. Myhre explained that how a property is assessed is determined by the department of revenue. The City had a mill value and as part of the budget the Commission determined how many mills will be assessed and then the mills is assessed to all residents in the City. Mr. Myhre

explained that even though you are no longer in the county you will still be required to pay county taxes. Mr. Myhre explained that annexation is a way to make sure urban areas are growing consistently and together. Further discussion followed.

Mr. Walter Vannoy, 257 Castle Butte Road, addressed the Commission stating he was not protesting the annexation but protest the methods to annex. Mr. Vannoy stated he thinks his area is being discriminated against by the way the City has drawn the boundaries for annexation. Mr. Vannoy stated that before anything is done he needs to know exactly which annexation law the City will be using to annexation. Mr. Vannoy further stated that the City is opening themselves up to a lawsuit by the whole community if the City does not follow the law and dot the I's and the t's. Mr. Vannoy commented that the City is being watched and is unsure of the City's intentions for annexation and feels there is a good case for being discriminated against. Mr. Myhre stated that this meeting is not for accepting formal protest, and the City is in the process of putting together a map outlining the boundaries and follow state law to do so. Mr. Jack Boyce addressed the Commission commenting that he received a letter concerning a utility service agreement and a waiver of annexation. Mr. Boyce stated that he has a signed utility service agreement dated 9/23/01 and this document states that the City agrees to provide water service and we agree to pay the going rate. Mr. Boyce further stated that the other items listed in the letter are not applicable to his situation. Mr. Boyce commented that the letter insists they sign a waiver of protest for annexation or the City will proceed with annexation and terminate the water service. Mr. Boyce further commented that the letter states that Lewistown City Code 3-3-10 requires City water customers to furnish a waiver of annexation which refers to extensions of water service and states a waiver is required before the approval of an extension and that by considering current water users as extension you are manipulating the intent of the code and it may not be legal. Mr. Boyce stated that he will continue to pay for water service rendered under his existing agreement and he does not want or expect other services from the City. Mr. Boyce further stated that he receives the required and desired services from Fergus County and pays for those services and he chooses to live outside the City for the lifestyle and freedom available only in rural America. Mr. Boyce commented that he supports a more rational approach to solve the funding shortfalls that City fees is brought on by adjacent Fergus County residents and would like to know what City services he would received that he is currently no paying for. Mr. Myhre answered by reading an excerpt for an evaluation the legislature did in 1980 on annexations with in Montana. Reasons for implementing municipal annexation: governing truly urban areas with the statutorily created urban form of government. A united and effective single form of government with municipal powers to govern urban problems, provide municipal services; municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas intensely used for residential, commercial, institutional and governmental purposes. To better ensure orderly growth pursuant to uniform municipal government land use, building, street, sidewalk, municipal sewer, water service, regulations for urban areas. Sound urban development is essential to the continued economic development of this state. An equal sharing fo financial responsibility for commonly used municipal services and resources. Provide more equitable community property taxation to existing City property owners for the urban services that non-city residents use on a regular and daily basis while in the City. For example: municipal water use while in City, municipal sewer use while in City, use of municipal parks and trails and swimming pools, street and highway use and maintenance. More motor vehicle means: more wear and tear and more

frequent street maintenance i.e. paving, chip sealing etc. More need for traffic control devices: traffic control signals, stop signs, yield signs, traffic calming devices – curbing, pin down curbs, parking meters or parking signs regulating parking hours etc. More motor vehicle speed concerns and radar patrol, more motor vehicle accidents to investigate, more DUI offenders on City roads that are stopped and processed, more disturbances, disorderly conduct, assaults in bars, restaurants, residential or commercial, use of municipal emergency medical, fire and police services while in the city, presence of non-city residents requires police health and safety protection for non-city residents and use of municipal cemeteries. Property taxation equity to businesses and merchants located inside city so a commercial competitor does not locate on urban fringe outside municipality and not pay municipal taxes. Mr. Myhre stated that the information goes on to explain how some stores will go to locate purposely outside the City to gain financial benefit over those that are located in the City. Mr. Boyce commented that by enlarging your area of responsibility will not help the situation; increased revenue will be offset by the cost of maintaining more roads, the cost of additional personnel and equipment and the cost of all the other services currently provided by Fergus County.

Ms. Linda Boyce addressed the Commission stating that she and her husband are retired on a fixed income. Ms. Boyce commented that the City is trying to revitalize Main Street, convention centers will not work in her opinion and expanding your area when what you need to revitalize downtown is consumers with money. Ms. Boyce further commented that those being annexed would have to pay \$700 more a year while we are fighting our own floods, require more Police Officers and her point is she will have \$700 more a year that she will not be spending downtown. Commissioner Turk asked if they realize that the amenity you are realizing from this town is paid by the citizens that live in the City limits. Commissioner Turk commented that she wish more citizens were here that lived in the City limits to realize how much more they are taxed for the amenities that the citizens outside the City are realizing. Commissioner Doney thanked everyone for their comments but is not sure of the solution at this point. Further discussion followed. Commissioner Putnam stated that they are not wanting to bring citizens into town that do not want to be in town, we know there is an issue because there is infrastructure in the City that you are using and because of the annexation law the City can look at annexation, even if it is not fair and do not want to make people unhappy. Commissioner Putnam further stated that there is infrastructure that has been here a long time and that needs to be maintained too.

Mr. Jim Pearson, 68 SW Ash, asked if the City Park was located in a flood plan. Mr. Myhre answered that a portion maybe. Mr. Pearson asked how much money the City spent on the asphalt on Earl Street. Mr. Myhre answered that the contract was around \$80,000 and it was paid with FEMA funds because it was washed out during the flood. Mr. Pearson asked if he is annexed into the City and they request curbs and gutters and will the City be able to build a gutter big enough for the floods. Mr. Myhre stated that curb lines are not designed for 100 year floods. Mr. Pearson stated he is not in the flood plan, but everything around him is located in the flood plain. Further discussion followed regarding flooding and dikes. Mr. Pearson explained that his father bought that house in 1974 and was already on City water and no of the neighbors were on City water and does not understand why there is no record of how the house got water and does not understand why there are records in the City. Mr. Pearson stated that he heard there was a disgruntled employee that burned a bunch of City records. Commissioner Hewitt commented that she had heard the same thing and that it happened many years ago.

Commissioner Putnam asked what percent of the people that have City water do not have a waiver on file. Mr. Myhre answered that the majority of the people that have water have signed waivers. Ms. Judy Taurman commented the thing wrong with Castle Ridge Acres is that everyone dropped the ball except those that bought property up there. Ms. Judy Taurman stated that Mr. Miller should not have been allowed to not install fire hydrants and to install the water system the way it was installed. Mr. Myhre stated that the City Commission has instructed him that the City would take over the water system as soon as the subdivision is annexed. Ms. Judy Taurman asked who is going to be responsible for bring the water system up to standard. Mr. Myhre answered that is something the City Commission has not decided or voted on at this point. Commissioner Gremaux thanked everyone for attending and commenting.

COMMISSIONER'S MINUTE

There were none.

ADJOURNMENT

Chairman Gremaux adjourned the meeting.

Dated this 7th day of October, 2013.

Frank Gremaux, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk