

A REGULAR COMMISSION MEETING OF APRIL 15, 2019 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.

CALL TO ORDER

Chairman Turk called the meeting to order.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Present were Commissioners: Byerly, Doney, Dunnington, Hewitt, Loomis, Oldenburg and Turk.

APPROVAL OF MINUTES

Commissioner Hewitt made the motion to approve the minutes for April 1, 2019 as corrected and Commissioner Doney seconded the motion. The motion passed unanimously.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Dunnington reported that there is a City County Planning Board on April 18th.

Commissioner Hewitt reported that she attended the Airport Board meeting on April 3rd. Kiwanis members were at the meeting and reported that they are going to work on living snow fence at the airport and make it more presentable. Commissioner Hewitt further reported that Ms. Peggy Butler with SAFE came and asked if the Airport had a lot where they could build a shelter for dogs and cats. They are wanting 5 to 7 acres and the building would need water, sewer and electricity. It was suggested that they work with the Airport Manager. WTI has asked to cancel their lease at the end of the summer. Commissioner Hewitt commented that the Airport Manager is talking with another group that may be interested in the WTI lease. Commissioner Hewitt stated that two more phone interviews were conducted for the Airport Manager position.

Commissioner Doney reported that the Library will meet on April 18th.

Commissioner Loomis reported that the Park and Recreation Board met on April 10th. The board has approved Mr. Snyder's request to offer free horse rides during the revival over the July 4th weekend. Mr. Snyder will be working on addressing the sound issue. Commissioner Loomis explained that there is a group working on rental fees for the Creekside Marketplace and Pavilion. The Park and Recreation Board is continuing to work on the signage at East Fork Campground. The swimming pool fees will remain the same as last year.

Commissioner Oldenburg reported that the Central Montana Foundation will meet next week.

Commissioner Byerly explained that the Central Montana Health District is losing an employee and is currently advertising the position. The next Central Montana Health District Board meeting is May 16th.

CITY MANAGER REPORT

City Manager Holly Phelps reported on the following issues:

May is Historic Preservation month and the Historic Resource Commission will be holding their Annual Awards Ceremony on May 22nd at 7:00 pm at the Council on Aging.

At the last Historic Resource Commission (HRC) meeting, the group decided not to move forward with stamping the concrete as part of the upcoming sidewalks on Main Street. HRC had received feedback from other communities that the stamping caused untimely deterioration of the concrete and this made HRC rethink their plans for moving forward with this project.

The Library is preparing for their busy summer season. On April 13th the Library was closed for staff training. The Author Dinner is scheduled for May 15th and this year's author is Keith McCafferty. The Summer Reading Program will kick off June 4th and the theme this year is "A Universe of Stories".

This is also a very busy season for the Parks and Recreation Department and there are a lot of activities and groups utilizing the City parks right now. In addition to getting the pool up and running, seasonal staff must be hired and trails maintenance is in full swing. The Park department is also working to make improvements to the campground at East Fork prior to this year's camping season. Improved signage will be installed and this will include the language to charge for camping.

Public Works continues to make repairs to water main that were damaged by the extra ordinarily deep frost this year. They will also begin preparing the Cemetery for Memorial Day.

PUBLIC COMMENT

Chairman Turk explained that the Commission has added a public comment period earlier in the meeting for those citizens that would like to make a comment on non-agenda items. Mr. Battrick asked if an Airport Manager had been hired and the one that was mentioned will they fly in.

CONSENT AGENDA

Commissioner Doney made the motion to approve the consent and agenda and Commissioner Loomis seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgment of the claims that have been paid from March 28, 2019 to April 10, 2019 for a total of \$171,398.01.

REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:

1. Discussion and action on Saving Animals from Euthanasia funding request

City Manager explained that representatives of SAFE were at the last Commission meeting. They informed the Commission of their activities and had asked for some sponsorship from the City. Ms. Peggy Butler, representative of SAFE, explained that they have been to the County Commissioners and they are going to give SAFE \$1,000 for the spay and neuter clinic and they are hoping that the City Commission will match those funds. Ms. Butler stated that it costs \$1,750 a day which includes \$350 for the spay and neutering and \$20 per cat for vaccinations. Ms. Butler further stated that they will be charging a nominal fee of \$10 for those citizens that come to the clinic. City Manager Phelps asked if this clinic is for any animal or just for feral cats. Ms. Butler answered that it is basically for feral cats because there is a huge problem out at Ruby Gulch and that is the first area they are going to address. There is probably a hundred cats out there. Ms. Butler stated that the cats in Ruby Gulch will be dealt with first and then the clinic will be opened up to anyone in the City or County. Commissioner Loomis asked how many days have been paid for so far. Ms. Butler answered 2 ½ and they are hoping to get enough funds for 3 days. The actual SAFE task force will pay \$1400 for the vet's salary and supplies. City Manager Phelps asked if there was any discussion on what would be done with the feral cats, because the City does

have codes in place that doesn't allow feral cats to be released in the City. Ms. Butler is aware of this and will be releasing them back into the County. Ms. Lavonne Jurack, representative with SAFE, explained that the cats will be tagged so that people know if it has been vaccinated and fixed. Commissioner Loomis asked where the \$1,000 would come from in the City's budget. City Manager Phelps explained that currently something like this is not budgeted for and typically the City does not fund these types of things because there are three different entities all doing very similar efforts in our community. City Manager Phelps further explained that the City does offer a space for PALS but do not provide any monetary support. Commissioner Loomis asked if it was appropriate to make a motion for the City to come up with \$1,000 for this project. Commissioner Loomis made the motion to proceed with considering \$1,000 for this project and Commissioner Dunnington seconded the motion. Commissioner Byerly asked where the clinic will be held. Ms. Butler answered it will be in the City limits on 1st Ave S. Further discussion followed. Commissioner Byerly commented that the City does already spend money on animal control and is there any data that if the City did give money to this cause will the City see a change. Ms. Butler answered yes, there is information on this all over the internet and Bozeman does a free clinic each year for one week. Ms. Jurack commented that they are planning on doing two of these clinics one now and one in the fall. Ms. Jurack further commented that she has been working with PALS and was able to rehome several cats over the last few months. Ms. Jurack did state that they are collaborating with the other groups. Commissioner Doney stated that those other groups are not here and if we support this issue and then another group comes in and says they have been taking care of the City's issue how does the City deal with that. Commissioner Doney does not want to serve one entity when another entity has been serving the City. Commissioner Loomis commented that this is a one-time request to help with the feral cat situation and is not sure how he would vote at this point in time and would prefer the Ruby Gulch situation was dealt with at this time. Ms. Butler answered that is just fine the County is participating into and they only take care of cats in the county and the City will continue to have a huge problem. Further discussion followed. Commissioner Doney commented that if a clinic is held in the fall then it would give the City some time to go through our process and look at it during the budget. Commissioner Byerly asked if they would come back in the fall to give an update. Commissioner Byerly further commented that the money that the County Commission is giving them a third of it does come from City taxpayers, because City residents are County residents too and pay County taxes. Commissioner Doney would like the mission to be clearer before she would vote for it. Commissioner Loomis explained that he made the motion to be able to discuss this item. Commissioner Loomis withdrew his motion and Commissioner Dunnington withdrew her motion. City Manager Phelps explained that we should look at the current ordinance, gather some call information and see what could be done.

2. Discussion and action on approving Resolution No. 3991, a resolution approving an application for tax increment funds made to the Lewistown Tax Increment Financing District Board

City Manager Phelps stated that at the last Tax Increment Financing Board meeting a TIF application was presented to them for the buildings at 502 W Main to do improvements to the awnings. The TIF board did approve a \$6,600 grant. Commissioner Doney made the motion to approve Resolution No. a resolution approving an application for tax increment funds made to the Lewistown Tax Increment Financing District Board and Commissioner Byerly seconded the motion. City Manager Phelps explained that they will let Ms. Wines know that the grant was awarded and send the necessary paperwork for signage. Commissioner Turk 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 for a floodplain permit application (19-01) from Big Sky Civil and Environmental on behalf of Idaho-Washington Pole Oil Company to correct previously submitted and approved floodplain permit no. 16-02 to include a portion of property not previously included. The

project site is located at 520 NE Main Street, Lewistown MT which has also been referenced in permitting documents as 606 and 612 NE Main Street

City Manager Phelps explained that this floodplain permit is for some additional work that was done to the Town Pump with their recent renovations. Planning Director Cathy Barta explained that she did a follow up on the floodplain permit as the renovations at the Town Pump was nearing completion. Planning Director Barta went over the following recommendations: Development of the project shall comply with all applicable local, state, and federal rules and regulations. The applicant is responsible for obtaining all necessary permits from appropriate regulatory agencies prior to commencing work. If any additional permits are required from other regulatory agencies, the applicant shall provide documentation to the Floodplain Administrator to verify that all required permits have been obtained. The Lowest Floor of the building must be elevated two (2) feet above the Base Flood Elevation or adequately dry flood proofed according to Section 10.4 of Lewistown Ordinance 1752 Floodplain Regulations and MCA 76-5-402(2)(c). The Lowest Floor may be wet proofed provided the use is limited to only parking, loading and storage of equipment or materials not appreciably affected by floodwater. Flows will not be redirected outside the mapped 100-year floodplain. Said permit shall become null and void if conditions are not appropriately satisfied or if work is done beyond the scope authorized herein. Prior to the expiration date of the permit, the applicant may submit a written request to extend the duration of the permit. Commissioner Doney made the motion to approve a floodplain permit application (19-01) from Big Sky Civil and Environmental on behalf of Idaho-Washington Pole Oil Company to correct previously submitted and approved floodplain permit no. 16-02 to include a portion of property not previously included. The project site is located at 520 NE Main Street, Lewistown MT which has also been referenced in permitting documents as 606 and 612 NE Main Street with the recommendation as outlined in the staff report and Commissioner Dunnington seconded the motion. Commissioner Turk asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

4. Discussion and action on approving the Environmental Assessment prepared by Snowy Mountain Development Corporation as submitted

City Manager Phelps explained that Ms. Jamie Sura, owner of the Slater Building, is working with Snowy Mountain Development Corporation to submit a USDA Rural Energy for American Program application grant for energy efficiency aspects of the project. This grant would provide funding for windows, insulation and is truly an energy efficiency grant. City Manager Phelps explained that in the packet was the environmental assessment checklist. City Manager Phelps further explained that there are some typos on the checklist and those have already been addressed. City Manager Phelps explained that she would like the City Commission to concur there is no need for an environmental impact statement and would be approving the environmental assessment as submitted. Commissioner Doney made the motion to approve the Environmental Assessment prepared by Snowy Mountain Development Corporation as submitted and stating there is not need for an environmental impact statement and Commissioner Oldenburg seconded the motion. Commissioner Turk asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

5. Discussion and action on authorizing City Manager to prepare and sign a support letter for MTAM Surcus, LLC for the submission of a USDA Rural Energy for American Program application grant for the energy efficiency aspects of the project

City Manager Phelps explained that she is asking permission to prepare and sign a support letter for the Slater Building to include when submitting a USDA Rural Energy for American Program application grant for the energy efficiency aspects of the project. City Manager Phelps explained that this is a great program and allows owners to recover about 25% of their energy improvements and it makes the

buildings more affordable ongoing. Commissioner Oldenburg made the motion to approve authorizing City Manager to prepare and sign a support letter for MTAM Surcus, LLC for the submission of a USDA Rural Energy for American Program application grant for the energy efficiency aspects of the project and Commissioner Loomis seconded the motion. Commissioner Turk asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

6. Discussion and action to authorize City Manager to execute settlement agreement with Keith Kucera

City Manager Phelps explained that before the Commission tonight is a proposed settlement agreement with Mr. Keith Kucera. City Manager Phelps stated that as you know we were getting ready for the arbitration on his termination and the City Attorney had worked very hard on preparing witnesses and getting ready for the arbitration. The proposed settlement agreement was achieved late last week and City Manager Phelps stated that she feels this is the best way to put the issue behind us and move forward. City Manager Phelps explained that in this agreement there is no admission of fault on either party and prevents any future claims by any party moving forward. City Manager Phelps further explained that the agreement does allow Mr. Kucera to resign instead of being terminated and certain information will be removed from his personnel file. City Attorney Boettger stated that often he gets asked why would we settle on cases like this when the City felt it was correct in its action initially why would we settle. City Attorney Boettger explained that there is always uncertainty going into an arbitration or trial. An arbitration is essentially a trial. City Attorney Boettger further explained that essentially you put the decision in one person's hands. City Attorney Boettger commented that City policy outlines the grievance process and termination to determine the final outcome by the arbitrator instead of going to court. The idea is it is to be quicker and more economical for both parties and quicker decision. City Attorney Boettger explained that the City Manager worked very hard initially in making very tough decisions about this case. City Attorney Boettger stated that human resources decisions in any business including the City are always the most contentious and thankfully with good management there typically is not a lot of them. City Attorney Boettger commented that when you have a contentious human resource issue it affects more than the employee it affects the whole department, which in this case is the Fire Department. The settlement puts a finality to the situation and allows the City and department to move forward. City Attorney Boettger explained he does not know what the outcome of the arbitration would have been, but felt that the City had a very strong case and the City Manager did all that she could do to resolve the issue. There was a very extensive investigation done, the policy and procedures manual were followed and the City's insurance company helped and was in agreement with our case. City Attorney Boettger further explained that when it comes right down to the decision whether he felt the case was strong or not there was no way to predict the outcome. City Attorney Boettger stated that he supports the City Manager's decision, he feels it is fair and feels this will put the issue behind the City and allows the departments to move forward. Commissioner Doney asked if resignation or termination affect the individual's retirement that he is going draw. Commissioner Doney asked if there were things that we learned from this and will there be some changes going forward. City Attorney Boettger answered yes, he thinks the Fire Department will look at way's things are being done and make sure they are done differently. It will also make department heads more aware of issues and how things should be handled going forward. Commissioner Doney asked where the money would come from. City Manager Phelps answered that there were legal services already budgeted and the remaining money would come from the department. Commissioner Hewitt made the motion to approve authorizing the City Manager to execute settlement agreement with Keith Kucera and Commissioner Byerly seconded the motion. Commissioner Turk asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

CITIZENS' REQUESTS

There were none.

COMMISSIONER'S MINUTE

Commissioner Doney asked if budget could be started in May. Commissioner Doney would like department heads that have an item on the agenda to be in attendance.

ADJOURNMENT

Chairman Turk adjourned the meeting.

Dated this 15th day, of April 2019.

Patty Turk, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk