

A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON OCTOBER 4, 2021 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: Day, Doney, Dunnington, Loomis, and Turk. Commissioner Oldenburg was absent. Commissioner Hewitt attended via zoom.

APPROVAL OF MINUTES

Chairman Turk stated that without objection and based on the corrections the September 20, 2021 minutes are approved.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

There were none.

CITY MANAGER REPORT

City Manager Holly Phelps reported on the following issues:

This afternoon a fire broke out in the South Moccasin Mountains. The City Fire Department is currently working on this fire. The City does have radio equipment that is in the path of the fire.

The Public Works Department will start the leaf cleanup very soon. The Public Works Department is working on the leaf clean up schedule. Once the leaf clean up schedule is complete the schedule will be shared with the newspaper and radio and will also be available on the City's website.

Public Works is continuing to work on the Cemetery expansion. This expansion will be north of the upper section. This summer sprinklers were installed in the area that were previously leveled. We are in the process of pouring two additional runners. Each row in this section will provide 60 full body lots.

The City Manager and Finance Officer are working with the Police Department to revamp the hiring process. Our hope is that we can streamline the process and make sure all good hiring practices are being followed. This affects the hiring of Police Officer and Dispatchers.

The City Manager evaluation is scheduled for October 18th. The evaluation forms will be emailed out to the City Commissioners. Let the City Manager know if you would prefer a paper copy.

The Police department is working on parkin issues prior to the winter season. They are also continuing to address long term and recreational vehicle parking.

The Police Department will be transitioning K9 Officer Shark to a new partner. Officer Johnson will be leaving the department in January.

PUBLIC COMMENT – non agenda items

There were none.

CONSENT AGENDA

Commissioner Doney made the motion to approve the consent agenda and Commissioner Loomis seconded the motion. The consent agenda is the acknowledgment of the claims that have been paid from September 16, 2021 to September 30, 2021 for a total of \$57,458.69.

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

1. Discussion on the fence located at East Lake. (this is an a discussion item only – no action can be taken)
City Manager Holly Phelps

City Manager Phelps stated that on tonight’s agenda is a discussion item regarding the fence at East Lake. This was a request by a Commission and there are some citizens in attendance that would like to comment on the issue and maybe get some answers. City Manager Phelps stated that included in the Commissioners packets was information regarding fences from City code. There are two different codes sections that address fences, one is encroachments and the other is just the standard fence language. Commissioner Doney stated that she has talked with the citizens in the audience on a regular basis and have seen the fence on a regular basis. Commissioner Doney further stated that we have dealt with this fence for a couple of years and unfortunately, we haven’t been very successful at moving things along. The neighbors would like something done with the fence so that it complies with City ordinance. City Manager Phelps explained that this fence started without a permit and in looking back at the calls for service that came into the police department. These calls started coming into the police department after the applicant applied for a variance. The variance request was just for the height of the fence and not the location. City Manager Phelps explained that City code does allow up to 4-foot chain link fence and can be varied up to 6 feet. City Manager Phelps further explained that 6 foot is the maximum height for a fence and t posts language for fencing is addressed in the encroachment section of fences. Encroachment refers to fences located in or on public property. City Manager Phelps explained that per her conversation with Commissioner Doney a letter has been sent to the property owner giving him thirty days to comply or he will receive a \$5 penalty per day. City Manager Phelps stated that the whole reason for the letter is to get compliance. Ms. Jesse Jackson addressed the Commission stating that she lives two houses down from the house in question. Ms. Jackson showed the Commissioners some pictures stating that the areas of the fence are 8 or 9 feet tall, he continues to add to it, there is rebar, wire that hangs down. Ms. Jackson stated that her question is what is going to happen when the citizen does not comply with the letter. City Manager Phelps answered that the City would move forward with taking the citizen to court to rectify the situation. Further discussion followed. City Manager Phelps showed other

pictures of fences throughout the City and explained that the City must be careful that regulations are being equally enforced throughout the City. Commissioner Doney asked what the City Manager suggests. City Manager Phelps explained that there has been some discussion on an ordinance change that would force citizens to come and get a permit and get educated on the front end. Ms. Jackson stated that she wanted to understand what would need to be done to the fence in question to be compliant. Ms. Jackson asked then if the rebar, loose fence and t posts would need to be removed. City Manager Phelps explained that if the fence panels with a top on it so there are no sharp edges would make the fence compliant. Mr. Kent Yunker asked about the variance. City Manager Phelps answered that they requested a variance for the height which was granted up to 6 feet. Mr. Yunker stated he does not think that should have happened. City Manager Phelps answered that the request for the higher fence was to keep the deer out. Commissioner Doney stated that he wasn't given the variance. City Manager Phelps answered that the variance was granted by the Lewistown Board of Adjustments. Commissioner Doney stated that the process for a variance is to complete the application and turn it into the City office and those items do not come before the Commission. City Manager Phelps explained that the Board of Adjustments is a five member board of the public that hears variances and make a decision. City Manager Phelps further explained that neighbors within 300 feet are notified of the variance and it is published in the newspaper. Commissioner Loomis asked Mr. Yunker if he could ask him a question and stated that he understands Mr. Yunker's concern of the fence being unsightly and the height to him is not the problem because you want to keep out the deer and the obstruction of vision on the corner to him is not the problem because it is an open woven fence. Commissioner Loomis asked if he was correct on the two items or not. Mr. Yunker stated that the problem is the code and rules say 3 feet high on a corner lot. Further discussion followed. Commissioner Doney explained that if the City Commission is going to learn from this issue, then the ordinance committee needs to meet and look at the fence ordinance. Commissioner Doney stated that she doesn't understand why the Commission has never gotten a report from the Board of Adjustments. Commissioner Doney stated that she feels the communication is lacking and the follow through was lacking. Commissioner Doney stated that she is a 100% in agreement with the citizens concerns regarding the fence and that the City did not do a good job, agrees it is an ugly fence and there is a safety issue. It was discussed that a fence permit process needs to be put in place.

2. Discussion on the future of the City of Lewistown's involvement in public health.

City Manager Phelps stated that she wanted the opportunity to discuss the public health issue further. City Manager Phelps further stated that Fergus County has elected to create their own health district and Judith Basin County is planning on pulling out of the district. It is still unknown what One Health is willing to do. City Manager Phelps explained that the Central Montana Health District Agreement between the City and County is just a funding agreement and it is a two-year term. Commissioner Day explained that when the house bill was approved and took effect it was left open for numerous interpretations between attorneys. Commissioner Day stated the representative that drafted and sponsored the bill was at one of the meetings. The representative explained that the intention of the bill was that the health district was an administrative board with elected officials. Commissioner Day stated that the health district board is an administrative board with elected officials, which allowed the board to move forward and stay intact. City Manager Phelps explained that there are other municipalities that are struggling with this legislation and how it will affect relationships moving forward. Commissioner Day commented that currently the by-laws do not address several issues, but moving forward the by-laws will be updated. Commissioner Loomis stated he doesn't want to enter into any agreement until more information is available. Commissioner Loomis stated that he agrees with Commissioner Doney and want the citizens to have a voice. City Manager Phelps answered that in order to enter into an agreement it would take Commission approval. Further discussion followed. City Manager Phelps stated that municipalities are not bound by state statute to provide local health services, like counties are, so there are some differences in the statutes. Ms. Leann Fisk addressed the Commission stating that the representative who wrote the bill with the intent that more of the health districts would be set up like the Central Montana Health District Board. The main item to be addressed with the legislation is to have elected

officials on the board. Commissioner Day explained that there is a big argument in the community that the health district is duplicating services that Fergus County already offers. Commissioner Day stated that is incorrect and by having the health district it does give citizens and the community a choice.

3. Discussion and action on approving Amendment No 2 for Grant Agreement No RITP-20-0160 and authorizing the City Manager to sign the amended grant agreement

City Manager Phelps explained that RITP stands for reclamation and development planning grant. The City was awarded this grant late last year and due to timing the agreement needs to be extended another year. City Manager Phelps stated that the City received planning grant funds to be utilized in the cleanup of the Central Post and Pole Treating facility. Commissioner Doney made the motion to approve Amendment No 2 for Grant Agreement No RITP-20-0160 and authorizing the City Manager to sign the amended grant agreement and Commissioner Dunnington seconded the motion. Mr. Robert Snyder addressed the commission asking if there was a match for this grant. City Manager Phelps answered no, there is not a match for the grant. Mr. Snyder asked if this property was located on the truck bypass. City Manager Phelps answered no this is City property located on Marcella, it used to be the City dump site. 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 Amendment No. 5 for Grant Agreement No RIT-18-8858 and authorizing the City Manager to sign the amended grant agreement

City Manager Phelps explained that the amendment is for the actual clean up grant that was awarded by the state legislature and the total amount of the grant was \$475,000. City Manager Phelps stated that there are still some remaining funds and work that needs to be completed. This grant is also for the Central Post and Pole Treating facility. Commissioner Loomis made the motion to approve Amendment No. 5 for Grant Agreement No RIT-18-8858 and authorizing the City Manager to sign the amended grant agreement and Commissioner Doney 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 approving changes to the event process and associated fees

City Manager Phelps stated that a few meetings ago the Commission did move forward with making some changes to events and as of October 1 we have started charging a nonrefundable \$25 application fee. The events are located on public right of ways, parks or other City owned property. City Manager Phelps stated that tonight we are bringing forward some additional policy changes. City Clerk Nikki Brummond explained that discussed previously was a deposit for events. The deposit would be required in two of the following situations. The first would be any events that allow animals and the clean up of the animals. The second would be any event organizer that sets up using the City barricades or signs. City Clerk Brummond further explained that the deposit will be returned if the event area is clean after the animals were there and if all the signage is returned to the City. City Clerk Brummond further explained that if the event is not clean after the animals or signage returned, then the City Manager will determine the amount of the deposit that will be returned. City Clerk Brummond stated that an event fee of \$100 will be required in the following situations and that would be any event that causes the City to incur overtime. City Clerk Brummond explained that in those instances the event organizer would be expected to pay the \$25 permit fee and the \$100 event fee. Also, some of the events may require the \$100 deposit. City Clerk Brummond stated that the City is going to start requiring event insurance and this would include any events where alcohol is consumed. City Clerk Brummond reviewed the other items that are proposed in the event policy the event organizer must be in good standing with the City and any accidents must be reported within 24 hours of the accident to the City Clerk's office. City Manager Phelps commented that many of the complaints that are received are from the Montana Department of Transportation regarding the horse manure and that the most recent events it was not cleaned up. City Manager Phelps explained that many of the event organizers already have event insurance, because it protects themselves. Often, we are not getting copies of the insurance and not sure if we are listed as certificate holders or not. City Clerk Brummond stated that her other proposal is to charge a \$50 non

refundable event permit fee for nonresidents. Commissioner Doney asked who that would pertain to someone in Fergus County or outside of Fergus County. City Clerk Brummond answered that is the Commission's choice. Further discussion followed. Commissioner Loomis asked if the \$25 fee was a deterrent compared to charging \$50. City Manager Phelps explained that two events have already paid the event fee and there did not seem to be any concerns. Commissioner Loomis would like to consider a nonresident citizen outside of Fergus County. Commissioner Doney made the motion to approve the proposed changes to the event process and associated fees and charge a \$50 non refundable event fee for nonresidents outside of the Fergus County with an effective date of November 1, 2021 and Commissioner Day seconded the motion. Mr. Snyder asked if the \$100 animal fee was a deposit. City Clerk Brummond explained that if the City doesn't have to do any clean up after the event then the deposit would be returned. Mr. Snyder stated that he thinks the insurance requirement will be difficult. Commissioner Doney answered that it is not difficult, and it done all the time by the local insurance agencies. 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 Day thanked those Commissioners that attended the Commission forum at the Yogo Inn recently.

Commissioner Loomis thanked those that attended the forum also and any of the potential candidates in attendance this evening. Commissioner Loomis reported that he did put in a formal complaint with the chamber regarding dogs at the Chokecherry Festival.

Commissioner Hewitt explained that a citizen reported to her that there is a trailer located on A Street that is dumping their sewage in the man hole. Commissioner Hewitt further explained that the police have been notified and have talked with the individuals. Commissioner Hewitt stated that now they are dumping at night. Commissioner Hewitt further stated that the people living in the trailer have two dogs and the homeowners have 3 dogs and is wondering if that is okay. City Manager Phelps stated that the City does not have any codes referencing limiting the amount of dogs.

Commissioner Hewitt reported that she has driven by the fence located on East Lake and there is some tape on top of the pole. City Manager Phelps stated that it has been that way for a while.

ADJOURNMENT

Chairman Turk adjourned the meeting.

Dated this 4th day of October 2021.

Patty Turk, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk

