

A REGULAR COMMISSION MEETING OF THE LEWISTOWN CITY COMMISSION ON JULY 5, 2022 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.

CALL TO ORDER

Chairman Doney called the meeting to order.

PLEDGE OF ALLEGIANCE

Chairman Doney 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

Chairman Doney stated that without objection the June 20, 2022 minutes are approved.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Scotten reported that the Snowy Mountain Development Corporation Board meeting will be August 17th.

Commissioner Terry reported that she attended the Central Montana Foundation meeting on June 28th. Commissioner Terry commented that another event in August is the Central Montana Rodeo Club is putting on a State conference at the rodeo grounds the CMF gave some money to that event. Commissioner Terry reported that other organizations that received funding were Central Montana Community Council, 4-H Leaders, Town of Winnett, and the Yellowstone Boys and Girls Ranch Foundation. There will not be a July meeting.

Commissioner Day reported that the Parks and Recreation Board will be meeting tomorrow night, July 6th.

Commissioner Doney reported that the Library Board will be meeting on July 20th.

CITY MANAGER REPORT

City Manager Phelps reported on the following issues:

The City was recently received notice that Lewistown was awarded an additional \$2,00,000 for the Lewistown, Water Improvement Project. This grant was awarded through the most recent round of ARPA Water and Sewer Infrastructure Competitive Grants.

There has been a lot of vandalism activity. Over the last week Creekside has been vandalized and several trees damaged on Main Street. There has been a lot of vandalism to public restrooms. There are cameras at Creekside and will use this footage to help prosecute individuals for this type of activity.

The recent weather has kept the grass green, but the wind and heavy down pours have kept public works busy. Public Works have been working to remove branches and keep all storm drains clear of debris. As time and weather permits, they will work to repair damage caused by the runoff of these storms. The weather has also impacted this year's swim season.

August look to be a very busy time around Lewistown. Centerfest, a music festival planned at Creekside, the Longest Table, several concerts and other events in the downtown. There are activities planned for Creekside every weekend in August.

Lewistown will host the State swim meeting this year. This meet will be held August 6th and 7th. The city has an agreement with the Sea Lions for exclusive use of the pool complex during this time. This agreement outlines the times the Sea Lions will have use of the facility, makes sure we receive the necessary insurance and outlines the cost for renting the facility.

City Manager Phelps stated that she handed out a draft of the deer management plan. The committee hopes to have this on the next agenda for approval and then it will be forwarded on to Fish Wildlife and Parks for their approval.

City Manager Phelps reported that herself and staff are continuing to work on the parking in the downtown area. This includes working on a permit process with the State of Montana. City Manager Phelps will be reaching out to the Lewistown Downtown Association to continue to work on the parking issues.

PUBLIC COMMENT – non agenda items

There were none.

CONSENT AGENDA

Commissioner Terry made the motion to approve the consent agenda and Commissioner Hrubes seconded the motion. The motion passed unanimously. The consent agenda was acknowledgment of the claims that have been paid from June 17, 2022 to June 30, 2022 for a total of \$2,548.53

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

1. Discussion and action on allowing horses at 134 Southland Road

City Manager Phelps explained that included in the Commission packets is a document put together by the City Attorney. The document outlines the facts and issues as well as the City Code section. Also, included was some information allowing animals in the City limits and some excerpts from a

meeting in December 2019 where the Commission chose not to amend that code section. The City Manager received an email from an adjacent landowner regards their concerns of allowing horses in the area. Commissioner Hrubes asked about item 3 in the documentation regarding the statement zoning was never completed. City Manager Phelps commented that if you recall at the last meeting a staff report was given to the Commission that discussed potential zoning for the area. City Manager Phelps stated that in order to zone a property you must at least hold a public hearing and receive public comment before it goes before the planning board and then onto the City Commission for final approval. City Manager Phelps explained that a public meeting was held, public comment was received and the City Attorney at the time determined it was spot zoning. City Manager Phelps commented that they did not move forward with the zoning and it was just at the start of the pandemic. City Attorney Diekhans explained spot zoning, which is illegal in the State of Montana. City Attorney Diekhans further explained that spot zoning is where you pick and choose parcels in an area that this will be zone one thing and then the property adjacent is zoned differently. There was some discussion on how long it would take to zone this area and the process. Commissioner Hrubes asked if the area is not zoned residential then why are their residents there. City Manager Phelps explained that prior to the City annexing the area the County did not have any zoning in the area. City Manager Phelps stated it is not zoned anything at this time. Commissioner Hrubes stated then anything should go in that area. City Attorney Diekhans explained that when an area is not zoned but need to comply with the City Codes that prohibits domestic animals in the City limits. City Manager Phelps explained that as part of the zoning process the City needs to look at the comprehensive plan and the growth policy. City Manager Phelps stated that most subdivisions have covenants, which is a binding document between the owner and purchaser. The covenants are typically turned over to a home owners association (hoa) which is taxed with enforcing the covenants. Commissioner Terry asked where the covenants lie in the hierarchy of law. City Attorney Diekhans stated they fall below City Code and State law. Commissioner Hrubes made the motion to approve allowing horses at 134 Southland Road and Commissioner Hewitt seconded the motion. Commissioner Day stated as much as she would like to see this happen, aren't we going against the City ordinances and law. Commissioner Doney answered yes and not listening to legal counsel. Commissioner Day further commented there is no conditions included in the motion. Commissioner Spika stated that she can not support the motion. Ms. Mona Harrell asked about a comment made by the City Manager about a comment received from someone. City Manager Phelps stated that yes, she received a comment and read it for the record. City Manager Phelps commented that it is addressed to the City Commission. The following was read: "The request to keep horses in the yard at a local residence on Southland Road bring with it certain concerns for the neighborhood. After visiting with Mona Harrell several days ago it is my understanding the requestors wish to keep two horses in a portion of their back yard year-round. I would appreciate the City Commissioners considering these concerns as they weigh this request. It seems unlikely the requestors will attempt to abate weed encroachment in at least the portion of their yard that would house the horses. The fencing between the requestor's yard and three neighboring residences is a chain link yard fence not a livestock fence. Two horses kept in such a small enclosure will soon have the vegetation grazed completely exposing the loosened top soil to consistent wind erosion. With two horses kept long term in such a small enclosure it will only be a short time before everyone in the neighborhood will be living with the consistent odor of horse manure. What recourse would neighbors have if the above conditions come to be and begin impacting our individual properties. I appreciate your considering these comments as you discuss this request." Sincerely, Craig Flentie. Ms. Harrell asked if she could comment on some of the items read. Ms. Harrell stated that they have talked to several of the neighbors and there appeared to be no concern. Ms. Harrell stated they would definitely make sure there is no odor or overgrazing. Ms. Harrell further stated that once these two horses are gone, they do not plan on having any other animals. Ms. Harrell commented that if they had known this, they would never have

purchased the property. Mr. Doug Day stated that he feels for this couple and stated it is a dangerous slope for a Commission to ignore current laws and will open a dangerous precedent. Mr. Harrell commented that he talked with Mr. Flentie and nothing was said. Mr. Harrell stated he will not over graze the property and is a stickler on weeds. Mr. Harrell further explained how he is with caring for his animals. Commissioner Doney stated she is asking for a roll call vote and would encourage giving your reasoning for your voter. The motion was read. Commissioner Day, nay, because of the motion and feels it should be done in a different way to follow City ordinances. Commissioner Doney, nay, stated we have legal counsel that is giving direction, animals have been prohibited in the City limits for many years and feels the zoning process should be expedited. Commissioner Hewitt, aye, she has known them forever and two old horses aren't going to do anything detrimental to the area. Commissioner Hrubes, aye, the lack of zoning is not the citizens fault, it is the Commissioners fault and voting on this and voting yes will certainly speak things up to get the zoning done. Commissioner Scotten, nay, we are not going about this properly and what we may be risking. Commissioner Spika, nay, she commented that the Harrell are in a horrible position and don't feel we can violate our own laws. Commissioner Terry, nay, could vote for the motion if there was a plan. City Clerk Nikki Brummond stated that the motion fails with a vote of five against and two in favor.

2. Discussion and action on approving the 2022 Street Improvement Project

City Manager Phelps reported that the 2022 Street Improvement Project was put out to bid and the City received two bids: one from Century Construction and other from MT Paving. City Manager Phelps explained that the work is spread throughout the community and most of the work is patching or overlay work. The bids are relatively close, MT Paving's bid is \$615,306.50 and Century's bid is \$697,654. City Manager Phelps stated that she has reviewed the bids', bid bonds were included and the City worked with MT Paving last year and there were no issues. City Manager Phelps. Commissioner Spika made the motion to approve the 2022 Street Improvement Project to MT Paving in the amount of \$615,306.50 and Commissioner Scotten seconded the motion. Commissioner Doney asked for comments from the audience and Commission. Commissioner Terry asked if there is a time limit on these contracts. City Manager Phelps answered yes, the City has sixty days to award the contract and the contractor has ninety after for the work to be substantially completed. The question was called for, a role call vote was taken and the motion passed unanimously.

3. Discussion on Fireworks ordinance and the holiday activity.

City Manager Phelps explained that the City does allow fireworks in the City limit on the Fourth of July. City Manager Phelps checked with the Fire and Police Departments and a lot of the calls indicated the fireworks were outside the City limits. There were some complaints regarding the mess that was left behind in areas.

CITIZENS' REQUESTS

Mr. Harrell commented on the property located in the middle of town that has horses. City Manager Phelps explained that the property being referenced is at the bend of Casino Creek Road and was outside the City limits for many years. It was annexed ten years or more ago and the property at that time had horses were grandfathered cloused.

COMMISSIONER'S MINUTE

Commissioner Scotten commented that the Community presentation by Ms. Tara Mastel was good but the information was statically based and out of date.

Commissioner Hewitt asked about H Street and City Manager Phelps answered that H Street is outside the City limits. Commissioner Hewitt commented that at the last meeting there was a comment on a moratorium. City Clerk Brummond stated that yes, a moratorium was commented at the last meeting but doesn't know what it meant. City Attorney Diekhans commented that it was not explained well and what was suggested a moratorium on not allowing the horses until the zoning issues was addressed.

Commissioner Hrubes asked what the next step is in zoning. City Manager Phelps stated we can start the zoning when the Commission is ready, but need to follow the City Attorney's suggestion to have a conversation. City Attorney Diekhans suggested that the Commission become familiar with the City's growth plan.

Commissioner Terry commented that she likes the hard conversations and the issue tonight was not easy. Commissioner Terry would like to see the sewer rates on the agenda soon. Commissioner Terry was pleased with the Community Development presentation and impressed on how many people were in attendance.

Commissioner Spika stated she does not understand parliamentary procedure. Commissioner Spika asked if only one motion was allowed on an agenda item.

Commissioner Day stated the motion should have been worded differently. Commissioner Day said that we should complete the zoning before moving forward.

Commissioner Turk thanked Mr. Day and the City Attorney for their comments on the issues.

ADJOURNEMENT

Chairman Doney adjourned the meeting.

Dated this 5th day of July, 2022.

Gayle Doney, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk