

A COMMISSION MEETING OF JUNE 4, 2012 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.

ROLL CALL

Present were Commissioners Berry, Doney, Gremaux, Hewitt, Phillips, Putnam and Turk.

APPROVAL OF MINUTES

Commissioner Hewitt made the motion to approve the minutes for the May 21, 2012 meeting and Commissioner Berry seconded the motion. The motion passed unanimously.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSION REPORTS

Commissioner Berry reported that she recently attended the annual meeting for the Central Montana Foundation Board. A lot of money was distributed and the only entity in the city limits was the Boys and Girls Club.

Commissioner Putnam reported that she recently attended a Park and Recreation Board meeting. The speed limit around Frank Day Park was discussed. There is a lot of working being done on the trails. Arbor Day will be June 20, 2012 and a ceremony will be held on that day. The pool opens June 6th.

Commissioner Turk reported that she recently attended a Zoning Commission meeting regarding the conditional use permit for Janet Luciano. It is on the agenda tonight for final approval by the City Commission.

CITY MANAGER REPORT

City Manager Kevin Myhre reported on the following issues:

Montana, Fish, Wildlife and Parks is moving ahead with their efforts to replace the straightened section of Spring Creek west of Highway 191 N between the highway and the wastewater treatment plant. Our sewer department will be working with Fergus County to plan for replacement of utility line sleeves below the new stream bed to provide for extensions in the area in the future. The sleeves will allow for lines to be installed at a later time without disturbing the creek.

The City Manager continues to work with FEMA and DES for the repair of the East Fork Road. The US NRCS engineer is requiring the eroded area to be filled with a clay mix material to extend its life in any future spillway events. The City is working with FEMA and DES in an attempt to borrow the fill

material from areas onsite rather having the material be hauled in from elsewhere. Local pits apparently do not have the types of material requested by the engineer. FEMA requires that all borrowed material be obtained from existing DEQ approved pits. The conflicting federal requirements have slowed the progress of the bids and we may have to cancel the bid until this issue is worked out.

The swimming pool will open for public use on Wednesday, June 6th at 1:30 p.m. The pool is used for swim team and swim lessons in the morning. The annual Sea Lions swim meet will be held the weekend of June 30th.

Lewistown will be celebrating National Trails Day on June 30th with an event at the building located at the Brewery Flats trail area. We are hoping to be able to dedicate the building for use at that time.

The Lewistown City Commission proclaimed June 20, 2012 as the City's 2012 Arbor Day. The Park and Recreation Department is planning some activities for that day.

Local resident, Jamie Sura, has worked to get a grant to provide 3 defibrillators for the Lewistown swimming pool, civic center and ice skating facility. The devices will be available for the 2012 season.

The Library's summer reading program will begin on June 5th. The program is always popular with local students and adults. The landscaping project at the library book station has been completed.

CONSENT AGENDA

Commissioner Doney made the motion to approve the acknowledgement of the claims that have been paid from May 12, 2012 to May 31, 2012 for a total of \$411,877.42 and Commissioner Putnam seconded the motion. The motion passed unanimously.

REGULAR AGENDA – Resolutions, Ordinances and Other Action Items:

1. Public hearing to consider a request by Janet Luciano for a conditional use permit to operate the Dance Syndicate on property located at 624 W Washington

Planning Director Duane Ferdinand explained that the City is in receipt of an application for a Conditional Use Permit submitted by Janet Luciano for the purpose of operating the Dance Syndicate School of Dance on property located at 624 W Washington Street. The property is located within a Residential Multi-Family Zoning District (R-3). The proposed use of the property is not listed as a permitted use but it can be considered as a conditional use if it is determined that there are no adverse impacts to the public health, safety or general welfare to the community or neighborhood. The structure on the property was constructed as the St. Paul Lutheran Church in 1929. The attached education building was constructed in 1962. In 1987, the property was sold to the Christian School. The Boys and Girls Club operated on the property from early 2000 to 2008. It has been sporadically used since then as an education facility and most recently as the Empowerment Center. When the Empowerment Center ceased operations, Ms. Luciano moved her school of dance into the buildings in the spring of 2012 where it is currently in operation. Ms. Luciano is in the process of purchasing the building dependent upon approval for the continued use of the property for the dance school. Mr. Ferdinand explained that the Zoning Commission has held three public meetings concerning the proposal on April 19th, May 17th and May 31st. During the meetings, all affected neighbors and other interested

persons were given an opportunity to provide comments about the proposal. The issues that seemed to be of most concern were the availability of vehicle parking and the time and days of operation. There is no off-street parking available for use by the dance and fitness patrons. Mr. Ferdinand stated that Washington Street between 6th Avenue and 7th Avenue has 18 parking spaces available excluding the 2 spaces in front of the neighboring residence. The parking lot at the corner of 6th Avenue and Washington Street is owned by the First Baptist Church and is generally not available for parking by dance patrons. Angle parking is not permitted on Washington Street. Mr. Ferdinand emphasized that the zoning would not be changed as a result of the approval of the conditional use permit. Mr. Ferdinand further explained that this is a special review of the application to see if it can be approved for the desired use proposed for that building. Mr. Ferdinand stated that the conditional use permit goes with the property not the applicant. Mr. Ferdinand commented that courts have ruled that neighborhood opposition is not sufficient reasoning for denying a conditional use. The application should be reviewed to make sure that it meets all the requirements for a conditional use permit. Mr. Ferdinand explained that when considering approval of the conditional use permit application the finding should show that the use will not be detrimental to public health, safety or general well being; that the use will comply with regulations; and the use will be compatible with surrounding land use. Conditions can be placed in order to approve the application. Further discussion followed. Mr. Myhre explained that zoning is a process used by the majority of cities to guide the uses around the community. Zoning as defined by MCA 76-2-301 is the authorization for purpose of promoting (for the community) health, safety, morals and general welfare. Those are the four reasons for zoning. Mr. Myhre explained the intent of a conditional use according to City ordinance as follows: the intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate in the district under certain safeguards or conditions. Mr. Myhre stated that the City Commission needs to consider the facts presented in the application. Mr. Myhre explained the facts to be considered are: that the proposed use meets the requirements of a conditional use permit, the proposed use will not, be detrimental to the public health, safety or general well being of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, and that the proposed use conforms to the zoning district standards including, but not limited to, density, lot coverage, yards, height limitations and off street parking and is compatible with surrounding land use or sufficiently screened so as to minimize adverse effects. Mr. Myhre commented that City Code and State law in regards to zoning does not say that because it is not a house it can't be there, but there is a process for the City Commission to allow it to be there. Chairman Gremaux opened the public hearing to hear comments on a request by Janet Luciano for a conditional use permit to operate the Dance Syndicate on property located at 624 W Washington. Mr. Allen Beck, spoke on behalf of Janet Luciano. Mr. Beck explained that the use for the building is nontraditional and there are several issues that need to be addressed. One issue is the noise, second issue is the parking and the third issue is the fence. Mr. Beck explained that they will include in the contracts with the parents where parking is allowed and the noise issue. Mr. Beck stated that Ms. Luciano would like to work with the City and get a loading zone approved to help with the congestion. Mr. Beck stated he feels that the use of the property can balance with the issues and work it all out. Mr. Bill Bevis commented that he has put in a driveway cut request to help with his parking issue. Mr. Bevis stated that parking is an issue in the area. Mr. Bevis commented that he does not understand how a loading zone can be allowed. Mr. Kelly Mantooth commented that when he bought his house seven years ago he knew he was a block off Main

Street. Mr. Mantooth further commented that when the City blocks off Main Street for special occasions parking overflows onto Washington Street. Mr. Mantooth asked if the building was turned into an apartment house where would the occupants live. Mr. Mantooth then commented that the Dance Syndicate is not a bad business but the parking will open up in the evening. Mr. Mantooth stated that he is in favor of the Dance Syndicate using the building it is good for the neighborhood and the community. Mr. Mantooth commented that there are some issues and feels that the issued can be worked through. Ms. Vanessa Moen, one of the fitness instructors, commented that she has taken all of the concerns and be sure to pass those onto her students. Ms. Moen has addressed and taken the issues seriously. Commissioner Hewitt asked about the issues regarding a fence. Mr. Ferdinand explained that in the beginning the play area was being used as a parking area. Ms. Luciano explained that if she needs to she will put up a fence and does not want to use the area for parking but would like to have it available for the children to wait for their parents if need be. Chairman Gremaux closed the public hearing.

2. Discussion and action on approving the recommendation from the Zoning Commission on the request by Janet Luciano for a Conditional Use Permit to operate the Dance Syndicate on property located at 624 W Washington

Mr. Ferdinand explained that the Zoning Commission on May 31st listened to public testimony, considered the facts and arrived at a recommendation. The recommendation was to allow the Dance Syndicate and fitness center to continue to operate on the property located at 624 W Washington with the following conditions: 1. A review of the program will be conducted by the City after 6 months, the hours of operation will be from 5:30 a.m. until 9:00 p.m. Monday through Friday and noon to 9 p.m. on Saturday and Sunday, the approval is for the dance school and fitness center – no other uses, and a privacy fence will be erected along the property line bordering 624 W Washington Stand and 614 W Washington Street. Further discussion followed. Mr. Myhre stated that the six month review is to verify that the conditions that were approved are being met. The hours approved by the Zoning Commission were agreed to by the Commission. The use of the facility will be for dance/fitness only as approved by the Zoning Commission. It was determined that in accordance a fence will be erected and the cost to borne by Ms. Janet Luciano. Commission Doney expressed her concern for a loading zone. The applicant can work with the appropriate City departments to establish a loading zone. Mr. Myhre commented that conditional use permit goes with the building should be included in the motion. Commissioner Turk commented that she would like to see the noise concerns addressed in the conditions. Commissioner Doney stated that she would like to encourage this type of use for some of the empty buildings around town. Commissioner Doney made the motion to approve the recommendation from the Zoning Commission on the request from Janet Luciano for a conditional use permit to operate the Dance Syndicate on property located at 624 W Washington with the following conditions: a six month review to verify that the conditions that were approved are being met, the approved hours of operation are from 5:30 a.m. until 9:00 p.m. Monday through Friday and noon to 9 p.m. on Saturday and Sunday, the approval is for the dance school and fitness center – no other uses, a privacy fence will be erected along the property line bordering 624 W Washington Stand and 614 W Washington Street, a loading zone be established, conditional use goes with the building and a neighborhood meeting to listen to concerns within five months 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.

3. Discussion and action on a request from the Big Spring Creek Watershed for reimbursement of funds spent to purchase Brewery Flats

Mr. Myhre explained that many years ago the Big Spring Creek Watershed Partnership assisted the City to get grant funds to clean up roundhouse property that was owned by George Berg. The City did not purchase the property immediately, but once substantial completion of the clean up was done the City exercised their right to purchase the property. The price was negotiated to \$5,000 and the Big Spring Creek Watershed put up the \$5,000 for the City to purchase the property. It was also the understanding that if the City were to ever sell some of the property, then they would like to be reimbursed up to \$5,000. Commissioner Phillips made the motion to reimburse Big Spring Creek Watershed \$3,730.95 from the proceeds of the Brewery Flats property and Commissioner Turk 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.

4. Discussion and action on dedicating and naming the Brewery Flats building after John Turner

Mr. Myhre explained that Mr. John Turner was a Lewistown resident and his father Sam Turner was a City judge many years ago. When Mr. John Turner retired he moved back to Lewistown to live and was very instrumental in getting most of the trails that are in place today built. This is a request by the Trails committee that once the building at the Brewery Flats property is completed then it be dedicated to Mr. John Turner. Commissioner Putnam commented that this was discussed at the Park and Recreation Board meeting and it was supported unanimously by them. Commissioner Doney made the motion to approve dedicating and naming the Brewery Flats building after John Turner 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.

5. Discussion and action on second reading of Ordinance No. 1744, an ordinance amending Chapter 9, Title 10 of the Lewistown City Code pertaining to the speed limit around Frank Day park and the posting of appropriate signage

Mr. Myhre explained that this is the second reading of ordinance discussing the speed limit around Frank Day Park. Mr. Myhre further explained that the speed limit for many years has been posted as 10 miles per hour year round and in reality it is only 10 miles per hour July 1st to September 15th. Mr. Myhre stated that during the first reading it was decided that the speed limit should be 10 miles an hour year around. Commissioner Turk commented that she has received a few phone calls from citizens and they would like to see it 10 miles an hour from June to September. Further discussion followed. Commissioner Doney commented that the reason the ordinance was put into place in this particular park is because of the pool and the safety of the children. Mr. Myhre stated that in order to change the speed limit a traffic study may have to be done in order to change the speed limit. Mr. Ernie Kolar stated that he lives in on one side of the

park and feels that 10 miles an hour is too slow and would like to see it be changed to 15 miles per hour.

Commissioner Doney made the motion to amend to 15 miles per hour when children are present to include 4th Ave S between Cook Street and Earl Street and Commissioner Turk 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.

6. Discussion and action on the revocation of a City business license to OO Family Subscriptions

Mr. Myhre explained that Lewistown City Code 5-1-12 gives the City Manager authority to suspend any licensee that is conducting business in a manner that is detrimental to the public health, safety or welfare. The OO Family Subscriptions came and purchased a license to sell magazine subscriptions and within hours there were several complaints called into the Police Department. Mr. Myhre explained that once the business license is revoked by the City Manager then the City Commission needs to approve the revocation of the license or can reinstate the license. Commissioner Putnam made the motion to approve the revocation of a City business license to OO Family Subscriptions and affiliates banned for one year 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.

7. Discussion and action on approving the 2012 street bids

Mr. Myhre explained that once the Commission approved the street improvements those were put out to bid. The City received on bid from Century Construction. Mr. Myhre explained that these are all unit prices and can be adjusted to fit our budget. Commissioner Putnam made the motion to approve the 2012 unit prices from Century Construction and allow City staff to reduce quantities to stay within the budget and Commissioner Berry 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

There were none.

COMMISSIONER'S MINUTE

Commissioner Doney thanked the planning board for all of their work on the conditional use permit for Janet Luciano. Commissioner Putnam thanked all the citizens for their support of the issues also.

ADJOURNMENT

Chairman Gremaux adjourned the meeting.

Dated this 4th day of June, 2012.

Frank Gremaux, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk