

**A COMMISSION MEETING OF JUNE 3, 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 Berry, Doney, Gremaux, Hewitt, Poss, Putnam and Turk.

**APPROVAL OF MINUTES**

Commissioner Doney made the motion to approve the minutes for May 20, 2013 as presented and Commissioner Hewitt seconded the motion. The motion passed unanimously.

**COURTESIES**

There were none.

**PROCLAMATIONS**

There were none.

**BOARD AND COMMISSION REPORTS**

Commissioner Berry reported that she attended the Central Montana Foundation Annual Meeting and that is they gave out \$165,000 in grants. Commissioner Berry reported that they gave money to the following: Blessings in a Backpack, Fair Board, ER rehabilitation, Fergus County Recreation Association, Fergus High Performing Art Center, Friends of the Pool, Garfield County and Youth Art Center program, SAVES and Lewistown Ice Skating Association.

**CITY MANAGER REPORT**

City Manager Kevin Myhre reported on the following issues:

The contractor, Winkler Excavating, is scheduled to begin work on Earl Street early in June and plans to have the project completed by the end of the month.

The Public Works Department recently hired a masonry contractor to repair the rock work on the north side of the Public Works building. The building does not have gutters and over time the grout has eroded away in areas. They will be getting some pricing on the installation of rain gutters; however they are unsure if the current fascia will support the gutters.

The swimming pool has been filled and the boilers have been started. It will take several days to heat the pool, but warmer weather always helps. Lifeguard training will occur on Sunday, June 2<sup>nd</sup>, the swim team will begin practicing on June 3<sup>rd</sup> and the pool will open to the public on Wednesday, June 5<sup>th</sup>.

The Building Inspector has been working with the architects on the plans for the Hospice House to be located on back of the CMMC lot. The Building Inspector has informed them that City Code requires sidewalks to be put along street when a property is developed. Currently, there is no public sidewalk on any side of the CMMC property. After discussing the issue internally, the City is only requiring the sidewalk on the adjacent area of McKinley Street and not around the entire facility. However, more sidewalks will be required when the planned emergency room expansion is constructed.

The City Attorney requested and received continued authorization from District Court to continue efforts to replace the sidewalks at 301 W Broadway. The hearing was held on May 21<sup>st</sup>. On May 30<sup>th</sup>, City staff and an engineer from JGA Architects toured the basement of the building to evaluate the possibilities for replacing the sidewalk. There was a considerable amount of water that had run into the basement through the sidewalk and curb areas and was standing on the floor of the building. Terry Sukut with JGA will compile the information and discuss it with his staff to layout options to proceed.

### **CONSENT AGENDA**

Commissioner Putnam asked that the claims be moved out of the consent agenda.

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

Commissioner Putnam asked that the claims be removed from the consent agenda. Commissioner Putnam asked how many vests were purchased from Normont Equipment. Mr. Myhre answered that approximately \$180 was spent to purchase vests. Commissioner Putnam asked what the claim for Quigley Masonry was for. Mr. Myhre answered that was for the recent repair work on the Public Works Building. Commissioner Hewitt asked about the claims paid to the Department of Justice. Mr. Myhre answered that is the criminal justice information network that is used in the Police Department. Commissioner Hewitt asked why Robert Peccia and Associates was involved in the highway overpass project. Mr. Myhre answered that the Department of Transportation is in charge of their engineering for roads, however if there are any utilities in the area then the owner of the utilities is responsible for the engineering to move the utility lines. Commissioner Gremaux asked about the claim to Central Electric for a pump at East Fork. Mr. Myhre answered that the well pump at East Fork was flooded in 2011. The pump and well is for potable water and there has been none available since 2012. Commissioner asked for anymore comments from the Commission. There being none. Commissioner Poss made the motion to approve the acknowledgement of the claims that have been paid from May 16, 2103 to May 28, 2013 for a total of \$94,753.13 and Commissioner Doney seconded the motion. The motion passed unanimously.

1. Discussion and action on approving the first reading of Ordinance No. 1745, an ordinance adopting a nonexclusive franchise agreement between the City of Lewistown and Mid-Rivers Telephone Cooperative, Inc., providing for conditions of use of public right of way and establishing a franchise fee

Mr. Myhre explained that in 1998 the City of Lewistown entered into a franchise agreement with TCI Cable and then in 2004 it was reassigned to Mid Rivers when they bought out the cable company. The agreement was in place until 2013 and it is up for renewal at this time. Mr. Myhre explained that the agreement is relatively same, with the clarification of the definition on public way and a change in the notice of indemnification. There are some changes with regards to new connections. The agreement has been reviewed Mid Rivers and the City Attorney and would recommend approval on first reading of Ordinance No. 1745. Mr. Myhre explained that this agreement allows Mid Rivers to sell cable to the

citizens of Lewistown and we are notice regarding any changes and they are an authorized entity to work within the City. Mid Rivers does charge a franchise agreement fee on each bill and that fee is remitted to the City. The agreement allows the utilities to be installed in the City's right of way. Commissioner Turk made the motion to approve the first reading of Ordinance No. 1745, an ordinance adopting a nonexclusive franchise agreement between the City of Lewistown and Mid-Rivers Telephone Cooperative, Inc., providing for conditions of use of public right of way and establishing a franchise fee 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.

2. Discussion and action on appointing a Commissioner to the Recycle Our Waste Lewistown group

Mr. Myhre explained that Recycle Our Waste Lewistown is a volunteer group in Lewistown meets monthly. Commissioner Poss made the motion to appoint Commissioner Berry to serve on the Recycle our Waste Lewistown board 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.

3. Presentation of petition by Jack Behl to vacate a portion of alley between Warr Street and Bach Avenue connecting Third Street and Joyland Road.

Mr. Myhre explained that Mr. Jack Behl has followed the process and submitted a petition requesting that a portion of alley Warr Street and Bach Avenue connecting Third Street and Joyland Road be abandoned. Mr. Behl owns the majority of the property adjacent to that alley as a result only one signature was required on the petition. Mr. Myhre further explained that this is just the start of the process to possibly vacate an alley.

4. Discussion and action on approving Resolution No. 3816, a resolution declaring it to be the intention of the City Commission to take action on a petition to vacate the portion of alley between Warr Street and Bach Avenue connecting Joyland Road and Third Street, in the City of Lewistown, Montana

Mr. Myhre explained that an application process was put into place a couple of years ago that when a citizen would like a road or alley to be abandoned that an application is completed and a fee is paid. Mr. Myhre further explained that the fee is to cover the expenses associated with the process, however if the application is denied the applicant will get half of the fee returned to him. Commissioner Gremaux stated that he does not feel abandoning alleys or roads are a good idea. Further discussion followed. Mr. Myhre stated that he would recommend that Commission to allow him to go through the process. Commissioner Putnam made the motion to approve Resolution No. 3816, a resolution declaring it to be the intention of the City Commission to take action on a petition to vacate the portion of alley between Warr Street and Bach Avenue connecting Joyland Road and Third Street, in the City of Lewistown, Montana 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 those Commissioners voting in favor were: Doney, Gremaux, Hewitt, Putnam and Turk. Commissioners Berry and Poss voted against.

5. Public hearing to hear comments on Resolution No. 3813, a resolution approving the fiscal year 2013 work plan and budget for Tourism Business Improvement District #1.

Chairman Gremaux opened the public hearing. Mr. Myhre explained that the work plan and budget for fiscal year 2013 is really only for February 1, 2013 to June 30, 2013. The Tourism Business Improvement District (TBID) just went into affect February 1, 2013. Mr. Myhre stated that the only

possible purchase would be to purchase the necessary insurance and make no other purchases during that time period. Commissioner Gremaux asked for further comments, there being none the public hearing was closed.

6. Discussion and action on approving Resolution No. 3813, a resolution approving the fiscal year 2013 work plan and budget for Tourism Business Improvement District #1

Commissioner Putnam made the motion to approve Resolution No. 3813, a resolution approving the fiscal year 2013 work plan and budget for Tourism Business Improvement District #1 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. Public hearing to hear comments on Resolution No. 3814, a resolution approving the fiscal year 2014 work plan and budget for Tourism Business Improvement District #1

Chairman Gremaux opened the public hearing. There was no public comment and the public hearing was closed.

8. Discussion and action on approving Resolution 3814, a resolution approving the fiscal year 2014 work plan and budget for Tourism Business Improvement District #1

Commissioner Putnam made the motion to table Resolution 3814, a resolution approving the fiscal year 2014 work plan and budget for Tourism Business Improvement District #1 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.

9. Discussion and action on approving Resolution No. 3815, a resolution approving an assessment to defray the cost of the work plan and budget for Tourism Business Improvement District #1 for fiscal year 2014

Commissioner Turk made the motion to table Resolution No. 3815, a resolution approving an assessment to defray the cost of the work plan and budget for Tourism Business Improvement District #1 for fiscal year 2014 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.

10. Discussion and action on referring to the Lewistown Zoning Commission a proposed zoning code change regarding the placement and location of storage/shipping containers in various zoning districts within the City

Planning Director Duane Ferdinand explained that periodically the City is asked to approve the placement of storage or shipping containers on City lots. The purpose of this request is usually to use these containers as accessory units for backyard storage. Mr. Ferdinand further explained that storage containers, also known as shipping containers are used to move merchandise by rail or ship. Mr. Ferdinand stated that it is the position of City staff that containers of this type do not fit the definition of an accessory unit and their placement could be detrimental to residential neighborhoods. Mr. Ferdinand explained that an amendment to Title 11, Chapters 2, 3 and 4 of the Lewistown City Code is being proposed to exclude storage containers and shipping containers from the definition of an accessory use. The definition section of the code would also be amended to define clearly a storage container (shipping container). The containers would be added to permitted uses in Zoning Districts M-1 and M-2 subject to location requirements in Code 11-4-1 (D) 5. Mr. Ferdinand stated that the City Commission may initiate

a zoning code amendment; however the proposed amendment shall be reviewed by the Zoning Commission. Once the Zoning Commissioner reviews proposed amendment and a public hearing is held the final report will be for approval by the City Commission. Commissioner Gremaux asked if temporary structures could also be included in this process. Mr. Myhre answered that he felt that should be done as part of this review. Commissioner Doney made the motion to refer to the Lewistown Zoning Commission a proposed zoning code change regarding the placement and location of storage/shipping containers in various zoning districts within the City to include temporary structures 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.

11. Discussion and action on approving the City Manager contract for 2013 to 2016 .

Mr. Myhre explained that he met with the three commissioners that were appointed to work with him on the contract. Mr. Myhre stated that a 2.1% CPI increase was included this year and the term of the contract was stated from two to three years. Mr. Myhre commented that he made some minor wording changes to the longevity benefit. Commissioner Doney stated that she was on the committee to review his contract and one of the main changes was to change it to a three year contract which makes it consistent with the other bargaining agreements. Commissioner Doney made the motion to approve the City Manager contract for 2013 to 2016 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.

12. Discussion and action on approving Resolution No. 3817, a resolution authorizing stipends to be paid to City Commissioners

Mr. Myhre explained that the original resolution was included in the packets for your review. A new resolution was not typed up because we did not know what changes the Commission wanted to make. Commissioner Gremaux commented that he is the one that asked that this item be on the agenda. Commissioner Gremaux further commented that he does not feel that what the Commission currently gets paid is sufficient and should be \$100 per meeting and eliminate the absentee clause. Commissioner Turk commented that she does agree an increase is needed due to the fact that everyone serves on additional boards. Commissioner Turk asked that the increase be to \$75 instead of doubling the monthly pay. Commissioner Turk would like to allow a two week vacation, which means that you would be allowed to miss two meetings and still get paid for the meeting. Once you miss two meeting then you would only receive if you attend the meeting. Further discussion followed. Commissioner Doney made the motion to approve Resolution No. 3817, a resolution authorizing stipends to be paid to City Commissions in the amount of \$100 per meeting and two excused Commission meetings per year to be effective July 1, 2013 and Commissioner Berry seconded the motion. Commissioner Turk asked if the City could afford this increase. Mr. Myhre answered that is was not in this year's budget but would be included in next year's budget. Commissioner Poss asked if he could amend the motion that if during the budget process it was determined that the City couldn't afford it that it would be looked at again. Commissioner Gremaux stated that the City could afford it. Mr. Myhre explained that if the Commission told him to include it in the budget he will include it in the budget and if necessary it may come from somewhere else. Commissioner Doney commented that when the budget is reviewed then it could be changed if necessary. 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 Putnam commented that the Friends of the Pool did not give credit to the Girl Scouts that sponsored the Cinco de Mayo fundraiser.

Commissioner Gremaux asked if anyone had any other design suggestions for the license plates. Commissioner Doney asked that it would come back before the Commission for approval. Commissioner Turk asked how much money is made from the license plates. Commissioner Doney stated that the cost is \$5,000. Commissioner Gremaux explained that the City could charge whatever amount they choose for the plates and then once the initial \$5,000 is covered then what money is made would be given to the pool or some other area of the City.

**ADJOURNMENT**

Chairman Gremaux adjourned the meeting.

Dated this 3<sup>rd</sup> day of June, 2013.

---

Frank Gremaux, Commission Chairman

ATTEST:

---

Nikki Brummond, City Clerk