

A COMMISSION MEETING OF JANUARY 21, 2014 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.

CALL TO ORDER

Vice Chairman Gremaux called the meeting to order.

PLEDGE OF ALLEGIANCE

Vice Chairman Gremaux asked everyone to stand and say the Pledge to the Flag.

ROLL CALL

Present were Commissioners: Berry, Gremaux, Hewitt, Poss and Turk. Commissioner Putnam was absent and Commissioner Doney arrived 20 minutes late.

APPROVAL OF MINUTES

Commissioner Hewitt made the motion to approve the minutes for January 6, 2014 and Commissioner Turk seconded the motion. The motion passed unanimously.

COURTESIES

There were none.

PROCLAMATIONS

There were none.

BOARD AND COMMISSIONER REPORTS

Commissioner Poss reported that he attended the recent City County Planning Board meeting. Commissioner Poss stated that he has been elected chairman for the City County Planning Board and the Tax Increment Financing District was reviewed.

Commissioner Hewitt reported that she attended the recent Airport Board meeting. Commissioner Hewitt commented that they have discovered that a lot of the people at the airport have not provided the Airport Board with insurance coverage. Commissioner Hewitt also reported that there was some general update of the airport.

Commissioner Turk reported that there was a Library Board meeting, but she was unable to attend because of work. Commissioner Turk also reported that the Chili Bowl will be January 31, 2014 and is a fund raiser for the summer reading program.

CITY MANAGER REPORT

City Manager Kevin Myhre reported on the following issues:

Members of the Department of Transportation attended the Fergus County Commissioners meeting on January 15th to discuss the plans for the new overpass intersection. The MDT informed the commissioners and audience that they were not planning to make any further changes to the design of the intersection. MDT did, however, offer to make some signage changes to make sure the public was aware of their options in routes. The City Manager is planning to sign the letter that was approved by the Port Authority and is looking for further guidance on the issue from the City Commission.

The County Commissioners have announced the names of the committee tasked with planning for the creation of a Recreation District. The committee is made up of the following seven members: Rick Poss, Kevin Kepler, Monte Solberg, Gary Barta, Bill Berg, Lyle Gorman and Scott Seilstad.

Ice build up from the nightly freeze has kept crews busy trying to accommodate special needs and improve both vehicular and pedestrian safety. The City manager is working with the Public Works Director to plan for the use of liquid de-icer next winter.

The City Manger attend and retreat and meeting for the Montana Municipal Interlocal Authority (MMIA) on January 15th to January 17th. Municipal Workers Compensation, Property, Liability, and Employee health programs were all topics covered during the meetings. Several expansions of services and benefits were discussed as well as other topics. The MMIA will be contracting with a consultant to identify gaps in their liability coverage documents and make comparisons to private market providers. A new blue book program will be offered to members of the employee health plan which will allow the employee to compare costs of medical procedures at different facilities and with different medical providers. The employee can then make informed choices about their health care options.

All county and municipal governments must pass a resolution every ten years that calls for an election on the question of conducting a local government review and establishing a study commission. The resolution must be passed and submitted to the County Elections Administrator by March 10, 2014. We will place the resolution on a Commission agenda in February.

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

1. Update on the Trailhead Park Design and construction. City Manager Kevin Myhre

Mr. Myhre explained that he wanted to review the change that is going to be made to the Trailhead Park and Design. Mr. Myhre stated that it is essentially the same except for the fish pond is going to be a sculpture instead. Mr. Myhre explained that early in the planning process of the Trailhead Park the central feature of the park was to be a trout pond. It has turned out that for Fish Wildlife & Parks to permit the pond, the pond effluent would have to go through the City water treatment plant. Mr. Myhre stated that given the quantity of water involved and the City's efforts to reduce the flow through the treatment plant, the trout pond concept has been abandoned. The Park and Recreation Board was presented with two very general concepts for the park one being a kiosk in the center of the plaza with interpretive signs on its sides and the

other option a sculpture at the center of the plaza with interpretive signs at the perimeter of the plaza. The Park and Recreation Board indicated a strong preference for the sculpture concept. Mr. Myhre explained a request for sculpture proposals is being advertised to the statewide art community. The proposal is for the art object that would be the centerpiece for the Trailhead Park Plaza. Mr. Myhre stated that we hope to get this in place by the end of summer. Further discussion followed. Mr. Myhre reported that all the asphalt is completed, the curb and gutter along the asphalt is complete, however the sidewalks are still need to be installed. It is planned to move the trail and get the crosswalk installed across Main Street. Commissioner Gremaux commented that there are some designs that could be done with the actual concrete at the park plaza. Commissioner Turk commented that she likes this idea and if people want to see fish they can go to the fish hatchery.

2. Discussion on current land use boards established by City ordinance. City Manager Kevin Myhre

Mr. Myhre stated that included in the Commissioner's packet was the City's ordinance for Zoning Commission and Board of Adjustment. Commissioner Doney asked to hear about the board of adjustment. Mr. Myhre further stated that essentially the Board of Adjustment is a place to appeal for a variance. Mr. Myhre explained that MCA outlines why there is a Board of Adjustment. Mr. Myhre read the following from the City of Lewistown Code Board of Adjustment Action: The board of adjustment, before it grants a variance, shall determine compliance with all of the following criteria:

1. That special conditions and circumstances exist which peculiar to the land, lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district.
2. That a literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other tracts in the same district.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other land in the same district and is the minimum variance that would alleviate the hardship.
4. That the granting of the variance will be in harmony with the general purpose and intent of this title and with the Lewistown comprehensive plan.

In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this title. Violation of such conditions and safeguards, when made a part of the terms which the variance is granted, shall be deemed a violation of this title. Mr. Myhre explained that is essentially the goal of the Board of Adjustments to take the appeal and apply those criteria and see if a variance can be allowed. Mr. Myhre explains that the neighborhood where the variance is being requested is all notified and have the ability to make comment. Mr. Myhre further explained that if the decision of the Board of Adjustment is not agreeable, then the person can appeal the decision to district court. Mr. Myhre reviewed the following an ordinance adopted pursuant to this section providing for a board of adjustment may restrict the authority of the board and provide that the city or town council or other legislative body reserves to itself the power to make certain exceptions to regulations, ordinances or land use plans adopted pursuant to this part. Mr. Myhre stated this states that the City Commission can be the board of adjustment is they so chose. Mr. Myhre explained that the City Commission under state law would have the authority to do several things. One is the City Commission could act as the Board

of Adjustment and do away with the current five member board. Another option is some further guidance on how you interpret the law that discusses hardship. Commissioner Turk asked on average how many appeals are made to the Board of Adjustment. Planning Director Duane Ferdinand answered there are about four. Mr. Ferdinand stated they range from setbacks to fences. Further discussion followed. Mr. Myhre explained that the City of Helena has the following outlined in their City Code: to approve a requested variance for a new building or portion thereof, the board of adjustment shall consider the following standards and find as follows:

1. The variance will not create a significant risk to the public health, safety or general welfare;
2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located;
3. Strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty. Mr. Myhre further explained that the City of Helena went a little farther that the board of adjustment may consider the following factors:

1. Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography or unusual shape of the property
2. The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.
3. Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.
4. The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.
5. Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.
6. The extent to which the hardship or difficulty results from the actions of the applicant.
7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.

Mr. Myhre stated that these factors give some better guidance to the Board of Adjustment. Mr. Myhre explained that he talked to a previous citizen that served on the Board of Adjustment and they explained that rules are not easily interpreted. Mr. Myhre stated that maybe the Commission could better define some guiding principles for the Board of Adjustment. These guidelines could be put in City ordinance. Another option would be that the City Commission could be the Board of Adjustment. Commissioner Turk stated that she thinks that the City Commission should define hardship. Commissioner Doney commented that an ordinance would have to be put in place to give definition and would seem to her that a subcommittee should be put together to look at it. Mr. Myhre commented that maybe the decisions by the Board of Adjustment could be reviewed by the City Commission. Mr. Myhre stated that he has recommended to Mr. Ferdinand that a staff report and the minutes of the Board of Adjustments be given to the City Commission to keep them informed. Commissioner Gremaux stated that he likes that idea because he would know if the variance or request has been made and then what the outcome was. Commissioner Turk stated that she would serve on the board. Commissioner Gremaux stated he would also serve on the board. Mr. Myhre reviewed the following boards: Design Review Board, City County Planning Board and Zoning Commission. These boards are created in accordance with state law.

CITIZENS' REQUESTS

There were none.

COMMISSIONER'S MINUTE

There were none.

ADJOURNMENT

Chairman Doney adjourned the meeting.

Dated this 21st day of January 2014.

Gayle Doney, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk