

A SPECIAL COMMISSION MEETING OF NOVEMBER 20, 2014 WHICH WAS HELD AT THE CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 5:30 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: Byerly, Doney, Gremaux, Poss, and Turk. Commissioners Hewitt and Putnam were absent.

SPECIAL AGENDA – Resolutions, Ordinances & Other Action Items:

1. Discussion and action on Resolution No. 3870, a resolution indicating the intent of the Lewistown City Commission to annex certain properties adjacent to Castle Butte Road, Roundhouse Road, Southland Road and Reservoir Drive located in the E ½ of Section 22, The W ½ of Section 23, NW ¼ of Section 26 and E ½ of Section 27, T15N, R18E, P.M.M. Fergus County, Montana, into the City to the City of Lewistown

Mr. Myhre explained that this is the same resolution and essentially the same map that was presented Monday night with one change. Mr. Myhre stated that under state law when a City is going to annex an area the City is required to annex the full width of public roadways at the same time. Mr. Myhre reviewed the boundary of the annexation. The properties shown in green either have City water or have signed a waiver of annexation, the properties shown in pink are undeveloped properties and do not have a waiver of annexation. Mr. Myhre stated that all property owners will receive a notice of annexation and those property owners that are adjacent to any of the roads being annexed. Mr. Myhre reported that he thinks there are approximately 83 lots in the proposed annexation and over 50 of those properties have City services and waivers of annexation on file. Mr. Myhre explained that the process is if the City Commission approves this resolution of intent. Once the resolution of intent is approved it starts the time line to notice all properties owners affected by the annexation. The notice will outline the protest period and how a protest can be done. There is a twenty day protest period and then a public hearing would be held at the December 15th Commission meeting to move forward with the annexation if the Commission chooses. Mr. Myhre explained that at the Monday night Commission meeting the City Commission passed an annexation plan. An annexation plan is required by State law and must be in place when a city is thinking about annexing an area. The plan is for a period of five years and outlines the procedures and how the City provides services. The annexation plan outlines the urban growth boundary which would be the area where growth is expected over the next five years. Commissioner Byerly commented that the urban growth boundary is not the intent to annex all properties in the boundary, but those properties that meet the criteria can be annexed.

Commissioner Turk made the motion to approve Resolution No. 3870, a resolution indicating the intent of the Lewistown City Commission to annex certain properties adjacent to Castle Butte Road, Roundhouse Road, Southland Road and Reservoir Drive located in the E ½ of Section 22, The W ½ of Section 23, NW ¼ of Section 26 and E ½ of Section 27, T15N, R18E, P.M.M. Fergus County, Montana, into the City to the City of Lewistown and Commissioner Byerly.

County Commissioner Sandy Youngbauer stated that Fergus County has a \$50,000 bill on the water line that was installed on Roundhouse Road and wondered who would pay the bill to Fergus County. Mr.

Myhre answered that it would continue to operate with the same pay back plan that is currently in place. Mr. Jay Kinsey stated that he just moved into the Castle Ridge Acres Subdivision and the water form you are referring does not say anywhere that a certain percentage is met then you will be annexed. Mr. Kinsey further stated that he signed the waiver of annexation at the title company and annexation was never mentioned. Mr. Jay Kinsey commented that he feels the annexation would be driven by those living in the area and not the title company. Mr. Myhre explained that the title company verifies that all forms are properly filled out prior to selling. Mr. Myhre explained that if you live in the City you must hook to City services and if you want to hook to City services and live outside the City you must sign a waiver of annexation, which is required by Lewistown City. Ms. Suzanne Westhoff asked what additional City services will they receive other than Fire and Police if they are annexed into the City. Mr. Myhre answered Police, Fire, Administration, Water and sewer if it would be needed, road maintenance on public roads, planning and animal control. Mr. Myhre stated that if it is currently a private road it will remain a private road. Mr. Westhoff asked if those property owners adjacent to the public roads do not have a waiver of annexation how that affects the annexation process. Mr. Myhre stated that those property owners have a right to protest but can still be annexed because it is part of a larger annexation. Discussion was held regarding the roads in the subdivision. Commissioner Turk commented that the City does not nor can it afford to plow every single road. Mr. Myhre stated that Castle Butte Road and Roundhouse Road would be maintained by the City if the area is annexed. Further discussion followed. Mr. Myhre explained that the City Commission has tasked the Public Works Department to see what needs to be done to bring the water system up to code. Commissioner Doney clarified that when you state "you guys", Mr. Myhre is an easy target, and however, in 1995 it was a mayor form of government and Mr. Myhre was not the City Manager. Commissioner Doney stated all the Commissioners volunteer their time and doing the best they can with the information we are given. Commissioner Doney further stated that she became a Commissioner three years ago and this agreement was signed fifteen years ago and happened long before she became a Commissioner. Commissioner Doney finalized by stating that we are trying to make the best out of situation that you people are not happy. Someone stated that we are paying for someone else's screw ups so why don't you just leave us alone. Mr. Mike Olson asked if someone wanted to connect to the current water line who would one talk to. Mr. Myhre answered the Public Works Department. Further discussion followed. Mr. Doug Flament stated that for the benefit that were here in 1995 or 1996 that was a subdivision before the water line went in. Mr. Flament stated that no one in 1996 asked for the water line to be built, no one on Roundhouse Road, no one on Castle Butte Road. Mr. Flament further explained that for those of you that remember the main water line from Big Spring Creek had deteriorated and a new water line had to be installed or the water would have to be chlorinated. Mr. Flament answered that the citizens chose a new water line. Mr. Flament stated that in conjunction with the water line there was very poor water to the airport and the only way to serve water to the airport and the water tank west of town, was to put a storage tank above the Castle Ridge Acres subdivision. Mr. Flament stated that the City of Lewistown asked permission from the people to run the water line across properties, which today is still an illegal water line and is forthcoming. Mr. Flament further stated that this annexation has nothing to do with water, because according to the statute that the City is using has to do with contiguous. Mr. Flament stated that now that the water line is there you are using that as an issue, which is incorrect and Mr. Myhre, Mr. Boettger and the City Commission have been advised that it is an illegal action to use the water. Mr. Flament stated that the City ran the water line to better the community and people were threatened that if they did not let the water line go through now you will be a really bad person and your property would be condemned by eminent domain. Mr. Flament commented that now you have begun to enforce the City ordinance that everyone that is hooked up to City water has to sign a City service agreement and in conjunction with that you must sign a waiver of annexation. Mr. Flament went on to state that however, there are hundreds, literally hundreds of people and businesses within the City and outside the City, but more in the City that do not have a service agreement with the City, but they are using water and sewer and paying their bill. Mr. Flament further stated that the City is selectively choosing which laws to enforce and upon whom to enforce those laws. Mr. Flament stated that again is illegal and if you are going to force a City ordinance

upon 80 people then you better enforce it on everyone. Mr. Flament stated that in closing this argument would not be here if the City did not ask the property owners to use their land for the water and the City is turning it around and that there is water running down Castle Butte Road the City is going to annex them. Mr. Flament further stated it does not have anything to do with this statute and it is called bait and switch. The City asked to use the property and the City wanted the water improvements but the City is not being fair to everyone. Mr. Flament commented that the City threatened to turn their water off in ten days, which scared a lot of people and was a pretty big threat. Mr. Flament stated that this is a police action not a civil action. Mr. Myhre stated that there is a lot of opinion in the statements made. Mr. Flament answered no it is not and will go further to say it is immoral and unethical. Mr. Myhre commented that the water line on Roundhouse Road was not installed by the City of Lewistown, it was installed at the request of those property owners. Fergus County worked with the property owners to install the water line. Mr. Myhre stated that people hook to City water because it is a good thing and nice to have, water is only one service of many that the City of Lewistown provides. Mr. Craig Flentie asked if he could get a copy of the 2009 annexation plan. Mr. Myhre stated the last time a large annexation like this was done, was the Airport and Joyland Road. All other annexations have been done by petition. Mr. Flentie stated that back in April at a Commission meeting there was discussion regarding annexation, there did not appear to be any proposal or resolution, and here we are a short time later and it appears that this process has accelerated greatly and the public was brought along with this issue. Someone commented that they thought once the resolution is passed there is a period for comment and public hearings. Someone asked what percentage of protest is needed to stop the annexation. City Attorney Monte Boettger explained that all property owners and registered voters will be sent a notice. The notice explains specifically of what needs to be done to be considered an official protest. Mr. Flament asked why a water district can't be formed. Mr. Myhre answered that City ordinance states if you have City water you must sign a utility service agreement or a waiver of annexation. Further discussion followed. Mr. Tom St. John commented that this seems is wildly unpopular and do not know if I signed a waiver or not, because water was already at my house when I moved it. Mr. St. John further commented that when you buy a piece of property they shove fifty documents to sign. Mr. St. John asked if there is 51% against the annexation is it not going to happen or is already a done deal and it will be annexed. Mr. Boettger explained all protests will have to be reviewed and if a valid waiver on file then that protest cannot be counted. Ms. Keri Smith stated she is a new homeowner in the Castle Ridge Acres Subdivision and things feel a little underhanded to her. Ms. Smith stated that she felt the whole incident should have come from the water department instead of being incorporated into the buying of a home. Ms. Smith stated that she feels this should have been above board and it was not explained to them by the title company when they purchased their home. Ms. Smith commented that she does not feel enough notification was given as to what was going on. Further discussion followed. Mr. Myhre explained that this has been discussed for a couple of years and the Commission, City Manager and City Attorney have worked hard to answer all of the questions. Mr. Myhre further explained that when meetings were held earlier this year and people wanted to protest the annexation, it was not the time to protest. A resolution of intent must be passed by the City Commission in order to start the formal protest process. Mr. Frank Westhoff commented that the people that are annexed want the services and this is working the other way around and being forced to have the services. Mr. Westhoff said we are asking not to pass the resolution and just happy the way we are and do not want your services. Further discussion followed. Someone asked what percentage of properties within the boundary has a valid waiver. Mr. Myhre answered approximately two thirds of the property. Someone asked if this area is annexed what ward this property would fall into. Mr. Myhre answered that the Clerk and Recorder would relook at the boundary lines. Commissioner Byerly stated in reference to the gentleman that said how wonderful it was to have a part time mayor, he can say that as a relatively new City Commissioner the City is continually trying to pick up the pieces from the lack professional management in his opinion. Commissioner Byerly explained that he was on the school board for a lot of years and can appreciate what you are saying and the issue of public notice is what this meeting is about. Commissioner Byerly stated nothing is official or no action taken until we start the process tonight. Commissioner Byerly stated to Mr. Flament and you and I go back a long way and you really hurt my

feelings tonight when you accused me of being a criminal but did raise some good points. Commissioner Byerly stated that he understands why the City is doing this and the philosophy behind it and frankly support it. Commissioner Byerly further stated that this does not have to be done in December and there is no deadline and would like to table the motion, because there are some things that need to be clarified and a lot of things that have been said the he does not think are true and some things that need to be better understood before going forward. Someone asked if the projected tax amount could be included with the notice. Mr. Myhre answered that the City does not set the taxes and all taxes are set by the department of revenue and all properties are assessed differently based on the department of revenue formulas. Commissioner Turk asked if the intent is passed tonight what happens. Mr. Myhre answered that if the resolution is approved tonight that starts the process for the notices and the twenty day protest period, but could be tabled at the December 15th meeting. Mr. Boettger stated that in order to receive the formal protests then the resolution of intent needs to be approved, but you cannot have more than a twenty day period for the protest. Mr. Myhre stated that the City Commission will be meeting at December 1st and the next time this would be discussed at the December 15th Commission meeting. Commissioner Turk voted no, Commissioner Doney voted yes and Commissioners Hewitt and Putnam were absent. Commissioners Byerly, Gremaux and Poss did not vote. Commissioner Doney stated that the resolution did not pass for lack of a majority vote.

ADJOURNMENT

Chairman Doney adjourned the meeting.

Dated this 20th day of November, 2014.

Gayle Doney, Commission Chairman

ATTEST:

Nikki Brummond, City Clerk