

**A COMMISSION MEETING OF MAY 4, 2015 WHICH WAS HELD AT THE  
CENTRAL MONTANA COMMUNITY CENTER AND STARTED AT 7:00 P.M.**

**CALL TO ORDER**

Chairman Poss called the meeting to order.

**PLEDGE OF ALLEGIANCE**

Chairman Poss asked everyone to stand and say the Pledge to the Flag.

**ROLL CALL**

Present were Commissioners Byerly, Doney, Gremaux, Hewitt, Poss, Putnam and Turk.

**APPROVAL OF MINUTES**

Commissioner Hewitt made the motion to approve the April 20, 2015 and Commissioner Putnam seconded the motion. The motion passed with Commissioner Gremaux abstaining.

**COURTESIES**

There were none.

**PROCLAMATIONS**

Chairman Poss read the following proclamation:

A Proclamation of the Lewistown City Commission declaring May 2015 as Historic Preservation Month

WHEREAS, historic preservation is an effective tool for managing growth and sustainable development, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, "Celebrate Our Historic Places Today!" is the theme for Preservation Month 2015 sponsored by the Lewistown Historic Resources Commission.

NOW, THEREFORE, the Lewistown City Commission does recognize May, 2015 as National Preservation Month, and call upon the people of Lewistown to join their fellow citizens across the United States in recognizing and participating in this special observance.

### **BOARD AND COMMISSION REPORTS**

Commissioner Doney reported that the Lewistown Study Commission met on April 27<sup>th</sup> and interviewed Commissioner Poss and Mr. Dennison with the News Argus was there and Commissioner Doney thanked him for being there. Commissioner Doney has not seen the surveys and hopes to see them. The next meeting is May 8<sup>th</sup>.

Commissioner Turk reported that she attended the Library Board meeting on April 23<sup>rd</sup>. The budget was reviewed. The Library just received the ELSA award with is the Excellent Library Service Award. The author dinner is on May 20<sup>th</sup> and there will be books by the author available for autographs. The Library Board completed the performance evaluation of the Library Director. The contractor is starting to replace the windows.

Commissioner Byerly reported that the Central Montana Health District (CMHD) met last month and the primary focus was next year's budget. There were significant changes of the district that were discussed that would improve efficiency and the board meets again in June to approve the budget.

Commissioner Putnam reported that the Central Montana Foundation Board met on April 29<sup>th</sup> and Mr. Mike Zacher who has been the chair for thirty years resigned and is leaving the board. There were some small grants approved one was for the FCCLA to help with expenses for Nationals. Commissioner Putnam stated that she sat on a committee for the CMF scholarship loans for high school.

Commissioner Hewitt reported that the Airport Board meeting is this week. Commissioner Hewitt stated that she attended the ROWL meeting. They have worked very hard to get a building for 24 hour recycle drop off.

### **CITY MANAGER REPORT**

City Manager Kevin Myhre reported on the following issues:

The City Manager has reached a tentative agreement with the MPEA Bargaining unit for a three year contract beginning July 1, 2015. The unit will be voting on the agreement on May 12<sup>th</sup> and if it receives a majority vote, it will e scheduled for Commission review and approval on the May 18<sup>th</sup> Commission meeting.

There was a fundraising and appreciation Luau event at the Civic Center on Sunday, May 3. Plans for the pool upgrade were there for viewing and major donors to the project were recognized.

House Bill 11 was passed by the Legislature and included the recommendations of the TSEP program for funding. The City Manager thinks the Riverdale Addition Sewer project was not part of the proposal. Also, the City Manager was informed that the Department of Natural Resources RGL grant did not fund that program. The City will want to get verification prior to proceeding with project planning.

The graduation event for the 3<sup>rd</sup> class of the Leadership Montana program was held on April 28<sup>th</sup> at Pine Meadows. Class members gave four presentations on economic, youth business, and community development. The class has been meeting since September. KellyAnne Terry was extremely helpful with the program and presented at several of the classes.

The City has received and filed a waiver of annexation for the Fairgrounds Property. The City Manager has notified representatives from fairgrounds that the City will begin utilizing the new billing procedure beginning with the July bill so that they will not need to be concerned with a budget amendment for this fiscal year.

The City Office has received several inquiries and complaints regarding the requirement that Direct Sales businesses purchase a City business license. Fees for the licenses were set by resolution in 2004. Fees for Resident Salesman are set at \$30.00 and Non-Resident Salesman are charged \$55.00. Most licenses are issued under the ordinance are set at \$55.00. Ms. Shawna Renville addressed the Commission stating that she recently moved to Lewistown and has been here about a year and was the first person in the community to get a letter and when she received the letter she called the City Office. Ms. Renville explained that she is not new to direct sales and has been in direct sales for over twenty years. Ms. Renville explained that she has done vendor events, home shows and parties in almost every City in the state of Montana. Ms. Renville commented that in those twenty years she has never been asked, told or informed about business licenses. Ms. Renville explained the difference between a home based business and direct sales. Ms. Robin Moline addressed the Commission explaining that she has a full time job and recently became an independent consultant for Jamberry Nails and she talked to the company and she is their employee. Ms. Moline explained that she talked to the company and none of their people have ever had to have a city license. Ms. Moline further explained that she does most of the work on the internet, customers order from her webpage and it is delivered to them and she does not have any inventory. Ms. Moline does understand having to have a city license if they have a place downtown and had a storefront, but we are in our homes. Ms. Moline commented that she talked to people that came to the City Office two years ago and were told they did not have to have a business license. Ms. Moline stated that what they are trying to get at is you get all of us or none of us to have a business license and you cannot pick and choose who does or does not need to get a City license. Further discussion followed on the details of the business license ordinance and how it is enforced. Commissioner Doney stated that things have changed so dramatically in the last eleven years since this ordinance was reviewed. Commissioner Doney further stated that she would be comfortable with the Commission looking at this ordinance, taking input and seeing if there are ways to do things differently or better. Commissioner Byerly agrees that the issue should be looked at and how to get everyone licensed is difficult. Commissioner Putnam asked what you get from your thirty dollar business license. Mr. Myhre answered that the application provides the City with a lot of information and it helps the City lookout for the welfare of the City. Ms. Bobbette Lindstrand commented that she has a

vendor show coming up and the vendors do not want to sign up because they are afraid they will have to get a business license. Mr. Myhre stated that he has not found a City that has business licenses that does not charge a business license for direct sales. Mr. Myhre stated that the City has not been extremely aggressive in enforcing this license but there is an ordinance in place and the City is trying to enforce it and as we move forward if we get complaints or people solicit the City Office they will be required to purchase a license. Commissioner Poss stated a committee will be put together. Commissioner Gremaux stated he would like to be on the committee. Commissioner Poss asked that those interested in being on the committee to contact the City Manager and a committee will be appointed at the next meeting.

### **CONSENT AGENDA**

Commissioner Putnam made the motion to approve the consent agenda and Commissioner Hewitt seconded the motion. The motion passed unanimously. The consent agenda was the acknowledgement of the claims that have been paid from April 17, 2015 to April 29, 2015 for a total of \$137,330.09.

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

1. Discussion and action on entering into an agreement with Doug Flament regarding annexation

Mr. Myhre asked Commissioner Byerly to explain the item because he has been the one working on it. Commissioner Byerly explained that after the meeting last fall the Commission agreed to delay the annexation discussion to allow him time to explore some of the issues raised. Commissioner Byerly stated that he has tried to visit with people about their concerns and that is a process that will continue. Commissioner Byerly reported that he has spent a lot of time with Doug and Jill Flament and he and the City Attorney met with Mr. Flament and his lawyer Mr. Hubble. Commissioner Byerly commented that he stressed during this meetings that he cannot negotiate for the City and if a understanding is reached it would need to go to the City Commission for approval. Commissioner Byerly stated that the annexation that was looked at last November had three components the Castle Ridge subdivision, homes that were located closer to town and few other properties. Commissioner Byerly further stated that one of the other properties is owned by Mr. Flament and is unique because of the location and circumstances. Commissioner Byerly explained that the Commission did enter into an agreement with the Flaments that gave them a period of time to drill a well and disconnect from City water which would have allowed them to not be annexed had the annexation moved forward. If the Flaments do not drill a well they will be subject to the annexation. Commissioner Byerly feels the City could move forward annexing the property if the Flaments do not drill the well is not drilled but in this case the City does have a couple of unique exposures. Commissioner Byerly stated that twice the City missed opportunities to secure waivers of protest of annexation from the Flaments and there is some question regarding the main water line that comes in from the water tank south of the City and if it is in the road right of way or if it encroaches on the Flaments property. Commissioner Byerly stated that the interest of both parties is to find a win win solution that meets the City's needs and addresses their concerns and feels they have reached an agreement and is asking the Commission to support it. Commissioner Byerly explained that the agreement was drafted by the City Attorney and this is

what the Flamets get, they get to remain on City water, they do not have to drill a well, they get the assurance they can continue to operate their commercial kennel and pasture operation without annexation as it currently is, so long as they live on the property as long as those uses continue and the uses can continue with a sale. Commissioner Byerly further stated that this agreement clarifies that and that is what the statue currently says. Commissioner Byerly commented that rightly or wrongly the trust level has not been great and he thinks the Flamets would like some kind of assurance because they do not know who will be sitting in the City Commission, City Manager or City Attorney chairs in the future. Commissioner Byerly explained what the City gets which is roughly two 2 ½ acre lots along Castle Butte Road which would be annexed if the annexation proceeds and waivers of protest would be placed on three other undeveloped similarly sized lots, the waterline wherever it is will be granted an easement and should the use of the property change significantly the waivers of annexation and protest would go into place and if it is in appropriate in the future the City could annex the parcels. Commissioner Byerly stated that for him the whole annexation discussion is about the future of Lewistown and ensuring that the City acts in ways that are fair, legal and beneficial to the residents of Lewistown. Further discussion followed. Mr. Jim Hubble stated that he represents the Flamets and have been working with Commissioner Byerly and the City Attorney to reach an agreement and feels it is in the best interest of the Flamets and the City. Commissioner Germaux thanked Commissioner Byerly for all of the work he has done on this issue. Commissioner Doney stated she appreciates all of the work that was done to reach the agreement. Commissioner Gremaux made the motion to approve entering into an agreement with Doug Flament regarding annexation and Commissioner Doney seconded the motion. Commissioner Poss 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 authorizing the Judith Mountain Players to present a reenactment of the Rattlesnake Jake shootout using blanks at two different events.

Mr. Myhre explained that the Judith Mountain Players would like to present a reenactment of the Rattlesnake Jake shootout. They would like to do one performance on July 4<sup>th</sup> at Symmes Park prior to the fireworks show and would like two performances in August as part of the Cowboy Poetry. Mr. Myhre stated that they would like to use blanks in the performances and firing firearms within the City is prohibited. Mr. Myhre commented that he discussed this issue with the City Attorney and he felt that the City Commission should approve the exception to the ordinance and the unique event. Mr. Myhre stated that it is good for the economy, benefit to the City and beneficial to see and learn the history of Lewistown. Commissioner Turk made the motion to authorize the Judith Mountain Players to present a reenactment of the Rattlesnake Jake shootout using blanks at two different events and Commissioner Gremaux seconded the motion. Commissioner Poss 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 authorizing the installation of two additional handicap parking spots in the City parking lot for the Council on Aging

Mr. Myhre explained that this building and the parking lot are considered part of the City Office complex and are owned by the City of Lewistown. The City has a zero dollar lease with the

Fergus County Council on Aging for use of the building and shared use of the parking lot. Mr. Myhre stated that the Public Works Director received a letter from Susan Lear, Executive Director of the Council on Aging, requesting two additional handicap parking spaces. Mr. Myhre stated that this is a City property and not a street issue, but felt it would be better if the Commission approve the additional spaces. Ms. Susan Lear explained the reasoning for the additional spaces. Commissioner Poss asked how many people attend your meals. Ms. Lear answered that it depends on the event and day but can have 80 to 100 people. Commissioner Byerly made the motion to approve the installation of two additional handicap parking spots in the City parking lot for the Council on Aging and Commissioner Putnam seconded the motion. Commissioner Poss 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 approving a City business license for Geiger Electric

Mr. Myhre explained that Nathan Geiger with Geiger Electric was in Lewistown working on the Yogo Inn. The Yogo Inn is upgrading the hotel rooms above the sapphire room. Mr. Myhre stated that per City ordinance business licenses for electricians must come to the City Commission for approval and requires insurance and bonding. Mr. Myhre stated that all the proper paperwork has been completed. Commissioner Turk made the motion to approve the City business license for Geiger Electric and Commissioner Doney seconded the motion. Commissioner Poss 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 appointing Dave Sanders to serve a one year term, Donna Byerly to serve a two year term and Don Bost to serve a three year term on the City of Lewistown Police Commission

Mr. Myhre explained that the Police Commission is established by State law. The Police Commission assists with the hiring of officers, review of applicants and termination of officers. Mr. Myhre stated that the Lewistown Police Commission is always involved in the review of the applications and interview of officers. Mr. Myhre further stated that all of these individuals have been serving for many years. Mr. Myhre commented also that they always try to make sure a retired Police Officer is on the Police Commission because they understand what the City is looking for in officers. Ms. Donna Byerly was present and commented that she enjoys serving on the Police Commission. Commissioner Doney made the motion to approve appointing Dave Sanders to serve a one year term, Donna Byerly to serve a two year term and Don Bost to serve a three year term on the City of Lewistown Police Commission and Commissioner Putnam seconded the motion. Commissioner Poss asked for comments from the audience and Commission. There being none, the question was called for and the motion passed with Commissioner Byerly abstaining.

#### 6. Discussion and action on authorizing the City Manager to sign the Fergus County Fire Mutual Aid Agreement

Mr. Myhre explained that there has been a Fergus County Mutual Aid Agreement for many years. The agreement was written in such a way that if a fire department needed help they would request the help of another department. Mr. Myhre reviewed the agreement and how it works. Commissioner Gremaux made the motion to authorize the City Manager to sign the Fergus County Fire Mutual Aid Agreement and Commissioner Hewitt seconded the motion. Commissioner Poss asked for comments from the audience and Commission. There being none, the question was called for and the motion passed unanimously.

### **CITIZENS' REQUESTS**

Mr. Richard Battrick asked about the requirement to have a business license in the 1990's. Mr. Myhre answered that the business license code has been in effective for many years.

Mr. Richard Battrick asked what Central Mountain Foundation is. Mr. Myhre answered that it is a foundation that allows people to make tax donations on behalf of many things. The foundation invests all of the money to get a better return.

### **COMMISSIONER'S MINUTE**

Commissioner Doney asked that as it gets closer to the Fourth of July she would like an item on the agenda and for Police Chief Cory Birdwell to inform us of a short window of time when fireworks could be legal.

Commissioner Putnam stated she is fed up with the fact that the Commission can do certain things without the public asking and the Commission does other things that the public asks and the Commission doesn't allow. Commissioner Putnam stated she thinks the Commission is schizophrenic. Commissioner Putnam feels that those citizens that were here and in the back of the room did not know about the agreement and seemed very shocked.

Commissioner Hewitt reported that she attended the Relativity fundraiser for head start and that Charlie Dennison sang and did a good job.

### **ADJOURNMENT**

Chairman Poss adjourned the meeting.

Dated this 4<sup>th</sup> day of May 2015

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Rick Poss, Commission Chairman

ATTEST:

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Teri Gilpatrick, Assistant City Clerk