

**** Page 1** A SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING
CITY OF THREE FORKS, MONTANA, FEBRUARY 11TH, 2025**

FEBRUARY 11TH, 2025, The Three Forks City Council met at the Three Forks Community Library "Montana Room", 607 S. Main Street and via Zoom. (Zoom is a virtual meeting tool which the City began using due to COVID-19 and social distancing guidelines and continues to use to encourage participation from the safety of one's home.) The meeting was presided over by Mayor Johnston. Mayor Johnston called the meeting to order at 6:03 P.M.

ROLL CALL: City Council members George Chancellor, Gene Townsend, (Warren) Garret Buchanan, Ed Tharp, Roxi McDermott, and Reagan Hooton. City Treasurer Kelly Smith and City Clerk Crystal Turner were present at the meeting, as was City Attorney Susan Swimley.

The record reflected a quorum with the attendance of six (6) Council members and the meeting was held.

The **Pledge of Allegiance** to the American Flag was led by Mayor Johnston. Mayor Johnston reminded the audience that this meeting was audio and video recorded and may be streamed via Zoom and on our Facebook page.

GUESTS: Gloria Howland was present at the library. Attending via Zoom: Lee Nellis City consultant for Impact Fees and Zoning code rewrite, and Dane Hancock, City auditor with Rudd and Company.

PUBLIC COMMENTS/CONCERNS (For items not on the agenda)

There were no public comments on items not on the agenda.

CONSENT AGENDA

Mayor Johnston read the Consent Agenda into the record as follows:

- a. City Claims to be Paid
- b. Three Forks Rodeo Arena Board Claims to be Paid
- c. Council Minutes of 1/14/2025
- d. Increase of Price to Original Contract with Harmon Construction for the City Hall Remodel by \$4,630.33 due to Several Unknowns at Original Contract
- e. Amendment #6 to Task Order #9 with Great West Engineering to Include an Additional \$20,000 for Preliminary and Final Design of Wellhouse 2C
- f. Journal Vouchers, Revenue Vouchers (11/24-1/25) and Cash Report
- g. 2-year ACH Agreement with Manhattan State Bank
- h. Amendment #2 to the Service Contract with Great West Engineering for an Additional Two Years, through 6/30/2027

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- i. Draw #26 for the Water Project Totaling \$22,557.96 all from ARPA Minimum Allocation Grant (MAG) Funding

Gene Townsend asked for an explanation on the increase of the Harmon construction contract. Crystal Turner explained once the contractor got into the project, it was determined it would be more efficient to replace the whole ceiling and remove the years of dirt that was falling out of it. It was also determined for the square footage and being a public office, City Hall would be required to have 2 ADA bathrooms.

Councilman Townsend moved to approve the Consent Agenda. Councilwoman Hooton seconded the motion. There was no public comment on the consent agenda items.

Motion Passed Unanimously.

PUBLIC HEARINGS

Public Hearing and Decision on a Resolution to Adopt the Impact Fee Advisory Committee's Recommendations for Updated Impact Fees for New Construction and Changes of Use

Mayor Randy Johnston explained we are still in the process of updating the impact fees and service area reports so we will not be reading the Resolution tonight. He then turned it over to Susan Swimley. Susan said she would be walking the Council through this process, and they did have some decisions to make. The statutory requirements for updating and adopting impact fees are in MCA's that define the process. She stated the Council appointed the Impact Fee Advisory Committee (IFAC). Their jobs include reviewing and monitoring the process for calculating, collecting and spending impact fees, and for calculating and setting impact fees. Susan stated, "The IFAC came back with recommendations for calculating and assessing impact fees. The recommendation was to impose water, wastewater, fire protection, transportation and municipal buildings impact fees. The Council received the recommendation last time, but last time we did not have the service area boundaries maps, so I asked you to wait to approve any impact fees." Since the last meeting we have been talking about the specific portion of recommendations for water and wastewater impact fees, as they apply to large-scale development being recommended on a case-by-case basis. Susan was unaware that the report stated any impact fees were on case-by-case, until about two weeks ago. She expressed, "This is not going to pass muster in Montana. It could be a large building with little impact to the City's water and wastewater systems."

Previously the City calculated all water and wastewater impact fees on meter size. Susan asked Lee Nellis to go back and look at large-scale development based on meter size. Lee sent this document on Sunday that

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based water and wastewater impact fees for large-scale development on meter size. Susan and Crystal are sticklers for the legal notice process, this information was not available to the Council or the public at least 48 hours before the meeting. The Council has the report tonight, and eventually you will adopt the report, or you can modify it if you choose. The Council has that discretion. The process issue is you have a service area report dated December 2024. You can accept it, but it includes the question about transportation impact fees, and it has a recommendation for impact fees on case-by-case basis for large scale commercial development. The City will need the IFAC to meet again, because they were unaware of my legal opinion when they made their recommendation regarding large-scale commercial development. You could adopt the resolution tonight, but then the IFAC would have to decide what to do for large-scale development. Then once the IFAC has forwarded a new or amended document to the Council, you can accept their recommendations or adopt a revised amount. The Council could adopt the resolution tonight, but in my opinion, it still must go back to the IFAC to weigh in on large-scale development impact fees." Susan said, "The Council could also hold the IFAC's report, ask them to reconvene to look at water and wastewater impact fees for large-scale commercial development. Then receive the IFAC's new recommendation, do a modified service area report, and then the Council can decide to adopt, or modify and then adopt all the impact fees. Susan stated her advice is to do it all at once. The report should go back to the IFAC and let them know the conversation the Council had about transportation impact fees, and you agree it looks high, but it is reasonable and fair. The Council then can ask the IFAC if they have a different recommendation or not. She asked, "Does the Council want to go forward and adopt the recommendations as they are, modify them, or go back to the IFAC and have them address the large-scale development impact fees on the whole thing?"

Gene Townsend said in his opinion it should go back to the IFAC. He stated, "Since they have spent all this time trying to get this right, what are a couple more months? We should try to make it as bullet proof as possible, and happy with, or at least defend in court." George Chancellor agreed. Reagan Hooton asked, "Is that the issue, if someone sues the City over this?" Susan responded that if the reports say large-scale development impact fees will be calculated on a case-by-case basis, the City could have issues in the future. "We will have to go back to the IFAC before we adopt an impact fee ordinance anyway. So should the City go back to the IFAC to get a full report that has a 2025 date on it, or adopt it as is and then go back to IFAC and get an amended report later? I am the one that is going to be in court. If we slow down and get the

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process right, it is easier to defend if the City sends the report and recommendation back once to the IFAC to get a more complete report," Susan recommended. Susan thinks it would be easier for a judge to understand that process, if we ever get sued on impact fees. Reagan asked if someone was going to build a big building, is there a process to allow them to appeal impact fees? Susan answered yes, there is in the impact fee ordinance. Ed Tharp said he thinks we should send it back to the IFAC. Garret Buchanan asked even if we had a clearly defined set of rules, if a large-scale commercial development came in, and we made a ruling on a case-by-case basis, if the next large-scale development came a few years later, and there is a difference in the Councils ruling (different people on the Council) are you are changing the rules on the developers? Susan replied "Yes, essentially case-by-case basis is the legal definition of arbitrary and capricious, because there is not standard on which to judge it." Garret asked if we need to make a motion to kick this back to the IFAC? Susan said you need to decide to adopt the 2024 report or have the IFAC update it and provide you with a 2025 service area report.

Councilman Buchanan moved to recommend that we send this back to the impact fee committee to address the large-scale commercial development assessment. Susan asked if he would like to have them review the transportation impact fees also. Councilman Buchanan answered "Yes". Councilman Townsend seconded the amended motion adding transportation fees.

No Public Comment.

Motion Passed Unanimously

George Chancellor asked, "Do we need to define what a large-scale commercial development is? In terms of square footage or number of offices or bathrooms or what?" Susan said the Council just needs to know how we are going to charge them, and Lee has proposed to calculate it by meter size. Garret said as a plumber, every building has an estimated fixture count and for commercial uses you can get a rough load for every building. He continued that just using the meter size is a really blunt instrument, where a fixture load would be more accurate. The plumbing code chart is in the International Building Codes.

REPORT OF OFFICERS

City Clerk Crystal Turner reported the Chamber has invited the City Council and Mayor to their annual dinner on March 29th, 2025, at the

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Headwaters stockyard from 5PM to 10 PM, if anyone would like to attend, please let her know so she can reserve spots.

City Treasurer Kelly Smith reported we have been going back and forth with Pierce Flooring on what carpet and vinyl for the remodeled City Hall. For Pierce to order the carpet and vinyl they need us to pay \$8,600, the cost of the materials. This expense is not on the claim's approval list tonight, as we just found out they would need a check to place the order. "I would like to pay them for the materials and have it on the next claims approval list as being paid due to timeliness. We also got a quote from Harmon Construction to use the tin from the original old ceiling as a chair rail around the whole building. The estimate is \$4,000. I think it would really add a lot of character to City Hall, to bring the old character into the remodel in some way," Kelly said. Gene asked if the old tin was painted over? Kelly replied "No, it's still original." The Council agreed they liked the idea of taking some of the old tin ceiling tiles out of the attic and using them for decoration. Crystal said we will also have a contract for the drywall that will be billed separately.

City Attorney Susan Swimley did not have anything to report.

REPORT OF COUNCIL COMMITTEES (if any)

Gene Townsend reported the Water and Sewer committee met last Friday to discuss the lead/galvanized service lines. Gene explained they were trying to understand what we are required to do as a city, who is going to pay what, and where the money might be coming from. The City will have 10 years from now to get this project done. Crystal interrupted and said it starts in January of 2028, and we have 10 years from then. The committee wants to recommend that we do what our ordinance says to do, which is that the property owner is responsible for the service line, from the main to the meter. The committee does not think we should make any exceptions. When we do the looping project, replacing one of the old City mains, we should make the adjacent property owner aware of the project, and if they have a line that needs to be replaced, this is a good time for them to do it. Since the City will be doing the main replacement, maybe the contractor could make them a better deal to replace the service line at the same time, while it is already dug up. Gene continued that Kelly provided them with a map of the service lines that are known to have lead, and unknown lines, and will need to be replaced. The map showed there are quite a few on the distribution line replacement project loop. The next question is where would the money come from to replace the service lines? The committee talked about the water department's finances, but when we

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start doing something to help people out of the water fund that money will not last long. The City would then have to decide to look at raising water rates to help people with dangerous service lines. The committee did not think it would be fair to the rest of the property owners that do not have lead lines, to pay higher water rates so the City could pay for service line replacements for those who have lead lines. Garret added we hope to get some estimates of pricing to replace the service lines, so the City could inform the homeowners' in the project area what the cost would be while things are dug up. Kelly added Steve Johnston will give us a price per foot to replace service lines. (Estimate provided was \$50/square foot, but more if they had to go under a sidewalk or driveway.) Randy asked if we will be doing the looping this year? Gene and Garret answered "Yes" in unison. Randy continued, the City should be contacting these people soon, so the street does not have to be ripped up twice. Crystal clarified that the project would be replacing the lines from the main to the curb stop, so the street would not need to be dug up twice. Randy asked Susan Swimley if the curb stop should be moved to the boulevard, instead of on private property. Crystal answered that Susan Hayes and Jessica Salo of Great West were already discussing this.

George Chancellor asked about the park mowing bids. The closing date has not come yet, so it is still open.

UNFINISHED BUSINESS

Water Project

There is no update on the water project.

Flood Project

Kelly and Crystal will both be in Missoula 2/26-2/28, for the Association of Montana Floodplain Managers. They will be presenting on the City's Flood Mitigation Project on Thursday. This will be our test run for our presentation, as we have been accepted to present this at the New Orleans conference. Gene asked if both Crystal and Kelly were going to go? Crystal replied it is expensive, and she might not be able to travel. Great West is going to be doing some boring to test water levels in the potential channel area next week.

NEW BUSINESS

FY2023-2024 Audit Report from Rudd & Company.

Dane Hancock, spoke for Rudd & Company. He thanked the Council for having him. Every year the audit seems to get smoother and smoother, mainly due to Kelly and Crystal.

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Dane started with page 2, which is Rudd & Company's audit opinions. This shows a clean audit opinion except for the fire relief liability that is out there for the pensions. This exception has been on the report for 5 or 6 years but we are able to review what we need to. Dane asked for any comments on this. There were none.

He moved on to page 6, this is the Management Discussion Analysis, or your "reader's digest" version of the full audit. This is a summary of the report in more layman's terms with highlights of the past year and what is coming in the next year.

From there we jump to page 96, this page is the findings. The only one again is the audit finding on the fire relief association liability. This is because the City has looked at the cost benefit of having the study verses just fund the pension. Dane asked if there were any questions. There were no questions.

He went on to explain there will be one more letter issued, it is a required communication from them on how the audit went, any significant items that would be noted will be in there, but just the one finding will be in that.

Councilman Townsend moved to accept the audit report from the auditor.

Councilwoman Hooton second.

Public Comment was not asked for.

Motion Passed Unanimously

Decision Allowing Gene Townsend to Apply for the AARP Community Challenge Grant for the Headwaters Trail System.

Gene said he has decided to apply for this grant. The Council needs a decision to allow Gene to apply for the AARP Community Challenge Grant for the Headwaters Trail System. Gene stated he is trying to get as many benches along the trail as possible. The reason for this is his wife helped him quite a bit with the grant applications and she is a promoter that every ¼ mile there should be a bench to rest for older adults. "The area by the ponds is heavily used by older adults with knee and hip replacement to rehabilitate. It is nice to have a bench where people can sit and rest. I would also like to add some more picnic tables to the pond areas, replace the broken concrete bench, add one near the sand pit where the volleyball net is and one near the dock that is also very heavily used. We will set the picnic tables on a concrete pad and anchor bolt them down," he said. Kelly had recommended, when we were doing the beach expansion area this summer, with the money left over from the Summer

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Recreation Program to include picnic tables and gazebo for shade in that area. Gene has been successful twice before (out of three tries) for the AARP Community Challenge Grant, so he will try again.

Councilman Chancellor moved we allow Gene Townsend to apply for the AARP Community Challenge Grant for the Headwaters Trail System. Councilman Tharp seconded the motion. Mayor Johnston thanked Gene for all his work on the trails.

Public Comment was not asked for.

The Vote was 5:0, with Councilman Townsend abstaining.

PUBLIC COMMENTS/CONCERNS (for items not on the agenda)

There was no public comment for items not on the agenda.

Gloria Howland was thinking about all the snow we have gotten; she remembers way back the City or Fire Department would put out something out about, asking if you live near a fire hydrant to dig it out. Mayor Johnston will talk to Public Works and see if they can dig them out.

MAYOR & COUNCIL ANNOUNCEMENTS

There were no Mayor or Council announcements.

AGENDA ITEMS FOR NEXT COUNCIL MEETING: 3/11/2025 @ the Library

- Possibly the Resolution to Adopt the Impact Fee Advisory Committee's Recommendations for Updated Impact Fees for New Construction and Changes of Use

ADJOURNMENT

Motion to adjourn the meeting was made by Councilman Chancellor, seconded by Councilwoman Hooton. The meeting was adjourned by acclamation at 7:07 P.M.

Randy Johnston, Mayor

Crystal Turner, City Clerk