

**** Page 1** A SUMMARY OF PROCEEDINGS OF THE CITY COUNCIL MEETING
CITY OF THREE FORKS, MONTANA, FEBRUARY 24TH, 2026**

FEBRUARY 24TH, 2026, The Three Forks City Council met at the Three Forks City Hall at 206 S. Main Street and via Zoom. (Zoom is a virtual meeting tool that 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 chaired by Mayor Randy Johnston, who called the meeting to order at 6:00 P.M.

ROLL CALL: City Council members Alex Blackburn, Reagan Hooton, Gene Townsend, Ed Tharp, (Warren) Garret Buchanan, and Robert Buchholz were present. City Attorney Susan Swimley, City Treasurer Kelly Smith, City Clerk Crystal Turner were present at City Hall; no staff attended via Zoom.

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: George Chancellor and Gloria Howland were present at City Hall. Bob Duchon and Tom Duchon (attorneys representing Three Forks to draft telecom ordinances) were present via Zoom.

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

There were no public comments or concerns about items not on the agenda.

CONSENT AGENDA

- a. Claims Paid due to Timeliness on 2/13/2026 for \$30,060.51
- b. City Claims to be Paid
- c. Three Forks Rodeo Arena Claims to be Paid
- d. Council Minutes of 2/10/2026
- e. Service Agreement with Patriot Heating & Air to Install HVAC in Wellhouse (\$25,498 - signed by Mayor on 2/9/2026)

Councilman Townsend moved to approve the Consent Agenda. Councilman Tharp seconded the motion. George Chancellor asked if the wellhouse was a large building. Crystal Turner said no, it is fairly small. Susan Swimley added it will house a lot of specialized and temperature-sensitive equipment.

Motion Passed Unanimously.

PUBLIC HEARINGS

Public Hearing Decision on a Second Reading of an Ordinance Creating Title 11, Chapter 29: Regulations for the Use of the Right-of-Way by Providers of Telecommunications Services

Mayor Johnston turned it over to City Attorney Susan Swimley who provided a synopsis of each section of the ordinance, just as was presented at the 2/10/2026 public meeting. She informed the Council, "We received comment from Visionary, and we appreciate those comments." She asked if Visionary on Zoom? Kelly Smith replied no. Susan recommended the Council return to first recapping the ordinance process, then ask for public comment, and then allow the Council to respond to any public comment.

Susan stated, "Visionary had a comment on 11-29-8.H regarding the graffiti we discussed at the last meeting. They state the language in the ordinance does not specifically require graffiti removal and is too broad." Reagan Hooton asked that each of Visionary's comments be addressed as we go through. Susan continued that the Council modified that section to state the City would give them 30-days' notice to clean up graffiti on any pedestal or cabinet that they own, which would be located in the City's public right-of-way, and would be their responsibility to clean up. "We added that after 30-days' notice it was not cleaned up, the City could remove the graffiti and charge that cost back to the owner of the equipment," Susan said. Visionary's next comment was on 11-29-8.J, "This goes back to the private property disturbances. Their comment is that it is between the specific property owner, and that would be a contract between those two parties. I agree if they disturb a fence or gate or whatever. In that situation, if the public wanted us to intervene in their private contract, I would decline. But this deviates if it were to go outside the private property and somehow onto the public property - this would (insurance claim 610)." She provided the example for water line work done in Bozeman last year between June-December, but in the meantime the contractor backed over a neighbor's mailbox twice. The contractor made the neighbor prove it through pictures and would not stand behind that their operators ran over the mailbox and denied the damage. "I would like the City of Three Forks to have some leverage in those situations," Susan said. Robert Buchholz said he has witnessed contractors spin an excavator around and hit something. Section 11-29-9 is regarding the franchise agreement. "The answer is yes, everyone would still get a specific franchise agreement to address exactly what they are doing, so the City can mitigate and address it appropriately," Susan explained. Garret Buchanan clarified that they were asking if this ordinance covers their franchise agreement. Susan replied franchise agreement will mirror the ordinance, but will carry out the specifics. Garret confirmed, "The ordinance is the guideline/rails, and the franchise agreement is a contract to carry out those guidelines?" Susan replied yes.

She continued, "Section 11-29-33.A is regarding the security fund. This is not the performance bond for the construction. This is an additional security fund which we MAY ask them for, and can be adjusted by the Mayor up or down. It will be provided by a letter of credit or a bond." Susan

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agreed with Visionary's comment that it could be considered discriminatory, but the government will have to prove the rationale basis of their difference. She provided an example of an A+ rating for an insurance carrier. "This additional security fund can also cover the removal of their equipment if we so decide for valid reasons. Yes, the Mayor could do something discriminatory, but he has all of you and all the staff to discourage him from doing that and put the City in a liability situation," Susan said. They were also concerned of the City holding this security fund for a long period of time; they aim to avoid any increases that negatively impact their customers. Yes, holding it for the additional period is non-standard. I think Tom or Bob could speak to another city (a bigger municipality) that retains it as long as the infrastructure is in the ground. Anything is subject to challenge, but we are relatively comfortable that whatever the cost of a performance bond, like 3% of \$50,000, I personally do not think that is particularly onerous. Especially when we discussed at the last meeting the cost of removal of any infrastructure being so costly. I would encourage you to ask Bob or Tom any questions about these provisions."

Gene Townsend asked, "When they say discriminatory, are they saying we may ask one contractor and not another?" Susan Swimley answered yes, it could be, but that is one of the scenarios that may happen. Alex Blackburn asked if the Council could we change the wording to be *held up to five years at the Mayor or Council's discretion* could be altered. Susan answered, "Keeping that security is always for the benefit of the City, so at any point if the City wants to release it, it could. We think it is covered in the discretion. My preference is, you pass the ordinance as it is, and then ask Bob/Tom to dive deeper to see if we need to modify the ordinance with some discretionary language." Robert Buchholz said he thinks the language already covers allowing the City to release it early. Garret Buchanan asked Bob and Tom if holding the bond for an additional 5 years is uncommon. "What are other municipalities' reasons for holding that bond longer?" Garret asked. Tom Duchen replied one city requires he knows of (which he is not advocating for here), providers need to keep a bond for 135-150% of the cost of removal of facilities. "The provider would not do that typically because there could be damage to city property, loss of their infrastructure; I would have to re-read their adopted code. I would say the city having this, with the discretion clause, gives you the flexibility." Bob Duchen said two years (warranty) plus five years is longer than other municipalities, but the language still includes the flexibility to waive the requirement if your city so chooses. "Until the actual construction takes place, you don't know how this will play out yet," he said.

Robert said, "Coming in from an IT perspective, \$50,000 is nothing. That is a quarter-mile of fiber, if that. It's nothing for these companies." Gene Townsend asked. "When we allow someone to run this fiber, and in the near future they sell their company to another, what are our protections? Would they have to follow the same path we laid out in the original

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franchise agreement?" Susan Swimley replied yes, the rules we imposed in the ordinance and the contract agreed to, they would have to adhere to that agreed upon contract terms. Bob Duchen said he likes the "up to five years" suggestion, and added the Council may want to consider as an amendment.

There was no public comment.

Councilman Buchanan moved to pass this second reading of ordinance #413-2026, an ordinance creating Title 11, Chapter 29: Regulations for the use of the right-of-way by providers of Telecommunications Services, providing for fee payment requirements, providing for fees and penalties for violations of the regulations; providing for the severability of this ordinance; and providing an effective date. Councilman Buchholz seconded the motion.

Motion Passed Unanimously.

Public Hearing and Decision on a Second Reading of an Ordinance Creating Title 11, Chapter 30: Small Cell Regulations

City Attorney Susan Swimley reported this ordinance is the same as it was read during the last meeting. She reported there were no written comments received on this ordinance.

There was no public comment nor Council questions/discussion.

Councilwoman Hooton moved to pass the second reading of Ordinance #414-2026, an ordinance of the City of Three Forks, Montana, establishing Chapter 30: Small Cell Regulations to Title 11 Zoning Regulations of the City Code. Councilman Buchholz seconded the motion.

Motion Passed Unanimously.

REPORT OF OFFICERS

City Clerk Crystal Turner reminded Reagan Hooton of the DDAMP meeting she volunteered to attend on behalf of the City is this Thursday.

City Treasurer Kelly Smith informed the Council that Great West Engineering has invited them all to their appreciation dinner during Montana Rural Water System conference next month in Billings.

REPORTS FROM COUNCIL COMMITTEES (if any)

Gene Townsend reported he met with the landowners for the Jefferson River Flood Mitigation easements last week and provided the draft easement language and is awaiting feedback from the landowners.

NEW BUSINESS

There was no New Business.

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UNFINISHED BUSINESS

There were no Unfinished Business.

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

There were no public comments or concerns that were not on the agenda.

MAYOR AND COUNCIL ANNOUNCEMENTS

Mayor Johnston said next time he will report on the street status - he is waiting on feedback and data from the Public Works department on the streets that are all torn up and need patching and chip seal.

The next meeting will be on March 10, 2026, and will have the following items:

- Richard Clarke Conditional Use Permit application for a wood working business on MT Hwy 2

ADJOURNMENT

A motion to adjourn the meeting was made by Councilman Tharp. Seconded by Councilwoman Hooton. Meeting was adjourned 6:36P.M. with a bang of the Mayor's gavel.

Randy Johnston, Mayor

Crystal Turner, City Clerk