

Regular City Commission Meeting

Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE – Civil Air Patrol

MOMENT OF SILENCE

ROLL CALL: City Commissioners present: Michael Winters, Bob Jones, Bill Bronson, Fred Burow and Mary Jolley. Also present were the City Manager, Deputy City Manager, City Attorney, Directors of Fiscal Services, Park and Recreation, Planning and Community Development, the City Engineer, Fire Chief, Police Chief and the City Clerk.

PROCLAMATIONS: Mayor Winters read proclamations for Care Enough to Wear Pink Day, White Ribbons Against Pornography Week and Optimist International Weekend.

PRESENTATIONS: Mr. Bill Bahr, Montana Water Environment Association, presented Mr. Wayne Robbins from Veolia a safety award.

Cyndi Baker introduced winners of the K-9 naming contest, as well as announced the chosen names – Shep and Zeus.

**** Action Minutes of the Great Falls City Commission. Please refer to the audio/video recording of this meeting for additional detail. ****

NEIGHBORHOOD COUNCILS

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Aaron Weissman, NC 7, commented that the council expressed concerns about crime at its last meeting. Mr. Weissman inquired where the policy came from and how much money was saved by closing the Natatorium on Fridays.

BOARDS & COMMISSIONS

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Cyndi Baker, Advisory Commission on International Relationships, extended an invitation to a presentation entitled “Redhorse – a Global Phenomenon,” October 25, 2011, at 6:00 p.m. at MSU-COT. Captain Graham Auten will be speaking on the positive impact the Redhorse has on global communities.

PUBLIC HEARINGS

3. RESOLUTION 9945, TO ADOPT THE DOWNTOWN MASTER PLAN AS AN ATTACHMENT TO THE 2005 CITY OF GREAT FALLS GROWTH POLICY.

Planning and Community Development Director Mike Haynes reported that this is a request to adopt Resolution 9945 to adopt the Downtown Master Plan as an attachment to the 2005 Growth

Policy. Planning staff initiated and facilitated the process with generous assistance from volunteers in other City departments. Planning staff also assembled the final master plan document. However, the content of the plan is entirely that of the 100+ community members that devoted their time and talents to the year-long process of visioning and creating a plan that reflects a broad consensus of the group. The five goals, 26 objectives and 82 strategies in the plan are all intended to lead to an active, vibrant, livable, visually-appealing and economically-strong downtown. It proposes mechanisms for bringing stakeholders together and for funding and managing downtown improvement projects, and provides timeframes for implementation and potential partners to work toward those common goals.

The Planning Advisory Board unanimously recommended that the City Commission adopt the Downtown Master Plan at a public hearing held on September 13, 2011.

Mayor Winters announced that Agenda Item 3 – Resolution 9945, as well as Agenda Item 7, Resolution 9900, were modified after original posting. The postings were updated on the City's website and updated copies are available on the table.

Mayor Winters declared the public hearing open.

No one spoke in opposition to Resolution 9945.

Speaking in support of Resolution 9945 were:

Steve Malicott, Great Falls Area Chamber of Commerce, 100 1st Avenue North, commended City staff for blending all of the focus groups' input into a cohesive document.

Sheila Rice, NeighborWorks, 509 1st Avenue South, commended staff for the award winning plan, and was delighted to see residential blocks in the planning area and a strong downtown living component.

Jeremiah Johnson, Great Falls Development Authority, feels this is a positive step for securing Great Falls' economic future.

Jane Weber, 701 4th Avenue North, on behalf of Get Fit Great Falls, commented that the organization stands ready to assist with furthering any actions the City Commission would like to do with the Complete Streets implementation. The organization collaborated with the City/County Health Department to look at developing a grant submission that, if successful, would assist with the Complete Streets implementation in the future. As a member of the County Commission, Ms. Weber commented it was nice to see the transparency and public involvement in decision making processes like this.

Joan Redeen, Business Improvement District, 13 5th Street North, expressed kudos to City staff for facilitating this project. The BID is ready to work on implementation and is excited to move forward.

Carol Bradley, 1826 3rd Avenue North, member of the Historic Preservation Advisory Commission and served on the Vitality Committee for the Downtown Master Plan, echoed comments in support and commended Planning and Community Development staff. Ms. Bradley commented there is a

lot to do to make downtown a destination place. There is great momentum as a result of this Plan, and she encouraged the Commission to act on this momentum.

Martin Fleck, Community Relations Director of the Downtown Great Falls Association, 13 5th Street North, commented that, on behalf of the 120 businesses and other organizations located downtown or that are friends of downtown, the Association is ready to play a part in making the Plan become a reality.

Sherry L. Gallagher, 141 Bootlegger Lateral, member of the Get Fit Great Falls Committee and Complete Streets Committee, urged Commission support of making downtown accessible for all. Being able to get out and bike and walk supports nutrition, health and wellness.

Mike Witsoe, 510 11th Street North, suggested getting rid of parking meters or lowering parking meter rates.

John Juris, 220 Woodland Estates, expressed that the Complete Streets policy would show that Great Falls is the kind of community that encourages people to use active transportation rather than focusing on cars.

There being no further comments, Mayor Winters declared the public hearing closed.

Commissioner Bronson moved, seconded by Commissioners Burow and Jones, that the City Commission adopt Resolution 9945 to adopt the Downtown Master Plan as an attachment to the 2005 City of Great Falls Growth Policy.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Bronson commented it was a delight to see the community involvement. The Plan sets out some ambitious goals. He was pleased to hear some groups say they were prepared to start implementing the Plan. He thinks it will be a major undertaking over the next several years.

Commissioner Burow commented it was refreshing to hear positive public comments acknowledging City staff.

Motion carried 5-0.

4. **SERVICE DISTRICT NO. 4 OF THE UPPER/LOWER RIVER ROAD WATER & SEWER DISTRICT. OF 1354.4.**
 - A. **RESOLUTION 9943, ANNEXES SAID PROPERTY.**
 - B. **ORDINANCE 3081, ASSIGNS CITY ZONING OF R-3 SINGLE-FAMILY HIGH DENSITY ZONING.**

Planning and Community Development Director Mike Haynes reported that this is a request to take final action on annexing and assigning R-3 Single-Family High Density zoning to the 57 properties in Upper/Lower River Road Water & Sewer District No. 4. The Upper/Lower River Road Water & Sewer District (the "District") is responsible for establishing service areas, gathering signatures

authorizing annexation, submitting the annexation request to the City, and funding and coordinating water and sewer system projects with Public Works. The District has submitted signed annexation petitions from 65% of registered electors owning real property in Service District No. 4 which allows the District to request, and the City to process, the application for annexation and initial zoning. Public Works has now determined that properties in District No. 4 will be able connect to the regional sewer line.

On July 26, 2011, the Zoning Commission recommended that the City Commission assign R-3 zoning to the subject properties upon annexation.

Mayor Winters declared the public hearing open.

No one spoke in opposition to Resolution 9943 and Ordinance 3081.

Speaking in support of Resolution 9943 and Ordinance 3081 was **Roland Leitheiser**, Vice-President of the Upper/Lower River Road Water & Sewer District, residing at 136 Sharon Drive.

There being no one else to address the Commission, Mayor Winters declared the public hearing closed.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9943.

Mayor Winters asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

Commissioner Jones moved, seconded by Commissioners Burow Jolley, that the City Commission adopt Ordinance 3081.

Mayor Winters asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

5. CONTRACT AWARD, TREE AND STUMP REMOVAL PROJECT.

Park and Recreation Director Marty Basta reported that this item is to award or reject a contract in the amount of \$251,008 to Rocky Mountain Tree Care Specialists for the removal of 592 Green Ash trees and stumps. The trees were killed by frost in October of 2009 and the damage is covered by the City's property insurance carrier MMIA.

A bid opening for the project was held on September 21, 2011, with three bids received. Boland Well Systems submitted the low bid of \$240,994, Rocky Mountain Tree Care Specialists submitted

the second lowest bid of \$251,008, and Dr. Lawn Care Landscapes bid was \$348,297.28. Staff requested that the bid award be postponed at the October 4th Commission meeting to allow additional time to perform due diligence and further evaluate the bids with the bidders. Staff met with the President of Rocky Mountain Tree Care Specialists, Cory Guthmiller, and the President of Boland Well Systems, Inc., Paul Boland, on October 4th and 5th to discuss their experiences and qualifications concerning this project.

Mr. Boland explained that he was trying to diversify his well system business and would be hiring an experienced crew of seven and renting or buying the necessary equipment for the tree removal project. An issue to consider is whether or not Boland Well Systems is ready to take on a tree removal project of this magnitude. The nearly 600 Green Ash trees to be removed are largely in residential neighborhoods with many being obstructed by homes and fences. Both the City Risk Manager and the City Forester have expressed concerns regarding Boland's approach and ability to complete this project safely.

Rocky Mountain Tree Care Specialists has a crew of 13 experienced employees, including three certified arborists, as well as a fleet of specialized tree removal equipment. They have satisfactorily completed a similar large tree removal project in 2010.

After considering the merits of both bids, staff recommends that the Commission award the contract to Rocky Mountain Tree Care Specialists.

Commissioner Burow moved, seconded by Commissioner Jones, that the City award a contract in the amount of \$251,008 to Rocky Mountain Tree Care Specialists for the Tree and Stump Removal project and authorize the City Manager to execute the agreement.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Bronson inquired if the Commission was bound to accept the low bid.

City Attorney James Santoro reviewed the competitive bid statute for projects in excess of \$50,000. He further discussed case law dating back to 1912 that declared the provision of law for letting contracts to the lowest bidder is for the benefit of the public and does not confer any right upon the lowest bidder as such. As the ultimate decision maker, the Commission has discretion in the award.

Commissioner Bronson inquired if staff based its decision on the distinction between accepting a bid from one who employs people full-time as opposed to someone that sub-contracts.

Mr. Basta responded that Mr. Boland indicated it was his intention to hire qualified employees to conduct the work, as well as to either rent or purchase the equipment. The City Forester and Risk Manager expressed concern that Mr. Boland wasn't specific regarding who he was going to hire, their qualifications, and where the equipment would come from. Staff, having experience with Rocky Mountain, knowing they have three arborists, 13 qualified employees and the necessary equipment, recommended Rocky Mountain even though they are a higher bidder.

Commissioner Bronson inquired if the concern was discussed with Mr. Boland that 50% of his projects for tree and stump removal came in over budget.

Mr. Basta responded that Mr. Boland assured him that, as long as the number of trees didn't change, his company would not go over budget. The City's insurance provider will not provide additional funds beyond the contract amount.

Commissioner Jolley inquired why two bidders submitted bid bonds, and Rocky Mountain provided a cashier's check. Commissioner Bronson and Mr. Santoro responded that per statute it is appropriate to submit a bid bond, cashier's check or irrevocable letter of credit.

Commissioner Burow inquired about the equipment list submitted by Mr. Boland.

Mr. Basta responded that after the interview Mr. Boland provided a letter explaining how he would supplement the list of equipment he originally provided with his bid.

Mayor Winters asked if there were any inquiries from the public.

Ed Boland, 4601 7th Avenue South, spoke in support of awarding the contract to Paul Boland of Boland Well Systems. Mr. Boland commented that the bid bond received from an insurance company guarantees that the contract will be performed to the satisfaction of the City. Paul Boland has a crew ready to work, experienced people and equipment lined up, and has the financing available to perform this work.

Paul Boland, President of Boland Well Systems, 3605 Fairway Drive, provided and read a statement. He expressed that he received a bid package unsolicited from the City, submitted the lowest responsible bid, has the expertise, manpower and equipment to complete the contract, and has the bonds and insurances that guarantee the contract will be completed.

Cory Guthmiller, President of Rocky Mountain Tree Care Specialists, 2423 4th Avenue South, expressed the importance of having the right qualifications to do a job of this magnitude on public and private property. He pointed out that a wood chipper is a vital piece of equipment that was not listed by Mr. Boland. Mr. Guthmiller reported that his company removed 781 trees in 59 days last year for the City of Great Falls without any complaints from the City, the insurance company or City residents. He urged the Commission to keep that in mind, and to make the right decision.

Ed McDonald, 109 14th Street South, commented that he is a qualified stump grinder hired by Mr. Boland with over 12 years experience.

Dave Boyken, 911 14th Street SW, owner of Dave's Tree Service for the last 28 years, discussed the equipment he owns, his qualifications, insurance, and lack of complaints about his work.

Brian Heagy, owner of Circle B Saw & Tree in Fairfield, discussed his equipment and 25 years' experience without any complaints or insurance claims. He urged the Commission to take into account the people and equipment that Mr. Boland has subcontracted with.

Mike Witsoe, 511 10th Street North, suggested that this item be postponed for two weeks if the Commission has any questions about the qualifications, equipment or references of Mr. Boland or Mr. Boyken.

Commissioner Jolley inquired and was informed that should the original motion fail, another

motion could be made.

Commissioner Burow expressed concern about the lack of equipment and manpower submitted on Mr. Boland's bid compared to the other company. The Request for Bids asks for a list of the number, size, and type of equipment, and the number and type of personnel that would be used on the project.

Commissioner Jones received clarification from Mr. Boland that he would employ Dave's Tree Service employees and rent his equipment. Mr. Boland commented that the discussion regarding equipment is irrelevant because it was not specified in the bid requirements.

Mr. Basta responded that the critical items are listed on the bid tabulation, but the list of equipment and personnel was requested to help staff evaluate the bids. Staff looks at more than just the bid price when evaluating bids to determine qualified bidders.

Jay Lewis, 325 Riverview 3 West, employee of Rocky Mountain Tree Care, commented that, as an experienced tree cutter and groundsman, he would not work for Boland based on his list of equipment. He also doesn't think it's fair to allow Mr. Boland to add on to what he originally submitted. Rocky Mountain already has the equipment and the staff available.

Ron Gessaman, 1006 36th Avenue NE, pointed out a typographical error in the year that Rocky Mountain completed a prior project in the agenda report.

After further discussion amongst the Commission, Mayor Winters called for the vote.

Motion failed 1-4 (Mayor Winters, Commissioners Jolley, Jones and Bronson dissenting).

Mayor Winters inquired if the Commission would entertain a motion to accept the lowest bid.

Commissioner Jolley moved, seconded by Commissioners Bronson and Jones, that the City award a contract in the amount of \$240,944 to Boland Well Systems, Inc. for the Tree and Stump Removal project and authorize the City Manager to execute the agreement.

Mayor Winters asked if there was any further discussion amongst the Commissioners. Hearing none, Mayor Winters asked if there were any comments from the public.

Cory Guthmiller suggested that the City interview the contractors and inspect the equipment as set forth in the bid documents. He also pointed out that Mr. Boland's unit price of \$407 is the same unit price that Rocky Mountain submitted last year. Mr. Guthmiller reported that he personally inspected the 592 trees and made notes on each how to set up and perform traffic control. He urged the City to inquire if Mr. Boland has done the same.

Mike Witsoe commented that an unidentified lady came in to state there was no sound of this meeting on television.

Mr. Doyon responded that City 7 is experiencing audio difficulties.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 4-1 (Commissioner Burow dissenting).

City Clerk Lisa Kunz commented that the meeting would re-air on City 7 tomorrow if a DVD with audio could be downloaded.

Mayor Winters called for a short recess at 8:47 p.m., and called the meeting back to order at 8:54 p.m.

ORDINANCES/RESOLUTIONS

6. ORDINANCE 3082, AMENDING TITLE 13 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.

City Engineer Dave Dobbs reported that the U.S. Environmental Protection Agency requires the development of local limits of wastewater pollutants that could interfere with the treatment system, the collection system or the safety of workers. Local limits are numerical limitations on certain pollutants that major commercial and industrial facilities are allowed to discharge to the City's wastewater treatment facilities. Local limits are developed to meet pre-treatment program objectives and are site specific to meet standards of the City's wastewater treatment facilities and to protect the receiving stream. The Environmental Protection Agency has approved the new local limits, published the legal notice in the *Tribune* for public comment and no public comments were received.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3082 on first reading and set final reading for November 1, 2011, to consider adoption of Ordinance 3082.

Mayor Winters asked if there was any discussion amongst the Commissioners or any inquiries from the public.

Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

Mr. Doyon noted that federal and state requirements were discussed during the budget cycle. Capital is driven by requirements such as these.

Mayor Winters inquired if Mr. Witsoe knew the lady's name or address that came to the chambers due to the television audio problems so that he could contact her. Mr. Witsoe did not know her name, but gave a general location of her address.

7. RESOLUTION 9900, TERMINATING A \$100,000 FINANCIAL ASSURANCE RESERVE FUND IN THE ELECTRIC UTILITY FUND AND AUTHORIZING THE RETURN OF \$100,000 TO THE GENERAL FUND.

City Manager Greg Doyon reported that Resolution 9568 required a deposit to be held to serve the pilot program customers. The pilot program expired. Adoption of Resolution 9900 would return the \$100,000 to the general fund.

Commissioner Jolley moved, seconded by Commissioners Burow and Jones, that the City Commission adopt Resolution 9900.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Jolley noted that one of the “whereas” clauses was deleted.

Mayor Winters asked if there were any inquiries from the public.

Ron Gessaman, 1006 36th Avenue NE, commented that this action should have been taken two years ago.

Motion carried 5-0.

8. RESOLUTION 9946, TO REVISE THE FEE SCHEDULE FOR GREAT FALLS FIRE RESCUE AND SUPERSEDING RESOLUTION 9465.

Fire Chief Randy McCamley reported that this resolution will increase fees associated with certain services and activities provided by the Fire Department, such as rental of the City’s Fire Training Center, production of reports, billable hazardous materials incidents, Fire Department safety standbys, and court ordered restitution for arson convictions.

Commissioner Jolley moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 9946.

Mayor Winters asked if there was any discussion amongst the Commissioners or inquiries from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

CONSENT AGENDA

9. Minutes, October 4, 2011, Commission meeting.
10. Total expenditures of \$1,614,001 for the period of September 24 through October 12, 2011, to include claims over \$5,000, in the amount of \$1,343,287.
11. Contracts list.
12. Set public hearing for November 1, 2011, on the lease for park land to the Westside Little League Association.
13. Approve Professional Services Agreement in the amount of \$85,000 to DOWL HKM for the South Great Falls Storm Drainage Master Plan. **OF 1554**
14. Award contract to United Materials of Great Falls, Inc. in the amount of \$445,973 for the Northeast Regional Stormwater Pond Pumping Station and Drain. **OF 1476.3**

15. Approve School Resource Officer Services Agreement with the Great Falls Public School District.
Commissioner Jolley moved, seconded by Commissioner Burow, that the City Commission approve the Consent Agenda as presented.

Commissioner Jolley inquired about the "Material Down Payment 1200 6th Avenue North," listed under Federal Block Grants on Item 10. Mr. Haynes responded that he would provide the Commission with that information.

Mayor Winters asked if there was any further discussion amongst the Commissioners. Hearing none, Mayor Winters asked if there were any inquiries from the public.

Ron Gessaman, 1006 36th Avenue NE, commented that he could not find the City's Architect, Engineer and Surveyor Selection Policy on the website that was referred to in Agenda Item 13.

With regard to Item 14, Mr. Gessaman inquired if underground installation of piping has repercussions for the potential sale of the north end of Skyline Park for housing or any development at that park.

Mr. Dobbs responded that a pipeline will be installed across Skyline Park. If the park is developed there would need to be an easement retained.

Mr. Gessaman concluded that it seems to him that the property would have less value for sale or development with a pipeline going through it.

Judy Tankink, 3620 9th Avenue North, inquired about Item 10 line item payments for neuropsychology services and the Half Time Sports Bar.

Mr. Doyon responded that he would research those items. Because it is hard to recall things that are not in front of him at the meeting, Mr. Doyon encouraged people to call ahead of time and the research would be provided.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 5-0.

PETITIONS AND COMMUNICATIONS

16. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

- A. **Mike Witsoe**, 510 11th Street South, thanked the Commission for the contract award to Mr. Boland. He discussed a tree that Dr. Lawn cut down on 3rd Avenue North between 6th and 7th Streets, and inquired whether the stump could be ground for the residents to install sod. He thanked everyone for attending the candidate debate and encouraged citizens to vote. Mr. Witsoe thinks a cell phone ordinance should be a Commission priority.

Commissioner Burow inquired who Mr. Witsoe was representing and the address regarding the tree

stump removal.

Mr. Witsoe referred him to Mr. Basta or Mr. Santoro for that information.

- B. Ron Gessaman**, 1006 36th Avenue NE, requested that City staff be instructed not to use cell phones in City vehicles. Mr. Gessaman urged the Commission to pay attention to the amount in the City's general fund reserve.

CITY MANAGER

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon reported that he and Commissioner Burow attended the open house at the Airport to learn about the potential for expansion of the terminal and address security issues.

He and Commissioner Jones will be attending the Southern Montana Board meeting on Friday. A couple of items on the agenda are consideration of a rate increase and a closed session to discuss their financial status and litigation. City officials have not been attending the closed sessions.

CITY COMMISSION

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Burow noted that he would not be at the agenda setting meeting next week.

Mayor Winters discussed a request from the mayor of Shelby for a letter of support for a grant application for the Port of Northern Montana. Ms. Kunz noted she would email the information to the Commissioners.

Mayor Winters also reported that he and Deputy City Manager Jennifer Reichelt discussed placing service clubs' logos and signs at entryways to the community at a Rotary Club meeting. Another meeting is scheduled tomorrow morning at Lippi's Restaurant with a representative from the Montana Highway Department.

ADJOURNMENT

There being no further business to come before the regular Commission meeting, **Commissioner Bronson moved, seconded by Commissioner Jones, that the regular meeting of October 18, 2011, be adjourned at 9:26p.m.**

Motion carried 5-0.

Mayor Winters

City Clerk

Minutes Approved: November 1, 2011

10/18/2011

