

JOURNAL OF COMMISSION WORK SESSION
May 3, 2011

City Commission Work Session

Mayor Winters presiding

CALL TO ORDER: 5:45 p.m.

ROLL CALL: City Commissioners present: Michael J. Winters, Bill Bronson, Fred Burow, Mary Jolley, and Robert Jones. Also present were the Deputy City Manager; City Attorney; Directors of Fiscal Services, Park and Recreation, Planning and Community Development, and Public Works; Executive Director of the Housing Authority; Police Chief; and the Administrative Secretary.

1. PROVISIONALLY ACCREDITED LEVEE (PAL) AGREEMENT

Planning and Community Development Director Mike Haynes provided a PowerPoint presentation on the West Great Falls Levee. Mr. Haynes reported that FEMA is requiring the West Great Falls Flood Control & Drainage District (District), the City of Great Falls, and Cascade County sign a PAL (Provisionally Accredited Levee) Agreement by May 13, 2011. The agreement only becomes effective if all parties sign.

Mr. Haynes explained the District includes 865 properties in low-lying areas generally on the north side of the Sun River, close to the confluence with the Missouri. Total area is approximately ±221 acres. 535 properties are in the City Limits, and the remaining properties are in unincorporated Cascade County.

Mr. Haynes reported the Army Corps of Engineers (ACOE) have historically inspected and accredited levees; as a federal policy, they are no longer doing that. Also, FEMA is updating their maps in the State of Montana, assisted by the Department of Natural Resources and Conservation. They are converting their maps into a digital format called DFIRM (Digital Flood Insurance Rate Maps).

The PAL Agreement states that the District is the owner of the levee and will take responsibility for accrediting the levee. The District must provide FEMA data and documentation showing the levee meets federal standards (44 CFR 65.10) by May 13, 2013, a two-year window to provide the information. Failure to comply will result in the properties in the District being shown in the floodplain on the DFIRM maps.

Mr. Haynes referenced a slide of the District with the levee accredited, showing an area protected from flood. He also showed areas in the 100-year and 500-year floodplains now considered by FEMA to be protected by the levee that would no longer be considered protected if the levee is decertified.

The PAL Agreement confirms the City and County understand the DFIRM process, that data and documentation must be provided by the District by May 13, 2013, and failure to do so will result in a change to the DFIRM map showing those properties as in the floodplain.

Signing the PAL gives the District two years to provide FEMA data and documentation showing the levee meets federal standards, thereby providing adequate flood protection. Not signing the PAL will result in DFIRM maps showing the properties in the District to be in the floodplain. The majority of the properties will be in the 100-year floodplain, with a few in the 500-year floodplain.

Mr. Haynes reported members of the District attending the May 2, 2011 meeting voted unanimously to approve the PAL, with concerns of how that will affect the District over the long term. The major concern of signing the PAL was that the District wouldn't be precluded from having the levee accredited by the ACOE should they start accrediting levees again. He believes that concern was cleared up for most people in attendance. The other concern is the cost of accrediting levees over time. If the ACOE doesn't reverse their policy, it will be the District's responsibility to accredit the levee.

Mr. Haynes believes the concerns were outweighed by the fact that if the DFIRM shows the District as "without levee" protection, flood insurance rates could triple or more. Rates vary by insurance company, but are generally based on property valuation, type of improvements, and elevation. He noted flood insurance is not mandated unless required by a mortgage company. There was discussion about the number of properties owned free and clear which could mean only a portion of the property owners would have to raise revenues to accredit the levee.

If the PAL is not signed by all three parties, FEMA will release preliminary maps to communities within 6 months; allow for appeals, comments, and resolution to any appeals that arise within 12 months; and, issue a letter of Final Determination within 18 months. At that time, the DFIRM maps will have an immediate effect on property insurance rates.

If the PAL is signed, the District will have an additional two years to resolve the problem of accrediting the levee, plus the 18 months going through the FEMA process. Mr. Haynes noted that it is important the District address the issues.

Mr. Haynes stated that if the efforts to reverse the ACOE policy are unsuccessful, the District will be responsible for funding and coordinating the periodic inspections of the levee, necessary capital improvements, certification by a qualified and insured structural and civil engineering group, and routine maintenance that has been done since construction of the levee in 1978.

Mr. Haynes noted there are few groups in the country that have the qualifications to certify levees, as well as the insurance and bonding to take on the risk of a potential lawsuit. The alternative is for the properties in the District to be mapped through DFIRM as being in the floodplain, and they will be paying higher rates.

Mr. Haynes stated that signing the PAL will give the District time to seek resolution to the ACOE issue and confirms that responsibility for the West Great Falls Levee lies in the hands of property owners in the District and their elected District Board. He added there is an item on the City Commission Agenda at 7 p.m. requesting the City accept and sign the PAL Agreement. The County Commission will consider signing the PAL Agreement at their next meeting on May 10, 2011.

Commissioner Jolley noted the County at their meeting May 2, 2011 stated they will sign the

agreement. Mr. Haynes noted the County has signed the agreement with the Vaughn District and believes they intend to sign this agreement as well. Mayor Winters added Cascade County Commission Chairman Bill Salina stated their intent is to sign the agreement.

Commissioner Burow asked why everyone in the District would not be paying for the certification. Mr. Haynes explained the District currently assesses property owners for the maintenance of the levee (\$50,000-\$70,000/year). He doesn't believe a property owner is committed to being assessed.

Commissioner Burow asked why the City would consider signing an agreement that would have no repercussions if not signed. Commissioner Jolley explained there was an earlier fear that the City would be responsible, but the language in the PAL Agreement is clear; the City and the County will not be held liable if the accreditation doesn't happen within the two-year timeframe.

Mayor Winters explained that Congress is trying to get the ACOE to certify levees, and they need the extended time. Mr. Haynes agreed the District will have two more years for a change to be made to the ACOE policy or prepare to get levee accreditation. The agreement also clarifies that the responsibility for the levee lies in the hands of property owners in the District and their elected board members.

Mr. Haynes explained the levee is within the jurisdiction of the City of Great Falls and Cascade County and the federal government wants to know that the City and the County are aware of the condition. Commissioner Jolley added that building permits are not issued within a floodplain.

City Attorney Jim Santoro stated that all jurisdictions and interested parties are involved. Two distinguishing factors with the PAL Agreement include giving an understanding that the levee owners will compile documents and data, and that the City holds no warranty as to how the levee will perform in a flood event. Mr. Santoro added the City wants the Commission to be involved as an interested party. Mr. Santoro stated he affirms the signing of the agreement.

2. RECREATIONAL VEHICLE DISCUSSION

Deputy City Manager Jennifer Reichelt provided a PowerPoint presentation on parking of recreational vehicles in neighborhoods, along with a draft of a proposed recreational vehicle code. She explained the issue has been driven by citizens and has been a concern in many neighborhoods for at least the past three years.

Ms. Reichelt reported the issue creates a safety hazard; limits liability; restricts sight distance; makes it difficult for drivers to see pedestrians/cyclists/children; and cyclists have to go further out into the street. There is concern the vehicles create public blight, and that some residents are using the public right-of-way to store personal vehicles.

Ms. Reichelt reported the issue continued to be a concern at Neighborhood Council meetings over the summer and fall of 2010. The Council of Councils voted in September 2010 that the large motor vehicle issue needed to be addressed.

The issue was also discussed at the December, 2010 Work Session, and staff was asked to begin researching the concept of limiting recreational vehicles being parked in residential areas.

Ms. Reichelt noted that communities across the country have addressed the issue, and each community has addressed it differently. City staff, the Parking Advisory Task Force, and representatives of the City Commission met and began reviewing examples of ordinances and codes dealing specifically with RVs and large motor vehicles.

Ms. Reichelt reported that draft City Code language was developed based on the best examples and research, considering feedback, concerns and needs received. City Code, Title 10, Chapter 48 (Stopping, Standing, and Parking) would be amended and include definitions for the terms recreational vehicle, utility trailer, vessel, and residential zoning district.

The next section of the Code would pertain to prohibiting parking of certain types of vehicles. Recreational vehicles, utility trailers, and vessels would no longer be allowed to be parked in public right-of-way in residential areas, except for loading and unloading up to 72 hours. The next section, Notice, outlines that a written notice would be affixed to the vehicle asking the owner to remove the vehicle.

The next section involves penalties. The first citation would be \$50 and the second \$100, both requiring the owner to move the vehicle within 72 hours. After failure to comply with the second citation, the vehicle would be booted and the owner would be required to pay outstanding fees within 48 hours. The vehicle may be impounded if the fees are not paid within 48 hours, or to protect the public health, safety, or welfare of the community.

Ms. Reichelt explained the goal is to get recreational vehicles, utility trailers, and vessels off the public right-of-way, not to tow or fine vehicles. She believes public outreach and education is essential. Ms. Reichelt noted that alternative options provided by other communities allow visitor permits; warning tickets; and different time restrictions for loading and unloading and removal of vehicles.

Ms. Reichelt explained the draft of a proposed recreational vehicle ordinance is a starting point for the Commission and the community. She encouraged a town hall meeting with citizen input, and comments from Neighborhood Councils. The input she received from other communities emphasized that positive citizen outreach at the beginning was an important component to achieving a successful recreational vehicle ordinance.

To revise and finalize City Code, an ordinance must be developed and brought before the Commission at a Work Session for consideration. If the Commission decides to continue, the ordinance would require a public hearing prior to adoption.

Commissioner Jolley questioned where in the City Code is the restriction to park recreational vehicles in a yard. Ms. Reichelt responded that may be part of zoning or Land Development, but information would be provided in a brochure. She noted recreational vehicles cannot be parked in front yards.

Commissioner Jolley inquired about requirements for parking recreational vehicles in yards. Mr. Haynes responded they must be parked on an improved surface. Commissioner Jones questioned if a gravel surface qualified. Development Review Coordinator Charlie Sheets responded that if a residence is off a graveled alley, a gravel surface would be allowed in a yard. A parking

surface relates to adjoining surface.

Commissioner Jolley asked why parking isn't allowed on grass. Mr. Haynes responded that parking on grass looks bad in cities and surfaces are rutted in inclement weather. Commissioner Jolley asked where owners are to park recreational vehicles if parking is limited in residential areas. Ms. Reichelt responded owners would be encouraged to store their vehicles.

Rather than the term 'recreational vehicle', Commissioner Burow noted that any non-passenger vehicle is of concern – cargo trailers, boats, flatbed trailers, campers, motor homes, and business vehicles. He questioned enforcement. Ms. Reichelt responded that a business vehicle does not fall under the definition of a recreational vehicle – a motor vehicle primarily designed as a temporary living quarter for recreational, camping, or travel use. She agreed that a utility trailer may also be a concern.

Mayor Winters noted the concern is an issue of time. Ms. Reichelt reported there have been complaints from Neighborhood Councils about cargo trailers being parked on residential streets for long periods of time. She questioned if the public right-of-way is being used for storage, and if that is appropriate in the City of Great Falls. Commissioner Burow emphasized the need for clarification in the proposed ordinance.

Commissioner Jones stated streets must be safer and more operable for motorists. Many avenues and streets in the community were not designed in width to accommodate vehicles wider than normal cars and pickups. Traffic is being reduced to one lane. Streets cannot be navigated safely during the winter due to ruts when wide trailers and vehicles are stored on City streets. Commissioner Jones noted the next step is to obtain public feedback to the draft ordinance, and then consider the issue at another work session.

Commissioner Bronson added that he and Commissioner Jones have worked on the issue on a sub-committee, along with representatives of two Neighborhood Councils, law enforcement staff, the City Attorney, Ms. Reichelt, and other City staff. He agreed a town hall meeting may be appropriate. Commissioner Jolley agreed.

Commissioner Burow emphasized that the public should be made aware that any large vehicle parked on streets is a concern. Mayor Winters agreed that the term 'recreational vehicles' should be replaced with 'large vehicles'.

Ms. Reichelt expressed concern that people confuse large commercial vehicles with the term 'large motor vehicles'. She believes 'recreational vehicles' is a safer term. However, she agreed most people think of motor homes when 'recreational vehicles' is mentioned. She will come up with a more inclusive term.

The City Commissioners agreed that a town hall meeting would be appropriate.

ADJOURN

There being no further discussion, Mayor Winters adjourned the work session of May 3, 2011, at 6:37 p.m.