

Regular City Commission Meeting

Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE – 120th Fighter Wing Honor Guard

MOMENT OF SILENCE

ROLL CALL: City Commissioners present: Michael Winters, Bill Bronson, Fred Burow, Mary Jolley and Bob Jones. Also present were the City Manager, Deputy City Manager, City Attorney, Directors of Fiscal Services and Planning and Community Development, the Public Works Engineer, Executive Director of the Housing Authority, Library Administrative Assistant, Police Chief and the City Clerk.

PROCLAMATIONS: Mayor Winters read a proclamation for Fair Housing Month.

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

NEIGHBORHOOD COUNCILS

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from Neighborhood Council representatives.

BOARDS & COMMISSIONS

2. REAPPOINTMENT, LIBRARY BOARD.

Commissioner Jolley moved, seconded by Commissioners Burow and Jones, that the City Commission reappoint Judy Riesenbergl to the Library Board for a five-year term through June 30, 2016.

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.

3. REAPPOINTMENTS, HISTORIC PRESERVATION ADVISORY COMMISSION.

Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission reappoint Ryan Forde and Bob Milford to the Historic Preservation Advisory Commission for three-year terms through April 30, 2014.

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.

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from members of boards and commissions.

PUBLIC HEARINGS

5. 2011/2012 CDBG AND HOME ANNUAL ACTION PLAN.

Planning and Community Development Director Mike Haynes reported that the requested action is to conduct the public hearing on the Annual Action Plan for allocation of 2011/2012 CDBG and HOME funding and schedule action on the Final Annual Action Plan for May 3, 2011. The recommendations are those of the Community Development Council (CDC) after hearing requests for funds from all eligible applicants and then meeting to prioritize funding requests.

The federal budget was approved for this year, and it appears the City can anticipate 16.5% less funding for CDBG and at least 12% less funding for the HOME program than in 2010/2011. It is also clear that there will be additional reductions in CDBG and HOME funding levels in future years.

Mayor Winters declared the public hearing open.

No one spoke in opposition to the 2011/2012 CDBG and HOME Annual Action Plan.

Speaking in support of the 2011/2012 CDBG and HOME Annual Action Plan were:

Nancy Wilson, Meals on Wheels; **Brett Doney**, Great Falls Development Authority; **John Stephenson-Love**, Upper Lower River Road Water and Sewer District; and, **Sheila Rice**, NeighborWorks.

Mayor Winters declared the public hearing closed.

Commissioner Jones moved, seconded by Commissioner Jolley, that the City Commission schedule action on the Final Annual Action Plan for May 3, 2011.

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

6. ORDINANCE 3069 AMENDING TITLE 6 TO ESTABLISH REGULATIONS FOR KEEPING CHICKENS, ALL PERTAINING TO THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.

Planning and Community Development Director Mike Haynes reported that, on April 5, 2011, after

conducting and closing the public hearing to consider three Ordinances related to Urban Chickens, Commissioner Bronson's motion to adopt Ordinance 3069 with amendments was defeated. A vote was not then taken on Ordinance 3069 itself. Therefore, staff recommends that the City Commission take action on Ordinance 3069.

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission deny Ordinance 3069.

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

Commissioner Jones commented on the number of phone calls and emails received, and the time and effort put into this matter. He pointed out that a couple of Neighborhood Councils that represent a large portion of the community were opposed to chickens. He also noted that some homeowner covenants do not allow livestock or poultry.

Commissioner Jolley commented that a majority of the people that appeared were in favor of chickens, as well as those that appeared at the zoning hearing. She expressed that the public hearing is where the information should be provided so that citizens can hear what their fellow citizens are saying. She urged the Commission not to vote to deny chickens.

Commissioner Bronson also noted the number of emails and phone calls received. He commented that, as elected officials, if a proposal is put before the Commission that makes sense, then it deserves their fair consideration. He also noted that there are covenants in many parts of the community that forbid people from having any type of poultry. He does believe there are areas in town where this could still be done in accordance with a properly drafted ordinance. He suggested referring this matter to a committee to address issues and concerns and then bringing the matter back before this body.

Mayor Winters also commented on the amount of communications received in this matter, and that the Commissioners vote according to their own views of the information received.

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

Channing Hartelius, 825 4th Avenue North, discussed parliamentary procedure. He believes that it was improper procedure to put forth a motion to deny that which has already been proposed to be accepted; and, that the motion to refer to committee, if seconded, would be proper.

City Attorney James Santoro added that the original motion was to accept Ordinance 3069 on first reading and to set a public hearing. He explained that it has been the practice to adopt or deny ordinances on second reading. It comes down to the intent of the Commission and what the intent of the motion was.

Commissioner Bronson noted that the City is also bound by state statutes which set forth the procedures by which the Commission considers ordinances and resolutions. It has always been his understanding, based on past practice, that when the Commission votes on an ordinance on first reading, the Commission is simply accepting it as a first reading, and the actual public hearing and debate are held at the next meeting.

Aart Dolman, 3016 Central Avenue, commented that there is a purpose for a public hearing, and it does not mean hearing the public by telephone or email. He hoped that the Commissioners would make their phone calls and email information available to the public.

Ron Gessaman, 1006 36th Avenue NE, concurred with Mr. Dolman. He commented that a public hearing is a quasi-judicial hearing. The testimony presented must be all the testimony the Commission takes into account.

Mayor Winters disagreed with Mr. Gessaman.

Channing Hartelius, 825 4th Avenue North, provided an example that, in court, anonymous information is considered hearsay and is not permitted or relied upon.

Commissioner Bronson disagreed with the interpretation that the Commission is engaged in a quasi-judicial proceeding. The Commission is functioning as a legislative body when considering the adoption of an ordinance. In those situations it is common that members of the Commission will hear from members of the public by word on the street, email or telephone conversation. He knows of no legal requirement that requires all emails and telephone conversations to be documented and made part of the official record for the consideration of an ordinance. Those concerns would be valid if the Commission was considering a zoning change where, in that situation, the Commission is functioning in a quasi-judicial capacity.

Channing Hartelius, 825 4th Avenue North, spoke in support of Commissioner Bronson's motion to refer to committee as the best way to handle this matter.

Sam Boor, no address provided, commented that he is a retired physician. He thinks the public is reacting to the lack of discussion of the issues regarding chickens. He supported the idea of referring this matter to a committee.

Mike Witsoe, 510 11th Street South, commented that the Commissioners' telephone numbers are listed on their City business cards for the public to contact them. He made accusatory statements that the Mayor was not listening to the public.

Sandra Dimauro, 4215 7th Avenue North, commented that at a recent Earth Day event she provided petitions and obtained signatures regarding chickens.

Commissioner Bronson moved, seconded by Commissioner Jolley, that the City Commission refer Ordinance 3069 to a committee of this Commission, consisting of himself and one other member appointed by the Mayor, for the purpose of (1) considering amendments to Ordinance 3069, particularly a consent requirement with appeal procedures; and (2) gathering and then presenting information to the Commission on the subject of a referendum, and the costs associated with that process. This committee to conduct its discussions and to report back to the Commission within 20 days with recommendations and information.

Commissioner Bronson explained that, as part of that motion, he contemplates conferring with Mr. Santoro regarding the procedural requirements should the committee come back with a proposal in an amended form. He further explained that his motion to refer to committee has priority over a motion to adopt or deny an ordinance.

Commissioner Jolley requested and received clarification that the committee will consider the option of putting this matter on the ballot.

Commissioner Jones noted he would be pleased to sit on the committee with Commissioner Bronson.

Commissioner Burow encouraged finality to this matter.

Commissioner Jones explained that, as an elected official with another job, the telephone and email are ways he can communicate with the public. He disagreed with Mr. Dolman's comments.

Commissioner Bronson concluded that this body is made up of five individuals who try to do the best they can, with the information they have, based on the experiences they have in life.

Commissioner Jolley noted that she didn't agree with most of what the other Commissioners said here tonight.

There being no one further to address the Commission, Mayor Winters called for the vote on the motion to refer Ordinance 3069 to a committee.

Motion carried 5-0.

Mayor Winters noted that he would also like to sit on this committee with Commissioners Bronson and Jones.

NEW BUSINESS

7. PROFESSIONAL SERVICES AGREEMENT, MUNICIPAL BUILDING ENERGY AUDIT CONTRACT, OF 1621.

Planning and Community Development Director Mike Haynes reported that this item relates to a Professional Services Contract to conduct an energy audit of six municipal buildings: the Civic Center, Police Station, Fire Stations #1 and #2, the Library and the Central Garage. This is one of the final expenditures of \$570,100 in Energy Efficiency and Conservation Block Grant funds secured by the Planning and Community Development Department from the Department of Energy and accepted by the City Commission in late 2009.

Ten bids were received in response to an RFQ. An Energy Audit Committee reviewed all proposals and the highest score was received by the engineering firm Morrison Maierle, Inc.

Commissioner Bronson moved, seconded by Commissioners Burow and Jones, that the City Commission approve the Professional Services Agreement for a fee not to exceed \$68,872 with Morrison Maierle, Inc. for the Municipal Building Energy Audit, and authorize the City Manager to execute the agreement.

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

Ron Gessaman, 1006 36th Avenue NE, inquired about the delay from the time the monies were

received and this contract award.

Mr. Haynes explained that this is number seven out of seven projects funded by these grant funds.

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

Motion carried 5-0.

8. MILITARY ENTRYWAY SIGNAGE.

Mayor Michael Winters reported that, to recognize our community's military history, the Commission and staff have discussed installing entryway signage reading "Proud Home of Malmstrom Air Force Base & Montana Air National Guard." A request for designs was advertised, and the Deputy City Manager has prepared a basic cost analysis.

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission authorize the City Manager to spend funded contingency funds in an amount not to exceed \$25,000 to construct military entryway signage.

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

Commissioner Jones commented that this sign is proposed for the 10th Avenue South - 57th Street South entryway. He expressed concerns about the cost and hoped there would be voluntary pledges.

Commissioner Burow also expressed concerns about the cost and the upcoming budget.

City Manager Doyon explained that the City designates contingency funds for the year for expenditures that weren't anticipated.

Commissioner Jolley doesn't believe this is a proper use of contingency funds. She urged the Commission to vote no. She suggested that community members and businesses come forward to donate money.

Commissioner Bronson commented that this is an appropriate first step. He anticipates folks in the private sector will step up and participate as well.

Commissioner Burow inquired if labor could be donated to offset the cost.

Mayor Winters noted several organizations that expressed interest in helping with this project.

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

Ron Gessaman, 1006 36th Avenue NE, commented that the Army is being left out.

Commissioner Jones responded that would be looked at. He commented that the Army Reserve has a new facility at Malmstrom Air Force Base. The purpose for the signage is to identify what "we are home to."

Commissioner Jolley commented that, technically, Great Falls is not the home, but the neighbor, of Malmstrom Air Force Base.

Brett Doney, Great Falls Development Authority, residing at 3048 Delmar Drive, commented this compliments what the Chamber of Commerce, Defense Alliance and Cascade County are doing with 2nd Avenue North that leads into the main entrance of the base.

Mike Witsoe, 510 11th Street South, inquired about the design specifications, and he suggested this matter be continued for two weeks.

Deputy City Manager Jennifer Reichelt clarified that the action tonight, if approved, is granting staff permission to obtain estimates to move forward with this project.

Motion carried 3-2 (Commissioners Burow and Jolley dissenting).

ORDINANCES/RESOLUTIONS

CONSENT AGENDA

9. Minutes, April 5, 2011, Commission meeting.
10. Total expenditures of \$1,918,222 for the period of March 31 through April 13, 2011, to include claims over \$5,000, in the amount of \$1,684,031.
11. Contracts list.
12. Lien release list.
13. Grant list.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission approve the Consent Agenda as presented.

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

Ron Gessaman, 1006 36th Avenue NE, referred to Item 9 and commented there was no mention that the public hearing was closed with regard to Victory Christian Center. With regard to Item 11B, Mr. Gessaman commented he has a hard time believing it costs over \$12,000 to time the Ice Breaker race.

Commissioner Burow inquired if the City makes money from the Ice Breaker race.

Fiscal Services Director Melissa Kinzler responded that there are corporate sponsors that offset the cost of the Ice Breaker. The City usually breaks even on this community event.

Motion carried 5-0.

PETITIONS AND COMMUNICATIONS**14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

- A. Aart Dolman**, 3016 Central Avenue, provided a letter that requested all of the Commissioners' telephone calls and emails regarding the three ordinances concerning chickens within 15 days. It was his belief the Commission violated open meeting laws.

In response to Commissioner Jolley about a March 1st request, Mr. Dolman commented that he previously requested three items, one of which was what authorization does the City have to give money to ECP.

With regard to the ordinances concerning chickens, Commissioner Jolley commented that she returned no telephone calls.

- B. Bill Garberg**, 1712 19th Avenue South, requested, on behalf of the Great Falls Vets Center and Vets4Vets, support from the City in the form of a parcel of land with access to a water system for a Veterans Community Garden.
- C. John Hubbard**, 615 7th Avenue South, expressed opposition to the school levy; discussed the recession and the need for more jobs in Great Falls; and, he expressed frustration with the judicial system.
- D. Ron Gessaman**, 1006 36th Avenue NE, announced that an ECP Board meeting was scheduled for tomorrow afternoon.
- E. Cyndi Baker**, 500 Montana Avenue NW, discussed the water quality report contained in the water bills. She attested that Great Falls has the best tasting water in the world.

CITY MANAGER**15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon reported that an ECP meeting was scheduled for tomorrow night. Mr. Doyon also provided a levy status update.

CITY COMMISSION**16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports and announcements from the City Commissioners.

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 April 19, 2011, be adjourned at 8:46 p.m.**

Motion carried 5-0.

Mayor Winters

City Clerk

Minutes Approved: May 3, 2011