

Regular City Commission Meeting

Mayor Winters presiding

**CALL TO ORDER:** 7:00 PM

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

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

**PROCLAMATIONS:** Mayor Winters read Proclamations for Davidson Day and Down Syndrome Awareness Month, and Commissioner Jolley read a Proclamation for National Breast Cancer Awareness Month.

### **NEIGHBORHOOD COUNCILS**

#### **1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports and announcements from neighborhood council representatives.

### **BOARDS & COMMISSIONS**

**Howard Eitzen  
appointed to the Housing  
Authority Board.**

#### **2. APPOINTMENT, HOUSING AUTHORITY BOARD.**

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission appoint Howard Eitzen as a tenant member to the Housing Authority Board for a two-year term through June 30, 2012.**

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.

**Casey Cummings  
reappointed to the Board  
of Adjustment.**

#### **3. REAPPOINTMENT, BOARD OF ADJUSTMENT.**

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission reappoint Casey Cummings to the Board of Adjustment for a three-year term through September 30, 2013.**

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.

**Cable 7.**

**4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**Aart Dolman**, Cable 7 Board Chairman, read a letter informing the Commission that the Cable 7 Board voted to dissolve Cable 7, Inc. as of 5:00 p.m., September 30, 2010, unless the City Manager and/or the City Commission agree to sign a contract with Cable 7, Inc. by October 8, 2010.

Mayor Winters stated he met with Cable 7 Board members Neil Taylor and Kathleen Gessaman and outlined a direction, but the Board did not choose to follow that path.

**Cable 7.**

**Neil Taylor**, Cable 7 Board member, responded that he and Kathleen Gessaman followed the Mayor's direction to put together a proposal and meet with City Manager Greg Doyon. After meeting with Mr. Doyon, copies were distributed to the Commission.

Mayor Winters noted he suggested to Mr. Taylor and Ms. Gessaman that Eric Peterson be the Cable 7 representative to talk with the City Manager. Mr. Taylor responded that the Board agreed the Executive Committee would handle the negotiations.

Mayor Winters asked the City Manager to provide an update on Cable 7.

Mr. Doyon reported the discussion began during budget deliberations when the Cable 7 Board made a request to direct some of the franchise fees to their operations. That request was not adopted as part of the Commission's budget.

Mr. Doyon noted he attended a Board meeting and also met with them last week. He did communicate to the Commission that if it was their desire, insurance funding could be explored. He added his recommendation is to keep City Commission meetings on air. There is new technology being explored to make that happen.

Commissioner Jolley commented Whitefish City Council meetings are streamed on the Internet. She asked the City Manager to clarify if "on air" means television.

Mr. Doyon responded the City would continue to use the drop that Bresnan provides to air the meetings over the cable network. He added the options being considered will include replay of the meetings in addition to live streaming.

Commissioner Jolley stated the request for Cable 7 funding during the budget process was funding that had not been previously provided. She added she is not excited about spending money on Cable 7 because she

believes other needs, such as the City-County Health Department, are more important.

Commissioner Burow commented that there were a lot of other programs with local interest on Cable 7 a few years ago, and some of those programs had a lot of viewers. He noted he doesn't want the City to fund Cable 7 indefinitely. He does want the City Commission meetings to be aired because he is frequently reminded of the number of people who watch both the City and County meetings. He noted a live-stream option must be affordable, however.

Mr. Doyon stated it was not the City's decision to dissolve the non-profit; it was the Cable 7 Board's decision. Some of the equipment that Cable 7 had been using was recently picked up by its owner. The equipment being used is antiquated. Any upgrade would require an initial investment. He stated his goal has always been to continue to air City Commission meetings.

## **PUBLIC HEARINGS**

### **OLD BUSINESS**

**Contract Amendment,  
Water Right Solutions.  
Approved. OF 1510**

#### **5. CONTRACT AMENDMENT, WATER RIGHT SOLUTIONS.**

Public Works Director Jim Rearden reported that the Montana Water Court has issued a Preliminary Decree for Basin 41Q, the stretch of the Missouri River that extends from the Sun River to the Marias River. The Preliminary Decree for Basin 41Q includes 4,130 water right claims. The City has six water right claims in Basin 41Q that are affected by this decree.

All interested parties, including the City, have an opportunity to review their own water rights, as well as the water rights of other parties during the preliminary decree period. The review would examine the accuracy of the City's existing water right claims and any changes that may have been made by DNRC during the review process. The review would also evaluate other water right claims that may cause adverse impacts to the City's claims. The City's right to appeal any adverse decision is limited after the Final Decree is issued.

Water Right Solutions, Inc. performed a similar evaluation for the City when the Preliminary Decree was issued for Basin 41QJ, the stretch of the Missouri from Holter Dam to the Sun River. Staff believes it is most appropriate for Water Right Solutions to perform the work for Basin 41Q as well.

The original agreement with Water Right Solutions, Inc. was approved by the City Commission at their regular meeting on May 6, 2008. The first amendment to that agreement included the review of water right claims resulting from the Preliminary Decree of Basin 41QJ.

Based on the consultant's reported findings and recommendations, it is possible that additional work and related expenses may be necessary to protect the City's water rights.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve Amendment No. 2 to the Consulting Agreement with Water Right Solutions, Inc.**

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

Commissioner Burow reported he could not support this amendment because Water Right Solutions, Inc. has been hired numerous times over the past several years. When an issue arose, the Water Master was confused over their proposal and steps taken. He believes there must be an agreement over the water rights and, unless laws are changed, there shouldn't be a need to rehire the company. Commissioner Burow asked if other companies in the area provide the same service.

Mr. Rearden responded there are other consultants available. Water Right Solutions, Inc. is familiar with the City's water rights. He clarified that this amendment is for a different basin than what the consultant previously worked on.

Commissioner Bronson stated the preliminary decree that has been issued is an opportunity for any possessor of water rights in the basin to assess whether or not their rights are accurately stated, to determine the other users in the basin, and to assess whether or not those rights are appropriate.

Commissioner Jones concurred with Commissioner Bronson.

Commissioner Jolley questioned the second paragraph in the Amendment referring to examination work in other basins in addition to 41Q. She asked if the City has rights in other basins.

Mr. Rearden responded the City only has rights in Basins 41QJ and Basin 41Q. The reference to other basins is incorrect in the Amendment.

After conferring with Fiscal Services Director Coleen Balzarini, Mr. Rearden stated some basins may overlap and thus the reference to other basins. Commissioner Bronson concurred.

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

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, disagreed with awarding additional work to this consultant because he does not believe they have performed satisfactorily in the past. He believes Water Right Solutions, Inc. gave away City water rights and did not recommend to the Commission to fight for

water rights. He also believes Mr. Schmidt of Water Right Solutions, Inc. appears to have been responsible for the mix-up with the Water Master because of the way he presented his filings with DNRC. When examining a new basin, Mr. Gessaman believes another professional would be just as good or better.

Mayor Winters asked Mr. Rearden to explain why Water Right Solutions, Inc. is the best consultant.

Mr. Rearden responded that because Water Right Solutions, Inc. has a history with the City's water rights, it makes sense for them to continue. Another firm would basically have to start over.

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

### **NEW BUSINESS**

**Authorized issuance of RFP for Operation of the Great Falls Animal Shelter and Animal Control Services.**

**6. REQUEST FOR PROPOSALS FOR OPERATION OF THE GREAT FALLS ANIMAL SHELTER AND ANIMAL CONTROL SERVICES.**

Deputy City Manager Jennifer Reichelt reported that the City of Great Falls has been operating the Animal Shelter for the past three years. At the September 21, 2010, Work Session, the draft RFP was reviewed. The comments, suggestions, and edits made have been incorporated into the version of the RFP currently before the Commission.

Changes include an addition of an attachment that outlines the City's code relating to animals. The Objectives and Scope of Work make clear the City will be ideally seeking and encouraging a responder who can provide both management and animal control services. Many duplicate and repetitive sections were removed. The Scope of Work makes clear that only a portion of the funds collected for adoption, impounds, and licensing would be retained by the proposer as determined during negotiations. A statement is included that clarifies the City will be responsible for maintaining and keeping the shelter building and structural elements in good condition and repaired, and the City will conduct an annual inspection of the building. The timeline includes a mandatory walk-through and pre-bid meeting for all responders.

Staff recommends that the City Commission authorize the City Manager to issue a Request for Proposals for the operation and management of the City's Animal Shelter and for animal control services.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission authorize the City Manager to issue a Request for Proposals for the operation and management of the City's Animal Shelter and for Animal Control Services.**

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

Commissioner Jolley questioned the reason for the change to a portion of the funds collected. Ms. Reichelt responded that comments were made that some of the funds needed to be kept to support operations, especially if the City retains animal control services. That portion will be determined during negotiations. Mr. Doyon added that capital needs must also be supported.

Commissioners Jolley and Jones complimented Ms. Reichelt on a fine job.

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

**Jan Cahill**, 746 33rd B Avenue NE, on behalf of the Humane Society of Cascade County, commented that his presence does not mean a proposal will or will not be submitted. Mr. Cahill expressed approval that the proposer would not be responsible for the maintenance of the facility. He added that one section still maintains the proposer would be responsible for the maintenance and upkeep of the building.

Mr. Cahill commented that a proposer may have concerns regarding a portion of the licensing and adoption fees and donations. It is difficult to make a proposal based on a dollar amount when the results of negotiations are unknown. He also noted the provision to provide preferential consideration to existing employees may require legal consultation. He believes Montana has a veteran's preferential employment requirement. He questioned the position of the entity should both a veteran and current employee apply for the same position. He also expressed concern with the timeline of January 31, 2011, because that may not be enough time for a successful proposer to hire a director to operate the Shelter if a new director is needed. Mr. Cahill stated he assumed questions should be directed to either the City Manager or Deputy City Manager.

Commissioner Jolley requested the fee schedule for animal services be included with the RFP.

Commissioner Burow asked if an interim director could be appointed until a new director is hired.

Mr. Doyon responded that staff will be available to answer proponents' questions, and that the questions and answers will be attached for other proponents to see and adjust their proposal accordingly. He suspects there will be questions related to the facility during the walk-through, including budgeted capital needs. He emphasized the City will provide information on anticipated deficiencies with the building and plans to fund capital improvements to help a proponent determine their proposal. A timeframe will be provided and, if necessary, an extension of time to a successful proponent that would take over operations.

Commissioner Jones agreed that official change of management means from one entity to another entity, and added that page 6 of the RFP denotes the Deputy City Manager as the contact person.

Mr. Cahill noted the page 16 reference, 3.c): “A description of how the proposer will deal with security, maintenance, and repair of its portion of the interior of the facility, including but not limited to painting, cleaning, repair or replacement of damaged or worn fixtures, boiler service, and custodial services.” A proposer may want to know if major issues on the inside of the building such as a cracked foundation are included.

Commissioner Jolley asked Ms. Reichelt if she checked if the prevailing wage requirement applies to a non-profit. Mr. Doyon responded that he spoke with Department of Labor (DOL) Wage Analyst Dave Lucke who reported that, because of the anticipated amount of subsidy, prevailing wages would need to be met. The City can submit a letter to the DOL asking for clarification.

Commissioner Bronson stated that, in his experience, the prevailing wage rate system would apply.

Motion carried 5-0.

**Transfer Ownership of Bulk Water Dispensing Stations to Cascade County. Approved.**

**7. TRANSFER OF OWNERSHIP OF BULK WATER DISPENSING STATIONS TO CASCADE COUNTY.**

Public Works Director Jim Rearden stated his comments address Agenda Items 7 and 8. He reported that the City entered into an Interlocal Agreement with the County in July of 1995 that transferred the operation and maintenance responsibilities for the City’s three bulk water dispensing stations to the County. In addition, the County agreed to purchase the dispensing stations and associated equipment over the following fifteen years. That agreement expired in July of 2010. The County made the required monthly payments and otherwise satisfied the terms of the agreement and, therefore, the City is obligated by the agreement to convey title to the buildings and equipment. Title to the land underlying the buildings will not be transferred.

Agenda Item 7 will transfer by Quit Claim Deed the ownership of the three bulk water dispensing stations to the County. Agenda Item 8 will issue a fifteen year license to the County to continue to operate the dispensing stations on City-owned property. The license sets forth conditions such as insurance and maintenance requirements, indemnification, and backflow prevention requirements. It also requires the County to continue to pay the City for the water dispensed at normal commercial rates. The three stations are located at 1400 36<sup>th</sup> Avenue NE, 1605 8<sup>th</sup> Avenue NW, and 1100 21<sup>st</sup> Avenue S. City staff, including Public Works, Legal, and the City Clerk’s office, worked with the County Attorney’s office and the County Public

Work's office on both the deed and license.

**Commissioner Bronson moved, seconded by Commissioners Burow and Jones, that the City Commission approve issuance to Cascade County of a Quit Claim Deed to transfer ownership of three bulk water dispensing stations and associated facilities.**

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

Commissioner Burow noted that the buildings and fixtures would be turned over to the County, but asked if the land would be retained by the City.

Mr. Rearden responded that the land will be retained by the City; the County has purchased the buildings and equipment over the last fifteen years.

Mayor Winters asked if there were any inquiries from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

**License for Operation of Bulk Water Dispensing Stations to Cascade County. Approved.**

**8. LICENSE FOR OPERATION OF BULK WATER DISPENSING STATIONS TO CASCADE COUNTY.**

**Commissioner Bronson moved, seconded by Commissioners Burow and Jones, that the City Commission approve issuance to Cascade County of a License for Operation of three bulk water dispensing stations and associated facilities.**

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.

**ORDINANCES/RESOLUTIONS**

**Ord. 3058. Public hearing vacated and rescheduled for October 19, 2010.**

**9. ORDINANCE 3058, ASSIGN CITY ZONING TO GREAT FALLS INDUSTRIAL PARK, SECTION 4, LOCATED IN NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, SEC. 31, T21N, R4E, CASCADE COUNTY, MONTANA.**

Planning and Community Development Director Mike Haynes reported that Ordinance 3058 relates to annexation and initial zoning of the ±20.6 acre Public Works Compost Facility located on 33<sup>rd</sup> Avenue NE about ¼ mile east of the intersection of Old Havre Highway and U.S. Highway 87. First reading of Ordinance 3058 was held September 7, 2010, with the public hearing set for today. Mr. Haynes requested the hearing be rescheduled



because the 15-day public hearing ad failed to run on September 19, 2010, as requested. The ad did run Sunday, October 3, 2010, so the public hearing may be set for October 19, 2010. Staff requests the City Commission vacate the public hearing on Ordinance 3058 and reschedule the public hearing for October 19, 2010.

**Commissioner Jones moved, seconded by Commissioner Jolley, that the City Commission vacate the public hearing on Ordinance 3058 scheduled for October 5, 2010, and reschedule the public hearing for October 19, 2010.**

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.  
Approved.**

**CONSENT AGENDA**

10. Minutes, September 21, 2010, Commission meeting.
11. Minutes, September 30, 2010, Special City Commission meeting.
12. Total Expenditures of \$2,691,916 for the period of September 11-29, 2010, to include claims over \$5,000, in the amount of \$2,421,371.
13. Contracts list.
14. Approve Consultant Services Agreement with Hessler Architects in the amount of \$21,260 for the Civic Center Restoration Project. **OF 1525**
15. Approve extending contract for gasoline and diesel fuel to Mountain View Co-op for three years at an annual cost of approximately \$680,000.
16. Approve cancellation of City of Great Falls checks that remain outstanding and unpaid for a one-year period or longer and authorize redistribution to the General Fund and the Municipal Court Unclaimed Restitution Fund.
17. Approve Final Payment in the amount of \$41,637.45 to Central Plumbing and Heating, Inc. and the State Miscellaneous Tax Fund for the Great Falls Police Department Shooting Range Improvements. **OF 1365.1**

**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.

With regard to Item 15, Commissioner Burow noted the contract with Mountain View Co-op started in 2004. He asked if that contract has a time limit before going out for bids again. At the end of this contract, nine years will have passed without any open bids.

Mr. Rearden explained that in 2004 Mountain View Co-op was the only bidder, and currently there are no other suppliers to provide fuels. Also, the contract is set on an adjustable index and varies with the price of fuel. Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, with regard to Item 12, objected to the payment to Southern Montana Electric (SME) as partial payment for August, in addition to the \$650,000 that was paid in the last \$5,000 Report. According to the last Electric City Power Fiscal Report, \$326,480 was taken from interfund cash flow loans. That means that ECP does not have enough money to pay its bills, including this \$319,000 bill. Though a comment has been made that these City funds are borrowed and drawing interest, the interest on those borrowings is being paid with borrowed money. Mr. Gessaman commented that the borrowed money will never be returned; therefore, the borrowed interest will never be received.

Motion carried 5-0.

### **PETITIONS AND COMMUNICATIONS**

#### **18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

**SME, Copies of  
Proposals, Animal  
Shelter.**

**18A. Cyndi Baker**, 500 Montana Avenue NW, questioned if the City has a contract with SME until 2048. Commissioner Jolley responded that is true.

Ms. Baker asked if proposals could be displayed to assist visual learners. Mr. Doyon stated the print would not be readable. However, the proposals are available on-line and can be printed to follow along as they are read. Ms. Baker requested copies be made available at meetings. Mayor Winters agreed that could be done.

Ms. Baker applauded the City Commission for the Animal Shelter RFP.

**ECP, Cable 7.**

**18B. Kathleen Gessaman**, 1006 36<sup>th</sup> Avenue NE, discussed a *Tribune* article regarding the voluntary rate increase for ECP customers that could amount to about \$12,000 per year. Ms. Gessaman noted \$12,000 per year almost pays for the studio-in-a-box the Cable 7 Board wanted to purchase. She also explained that Cable 7 was set up to help the City run programs, provide public access to the community, and allow citizens and young people to air creative works of art.

Commissioner Burow suggested City staff, the City Commission, and the Cable 7 Board engage in open dialogue and present findings to possibly achieve a workable solution.

**Tribune, Neighborhood Councils, Water Rights, DEQ/Weissman.**

**18C. John Hubbard**, 615 7<sup>th</sup> Avenue S, discussed a *Tribune* article that listed the locations of nuclear missiles; Neighborhood Councils restricting parking of boats and campers on streets and prohibiting guests from staying in campers; giving up water rights; the DEQ/Weissman investigation; past political corruption; and increasing taxes during a recession.

**Pedestrian Crossings, ECP.**

**18D. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, discussed enforcement of pedestrian crossings. Mr. Gessaman noted 4 pm ECP meetings are not convenient for the public. He questioned that neither Southern nor ECP customers knew ECP was losing money.

**CITY MANAGER**

**19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no reports or announcements from the City Manager.

**CITY COMMISSION**

**20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters reported that both he and the City Manager met with two University of Great Falls classes this morning for a mock Commission meeting. He noted it was good interaction between the University and the City, and added that he would like to see more of that in the future.

**ADJOURNMENT**

**Adjourn.**

There being no further business to come before the regular Commission meeting, **Commissioner Bronson moved, seconded by Commissioners Jolley and Jones, that the regular meeting of October 5, 2010, be adjourned at 8:28 p.m.**

Motion carried 5-0.

\_\_\_\_\_  
Mayor Winters

\_\_\_\_\_  
Acting City Clerk

Minutes Approved: October 19, 2010